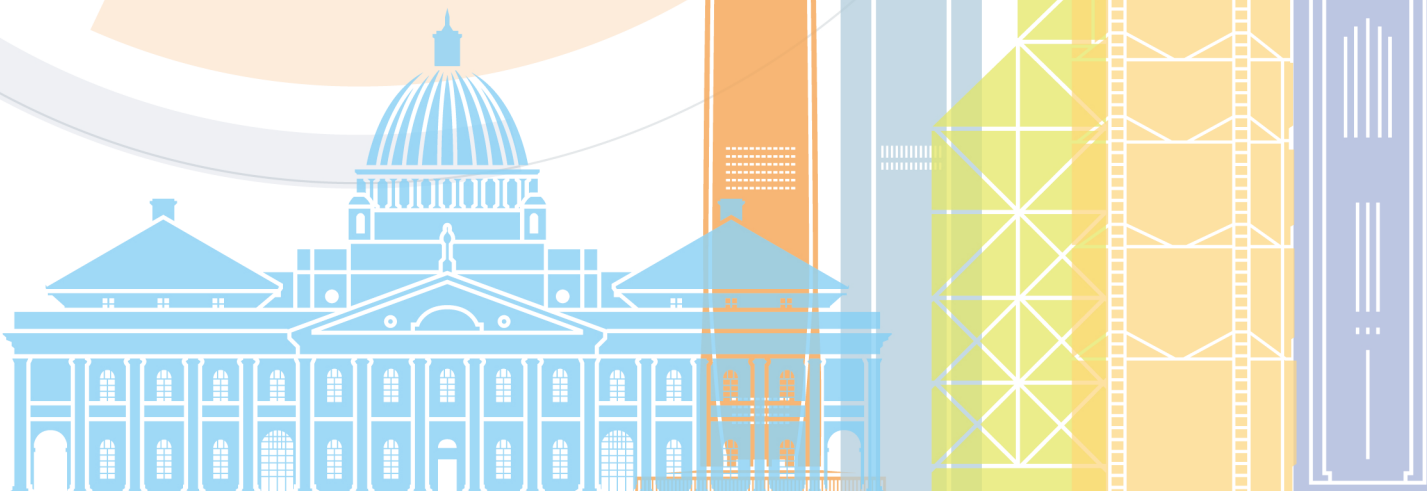


法律援助服務局

LEGAL AID SERVICES COUNCIL

2017  
ANNUAL  
REPORT  
年報 / 18



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## 關於法援局 About the LASC



### 成立

法律援助服務局（「法援局」）根據《法律援助服務局條例》（第489章）於1996年9月1日成立，是一個獨立的法定機構，負責監管由法律援助署（「法援署」）提供的法律援助服務，並就法援政策向行政長官提供意見。

自成立以來，本局對香港的法援服務作出多方面的建議。本局向政府就法援資格準則及服務範圍的政策事宜提供意見，並提出措施加強法援制度的獨立性，同時建議改善法援服務的管理，包括法援申請和審批的程序、委派私人執業律師處理法援個案的制度、外委個案的監察機制、被拒法援申請的上訴程序等，本局亦就增加法援署運作的透明度提出意見。

### 抱負

法援局竭力確保在法律面前人人平等，即使是缺乏經濟能力的人，也能尋求正義伸張，藉以維護和鞏固香港社會的法治精神。

### Establishment

On 1 September 1996, the Legal Aid Services Council (LASC) was established under the Legal Aid Services Council Ordinance, Cap. 489. It is an independent statutory body set up to oversee the administration of the legal aid services provided by the Legal Aid Department (LAD) and to advise the Chief Executive on legal aid policy.

Since its establishment, the Council has made recommendations on various aspects of legal aid services in Hong Kong. It has advised the Government on policy relating to eligibility criteria and scope of legal aid services. It has proposed measures to enhance the independence of the legal aid system. It has suggested improvements in administration of legal aid services such as application and processing procedures, system for assigning cases to lawyers in private practice and monitoring of such cases, appeal procedures against the refusal of legal aid, etc. The Council has also put forward opinions on enhancing the operational transparency of LAD.

### Vision

The LASC actively contributes to upholding and enhancing the rule of law by striving to ensure equality before the law and access to justice by people of limited means.

## 使命

法援局的使命是確保提供質優、快捷及妥當的法援服務，並為此爭取足夠的經費；爭取持續改善與法援服務相關的法律和行政制度；協助加強公眾對法援的認識；以及按時檢討成立一個獨立的法援機構的可行性及可取性。

## 信念

### 全力以赴

法援局忠於職責，恪守抱負、使命及信念宣言的宗旨，因為本局相信法援對於維護法治方面極具價值。本局亦積極推展法援服務。在遵守《法律援助服務局條例》的同時，本局致力完善條例規定，發揚抱負、使命及信念宣言的精神。

### 公正獨立

提高法援管理的獨立性是1996年成立法援局的原因之一，因此，獨立性亦成為本局其中一項核心價值。在確認不同持分者的權益或觀點的同時，本局會採取大公無私的立場處理事務，為建立法治社會及確保在法律面前人人平等而努力。本局不會忽視任何向本局提出的事實或觀點。

### 通眾近民

法援局致力建立與公眾、持分者及本地或海外對法援感興趣人士的溝通渠道。本局會作出適當安排，方便公眾獲取關於本局和本局工作的公開資料，或就特定事宜與本局溝通，或在不影響本局履行職責的前提下，參與本局的工作。

## Mission

The LASC's mission is to ensure the provision of high quality, efficient and effective legal aid services, to secure adequate funding therefor, to try to improve continually the legal and administrative systems for the provision of legal aid, to help increase public awareness of legal aid, and to keep under review the establishment of an independent legal aid authority.

## Values

### *Committed*

The LASC is committed to its work and upholds its vision, mission and values (VMV) because it believes that legal aid is essential to the rule of law. It contributes positively to the provision of legal aid services. While adhering to the Legal Aid Services Council Ordinance, the Council endeavours to improve its provisions in pursuit of its VMV.

### *Independent and Fair*

A greater degree of independence in legal aid administration was one of the reasons for establishing the LASC in 1996. Independence is therefore one of its core values. Thus, while acknowledging the interests or views of different stakeholders, the Council takes a disinterested position and pursues the course of action which contributes most to the rule of law and equality before the law. It will not ignore any fact or view that may be presented to it.

### *Accessible*

The LASC aims to be accessible to the public, to stakeholders, and to interested parties locally or overseas. It will make arrangements to facilitate members of the public to obtain information about the Council and its work, to communicate with the Council on specific issues, and to take part in the Council's work, insofar as this does not prejudice the discharge of its responsibilities.



### **開誠佈公**

加深公眾對法援局的瞭解可加強公眾對本局及法援服務的信任，亦是讓公眾能積極參與本局工作的先決條件。因此，在不違反對特定事宜或在特定場合須保密的情況下，本局會向公眾公開本局的工作。

### **敏於眾望**

法援服務與整個社會的各個範疇息息相關。為了對法援政策提供完善的意見，及有效監督由法援署提供的法援服務，法援局會緊貼社會、經濟及政治狀況的變化、法律慣例及技術革新，並積極應對。此外，對公眾投訴或諮詢作出適時全面的回應，將能建立更有效與市民溝通的渠道，及有助公眾透過本局積極參與法援服務的管理。因此，本局隨時準備聆聽公眾意見，跟進討論研究，並及時採取行動。

### *Transparent*

A better understanding of the LASC will enhance public trust in the Council and legal aid services being provided. This is a pre-requisite to achieve public participation in the Council's work. Hence, the Council will make known to the public its work insofar as this does not breach confidentiality in respect of specific issues or on specific occasions.

### *Responsive*

Legal aid services are provided within a wider environment. In order to provide sound advice on policy and effective supervision of the legal aid services provided by LAD, the LASC has to be sensitive and proactive in response to changes in social, economic and political conditions, legal practices and technological innovation. Besides, timely and comprehensive response to public complaints or enquiries will build more effective channels of communication with the public and will contribute to greater public participation in legal aid administration through the Council. Thus, the Council is ready to listen, to follow up with research, to deliberate and to act promptly.

## 職能

法援局負責監管由法援署提供的法援服務。法援署就該等服務的提供向法援局負責。

本局為履行職責，可：

- (a) 制定政策以管限由法援署提供的服務，並就法援署的政策方向提供意見；
- (b) 不時檢討法援署的工作，並作出妥善和適當的安排，以確保法援署能有效率地並符合經濟原則地履行其職能和提供法援服務；
- (c) 檢討由法援署提供的服務及該署的發展計劃；及
- (d) 就法援署的開支預算作出考慮及提供意見。

本局無權就法援署的職員事宜及其對個別案件的處理向法援署作出指示。

法援局亦是行政長官在關於獲公帑資助並由法援署提供的法援服務的政府政策上的諮詢組織，並須就下列事宜作出建議：

- (a) 資格準則、服務範圍、提供服務的方式、未來的改善計劃、以及法援政策的未來發展和資金需要；
- (b) 設立一個獨立的法援管理局的可行性及可取性；及
- (c) 由行政長官不時轉交法援局的任何其他法援事項。

## Functions

The LASC is responsible for overseeing the administration of the legal aid services provided by LAD. The LAD is accountable to the Council for the provision of such services.

In discharging its responsibility, the Council may –

- (a) formulate policies governing the provision of services by LAD and give advice on its policy direction;
- (b) review the work of LAD from time to time and make such arrangements as are expedient and proper to ensure the efficient and economical discharge of its functions and provision of legal aid services;
- (c) keep under review the services provided by LAD and its development plans; and
- (d) consider and advise on LAD's estimates of expenditure.

However, the Council does not have the power to direct LAD on staff matters and the handling of individual cases by the Department.

The Council also serves as the Chief Executive's advisory body on the policy of the Government concerning publicly-funded legal aid services provided by LAD. It advises on –

- (a) the eligibility criteria, scope and mode of delivery of services, future plans for improvements, funding requirements and future development of legal aid policy;
- (b) the feasibility and desirability of the establishment of an independent legal aid authority; and
- (c) any other aspect of legal aid which the Chief Executive may from time to time refer to the Council.



