

**For discussion on  
23 October 2017**

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

**The Chief Executive's 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 ("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.

**NEW INITIATIVES**

*Transfer of the Legal Aid Portfolio*

3. As announced in the Policy Address, following the recommendations of the Legal Aid Services Council ("LASC") and taking into account views from stakeholders, the Chief Executive has decided to transfer the responsibilities for formulating legal aid policy and housekeeping the Legal Aid Department ("LAD") from the Home Affairs Bureau ("HAB") to the Chief Secretary for Administration's Office. The transfer will take effect after the necessary approval has been obtained from the Legislative Council ("LegCo").

### *Review of Duty Lawyer Fees*

4. The Government has decided to conduct a review of duty lawyer fees and will set up a working group for the purpose. We have invited the two legal professional bodies, the Duty Lawyer Service (“DLS”) and relevant government departments, namely the Department of Justice and LAD, to join the working group. Upon completion of the review, the Government will report the outcome to this Panel.

### *Additional Office for the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures*

5. 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 limit<sup>1</sup> 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 (“DC”), Family Court (“FC”), Court of First Instance and the Court of Appeal of the High Court and the Court of Final Appeal.

6. During the period from 18 March 2013 to 30 September 2017<sup>2</sup>, the Procedural Advice Scheme conducted a total of over 9 700 advice sessions for some 3 200 eligible litigants. Feedback from users was positive as over 90% of the survey respondents were satisfied with the service provided. As at 30 September 2017, 88 lawyers and 25 law students enrolled as community lawyers and student volunteers respectively.

---

<sup>1</sup> The income eligibility limit of the Procedural Advice Scheme is set at a monthly income of \$50,000 or an annual income of \$600,000.

<sup>2</sup> The Procedural Advice Scheme was first launched as a pilot scheme in March 2013 and became a regular Government programme in April 2016.

7. In the light of the continuous increase in demand for the service as well as the Judiciary's proposed increase in the jurisdictional limit of the District Court<sup>3</sup>, the Government will set up an additional office for the Scheme in the Wan Chai Law Courts Building, with a view to meeting the increasing service needs and providing more accessible service to litigants involved in DC and FC cases. Subject to the necessary preparation work required for setting up the office (including fitting-out works of the office and staff recruitment), the additional new office is expected to commence operation within 2018-19.

## ONGOING INITIATIVES

### Legal Aid Services

#### *Ordinary Legal Aid Scheme and Supplementary Legal Aid Scheme*

8. The policy objective of legal aid is to ensure that all those who meet the criteria set out in 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.

9. Subsequent to the substantial expansion of the scope of Supplementary Legal Aid Scheme ("SLAS") in November 2012 following the previous review<sup>4</sup>, LASC completed a further review on the scope of SLAS and submitted its recommendations to the Government in July 2016. We reported to this Panel on LASC's recommendations and

---

<sup>3</sup> The Judiciary briefed this Panel on its proposal to increase the civil jurisdictional limits of DC and the Small Claims Tribunal at the meeting on 24 April 2017. It is anticipated that the increase in the limit of the civil jurisdiction of the DC from \$1 million to \$3 million will result in more cases currently heard at the High Court to be heard at the DC in the future. Litigants involved in DC and FC cases can benefit from services provided by the proposed additional office in the Wan Chai Law Courts Building.

<sup>4</sup> 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.

the Government's position in April 2017.<sup>5</sup> With members' support, the Government has proceeded with the preparatory work with a view to introducing the legislative amendments into LegCo in the 2017-18 legislative session to implement the expansion proposals. We will consult this Panel on the proposed legislative amendments to subsidiary legislation in early 2018.

### *Criminal Legal Aid Fees*

10. On completion of the 2016 biennial review of criminal legal aid fees<sup>6</sup>, prosecution fees<sup>7</sup> and duty lawyer fees<sup>8</sup> (collectively referred to as "the Fees"), we reported to this 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) ("CPI(C)") movement for the reference period of July 2014 to July 2016. Subject to the passage of the resolution in LegCo for effecting the legislative changes to increase criminal legal aid fees, we will appoint the commencement date for the Fees as soon as possible.

### *Review of Financial Eligibility Limits of Legal Aid Applicants*

11. The Government has completed the annual review of the financial eligibility limits ("FELs") of legal aid applicants for the two-year reference period from July 2014 to July 2016 and recommended that the FELs be increased by 4.0% to reflect the accumulated change in

---

<sup>5</sup> It is recommended by LASC and supported by this Panel that the scope of SLAS be extended to cover monetary claims –

- (i) for professional negligence against financial intermediaries licensed for Type 1 (dealing in securities), Type 2 (dealing in futures contracts) or Type 8 (securities margin financing) regulated activities by the Securities and Futures Commission; and
- (ii) for proceedings in derivatives of securities, currency futures or other futures contracts when fraud, deception or misrepresentation was involved at the time of purchase.

<sup>6</sup> Fees payable to lawyers in private practice engaged to undertake litigation work in respect of criminal cases by LAD.

<sup>7</sup> Fees payable to lawyers in private practice engaged to appear for the prosecution in criminal cases by the Department of Justice.

<sup>8</sup> 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.

the CPI(C) recorded during the reference period. Subject to the completion of work by the relevant subcommittee<sup>9</sup> as well as LegCo's approval, the Government will appoint the commencement date to effect the revised FELs as soon as possible.

## **Free Legal Advice Services**

### *Free Legal Advice Scheme*

12. The Government provides subvention for the 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 Offices<sup>10</sup> of the Home Affairs Department. At present, there are over 1 000 volunteer lawyers participating in FLAS, handling more than 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.

### *Recognition Scheme for Provision of Pro Bono Legal Services*

13. 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 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" categories<sup>11</sup>, we have

---

<sup>9</sup> It was decided at the House Committee meeting of 30 June 2017 that a subcommittee be formed to scrutinise the Resolution under section 7(a) of the LAO for the increase of FELs of legal aid applicants.

<sup>10</sup> 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.

<sup>11</sup> 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.

introduced 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**

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

**Home Affairs Bureau  
October 2017**