

**Submission of the Hong Kong Bar Association in Response to the Administration's
Discussion Paper on Free Legal Services
for the Meeting of the Legislative Council Panel on Administration of Justice and
Legal Services to be held on 19 April 2011**

Overview

1. The Bar has always been active in the provision of *pro bono* services for the greater community and those in need of such services. Members of the Bar Association provide freely of their time and effort through existing channels including the Free Legal Advice Scheme run by the Duty Lawyer Service, as well as the Bar's own Free Legal Service Scheme.
2. Access to justice, which was the hallmark of the changes heralded by the Civil Justice Reform, can only have a meaningful impact if the public can be provided with schemes that provide them easy, convenient and free access to legal advice
3. We welcome the Administration's initiatives to provide further support to those bodies which provide *pro bono* services to the public.

Free Legal Advice Scheme

4. The Free Legal Advice Scheme has over the years been of immense benefit to the average citizen who is unable to seek or afford private legal advice. The Bar has been an active supporter of the scheme through the participation of its members.
5. We welcome the provision of an additional session at the Wan Chai District Office with plans to provide further sessions at other centres. The provision of dedicated staff at the District Offices is encouraging and will hopefully go some way to ensure as far as possible that the real issues and needs of the members of public seeking advice are addressed and met during the limited time available at the sessions.
6. We are happy to note that the Administration will provide a travelling allowance to volunteer lawyers. Although all members of the Bar in the Scheme have generously given their time and efforts on a voluntary and non-remunerative basis since the inception of the Scheme, a token payment to cover their expenses is a gesture that will be greatly appreciated.
7. We will continue to encourage our members to participate in the Scheme.

Legal Advice for Litigants in Person

8. We recognise the significant number of litigants in person and the challenge that they pose to our civil justice system. The number of litigants who represent themselves because they are not eligible for legal aid and cannot afford private representation points to a genuine need which is currently not met through the provision of legal aid. We note, however, that the Administration is expanding both OLAS and SLAS and such expansion will hopefully go a long way towards meeting that need.
9. Whilst the Bar as a whole and individual barristers unstintingly give of their time and energy to those in need, we will need to know more about the proposed scheme and the role that it would play within the general range of legal assistance available to litigants before commenting further.
10. In particular, we foresee a number of problems including those relating to professional conduct in acting without the intervention of a solicitor or other professional; professional liability and the coverage of the Bar's professional indemnity insurance; safeguards against abuse; whether the proposed time for each session would be sufficient for proper advice to be given; how (and why) to limit the advice to procedural matters only. These are only a number of issues that may arise and we await with anticipation more detailed proposals.

Commendation Scheme

11. We have no objection to the proposed scheme, although we would like to point out that members of the Bar undertake and volunteer to provide free legal advice and representation out of a sense of duty and service to the community rather than to receive acclaim or accolade for the same.

Hong Kong Bar Association
18th April 2011.