## 成員

法援局的組成包括主席一名，他須不屬公職人員、大律師或律師，而行政長官認為他並非與大律師行業或律師行業有其他直接關係；持有根據《法律執業者條例》（第159章）發出的執業證書的大律師及律師各兩名；以及四名行政長官認為與大律師行業或律師行業無任何關係的人士。所有成員均由行政長官委任。法援署署長是本局的當然成員。

在2017年4月1日至2018年3月31日的年度內，法援局成員包括：

## Membership

The Council consists of a Chairman who is not a public officer, a barrister or solicitor and, in the opinion of the Chief Executive, is not connected in any other way directly with the practice of law; two barristers and two solicitors, each holding a practising certificate issued under the Legal Practitioners Ordinance (Cap. 159); and four persons who, in the opinion of the Chief Executive, are not connected in any way with the practice of law. All members are appointed by the Chief Executive. The Director of Legal Aid sits on the Council as an ex-officio member.

Members of the Council during the period from 1 April 2017 to 31 March 2018 are listed below:



李家祥博士 GBS, JP (主席)  
Dr Eric LI Ka-cheung GBS, JP (Chairman)



周凱靈女士  
Ms Juliana CHOW Hoi-ling



鄺心怡女士 FHKIA, MH  
Ms Anna KWONG Sum-yee FHKIA, MH



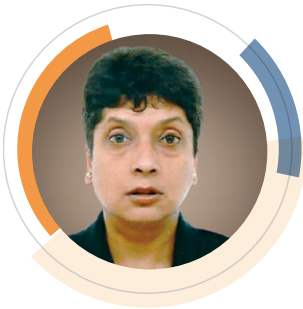
劉麥嘉軒女士 JP  
Mrs Ayesha Macpherson LAU JP



梁宏正先生 JP  
Mr Clarence LEUNG Wang-ching JP



彭韻僖女士 MH, JP  
Ms Melissa Kaye PANG MH, JP



潘素安女士  
Ms Josephine Antonetta PINTO



王惠貞女士 SBS, JP  
Ms Connie WONG Wai-ching SBS, JP



法律援助署署長鄺寶昌先生 JP (當然成員)  
Mr Thomas Edward KWONG JP, Director of Legal Aid (ex-officio)



## 成員簡歷

### 主席李家祥博士 GBS, JP

- 資深執業會計師
- 多間主要公營機構和上市公司的核數委員會主席
- 1994年任香港會計師公會主席
- 1991-2004年間擔任立法會議員
- 於立法會議員任期內，連續9年被選為立法會政府帳目委員會主席
- 1993年當選首位香港傑出會計師
- 榮獲國際會計師大獎2002
- 獲頒英國曼徹斯特大學榮譽法學博士、香港浸會大學榮譽社會科學博士、香港教育大學榮譽社會科學博士、香港中文大學及香港理工大學榮譽院士

### 周凱靈女士

- 持有香港大學法學專業證書
- 1986年取得大律師資格
- 入境事務審裁處法律顧問
- 發展局上訴審裁團（建築物）主席
- 香港大律師公會會員福利委員會及大律師資格考試委員會委員
- 環保署噪音管制上訴委員會小組、水污染管制上訴委員會備選委員小組及廢物處置上訴委員會小組成員
- 1998至2007年為當值律師服務的義務律師，並曾是大律師公會管理委員會和法律援助檢討委員會委員

## About the Members

### Dr Eric LI Ka-cheung GBS, JP, Chairman

- A senior practising accountant by profession
- Chairman of audit committees of major public bodies and listed companies
- President of the Hong Kong Society of Accountants in 1994
- Legislative Council Member from 1991 to 2004
- Chairman of the Public Accounts Committee of the Legislative Council for 9 consecutive years during his tenure as Legislative Council Member
- Awarded the first Accountant of the Year of Hong Kong in 1993
- Received the International Accountant Award in 2002
- Awarded Honorary Doctorate in Law by the University of Manchester, Honorary Doctor of Social Science by the Hong Kong Baptist University, Honorary Doctor of Social Science of The Education University of Hong Kong and Honorary Fellow of the Chinese University of Hong Kong and the Hong Kong Polytechnic University

### Juliana CHOW Hoi-ling

- Holder of a PCLL of Laws from the University of Hong Kong
- Called to the Bar in 1986
- Legal Advisor to the Immigration Tribunal
- Chairman of Appeal Tribunal, Buildings Ordinance of Development Bureau
- Member of the Bar Association's Special Committees on Welfare and Barristers Qualification Examinations
- Member of Noise Control Appeal Board Panel, Water Pollution Control Appeal Board Panel and Waste Disposal Appeal Board Panel of Environmental Protection Department
- Previously served as lawyer of the Duty Lawyer Service from 1998 to 2007 and sat on the Bar Chambers Management Committee and Legal Aid Review Committee

### 鄺心怡女士 FHKIA, MH

- 認可人士－註冊建築師，曾任職於私營和公營企業及天主教香港教區，於2006年開始私人執業
- 香港建築師學會2009-2010年度會長
- 國際崇德社國際監督、第17區總監及區域監督，九龍崇德社會長
- 香港各界婦女聯合協進會理事會兼執行委員會委員
- 義務工作發展局「紫荊領袖義工獎」得主
- 曾為非政府機構和發展商進行保育教堂和新建築項目，其中兩個獲得「聯合國教育科學及文化組織」亞太區文物古蹟保護獎，另一個獲香港建築師學會社區建築獎
- 獲香港特別行政區政府委任加入香港城市規劃委員會、嶺南大學校董會及諮議會、香港貿易發展局基建發展服務諮詢委員會
- 香港特別行政區行政長官選舉委員會委員（2006及2011年）
- 全國人民代表大會香港地區代表選舉委員會委員（2007及2012年）
- 在2013年獲委任為一間上市公司的獨立非執行董事

### 劉麥嘉軒女士 JP

- 執業會計師
- 英格蘭及威爾斯特許會計師公會會員
- 香港會計師公會會員
- 中華人民共和國財政部會計諮詢專家

### Anna KWONG Sum-ye FHKIA, MH

- Authorized Person – Registered Architect and worked in both private, public and Catholic Diocese of Hong Kong before she commenced her practice in 2006
- President of the Hong Kong Institute of Architects (HKIA) (biennium 2009-2010)
- International Director, District 17 Governor and Area Director of Zonta International, President of Zonta Club of Kowloon
- Council and Executive Committee Member of Hong Kong Federation of Women
- A recipient of the Bauhinia Leadership Award organised by the HK Agency for Volunteer Service
- Two of her Conservation Projects for church/new buildings for NGOs/developers she carried out won the United Nations Educational, Scientific and Cultural Organisation Asia-Pacific Office “Culture Heritage & Conservation Award” and another Community Building Award from the HKIA
- Appointed by the HKSAR Government to the Town Planning Board, Council and Court of the Lingnan University, Trade Development Council – Infrastructure Development Advisory Committee
- Election Committee Member for the HKSAR Chief Executive (2006 & 2011)
- Election Committee Member for the National People’s Congress Hong Kong Deputies (2007 & 2012)
- Appointed by a listed company to serve as a Non-Executive Independent Director in 2013

### Ayesha Macpherson LAU JP

- Practising Accountant
- Member of Institute of Chartered Accountants in England and Wales
- Member of Hong Kong Institute of Certified Public Accountants (“HKICPA”)
- Accounting Advisor of Ministry of Finance of the People’s Republic of China

- 國際財稅協會香港分會主席
- 政府學生資助聯合委員會主席
- 聖保羅男女中學審核委員會主席
- 香港大學校務委員會及校董會成員
- 稅務聯合聯絡小組成員
- 廣東省婦女聯合會執委會成員
- 工商專業聯會執行委員會成員
- 公務員敘用委員會成員
- 金融發展局政策研究小組成員
- 香港金融管理局金融基建委員會成員
- 團結香港基金顧問成員
- 遺傳性心律基金會有限公司諮詢委員會成員（慈善機構）
- 強制性公積金計劃管理局非執行董事
- 中華哈佛校友文化交流基金會有限公司董事（慈善機構）
- 曾任香港會計師公會稅務委員會主席、副主席和成員；香港會計師公會稅務專項學會執行委員會主席及香港會計師公會社區服務委員會副主席
- 曾任香港政府公共事務論壇成員；婦女事務委員會成員；整筆撥款獨立檢討委員會成員；經濟機遇委員會成員；財務彙報局財務彙報委員會團委員；香港貿易發展局理事會成員；廉政公署貪污問題諮詢委員會成員；海濱事務委員會成員；航空發展諮詢委員會成員；金融發展局市場推廣小組委員；司法人員薪俸及服務條件常務委員會成員及政府學生資助聯合委員會成員
- Chairperson of International Fiscal Association - Hong Kong Branch
- Chairman of Joint Committee on Student Finance
- Chair of Audit Committee of St Paul's Co-Educational College
- Member of The Council and Human Resource Policy Committee of The University of Hong Kong
- Member of Joint Liaison Committee on Taxation
- Member of Executive Committee of Guangdong Province Federation of Women
- Executive Committee Member of Business and Professionals Federation of HK
- Member of Public Service Commission
- Member of Policy Research Committee of the Financial Services Development Council
- Member of Financial Infrastructure Sub-Committee of HK Monetary Authority
- Member of Council of Advisors and Audit Committee of Our HK Foundation
- Member of Advisory Committee of the SADS HK Foundation Limited (charity)
- Non-Executive Director of the Mandatory Provident Fund Schemes Authority
- Director of Crimson China Cultural Exchange Foundation Limited (charity)
- Previously served as Chairperson, Deputy Chair and Member of Hong Kong Institute of Certified Public Accountants Taxation Committee, Chair of Taxation Faculty Executive Committee of Hong Kong Institute of Certified Public Accountants, Deputy Chairperson of HKICPA Community Services Committee
- Previously served as member of Public Affairs Forum, Women's Commission, The Lump Sum Grant Independent Review Committee, Taskforce on Economic Challenges, Financial Reporting Review Panel - Financial Reporting Council, Hong Kong Trade Development Council, ICAC Advisory Committee on Corruption, Harbourfront Commission, Aviation Development Advisory Committee, Market Development Committee of the Financial Services Development Council, Standing Committee on Judicial Salaries and Conditions of Service and Joint Committee on Student Finance

### 梁宏正先生 JP

- 新興織造廠有限公司董事
- 香港菁英會榮譽主席
- 扶貧委員會委員
- 香港旅遊發展局成員
- 旅遊業策略小組委員
- 職業訓練局理事會成員
- 青年發展委員會成員
- 曾任紡織業諮詢委員會委員
- 曾任城市規劃委員會委員
- 曾任香港特別行政區政府中小型企業委員會委員
- 曾任工業貿易諮詢委員會委員
- 曾任中央政策組非全職顧問
- 劍橋大學經濟學榮譽學士及碩士

