

For discussion  
on 22 June 2009

## **LegCo Panel on Administration of Justice and Legal Services**

### **Demand for and supply of legal and related services**

#### **Purpose**

The Department of Justice has published a report on the Consultancy Study on Demand for and Supply of Legal and Related Services (“the Report”) in May 2008. On the basis of the supply and demand studies, the Consultants provided an assessment on the likely gap in service availability and the potential unmet legal needs in the community.

2. At the meeting of the Panel on Administration of Justice and Legal Services (“the Panel”) held on 29 May 2008, the Administration agreed to give a progress report on the Administration’s consideration of the Report.

3. The Panel, amongst various issues touched upon in the Report, has asked the Administration to discuss the Free Legal Advice Scheme (“The Scheme”) in the broader context of the demand for and supply of legal and related services.

#### **Background**

4. The Consultants have prepared four reports to the consultancy study, namely the Supply Study Report, Demand Study Report (Part I) on small and medium enterprises (“SMEs”), Demand Study Report (Part II) on members of the public and the Combined Analysis Report.

5. The main conclusions in the Combined Analysis Report of the Consultancy Study are as follows –

- (1) There are a considerable number of difficult-to-solve problems being encountered by private individuals and SMEs, which are considered important by them, but, on a large proportion of which, for a variety of reasons, no action has been taken. Though many of such problems are not of a type that would normally be expected to be resolved through formal legal channels, the individuals and SMEs may still require some support from legal or related services, eg. free legal advice, pro bono services, mediation etc.
- (2) Given the considerable number of important problems encountered each year, and the low market awareness and knowledge about legal services, there is likely to be some unmet potential demand for services especially at the lower end of the market.
- (3) Legal cost levels in Hong Kong are generally perceived to be high and unaffordable, an important factor which discourages the greater use of legal services by private individuals and SMEs.
- (4) Knowledge about legal services is generally lacking in the community. Most people did not know what to do when faced with a legal problem. There is also insufficient information for the public to know about the lawyers' specialisations, their experience and fee levels.
- (5) Few private individuals and SMEs are aware of alternative dispute resolution services, let alone use them.
- (6) A wide range of legal related services are currently provided by NGOs which are eager to expand their services both in terms of service variety and geographic coverage. They are nevertheless constrained by their limited resources and inadequate professional support.

### **The Initiatives of the Department of Justice**

6. The following are initiatives currently undertaken by the Department of Justice. These initiatives should help to address some of the unmet demands identified in the Report as set out in paragraph 5 above.

- (1) The Department of Justice has been actively promoting alternative dispute resolution mechanism. A cross-sector working group headed by the Secretary for Justice was set up to map out plans to employ mediation more extensively and effectively in handling both higher-end commercial disputes and relatively small-scale disputes. The Working Group on Mediation will consider the overall strategy to promote the development of mediation services in Hong Kong and to come up with concrete and balanced proposals to encourage a more extensive and effective use of mediation. It will seek to promote greater community awareness of mediation and ensure more concerted efforts to advance mediation in Hong Kong.
- (2) The Chief Justice's Working Group Report on Solicitors' Rights of Audience was published in October 2007. The Department of Justice is promoting the Legal Practitioners (Amendment) Bill 2009 which will implement the recommendations of the Report in this legislative session. A major objective of the legislation is to enlarge the pool of advocates capable of reaching a high standard of advocacy before the higher courts. This is in the interest of the public since it will increase the choice of consumers for legal services. This may also help to address the issue of high legal costs in Hong Kong.
- (3) The Department of Justice has introduced information technology-based initiative to promote access to justice. This includes the Community Legal Information Centre (CLIC) website and a range of other free legal information websites which are relevant to Hong Kong law and law-related issues (for example, the Laws of Hong Kong database (BLIS), the Hong Kong Legal Information Institute site (HKLII), the Judiciary's Judgments & Legal Reference site, the Law Reform Commission's homepage and LawLinks site. These initiatives will provide a means to enhance the knowledge of the general public about legal services.

- (4) The Standing Committee on Legal Education was set up in 2007. Its work is to formulate policies in legal education and training in Hong Kong. Out of the 17 members of the Standing Committee, one member is a representative of the Department of Justice. A copy of the Consultancy Report has been sent to the Chairman of the Standing Committee for his reference and consideration in making future policies on legal education and training.
- (5) Meanwhile, we will work closely with the Law Society and the Bar Association to explore ways to increase publicity about the kinds of legal services provided by their members and to promote greater transparency of legal fees and expertise claimed by their members.

