

**For discussion on
23 January 2017**

**Legislative Council
Panel on Administration of Justice and Legal Services**

**2017 Policy Address
Policy Initiatives of the Home Affairs Bureau**

INTRODUCTION

This paper briefs Members on the policy initiatives in respect of legal aid and free legal advice services in the Chief Executive's 2017 Policy Address and Policy Agenda.

OUR VISION

2. Legal aid services form an integral part of the legal system in Hong Kong. We strive to ensure the accessibility of legal aid and free legal advice services to the public to contribute towards upholding the value of everyone being equal before the law.

ON-GOING INITIATIVES

Legal Aid Services

Ordinary Legal Aid Scheme and Supplementary Legal Aid Scheme

3. The policy objective of legal aid is to ensure that all those who comply with the regulations of the Legal Aid Ordinance (Cap. 91) ("LAO") and have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice due to a lack of means. To qualify for legal aid, a person is required to satisfy both the means test and merits test as provided by the LAO.

4. Subsequent to the substantial expansion of the scope of Supplementary

Legal Aid Scheme (“SLAS”) in November 2012 following the previous review¹, the Legal Aid Services Council (“LASC”) has completed a further review on the scope of SLAS and submitted its recommendations to the Government. We are studying LASC’s recommendations and plan to report to the Legislative Council (“LegCo”) Panel on Administration of Justice and Legal Services (“Panel”) in April 2017.

Criminal Legal Aid Fees

5. A working group² was formed by the Home Affairs Bureau in March 2014 to review the rates of criminal legal aid fees payable to lawyers in private practice engaged to undertake litigation work on behalf of the Legal Aid Department (“LAD”). The working group recommended a package of increases in criminal legal aid fees³ and the introduction of a new category of fee rates for Solicitor Advocates for the higher courts. We sought the support of the Panel in February 2016 and the proposed package of increases in criminal legal aid fees was approved by LegCo in June 2016. The new fees came into effect on 14 November 2016.

6. On completion of the 2016 biennial review of criminal legal aid fees, prosecution fees⁴ and duty lawyer fees⁵ (collectively referred to as “the Fees”), we reported to the Panel on 19 December 2016 the review outcome and our proposal to adjust the Fees upward by another 4.0% in accordance with Consumer Price Index (C) movement for the reference period of July 2014 to July 2016. We aim to move a resolution in LegCo in the second quarter of

¹ In addition to the pre-existing claims relating to personal injuries, employees compensation and medical, dental and legal professional negligence, the scope of SLAS was substantially expanded in November 2012 to cover a wider range of professional negligence claims, negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products, monetary claims against the vendors in the sale of completed or uncompleted first-hand residential properties, and representation for employees in appeals against awards made by the Labour Tribunal.

² Members of the Working Group include representatives from the Hong Kong Bar Association and the Law Society of Hong Kong, as well as government representatives from the Legal Aid Department and Department of Justice.

³ The criminal legal aid fees were proposed to be increased by the following percentages –

- (a) 50% for counsel;
- (b) 25% for instructing solicitors; and
- (c) 40% for solicitors acting as both advocate and instructing solicitor in the District Court.

⁴ Fees payable to lawyers in private practice engaged by the Department of Justice to appear for the prosecution in criminal cases.

⁵ Fees payable to duty lawyers providing legal assistance under the Duty Lawyer Service, which provides legal representation to eligible defendants who appear in Magistrates’ Courts, Juvenile Courts and the Coroners’ Court.

2017 to effect the legislative changes to increase criminal legal aid fees and appoint the commencement date for the Fees as soon as possible upon LegCo's approval.

Free Legal Advice Services

Free Legal Advice Scheme

7. The Government provides subvention for the Duty Lawyer Service ("DLS") to implement the Free Legal Advice Scheme ("FLAS") to provide free preliminary legal advice to members of the public without means testing at nine District Offices⁶ of the Home Affairs Department. At present, there are about 1 000 volunteer lawyers participating in FLAS, handling over 6 700 cases per year. The Government will continue to work with DLS and the two legal professional bodies to promote the Scheme and encourage more lawyers to participate in FLAS.

Legal Advice Scheme for Unrepresented Litigants on Civil Procedures

8. The Legal Advice Scheme for Unrepresented Litigants on Civil Procedures ("Procedural Advice Scheme") provides free legal advice on civil procedural matters for unrepresented litigants who satisfy the income eligibility limit⁷ and have not engaged lawyers nor been granted legal aid. At present, the Scheme covers litigants who are parties to civil legal proceedings (including commencement of proceedings) in the Lands Tribunal, District Court, Family Court, Court of First Instance and the Court of Appeal of the High Court and the Court of Final Appeal.

9. During the period from 18 March 2013 to 30 November 2016⁸, the Procedural Advice Scheme conducted a total of over 7 600 advice sessions for some 2 500 eligible litigants. Feedback from users was positive as over 90% of the survey respondents were satisfied with the service provided. As at 31 December 2016, 87 lawyers and 99 law students enrolled as community lawyers and student volunteers respectively. The Government will continue to promote the Procedural Advice Scheme and monitor its operation.

⁶ The nine District Offices are Central and Western, Wan Chai, Eastern, Kwun Tong, Wong Tai Sin, Yau Tsim Mong, Shatin, Tsuen Wan, and Islands District Offices.

⁷ The income eligibility limit of the Scheme is set at a monthly income of \$50,000 or an annual income of \$600,000.

⁸ The Scheme was first launched as a pilot scheme in March 2013 and became a regular Government programme in April 2016.

Recognition Scheme for Provision of Pro Bono Legal Services

10. As an initiative to encourage more members of the legal profession to volunteer to provide free legal services to the public, the Government organised two rounds of the Recognition Scheme for Provision of Pro Bono Legal Services (“Recognition Scheme”) in 2011/12 and 2014/15. Riding on the success of the previous rounds of the Scheme, we have just launched the third round to recognise pro bono legal services provided during the two-year period from 1 January 2016 to 31 December 2017. While the 2016/17 Recognition Scheme continues to comprise the “Individuals” and “Companies” categories⁹, we will introduce a new “Special Award” for individual legal professionals who have provided pro bono legal services of not less than 50 hours during the two-year recognition period. The award presentation ceremony will be held in March or April 2018.

ADVICE SOUGHT

11. Members are invited to note the policy initiatives in respect of legal aid and legal advice services as set out above.

Home Affairs Bureau
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⁹ The “Individuals’ Category” commends legal professionals who have provided pro bono legal services of not less than 30 hours. The “Companies’ Category” commends law firms that have made significant efforts in providing pro bono legal services in respect of their company policies, visions or missions; and the aggregate hours of pro bono legal services performed by the legal professionals within the recognition period should be not less than 30 hours x 10% of the total number of the legal professionals of the firm.