### 彭韻僊女士 MH, JP

- 執業律師
- 中國委托公証人
- 國際公證人
- 婚姻監禮人
- 認可調解員
- 彭耀樟律師事務所合夥人
- 香港律師會副會長
- 公民教育委員會主席
- 獨立監察警方處理投訴委員會委員
- 香港廉政公署防止貪污諮詢委員會委員
- 紀律人員薪俸及服務條件常務委員會委員
- 香港房屋委員會委員

### Clarence LEUNG Wang-ching JP

- Director of Sun Hing Knitting Factory Limited
- Honorary Chairman of the Y. Elites Association
- Member of the Commission on Poverty
- Member of the Hong Kong Tourism Board
- Member of the Tourism Strategy Group
- Member of the Vocational Training Council
- Member of the Youth Development Commission
- Previously served as member of the Textiles Advisory Board
- Previously served as member of the Town Planning Board
- Previously served as member of HKSAR SME Committee
- Previously served as member of the Trade and Industry Advisory Board
- Previously served as a Part-time Member of the Central Policy Unit
- Awarded BA and MA honours in Economics by the University of Cambridge

### Melissa Kaye PANG MH, JP

- Practising Solicitor
- China – Appointed Attesting Officer
- Notary Public
- Civil Celebrant
- Accredited General Mediator
- Managing Partner of Pang & Associates
- Vice President of the Law Society of Hong Kong
- Chairman of Committee on the Promotion of Civic Education
- Member of Independent Police Complaints Council
- Member of Corruption Prevention Advisory Committee of ICAC
- Member of the Standing Committee on Disciplined Services Salaries and Conditions of Service
- Member of Hong Kong Housing Authority

### 潘素安女士

- 執業大律師
- 1982年取得香港大律師資格
- 1983-1993年為當值律師服務的義務律師
- 自1983年起為免費法律諮詢計劃的義務律師
- 香港大律師公會執行委員會委員 (1987-1989)
- 香港大律師公會小組委員會委員
  - 人身傷亡賠償委員會 (2002-2006)
  - 海外大律師資格認許委員會 (1987-1988)
  - 基本法起草小組委員會 (1988)
  - 越南難民小組委員會 (1988)
- 1997年精神健康(修訂)條例委員會委員 (1998-1999)
- 與律師會聯合組成的法律持續進修委員會委員 (1988)
- 《精神健康條例》下的監護委員會委員 (1999-2002)
- 皇家特許仲裁員協會認可仲裁師 (1993-1995)
- 「香港法律匯報與摘錄」的顧問編輯 (2005年至今)

### 王惠貞女士 SBS, JP

- 香港浸會大學榮譽院士
- 英國曼徹斯特大學管理學碩士
- 自1993年起出任王新興有限公司董事總經理、萬菱實業(廣東)有限公司執行董事及廣州市萬菱置業有限公司董事總經理

### Josephine Antonetta PINTO

- Practising Barrister
- Admitted to the Hong Kong Bar in 1982
- Acted for the Duty Lawyer Service (1983-1993)
- Acting on Duty Lawyer Service Free Legal Advice Panel since 1983
- Member of the Committee of the Hong Kong Bar Association (1987-1989)
- Member of the Hong Kong Bar Association's Sub-Committees
  - Special Committee on Personal Injuries (2002-2006)
  - Sub-Committee on Admission of Overseas Counsel (1987-1988)
  - Sub-Committee on Draft Basic Law (1988)
  - Sub-Committee on Vietnamese Refugees (1988)
- Member of Committee on Mental Health (Amendment) Ordinance 1997 (1998-1999)
- Member of Joint Committee with Law Society on Continuing Legal Education (1988)
- Member of Guardianship Board under Mental Health Ordinance (1999-2002)
- Fellow of The Chartered Institute of Arbitrators (1993-1995)
- Consultant Editor of the Hong Kong Law Reports and Digest (2005 to date)

### Connie WONG Wai-ching SBS, JP

- Honorary University Fellow of Hong Kong Baptist University
- Master of Science, University of Manchester, England
- Managing Director of Wong Sun Hing Limited, Executive Director of Onelink Industrial (Guangdong) Co Ltd and Managing Director of Guangzhou WanLing Real Estate Co Ltd since 1993

- 自2018年起為中國人民政治協商會議全國委員會提案委員會副主任
- 自2010年起為中國人民政治協商會議全國委員會委員
- 自2006年起為中華全國婦女聯合會執行委員會委員
- 自2009年起為九龍社團聯合會理事長
- 自2017年起擔任港區婦聯代表聯誼會會長
- 自2012年起為香港中華總商會副會長
- 自2012年起為香港廣西社團總會永遠會長
- 自2018年起為香港各界扶貧促進會榮譽主席
- 自2014年起擔任香港義工聯盟常務副主席
- 自2017年起擔任工業貿易諮詢委員會委員
- 自2014年起擔任香港浸會大學諮議會榮譽委員
- Deputy Director of the National Committee of the Chinese People's Political Consultative Conference - Proposals Committee since 2018
- Member of the National Committee of the Chinese People's Political Consultative Conference since 2010
- Delegate of the All-China Women's Federation since 2006
- President of the Kowloon Federation of Associations since 2009
- President of the All-China Women's Federation Hong Kong Delegates Association Ltd since 2017
- Vice Chairperson of the Chinese General Chamber of Commerce since 2012
- Life President of the Federation of Hong Kong Guangxi Community Organisations Ltd since 2012
- Honorary Chairperson of the Hong Kong Poverty Alleviation Association since 2018
- Standing Vice Chairperson of the Hong Kong Volunteers Federation since 2014
- Member of the Trade and Industry Advisory Board since 2017
- Honorary Member of the Hong Kong Baptist University Court since 2014

#### 法律援助署署長鄺寶昌先生 JP

- 擁政治科學及法律學學士學位
- 取得澳洲新南威爾斯最高法院、英格蘭及威爾斯最高法院和香港特別行政區高等法院的律師資格
- 1987年10月加入法律援助署，擔任法律援助律師
- 2013年9月獲委任為法律援助署署長
- 現為民事司法制度改革監察委員會、律政司司長轄下調解督導委員會和規管架構小組委員會、香港調解資歷評審協會有限公司調解資歷評審委員會，以及香港律師會公益法律服務及社區工作嘉許計劃評審委員會的委員

#### Thomas Edward KWONG JP, Director of Legal Aid

- Graduated with Bachelor of Political Science and Bachelor of Laws
- Admitted as Solicitor of the Supreme Court of New South Wales, Supreme Court of England and Wales and the High Court of Hong Kong
- Joined the Legal Aid Department in October 1987 as Legal Aid Counsel
- Appointed Director of Legal Aid in September 2013
- Member of the Civil Justice Reform Monitoring Committee, SJ's Steering Committee on Mediation and Regulatory Framework Sub-Committee, HKMAAL Mediation Accreditation Committee and the Law Society's Judging Panel for the Pro Bono & Community Work Recognition Programme

- 2014年擔任第3屆亞洲調解協會會議籌備委員會榮譽委員
- 曾任首席法官轄下調解工作小組、民事法庭使用者委員會、刑事法庭使用者委員會、刑事訴訟程序委員會、家事調解督導委員會、律政司司長轄下調解工作小組和調解專責小組、香港法律改革委員會集體訴訟小組委員會、僱員補償援助基金管理局、交通意外傷亡援助諮詢委員會、香港國際仲裁中心調解員認可委員會的委員
- Honorable member of the Organising Committee of the 3rd Asian Mediation Association Conference (2014)
- Previously served as member of the CJ's Working Party on Mediation, Civil Court Users' Committee, Criminal Court Users' Committee, Criminal Procedure Rules Committee, Steering Committee on Family Mediation, SJ's Working Group on Mediation, SJ's Mediation Task Force, Law Reform Commission Sub-Committee on Class Actions, Employees' Compensation Assistance Fund Board, Traffic Accident Victims Assistance Advisory Committee and HKIAC Mediator Accreditation Committee

## 主席回顧 Chairman's Review



我欣然向大家介紹2017-2018年度報告，這是我擔任法律援助服務局主席以來第六份年報。

政府將推行架構改動，其中一項措施為落實早前法援局提出的建議，將制訂法援政策和管理法律援助署（「法援署」）的職責，由原屬的民政事務局（「民政局」）撥歸政務司司長辦公室，以彰顯法援制度的獨立性。本局對此感到欣喜。在轉移法援政策範疇後，法援署署長將直接向政務司司長負責。有關轉移將於2018年7月1日起生效。

法律援助服務是法律制度中不可或缺的一部分，對維護香港的法治扮演着重要

I am pleased to present the 2017-2018 Annual Report, the sixth during my tenure as Chairman of the Legal Aid Services Council.

It is glad to know that the Government will, as part of its restructuring initiatives, implement the Council's earlier proposal 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 (CSO), thereby underlining the independence of the legal aid system. After the transfer, the Director of Legal Aid will directly report to the Chief Secretary for Administration. The transfer will take effect from 1 July 2018.

Legal aid services form an integral part of the legal system and play an important role in contributing towards upholding the rule of law in Hong Kong. The purpose of legal aid is to ensure that all those who have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice because of a lack of means. Thus, to qualify for legal aid, a person is required to satisfy both the means test and merits test as provided by the Legal Aid Ordinance (LAO).

A person is financially eligible for legal aid if his financial resources do not exceed the financial eligibility limit (FEL). The FELs of the Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS) are reviewed annually to take into account general price movement and biennially to take into account changes in litigation costs and other relevant factors. In June 2017, HAB informed the Council of



的角色。法援政策的目的是確保所有具備合理理據在香港法院提出訴訟或抗辯的人士，不會因缺乏經濟能力而無法尋求公義。因此，任何人如欲獲得法援，必須同時通過《法律援助條例》規定的經濟審查和案情審查。

任何人擁有的財務資源只要不超過財務資格限額，在經濟上便符合申請法援的資格。政府會每年檢討一次普通法律援助計劃（「普通計劃」）和法律援助輔助計劃（「輔助計劃」）的財務資格限額以計及一般物價變動的情況，而兩年一度進行的檢討則會計及訟費變動及其他相關的因素。民政局在2017年6月向本局通報有關財務資格限額的最新檢討結果，參照2014年7月至2016年7月期間丙類消費物價指數的上升幅度，民政局建議把財務資格限額相應調高4.0%，即普通計劃和刑事法律援助的財務資格限額上調至302,000元，而輔助計劃的財務資格上限則為1,509,980元。新的財務資格限額於2018年2月9日起生效。本局歡迎有關決定。

近年，不當使用或濫用法援服務的情況引起了社會的關注。為回應立法會司法及法律事務委員會（「事務委員會」）的要求，民政局在2017年7月的會議上，向事務委員會簡報法援署為防止法援制度被不當使用而推行的措施，以及委派私人執業律師處理法援個案的準則，並於該年同月通報本局。

本局非常感謝法援署為防止法援制度被不當使用和濫用，以及增強公眾對委派律師處理法援個案的認識所作出的努力。在過去數年，被拒法援個案上訴的成功率並不高，可見批出或拒絕法援的決定是獨立公正的；與臆測相反，獲批法援進行司法覆核的個案數目其實不

the outcome of the latest annual review of FELs. Noting that the Consumer Price Index (C) for the reference period from July 2014 to July 2016 has increased by 4%, HAB proposed to adjust the FELs upward by 4% accordingly. The new FELs i.e. \$302,000 for OLAS and criminal legal aid and \$1,509,980 for SLAS came into effect from 9 February 2018. The Council welcomes the increase.

