

HK Bar Association, Standing Committee on Legal Aid Reform.

Submission for AJLS Panel Meeting on 30th April 2018

1. **There has been slow and minimal progress in Legal Aid reforms. Access to justice and legal aid is slipping backwards.** The outreach to the Sandwich class and those in need of access to justice has been diminishing, not improving. **Percentages of litigants who are unrepresented in court hearings** are continuing to be serious and not acceptable and show access to justice is suffering.
2. LAD are commended **for exposing a hidden slippage** overlooked for years in respect of the exemption for the LAD First Charge. Unfortunately the remedy is not adequate. To keep up with inflation for the costs of legal services the appropriate inflation index for cost of Services should be used, not a General index for inflation. **The cumulative increase in the exemption which is needed is thus greater** than the 80% increase figure used.
3. **A discretion** should be provided to the DLA to waive the LAD First Charge in circumstances of hardship.
4. **The FELs increase again uses the wrong index and method.** Since 2015 the Bar Association has been informing AJLS and LAD that the wrong index has been used, as above, but the matter is not addressed.
5. BOTH sides costs need to be computed as **the risk and cost of litigation includes having to pay BOTH the other winning side's costs as well as your own costs.** This has not been addressed. This was the formula used in the Scott Report of decades ago. No reason for departure has been given. So the slippage continues and outreach declines. See Bar Submission to AJLS 24th April 2017 para 16 to 20, with points made in 2015.
6. **The Bar proposed a list of SLAS reforms from 2002.** Progress has been very slow.
7. Instead of progress, **added obstacles to SLAS reform were invented in July 2015.**
8. **A timetable** for reform has been requested eg 3 years ago, none was provided.
9. **Going backwards on reform** took place. LASC agreed 3 reforms in July 2015, but in 2016 deleted the expansion to cover claims against Incorporated Owners for building problems. There is no valid reason. As housing stock gets older the risks and problem

increase, but the HAB solution is to wait until an accident or illness is caused, then provide Legal Aid for injuries and harm caused. It is better to be pro-active and provide Legal Aid for improving management and maintenance before accidents and risks to health and quality of life arise. See Bar Submission to AJLS 24th April 2017 para 11.

10. For the other reforms, these were not addressed or were the subject of inaccurate or weak comments.

11. These points are mostly not new but the LegCo papers fail to mention them.

12. What is the date for transfer of LAD to the Chief Secretary's responsibility?

13. We continue to hope that LASC will become pro active and co-operative in carrying out these improvements.

Ruy Barretto SC and Nicholas Pirie.

HK Bar Association Standing Committee on Legal Aid Reform

30th April 2018

9251.rb