### **Other Relevant Initiatives**

7. The following initiatives are undertaken by other Government bodies and institutions.

- (1) The Resource Centre for Unrepresented Litigants was set up by the Judiciary in December 2003 to provide assistance to unrepresented litigants, who are parties to or about to commence civil proceedings in the High Court (including the Court of First Instance and the Court of Appeal) and the District Court.
- (2) The implementation of the Civil Justice Reform, which came into effect on 2 April 2009, will help to streamline procedures in civil proceedings. This should enable cases to be dealt with more expeditiously, thus reducing legal costs.
- (3) Since 15 June 2009, the Law Society has been providing a “personal injuries helpline” to the public which connects enquirers to a panel of personal injuries practitioners. These are lawyers who have agreed to provide up to one hour of free legal counsel for each enquiry. The free service will also inform and educate claimants about services that are available to assist them in making their personal injury claims and the risk of engaging claim agents.

### **Free Legal Advice Scheme**

8. The Scheme, currently under subvention to the Duty Lawyer Services (“DLS”) by the Home Affairs Bureau, has the following features and objectives –

- (1) It provides, without means testing, free preliminary legal advice to members of the public who face genuine legal problems and would not normally be able to afford fees for professional legal advice (i.e. helping clients understand the nature of their problems, rights and obligations under the law and the channels available for resolution).
- (2) The one-off legal advice given is of a general nature.
- (3) Legal advice is provided by volunteer lawyers on a roster and on pro bono basis.
- (4) The Scheme is operated at nine Legal Advice Centres, each of which is situated at a District Office (“DO”)<sup>1</sup>. With the exception of the Wanchai Centre, which operates twice a week, all other Centres operate once a week in the evening. A person who wishes to seek legal advice from the Scheme may attend any of DLS’s 29 referral agencies (with 153 branches) to make an appointment to meet the volunteer lawyers<sup>2</sup>.

9. Currently, most of the advice sought under the Scheme is civil in nature involving small monetary amounts. Cases handled cover matrimonial, landlord and tenant, employment, estate administration, commercial and property disputes (including simple contract matters, loans, criminal, personal injuries, bankruptcy and debts).

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<sup>1</sup> The nine Legal Advice Centres are operating in the following District Offices: Shatin, Central and Western District, Wanchai, Tsuen Wan, Kwun Tong, Eastern, Yau Tsim Mong, Island and Wong Tai Sin.

<sup>2</sup> In normal circumstances and without specifying any particular centre, a client should be able to meet a volunteer lawyer within two weeks of an appointment. The Scheme also assists other voluntary organizations by making arrangements for volunteer lawyers to provide legal advice under similar schemes independently run by the Hong Kong Federation of Women’s Centres, Hong Kong Federation of Women and Action for Reach Out.

10. The Administration has regularly examined the current service provided by the Scheme. Our observations are that the free legal services currently provided under the Scheme touch upon a wide spectrum of legal aspects and the general legal advice provided under the Scheme virtually covers most, if not all, common legal problems faced by users.

11. To enhance support service for the Scheme, and help attract more volunteer lawyers, there are suggestions for the Administration to examine means to provide enhanced back-up and follow-up support for the volunteer lawyers under the Scheme, including, for example, suggestions to –

- (1) engage legal executives or law students studying in the tertiary institutions to provide enhanced support for the Scheme;
- (2) enhance the handbook/manual for the volunteer lawyers such that volunteer lawyers would be enriched with updated information (e.g. information published by relevant Government departments and agencies on civil and criminal related procedures and services) to facilitate their communication with users;
- (3) formulate checklist for taking requests from users of the Scheme, with a view to facilitating identification of requests made by the users, and necessary information to be supplied or supplemented by the users to facilitate subsequent interviews with the volunteer lawyers.

12. We note that the Panel has asked for the Administration's view on the proposal of extending the scope of legal aid from litigation to legal advice. As a matter of fact, under the current legal aid policy, the objective is to provide means-tested assistance under the Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme. On the other hand, the Free Legal Advice Scheme under the DLS provides, without means-testing, free preliminary legal advice to members of the public. Our view is that the current practice should be maintained.

13. With regard to the findings in the Report, the Administration will continue to examine means to providing enhanced support to the delivery of free legal advice, information and assistance to the community.

**Department of Justice  
Home Affairs Bureau  
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