In recent years, there have been concerns over the misuse/abuse of the legal aid system of Hong Kong. In response to the requests of the Legislative Council Panel on Administration of Justice and Legal Services (AJLS), HAB briefed the Panel in July 2017 on the measures implemented by LAD to prevent the misuse of the legal aid system, and on the criteria for assigning lawyers in private practice to handle legal aid cases. The Council was informed about this in the same month of the year.

The Council appreciates the efforts taken by LAD in preventing the misuse of the legal aid system and enhancing the public understanding of the assignment of lawyers in legal aid cases. The Council noted from the information presented to the AJLS Panel that the success rates of legal aid appeals were low in the past years, which reveal that the decisions on the grant/refusal of legal aid were made independently and impartially. Also, contrary to speculations, not many legal aid applications for judicial review (JR) were approved. In 2016, only 27 legal aid certificates were granted for cases involving JR while 437 applications were received.



多，在2016年，在接獲的437宗申請中，只有27宗獲批。

本局於2016年2月就為被扣留在警署人士提供法律諮詢服務向政府提交了意見書。在收到本局的建議後，政府相關的政策局和部門已開始研究建議的可行性。在2017年7月，政府向事務委員會通報本局的建議，並表示在完成內部審議後，將再次向事務委員會報告政府建議的未來路向。

我明白政府非常關注建議的服務或會對資源和有關部門的營運造成影響，但我相信憑藉科技的協助（例如運用Skype和平板電腦提供服務），應可大大減省律師親自探訪被扣留人士所引致的法律費用，同時毋須為面談在警署另闢空間；我亦相信一個可於電子傳輸過程中加密訊息的系統應可處理在保安方面的關注。我希望政府能認真地考慮此項建議，並在切實可行的情況下儘快落實。

在2017年6月，我出席了國際法律援助組織在南非約翰尼斯堡舉行的雙年研討會，大約有80名來自不同國家的著名學者、高級官員，以及提供和管理法律援助服務的人士參加。在為期兩天半的研討會上，部分參加人士發表了有關法援的最新研究和分享選定國家的法援經驗。

我認為該研討會頗具啟發性，與其他已建立相當成熟法律援助制度的司法管轄區相比，香港的法援服務顯得有待改善，除了科技應用方面，我們的思維模式亦需作出更改，義工、法律學生和自助組織應得到更多支援，以便參予法律援助服務，尤其是為弱勢社群提供的服務。

我在研討會後向法援局呈交了一份報告。在報告中，我提出以下建議：

The Council made a submission to the Government in February 2016 on the provision of legal advice services for persons detained in police stations. After receiving the Council's recommendations, relevant government bureaux and departments have been examining the feasibility. In July 2017, the Government reported the recommendations to the AJLS Panel and informed that on completion of the internal deliberations, they would report to the Panel again on the recommended way forward.

While I appreciate the concerns of the Government about the financial and operational implications of the proposed services, I believe that, with the help of technology, by using Skype and tablet PC to provide the services for example, the legal costs for the time spent by lawyers on visiting the detainees in person could be greatly reduced. Also, no additional office space would be required for the face-to-face interviews in police stations. As regards the security concern, I believe there should be a system that could encrypt the messages during electronic transmission. I hope that the Government could seriously consider the proposed services and implement it as soon as practicable.

In June 2017, I attended a biennial conference held by the International Legal Aid Group in Johannesburg, South Africa. The conference was attended by about 80 leading academics, senior officials, and administrators and providers of legal aid services who came from different countries. The conference took two and a half days and was packed with presentations about the latest researches and sharing of experiences from selected countries.

I find the conference quite inspiring. When the legal aid services of Hong Kong are compared with those provided by the jurisdictions with highly developed systems of legal aid, it appears that the delivery of our legal aid services has room for improvement. In addition to the adoption of technology, our mindset may have to be changed. More support should be provided for the participation of volunteers, law students and self-help groups in the delivery of legal aid services, especially to the more vulnerable groups in society.

In my report to the Council after attending the conference, I

- 邀請服務香港弱勢社群（例如少數族裔、青少年、問題家庭）的非政府組織參與法援服務；
- 探討設定一個合理評估服務質素準則的可行性；及
- 由獨立的跨國認可顧問進行一項全面的服務差距分析（傾向更新於2006年進行的香港法律及相關服務的供求情況研究）

我亦建議在服務差距分析完成後，由法援局考慮最合適香港的法援服務模式和管治架構。

本局成立了一個關於改善法律援助資訊傳遞的專責小組，檢視由法援署所提供的法律援助服務統計數據及相關資訊，找出引起持分者關注的資訊差距，以及就公布資訊和統計數據方面向法援署作出建議，以提高該署的運作透明度。

made some recommendations on the legal aid services of Hong Kong including:

- to engage non-governmental agencies which are serving the most vulnerable groups in Hong Kong (e.g. ethnic minorities, youth, problem families) in the review of services;
- to explore the feasibility of setting reasonable standards to evaluate the quality of the services currently provided; and
- to undertake a comprehensive gap analysis of services (preferably to update the 2006 study on the demand for and supply of legal and related services in Hong Kong) by an independent internationally recognized consultant.

I also recommended that after the service gap analysis, the Council could consider which is the most appropriate model for delivery of legal aid services in Hong Kong and the most desired governance structure for the services.

The Task Force on Dissemination of Legal Aid Information established under the Council is tasked to review the statistics



專責小組自成立以來，已經完成研究有關委派律師處理法援個案和法援財政預算的統計數據。由於有公眾批評法援署將大多數法援個案外委給少數律師和懷疑法援預算實際上設有上限，為避免該類不必要的批評和懷疑，法援署接納專責小組的建議，將有關個別律師獲委派處理法援個案的數目，以及法援的核准預算和實際開支指數上載至該署網站。

在2017-2018年間，專責小組繼續研究有關審批法援申請的統計數據，尤其涉及向政府提出索償的法援申請。專責小組認為涉及司法覆核案件的被拒法援數字和法援上訴結果，皆可證明批准或拒絕法援的決定是獨立公正。為此，專責小組建議法援署在該署的年報內公布有關的統計數據。除了被拒法援申請和法援上訴結果的統計數字外，專責小組已著手研究法援署的衡量服務表現指標，並會考慮該等指標是否需要更新，以及那些指標值得向公眾公布。

在2017-2018年間，法援署給予本局很大的支持，我要感謝法律援助署署長及其團隊盡忠職守和努力不懈的工作態度，以及他們在討論和檢視法援服務時所提供的協助，我非常讚賞法援署的貢獻，並期待來年與他們繼續緊密合作。同時，我衷心感謝本局和負責改善法律援助資訊傳遞的專責小組成員，我深信在他們堅定的支持下，法援局定會繼續蓬勃發展，為維護及改善香港的法治積極作出貢獻。

and information on the legal aid services provided by LAD with a view to enhancing its operational transparency. The Task Force will identify the information gaps leading to the concerns raised by stakeholders on the legal aid services and make recommendations to LAD on improving the dissemination of its information and statistics.

Since its establishment, the Task Force has completed its review of the statistics relating to the assignment of legal aid cases and legal aid budget. To avoid the unnecessary criticism/suspicion that most of the legal aid cases are assigned to a small number of lawyers and the legal aid budget is de facto capped, LAD accepted the Task Force' suggestion to upload the statistics on assignment of legal aid cases to the individual lawyers and the indices on approved estimates and actual expenditure of legal aid costs onto the Department's website.

In 2017-2018, the Task Force continued to study the statistics on the granting of legal aid particularly to applicants who pursue claims against the Government. The Task Force opined that the number of refusals of legal aid and the outcomes of legal aid appeals in respect of judicial review cases could demonstrate that the decisions on the grant/refusal of legal aid were made independently and impartially. Therefore, the Task Force suggested LAD disseminate such statistics in its annual report. In addition to the statistics on the granting of legal aid, the Task Force has started the study of key performance indicators (KPIs) of LAD. It would consider whether the KPIs need to be updated and which KPIs are worth to be disseminated to the public.

Throughout 2017-2018 LAD has given the Council a great deal of support. I would like to express my gratitude to the Director of Legal Aid and members of LAD for their dedication to duty and hard work, as well as their assistance in the discussion and review of the legal aid services provided by the Department. I very much appreciate the LAD's contribution and look forward to working closely with them in the years to come. My heartfelt appreciation also goes to members of the Council and the Task Force on Dissemination of Legal Aid Information. With their unfaltering support, I am sure that the Council will continue to flourish and actively contribute to upholding and enhancing the rule of law in Hong Kong.

## 轉移法律援助政策範疇

# Transfer of Legal Aid Portfolio



《行政長官2017年施政報告》公布了政府架構改動，其中一項措施為落實早前法律援助提出的建議，將制訂法律援助政策和管理法律援助的職責，由原屬的民政事務局（「民政局」）撥歸政務司司長辦公室（「司長辦公室」），以彰顯法律援助制度的獨立性。

### 背景

在最近一次就成立獨立的法援管理局的可行性及可取性進行的顧問研究中，有論點指出，如果法援署直接向政務司司長負責，尤其是在處理涉及其他政府政策局或部門的個案時，法援署行事方能更為獨立。事實上，民政局雖然負責監管法援政策的工作，但該局並沒有參與法援署的日常運作。不論在法規和實際上，現時已有充分措施確保法援署獨立運作。本局及研究顧問均認同法援署目前享有並行使足夠的獨立程度，任何懷疑法援署缺乏獨立性，只偏屬觀感問題，應該可在法援行政框架中推行改善措施得到解決。因此，本局建議，除了其他主要建議外，將法援署重新定位並撥歸政務司司長直接管轄，即回復在2007年7月之前的安排。

As announced in the Chief Executive's 2017 Policy Address, the Government will, as part of its restructuring initiatives, implement the LASC's earlier proposal 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 (CSO), thereby underlining the independence of the legal aid system.

### Background

In the most recent consultancy study on the feasibility and desirability of the establishment of an independent legal aid authority, there was an argument that if LAD was made directly accountable to the Chief Secretary for Administration (CS), it should be able to work more independently particularly in cases which involved other government bureaux/departments. In fact, while HAB oversaw policy matters on legal aid, it was not involved in the day-to-day operation of LAD. Sufficient safeguards in statute and practice were in place to ensure LAD's operational independence. Both the Council and the consultant of the study acknowledged that the degree of independence upheld and exercised by LAD was sufficient. It was considered that any suspicion about the lack of independence was more of a perception issue which could be addressed by introducing improvement measures to the legal aid administration framework. Therefore, the Council recommended, among other things, that LAD should be re-positioned and made directly accountable to CS, which had been the arrangement prior to July 2007.

政府在審慎評估本局的建議和考慮持分者的意見後，向司法及法律事務委員會（「事務委員會」）匯報，決定原則上接納本局的建議，把制訂法援政策和管理法援署的職責撥歸司長辦公室，而法律援助署署長（「法援署署長」）則應直接向政務司司長負責。

## 建議

為配合有關轉移法援政策範疇的工作，以及確保工作的延續性，政府建議把12個公務員職位（包括一個首長級丙級政務官（首長級薪級第2點）職位和11個非首長級職位），從民政局轉移至司長辦公室。在轉移後，該名擔任首長級丙級政務官職位的人員將會繼續負責監督法援政策，並會負責涉及法庭程序的民事事宜相互法律協助（例如送達司法文書、調取證據和強制執行贍養令）的事宜。

## 對法援署、免費法律諮詢服務和資助事宜的影響

建議的轉移不會影響法援署履行其法定職務和運作。在轉移後，法援署署長將直接向政務司司長負責。

除了監督法援署的工作外，法援政策範疇還包括有關提供免費法律諮詢服務（包括推行無律師代表民事程序法律諮詢計劃），以及為當值律師服務和法援局提供資助的政策責任。這些政策責任和資助事宜屬法援政策範疇的一部分，將從民政局一併轉移至司長辦公室，相關職務和日常運作均不會受到影響。

本局知悉民政局已於2017年11月27日諮詢事務委員會，且沒有收到反對建議的意見。轉移法援政策範疇將於2018年7月1日起生效。

After careful consideration of the Council's recommendations and views from stakeholders, the Government reported to the Legislative Council Panel on Administration of Justice and Legal Services (AJLS) its acceptance in principle of the Council's recommendation that the responsibilities for formulating legal aid policy and housekeeping LAD should be vested with CSO and the Director of Legal Aid (DLA) should report directly to CS.

## The Proposal

To ensure continuity and to tie in with the transfer of the legal aid portfolio, it was proposed that 12 civil service posts (including 1 AOSGC post (D2) and 11 non-directorate posts) be transferred from HAB to CSO. Upon transfer to CSO, the AOSGC post will continue to oversee policy matters relating to legal aid, as well as mutual legal assistance in civil matters involving court procedures, such as service of judicial documents, taking of evidence and enforcement of maintenance orders.

## Implications on LAD, Free Legal Advice Services and Subventions

The proposed transfer will not affect LAD's discharge of its statutory duties and operation. After the transfer, DLA will directly report to CS.

Apart from overseeing LAD, the legal aid portfolio also includes policy responsibilities on the provision of free legal advice services including the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures, and subventions for the Duty Lawyer Service and LASC. These policy responsibilities and subventions will be transferred from HAB to CSO as part and parcel of the legal aid portfolio. Their duties and daily operations will not be affected.

The Council noted that HAB had consulted the AJLS Panel on 27 November 2017 and there was no objection to the proposed transfer. The transfer will take effect on 1 July 2018.

## 法律援助資訊的傳遞 Dissemination of Legal Aid Information



法援局成立了一個關於改善法律援助資訊傳遞的專責小組，檢視由法律援助署（「法援署」）提供的法援服務統計數據及相關資訊。專責小組將找出引起持分者關注的資訊差距，以及就公布資訊和統計數據方面向法援署作出建議，以提高該署的運作透明度。

專責小組由法援局主席帶領。由於小組的工作嚴謹仔細，亦需要不同範疇的專業知識，本局難以獨力承擔，因此，除了本局成員以外，其他專業人士包括學者、會計師、資訊科技顧問、統計師亦受邀加入專責小組。法援署亦有代表加入，使有關法援服務統計數據的討論更切實有效。

本局過去的年報中指出，專責小組認為有些對法援署的法援服務所作出的批評是可以透過改善資訊傳遞來解決。相關議題包括：

- a) 委派律師處理法援個案的情況；
- b) 法援的財政預算；以及
- c) 審批法援申請的獨立性，尤其涉及向政府提出索償的法援申請。

The Task Force on Dissemination of Legal Aid Information was established under the Council to review the statistics and related information on the legal aid services provided by the Legal Aid Department (LAD). The Task Force will identify the information gaps leading to the concerns raised by stakeholders and make recommendations to LAD on the dissemination of its information and statistics with a view to enhancing its operational transparency.

The Task Force is led by the Council chairman. As its work is meticulous and requires certain expertise that could not be supported by the Council alone, in addition to Council members, members of different professions including academic, accountants, IT consultant and statistician were invited to join the Task Force. To enable an effective discussion of the statistical information on legal aid services, a representative from LAD also sits on the Task Force.

As stated in the Council's previous report, the Task Force has already identified the criticisms against the legal aid services provided by LAD that could be addressed by improving the dissemination of information. The issues concerned include:

- a) the assignment of lawyers in legal aid cases;
- b) the legal aid budget; and
- c) the independence of granting legal aid particularly to applicants who pursue claims against the Government.

專責小組已完成研究首兩項議題的統計數據。由於有公眾批評法律援助署將大多數法律援助個案外委給少數律師及懷疑法律援助預算實際上設有上限，專責小組認為如果將委派給個別律師的法律援助個案統計數據和法律援助的核准預算和實際開支指數向公眾公開，應有助於減少該類不必要的批評或懷疑。

在專責小組和法律援助署的通力合作下，有關獲委派法律援助案件宗數最多的首二十名律師所辦理個案數目，以及法律援助財政預算 / 開支指數的編制工作已經完成，而這些統計資料已於法律援助署的2016年報內公布，該年報亦已上載至法律援助署網站。

The study of the statistics on the first two subjects was completed. The Task Force opined that if the statistics on assignment of legal aid cases to the individual lawyers and the indices on approved estimates and actual expenditure of legal aid costs were disseminated to the public, it might help reduce the unnecessary criticism/suspicion that most of the legal aid cases are assigned to a small number of lawyers and the legal aid budget is de facto capped.

With the collaborative effort of both the Task Force and LAD, the presentation of the statistics on assignment of legal aid cases to the top 20 solicitors, and the indices on legal aid budget/ expenditure was finalised and the statistics was included in the LAD's annual report for 2016, which has been uploaded onto the website of the Department.



在2017-2018期間，專責小組繼續研究最後一項議題，即審批法律援助申請的獨立性，尤其涉及向政府提出索償的法律援助申請。

申請人須通過經濟審查和案情審查，方可獲得法律援助。關於案情審查，申請人必須證明他申請法律援助進行的法律程序是有合理理據提出或抗辯，而法律援助必須信納該案件有合理的成功機會；如給予申請人法律援助是不合理的，則可能會拒絕提供法律援助。

During 2017-2018, the Task Force continued to study the last issue - the independence of granting legal aid particularly to applicants who pursue claims against the Government.

Legal aid will be granted if the applicant has passed the means test and the merits test. Regarding the merits test, an applicant has to show that he has reasonable grounds for taking or defending the proceedings for which he applied for legal aid and LAD has to be satisfied that there is a reasonable chance of success in the case involving the applicant and may refuse legal aid if it is unreasonable to grant legal aid.

There have been concerns as to whether the Government will interfere in the course of legal aid especially in judicial review



政府會否干預法援審批，尤其涉及挑戰政府決定的司法覆核案件一直備受關注。為檢視此議題，專責小組對被拒法援申請和法援上訴結果的統計數據作出研究。

專責小組注意到在2016年所處理的111宗涉及司法覆核案件的法援上訴中，無一個案上訴成功。由於大多數拒絕法援的決定都得到高等法院司法常務官的支持，專責小組認為此數字可證明批准或拒絕法援的決定是獨立公正；專責小組還認為，儘管這些數字（以年為基礎）可能無法解釋個別法援申請的情況，不過經研究一段時間後，該類數字應可顯示法援申請結果的趨勢。為此，專責小組建議法援署在該署的年報內公佈申請法援進行司法覆核被拒和相關法援上訴結果的統計數據。

為了在未來能夠徹底研究法援申請的結果，專責小組亦建議法援署考慮為每個審批工作階段分配一個編碼，以便追蹤每一宗法援申請的審批狀況；並建議法援署在電腦系統升級以後，盡早實施這種編碼系統。

除了被拒法援申請和法援上訴結果的統計數字外，專責小組已著手研究法援署的衡量服務表現指標，考慮該等指標是否需要更新，以及那些指標值得向公眾公布。

在研究期間，專責小組指出除法律專業外，相關的持分者並不大參與法援服務。專責小組認為法援署應主動研究所有相關持分者的需要，並在檢討服務標準時盡量讓有關持分者參與。為進一步提升公眾對法援服務的評價，本局認為，法援署可在服務管理方面引入新措施，例如在提供法援服務方面採用風險管理。

cases initiated to challenge Government decisions. To review the issue, the Task Force has examined statistics on the refusals of legal aid and the outcomes of legal aid appeals in respect of judicial review cases.

The Task Force noted that in 2016, 111 legal aid appeals in respect of judicial review cases were heard and no legal aid appeal was allowed. Since the majority of legal aid appeals were upheld by the Registrar of High Court, the Task Force opined that the figures could demonstrate that the decisions on the grant/refusal of legal aid were made independently and impartially. It also considered that by reviewing the figures over a period of time should reveal a trend of the result of legal aid applications although the figures, which were year based, might not be able to explain what exactly happened to individual legal aid applications. Therefore, the Task Force suggested LAD disseminate the statistics on refusals of legal aid and outcomes of legal aid appeals in respect of judicial review cases in its annual report.

To enable a thorough study of the outcomes of legal aid applications in future, the Task Force also suggested LAD consider assigning a code to every stage of work to facilitate tracking the status of each legal aid application. It was suggested that this coding system be implemented as soon as the LAD's computer system has been upgraded.

In addition to the statistics on the refusals of legal aid and the outcome of legal aid appeals, the Task Force has started the study of key performance indicators (KPIs) of LAD. It would consider whether the KPIs need to be updated and which KPIs are worth to be disseminated to the public.

During the study, the Task Force noted that relevant stakeholders, save for the legal professions, were not greatly involved in the provision of legal aid services. It opined that LAD should take the initiative to study the needs of all relevant stakeholders and to engage them as far as possible when reviewing the service standards. To further enhance public perception of legal aid services, as discussed in the Council, LAD might need to introduce new measures in the governance of its services, for example, to adopt a risk management approach in the delivery of legal aid services.

## 檢討法律援助申請人的 財務資格限額

## Review of Financial Eligibility Limits of Legal Aid Applicants

任何人擁有的財務資源只要不超過財務資格限額，在經濟上便符合申請法律援助的資格。「財務資源」是指將申請人每月可動用收入乘以12，再與其可動用資產相加後所得的總和。可動用收入是指申請人的總收入在減去《法律援助（評定資源及分擔費用）規例》（第91B章）（《規例》）所規定可扣除項目後的餘額。除非《規例》訂明在計算可動用資產時應剔除某些項目，否則申請人的可動用資產須包括一切屬資本性質的資產，例如申請人的貸方結餘總和、其他人須付予該申請人的款項、該申請人名下非金錢資源權益的價值、其業務或在公司的業務中所佔份額的價值等。

### 檢討

根據在1999年9月就《1999年法律援助（修訂）條例草案》向立法會提交的報告，政府會每年檢討一次普通法律援助計劃（「普通計劃」）和法律援助輔助計劃（「輔助計劃」）的財務資格限額以計及一般物價變動的情況，而兩年一度進行的檢討則會計及訟費變動及其他相關的因素。

在最新一次的財務資格限額周年檢討工作中，民政事務局（「民政局」）參照

A person is financially eligible for legal aid if his financial resources do not exceed the financial eligibility limit (FEL). "Financial resources" means the aggregate of that person's monthly disposable income multiplied by 12 and disposable capital. A person's disposable income is his gross income minus deductible items as allowed under the Legal Aid (Assessment of Resources and Contributions) Regulations, Cap. 91B ("the Regulations"). His disposable capital consists of all assets of a capital nature, such as the sum of his credit balance, money due to him, the value of his interest in non-money resources, the value of business or share in a company etc., unless such items should be excluded from calculation under the Regulations.

### The Review

Pursuant to the Government's report to the Legislative Council (LegCo) on the Legal Aid (Amendment) Bill 1999 in September 1999, the FELs under the Ordinary Legal Aid Scheme (OLAS) and Supplementary Legal Aid Scheme (SLAS) are reviewed annually to take into account general price movement and biennially to take into account changes in litigation costs and other relevant factors.

In the latest annual review of FELs, the Home Affairs Bureau (HAB) proposed to adjust the FELs upward by 4% in accordance with the increase in Consumer Price Index (C) (CPI(C)) for the

2014年7月至2016年7月期間丙類消費物價指數的上升幅度，建議把財務資格限額相應調高4.0%。至於2016年7月後一般物價變動所帶來的影響，則會在下一輪檢討中反映。調整前後的財務資格限額載列如下：

period from July 2014 to July 2016. The impact of general price movement after July 2016 will be reflected in the next review. The FELs before and after the adjustment are shown below –

	調整前的財務資格限額 FELs before Adjustment	調整後的財務資格限額 FELs after Adjustment
普通計劃下的法律援助 Legal aid under OLAS	\$290,380	\$302,000
刑事法律援助 Criminal legal aid	\$290,380	\$302,000
輔助計劃下的法律援助 Legal aid under SLAS	\$1,451,900	\$1,509,980

至於兩年一度的檢討，民政局曾要求兩個法律專業團體提供協助，但有關團體均表示並無有關私人訟費的資料。因此，自2000年推出兩年一度檢討該限額的安排以來，政府從未以訟費變動為基礎對財務資格限額作出調整。

As for the biennial review, HAB sought assistance from the two legal professional bodies but were advised that no information on private litigation costs was available. Therefore, it has not been able to make any adjustment to the FELs on the basis of changes in litigation costs since the introduction of the biennial review in 2000.

## 建議的實施情況

民政局於2017年6月向法援局通報有關財務資格限額的檢討結果，並依照《法律援助條例》第7條的規定，向立法會提交調整財務資格限額的決議案。新的財務資格限額於2018年2月9日起生效。

## Implementation of Proposal

In June 2017, HAB informed the LASC of the FELs review outcome. In accordance with section 7 of the Legal Aid Ordinance, HAB moved a resolution in LegCo to adjust the FELs. The new FELs came into effect from 9 February 2018.

本局歡迎有關決定。

The Council welcomes the increase.

## 防止法律援助制度 被不當使用和委派 律師處理法律援助個案

# Prevention of the Misuse of the Legal Aid System and Assignment of Lawyers in Legal Aid Cases

法律援助服務是法律制度重要的一環，對維護香港法治起着重要的作用。法援政策的目的是確保所有符合《法律援助條例》（《法援條例》）（第91章）規定和具備合理理據在香港法院提出訴訟或抗辯的人士，不會因缺乏經濟能力而無法尋求公義。因此，任何人如欲獲得法援，必須同時通過《法援條例》規定的經濟審查和案情審查。

由2018年2月9日起，凡本身財務資源不超過302,000元的人，在經濟上均符合資格根據普通法律援助計劃（「普通計劃」）申請法援，普通計劃適用於在區域法院或較高級別法院進行的民事法律程序。該財務資格限額亦適用於申請刑事法援的個案。法律援助輔助計劃（「輔助計劃」）的相應財務資源上限為1,509,980元。

「財務資源」意指申請人每月可動用收入乘以12，再加上可動用資產的總和。可動用收入是指個人的總收入在減去《法律援助（評定資源及分擔費用）規例》（《分擔費用規例》）（第91B章）所規定可扣除項目後的餘額。除非

Legal aid services form an integral part of the legal system and play an important role in contributing towards upholding the rule of law in Hong Kong. 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 because of a lack of means. Thus, to qualify for legal aid, a person is required to satisfy both the means test and merits test as provided by the LAO.

From 9 February 2018, a person whose financial resources do not exceed \$302,000 is financially eligible for legal aid under the Ordinary Legal Aid Scheme which covers civil proceedings in the District Court or higher courts, and legal aid in criminal cases. The corresponding upper limit for the Supplementary Legal Aid Scheme is \$1,509,980.

“Financial resources” means the aggregate of a person’s monthly disposable income multiplied by 12 and disposable capital. A person’s disposable income is his gross income minus deductible items as specified in the Legal Aid (Assessment of Resources and Contributions) Regulations, Cap. 91B (“the Regulations”). A person’s disposable capital consists of all assets of a capital nature, such as the sum of his credit balance, money due to him, the value of the person’s interest in non-money resources, the

《分擔費用規例》訂明在計算可動用資產時應剔除某些項目，否則可動用資產須包括以下一切屬資本性質的資產，例如申請人的貸方結餘總和、其他人須付予該申請人的款項、申請人名下非金錢資源權益的價值、其業務或在公司的業務中所佔份額的價值等。

近年，不當使用 / 濫用法援服務的情況引起了社會的關注。為回應立法會司法及法律事務委員會（「事務委員會」）的要求，民政事務局（「民政局」）在2017年7月的會議上，向事務委員會簡報法律援助署（「法援署」）為防止法援制度被不當使用而推行的措施，以及委派私人執業律師處理法援個案的準則，並於同月通報本局。詳情見下文。

## 防止不當使用法援的措施

### 處理申請

《法援條例》第10(3)條規定民事案件須進行案情審查，內容如下：「任何人均須顯示他有合理理由進行法律程序、在法律程序中抗辯、反對或繼續法律程序或作為其中一方，否則不可獲發給法律援助證書，進行該等法律程序」。為確保只有具合理理由的個案方可獲批法援，所有法援申請均須由法援署的法援律師審核。

在進行案情審查時，法援署會考慮案件的背景、現有證據和適用於該案件的法律原則。法援署必須研究該案件是否有合理理據或所涉及的法律觀點足以讓法援署信納宜於批給法援，以便使有關事宜得以交予法庭作出裁決或判決，然後才發出法援證書。倘申請個案涉及複雜的法律問題，法援署可根據《法援條例》第9(d)條，就有關申請個案的案情向私人執業大律師徵詢獨立的法律意見（「第9條意見」）。

value of business or share in a company etc., unless such items should be excluded under the Regulations.

In recent years, there have been concerns over the misuse/abuse of the legal aid system in Hong Kong. In response to the requests of the Legislative Council Panel on Administration of Justice and Legal Services (AJLS), the Home Affairs Bureau (HAB) briefed the Panel in July 2017 on measures implemented by the Legal Aid Department (LAD) to prevent the misuse of the legal aid system. The briefing also covered the criteria for assigning lawyers in private practice to handle legal aid cases. The LASC was informed about this in the same month of the year. Details are reproduced in the ensuing paragraphs.

## Measures to Prevent Misuse of Legal Aid

### Processing of applications

The merits test for civil cases is stipulated in section 10(3) of the LAO which reads “A person shall not be granted a legal aid certificate in connection with any proceedings unless he shows that he has reasonable grounds for taking, defending, opposing or continuing such proceedings or being a party thereto”. To ensure that only those cases with reasonable grounds are granted legal aid, all legal aid applications are processed by Legal Aid Counsel of LAD.

In conducting the merits test, LAD will consider the background, evidence available and legal principles applicable to the case. Before issuing a legal aid certificate, LAD must be satisfied that there are reasonable grounds or points of law involved which makes it desirable to grant legal aid so that the matter may be submitted to the Court for decision or judgment. If complicated legal issues are involved in the application, LAD may seek independent legal opinion from counsel in private practice on the merits of the application under section 9(d) of the LAO (“section 9 opinion”).

《法援條例》第10(3)條訂明法律援助署署長（「署長」）可拒絕給予法援的準則，例如申請人在該等法律程序中只會得到輕微好處，或申請人未能向法援署提供《法援條例》第9(b)條所規定的相關文件。根據《法援條例》第26條，倘法援申請被拒，申請人可向高等法院司法常務官提出上訴，由司法常務官以內庭聆訊方式處理，其決定為最終決定。

有關法援申請的統計數據表列如下：

Section 10(3) of the LAO sets out the criteria where the Director of Legal Aid (DLA) may refuse legal aid. These include cases where only a trivial advantage would be gained by the applicant from such proceedings, or the applicant has failed to provide relevant documents to LAD as required under section 9(b) of the LAO. According to section 26 of the LAO, if an application for legal aid is refused, the applicant may appeal to the Registrar of the High Court in Chambers whose decision is final.

Statistics relating to legal aid applications are set out in the table below –

	2014	2015	2016
<b>民事法援 Civil legal aid</b>			
接獲的申請數目 No. of applications received	16 288	15 165	14 733
批出的證書數目 No. of certificates granted	7 526	7 058	6 878
申請被拒的數目 No. of applications refused:			
- 基於財務資源理由 on means	912	814	786
- 基於案情理由 on merits	5 583	5 227	5 294
上訴推翻署長決定的數目 No. of appeals against DLA's decisions:			
- 經聆訊的上訴 appeals heard	809	705	750
- 上訴得直 appeals allowed	32	38	28
<b>刑事法援 Criminal legal aid</b>			
接獲的申請數目 No. of applications received	3 717	3 630	3 567
批出的證書數目 No. of certificates granted	2 690	2 521	2 641
申請被拒的數目 No. of applications refused:			
- 基於財務資源理由 on means	38	47	25
- 基於案情理由 on merits	823	921	817
法官批出的證書數目 No. of certificates granted by the Judge	8	4	10

註：證書未必在接獲申請的同一年內批出。

Note: Certificates may not be granted in the same year as the applications were received.

## 監察獲批的申請

為確保有充足理據因應案情繼續給予法律援助，法援署會向獲批的申請發出有限度法律援助證書，訂明適用的範圍只限於某些工作範疇或法律程序中某些特定的步驟。法援署會因應所發現或取得的更多資料和證據，持續檢討有關案件的案情，以決定是否延續該法律援助證書。倘法援署認為有關案件不再有合理理據繼續進行法律程序，例如所得的事實證據或醫學證據對受助人的申索不利、或在法律程序中所招致的訟費跟預計會討回的賠償金額不成比例，法援署將取消對有關案件提供法律援助。

## 不當使用 / 濫用法援

《法援條例》及其附屬法例訂有防止不當使用 / 濫用法援的機制。根據《法援條例》第23條，任何尋求或接受法律援助的人士，如在提供所需資料時明知而作出任何虛假陳述或虛假申述，即屬犯罪，循簡易程序定罪後，可處第三級罰款（即10,000元）和監禁六個月。任何人如認為申請人或受助人曾就案情審查或經濟審查提供虛假資料，可向法援署提供有關詳情。按照《法援條例》第11條和《法律援助規例》（《法援規例》）（第91A章）第8條規定，署長如信納受助人曾明知而就其所提供的資料作出虛假陳述、曾故意不披露其財務資源或關於其財務資源的任何重要事實等，署長可撤回其法律援助證書。根據《法援規例》第9條，法援署可向受助人追討所有已繳付或須繳付的訟費，亦可把個案轉介警方跟進。《法援條例》第17條規定，有關法院或法官亦可命令該受助人繳付署長的訟費。法援署會向所有申請人發出「重要告示」，藉以通知 / 提醒他們須注意《法援條例》的相關規例。在2014至2016年間，法援署

## Monitoring approved applications

To ensure the continuation of legal aid is justified in terms of the merits of the case, LAD will issue legal aid certificates that are limited to certain scope of work or specific steps in the proceedings for approved applications. Any extension of the certificate will be subject to ongoing review on the merits of the case when more information and evidence is unfolded or obtained. Legal aid certificates will be discharged if LAD considers that there are no longer reasonable grounds to continue the proceedings, such as cases in which the factual or medical evidence is unfavourable to the aided person, or costs to be incurred in the proceedings are disproportionate to the estimated amount of damages to be recovered.

## Misuse / Abuse of Legal Aid

The LAO and its subsidiary legislation provides mechanisms to prevent misuse/abuse of legal aid. Under section 23 of the LAO, any person seeking or receiving legal aid who knowingly makes any false statement or representation when furnishing the information required shall be guilty of an offence and liable on summary conviction to a fine at level 3 (i.e. \$10,000) and imprisonment for 6 months. Anyone who believes that an applicant or aided person has furnished false information on the merits or means may provide relevant details to LAD. Pursuant to section 11 of the LAO and regulation 8 of the Legal Aid Regulations, Cap. 91A (LAR), the DLA may revoke a legal aid certificate if he is satisfied that the aided person has knowingly made a false statement concerning any information furnished by him; or has wilfully failed to disclose his financial resources or any material fact concerning his financial resources, etc. Under regulation 9 of the LAR, LAD may recover from that person all costs paid or payable. LAD may also refer the case to the Police for follow-up actions. According to section 17 of the LAO, a court or judge may also order the aided person to pay the costs of DLA. Applicants are informed/reminded of the relevant regulations by an "Important Notice" provided by LAD. Follow-

就不當使用 / 濫用法援的情況採取了以下的跟進行動：

up actions taken by LAD regarding misuse/abuse of legal aid in 2014 to 2016 are summarized below –

	2014	2015	2016
撤回法援證書的數目 Revocation of legal aid certificate	27	24	33
在取消或撤回證書後轉介警方跟進的個案數目 Referral to the Police after discharging or revoking certificate	26	25	20
被定罪的個案數目 Conviction	4	2	2

註：被取消或撤回證書的個案未必在同一年內轉介警方跟進和被法院定罪。

Note: Referrals to the Police and convictions may not be made in the same year as the certificates were discharged or revoked.

根據《法援規例》第11條，倘任何人在申請法援被拒後曾反覆多次提出申請，而署長覺得其行為構成濫用根據《法援條例》提供的服務，署長可命令法援署不予考慮該名人士提出的任何申請，最長為期三年。在考慮有關申請人的行為是否構成濫用法援時，法援署會研究該名人士以往被拒的申請、該些申請的案情，以及法援上訴的結果。法援申請人如因署長根據《法援規例》第11條作出的命令或決定而感到受屈，可向高等法院司法常務官提出上訴，其決定為最終決定。

### 涉及司法覆核案件的法援個案

社會就不當使用 / 濫用法援服務的情況提出的關注，多涉及司法覆核案件。因此，民政局向事務委員會提交了有關處理司法覆核的法援申請的資料和相關統計數字。

如民政局文件所述，申請人須證明有合理理由進行司法覆核法律程序，才會獲批法援。處理涉及司法覆核的法援申請而採用的案情審查準則，跟其他對民事

Pursuant to regulation 11 of the LAR, if anyone applies for legal aid after repeated refusals, DLA may order that no consideration shall be given to any future application made by that person for a period of up to 3 years if it appears to DLA that his conduct has amounted to an abuse of the services provided by the LAO. In considering whether the conduct has amounted to an abuse of legal aid, LAD will examine the applicant's previously refused applications, the merits of those applications and the outcomes of any legal aid appeals therefrom. A legal aid applicant aggrieved by any order or decision made by LAD may, pursuant to section 26 of the LAO, appeal to the Registrar of the High Court whose decision will be final.

### *Legally-aided cases involving judicial review*

Concerns about the misuse/abuse of the legal aid system are mainly related to cases of judicial review (JR). Hence, HAB has submitted information on processing legal aid applications involving JR and related statistics to the AJLS Panel.

As explained in the HAB's submission, legal aid will only be granted to applicants who can show reasonable grounds for conducting JR proceedings. The criteria for conducting the merits test for legal aid applications involving JR are the same as those for other civil legal aid applications. The number of legal aid applications involving JR received by LAD and the number



法援申請所採用的準則相同。在2014至2016年間，法援署接獲涉及司法覆核的法援申請數目和批出的法援證書數目表列如下：

of legal aid certificates granted in 2014 to 2016 are tabulated below –

	2014	2015	2016
接獲涉及司法覆核的法援申請數目 <sup>#</sup> : No. of legal aid applications involving JR received <sup>#</sup> :			
(i) 與免遣返聲請有關的申請數目* cases related to non-refoulement claims*	98	248	144
(ii) (i)以外涉及司法覆核的申請數目 cases other than (i)	168	252	293
總數 Total	266	500	437
就司法覆核案件批出的法援證書數目 <sup>#</sup> : No. of legal aid certificates granted for cases involving JR <sup>#</sup> :			
(i) 與免遣返聲請有關的法援證書數目* cases related to non-refoulement claims*	52	62	9
(ii) (i)以外涉及司法覆核的法援證書數目 cases other than (i)	22	45	18
總數 Total	74	107	27

註 Notes:

# 法援證書未必在接獲申請的同一年內批出。

Certificates may not be granted in the same year as the applications were received.

\* 就免遣返聲請而提供的公費法律支援，不在法援署提供的法援範圍內。不過，倘聲請人因入境事務處或酷刑聲請上訴委員會的決定而感到受屈，並希望透過司法覆核提出質疑，他們可根據《法援條例》申請法援。倘聲請人被有關當局羈留，他們亦可要求提供法援以申請獲釋放，並就非法羈留一事追討損害賠償。

The provision of publicly-funded legal assistance for non-refoulement claims is not within the scope of the legal aid services provided by LAD. However, if claimants are aggrieved by the decisions of the Immigration Department or Torture Claims Appeal Board and wish to challenge them by way of judicial review, they may apply for legal aid in accordance with the LAO. They may also apply for legal aid for applying for release from the detention by relevant authorities and recovering damages for unlawful detention.

在2014-2015、2015-2016及2016-2017財政年度中，有關獲批法援的司法覆核案件所涉及的法律費用支出總額表列如下：

Total legal expenditure on legally-aided cases involving JR in the financial years 2014-15, 2015-16 and 2016-17 is also tabulated below –

財政年度 Financial year	涉及司法覆核案件的法律費用支出總額 (百萬元) Total legal expenditure on cases involving JR (\$ million)	涉及司法覆核案件的法律費用支出 佔該年度法援費用總額的百分率 Expenditure on JR cases as a percentage of total legal aid costs of the year
2014-15	22.7	4.00%
2015-16	29.4	5.17%
2016-17	36.3	5.02%

註：涉及司法覆核案件的法律費用支出總額可能包括並非在該年度內獲批法援證書的個案所需開支。

Note: The total legal expenditure on cases involving JR may include the expenditure for cases where the legal aid certificates were not granted in the same year.

## 委派律師的準則

### 委派律師予受助人

《法援條例》第13條訂明，凡署長發給法援證書，他可透過法援律師代受助人行事；或除非受助人希望自行挑選，否則會由署長指派在《法律援助律師名冊》（《名冊》）內挑選的私人執業律師代為行事。為此，法援署已制訂一套委派律師辦理法援個案的準則，並已上載至法援署的網站。

法援署亦已發出一份《法律援助律師手冊》，載述有關辦理法援個案的指引。該指引訂明，外委律師有責任進行法律程序和作出符合受助人利益的決定，因此，他們應熟讀《法援條例》的條文和與辦理法援個案有關的相關規例。其中，外委律師必須查看有關法援證書的範圍，因為只有執行範圍內的工作才會獲付酬金。倘遇有招致異常巨額開支的需要，外委律師須於事前取得法援署的批准。外委律師亦有責任向法援署匯報

## Assignment Criteria of Lawyers

### Assignment of lawyers to aided persons

Section 13 of the LAO provides that where a legal aid certificate is granted, DLA may act for the aided person through Legal Aid Counsel or assign any lawyers in private practice on the Legal Aid Panel selected by either the aided person if he so desires, or DLA. To this end, LAD has devised a set of criteria on the assignment of legal aid cases and uploaded it onto the LAD's website.

LAD has also issued a "Manual for Legal Aid Practitioners" setting out the guidelines for conducting legal aid cases. The guidelines state that it is the duty of assigned lawyers to conduct proceedings and decide on what steps to take in the interests of the aided person. To this end, they should familiarise themselves with the provisions of the LAO and related regulations that are relevant to the conduct of legal aid cases. Assigned lawyers are required to check, among other things, the scope of the legal aid certificate and will be remunerated only for the work done within the scope. If there is a need to incur unusual and large expenditure, assigned lawyers should obtain prior approval from LAD. Assigned lawyers are also under a duty to report to LAD

有關個案的進展情況和懷疑受助人不當使用 / 濫用法援服務的個案。他們必須明白本身對運用法援撥款所負的責任，並須留意法援署相關規定內有關執行署長第一押記的事宜。

法援署在委派《名冊》內的律師辦辦法援案件時，會恪守把受助人利益放在首位的基本原則。根據法律意見和過往案例，倘受助人依據《法援條例》第13條自行提名律師，法援署認為應充分尊重有關提名；而除非有令人信服的理由，否則不應拒絕有關提名。令人信服的理由包括：獲提名的律師過往的工作表現欠佳和曾受到紀律處分；或法律程序中規定採用的語言很可能會損害受助人在法律程序中的利益及 / 或對法援基金造成損害；又或受助人在沒有合理理由的情況下，曾多次或很遲才要求更換律師。法援署會依據上述準則去衡量所選律師是否合適，倘法援署認為獲提名的律師並非適當人選，或該名律師所獲委派處理的個案數目超出上限，法援署會要求受助人從《名冊》內提名另一名律師，並審視新提名的律師是否適合。在此情況下，最終獲委派的律師均會是受助人和法援署所接受的人選。

### 律師獲委派的個案數目上限

由2013年起，法援署加緊執行《法律援助律師手冊》內所訂的上限規定，即每名律師可獲委派處理的個案數目上限和可獲支付的累積法援費用上限（如適用），有關規定適用於所有類別的民事和刑事案件。倘獲提名的律師所接辦的個案數目已超出上限，法援署會要求受助人從《名冊》中提名另一名律師。在2014至2016年間，獲委派最多個案的律師和大律師所處理的個案數目表列如下：

on progress of the cases and any suspected misuse/abuse of legal aid by the aided persons. They must also understand their responsibility to the legal aid fund and pay attention to relevant provisions on the operation of DLA's first charge.

In assigning cases to lawyers on the Legal Aid Panel, LAD adheres to the fundamental principle that an aided person's interest is of paramount importance. In light of legal advice and precedent cases, when an aided person nominates by himself a lawyer pursuant to section 13 of the LAO, LAD takes the view that the nomination should be given due weight and should not be rejected unless there are compelling reasons. These include unsatisfactory past performance and disciplinary action taken against the nominated lawyer, or language requirements of the proceedings which are likely to undermine the aided person's interest in the proceedings and/or to put the legal aid fund in jeopardy, or the aided person has made repeated or late requests for change of lawyer without reasonable grounds. LAD will base on the above criteria to determine whether the choice of lawyer is appropriate. If the nominated lawyer is considered not appropriate or is handling a number of cases exceeding the assignment limit, LAD will ask the aided person to nominate another Panel lawyer and assess the newly nominated lawyer for appropriateness. In this way, the lawyer eventually assigned will be agreeable to both the aided person and LAD.

### *Limits on assignment of lawyers*

Since 2013, LAD has tightened up enforcement of the limits set on the number of assignments handled by a lawyer and the cumulative amount of legal aid fees payable (where applicable) as stipulated in the Manual for Legal Aid Practitioners, covering civil and criminal cases of all categories. If the number of assignments taken up by a nominated lawyer has exceeded the limit, LAD will ask the aided person to nominate another Panel lawyer. The number of cases handled by the solicitors and counsel with most assignments in 2014 to 2016 is tabulated below:

## 民事案件 Civil Cases

排名 Rank	2014		2015		2016	
	律師 Solicitor	大律師 Counsel	律師 Solicitor	大律師 Counsel	律師 Solicitor	大律師 Counsel
1	129	29 (0)	46	31 (0)	43	28 (3)
2	82	28 (8)	45	30 (0)	42	28 (2)
3	65	28 (0)	45	29 (1)	41	25 (1)
4	50	28 (1)	44	27 (1)	40	25 (1)
5	50	27 (10)	43	26 (0)	40	25 (0)
6	49	27 (1)	43	25 (4)	40	25 (0)
7	49	26 (0)	42	25 (0)	40	25 (2)
8	47	26 (0)	42	25 (0)	40	25 (0)
9	47	26 (1)	41	25 (0)	40	24 (1)
10	47	26 (0)	41	25 (0)	39	23 (0)

註： ( )號內的數字表示根據第9條獲委派個案的數目。在陰影部分的數字代表已超出當時可獲委派處理的個案數目上限（律師：45宗個案；大律師：25宗個案）。在2016年，有兩名大律師由於要處理有關連的個案，因此即使獲委派的工作會超出上限，但仍獲委派處理有關個案。

Note: The figure in ( ) indicates the number of section 9 assignment(s). Figures in the shaded areas have exceeded the then assignment limits of 45 cases for solicitors and 25 cases for counsel. In 2016, two counsel were assigned civil cases despite exceeding the assignment limit as the newly assigned cases were related to the cases assigned to them earlier.

## 刑事案件 Criminal Cases

排名 Rank	2014		2015		2016	
	律師 Solicitor	大律師 Counsel	律師 Solicitor	大律師 Counsel	律師 Solicitor	大律師 Counsel
1	25	23	29	25	31	23
2	18	21	21	18	30	23
3	18	21	19	18	27	20
4	16	19	19	17	19	19
5	16	17	17	17	17	18
6	16	17	16	17	17	17
7	15	16	15	14	15	17
8	15	16	14	14	15	16
9	14	16	14	14	15	16
10	14	16	13	13	15	16

註： 上述數字不包括在批出法援證書前獲委派提供意見的個案的數目。在陰影部分的數字代表已超出當時可獲委派處理的個案數目上限（30宗個案）。在2016年，有一名律師由於要處理有關連的個案，因此即使獲委派的工作會超出上限，但仍獲委派處理有關個案。

Note: The above figures do not include the number of pre-certification advice assignment. Figure in the shaded area has exceeded the then assignment limit of 30 cases. In 2016, one solicitor was assigned a criminal case despite exceeding the assignment limit as the newly assigned case was related to the cases assigned to him earlier.

為回應有關委派太多法援個案予少數律師的關注，法援署在2017年就律師可獲委派的個案數目上限進行檢討及提出修訂。如本局去年年報所載，有關修訂如下：

To address the concern about the assignment of too many legal aid cases to a small number of lawyers, LAD conducted a review on the assignment limits recommended revisions in 2017. As reported in the last report, relevant revisions as follows –

	修訂前 Before Revision	經修訂後 After Revision
律師 Solicitor	民事：45宗個案 Civil: 45 cases 刑事：30宗個案或60萬元法援費用（以最先到達上限者為準） Criminal: 30 cases or \$600,000 in legal aid costs (whichever occurs first)	民事：35宗個案 Civil: 35 cases 刑事：25宗個案或75萬元法援費用（以最先到達上限者為準） Criminal: 25 cases or \$750,000 in legal aid costs (whichever occurs first)
大律師 Counsel	民事：25宗個案 Civil: 25 cases 刑事：30宗個案或120萬元法援費用（以最先到達上限者為準） Criminal: 30 cases or \$1.2 million in legal aid costs (whichever occurs first)	民事：20宗個案 Civil: 20 cases 刑事：25宗個案或150萬元法援費用（以最先到達上限者為準） Criminal: 25 cases or \$1.5 million in legal aid costs (whichever occurs first)

除修訂律師可獲委派個案數目的上限外，法援署亦建議作為一般政策，倘大律師曾於較早前給予有利案情的第9條意見，而其後該宗案件獲批法援，則該名大律師將不會獲委派接辦有關案件；不過，在特殊情況下可不受此限，例如沒有其他大律師具備所需的經驗和專業知識處理該案件，又或者是為了維護受助人的利益（例如在損害索償案件中避免受助人要承擔更多的第一押記金額）。

經修訂的律師可獲委派個案數目上限和委派大律師提供第9條意見的一般政策已於2018年1月2日起生效。

### 法援申請的申報機制

為打擊不當兜攬或包攬訴訟的活動，法援署在諮詢本局和兩個法律專業團體

Apart from revising the assignment limits, LAD also proposed that as a general policy, a counsel who has earlier given a favourable section 9 opinion would not be assigned to handle the case if legal aid is subsequently granted. However, exceptions could be made in special circumstances such as there is no other counsel with the required experience and expertise available to handle the case, or it is in the interest of the aided person to do so (e.g. in containing the amount of first charge to be borne by the aided person as in damages claim cases).

Both the new assignment limits and the general policy of assigning counsel to provide section 9 opinions took effect from 2 January 2018.

### Declaration system for legal aid applications

As a measure to combat improper touting or champertous activities, LAD introduced a declaration system for legal aid applications in September 2013 after consulting the Council and the two legal professional bodies. The system seeks to ensure

後，於2013年9月為法援申請引入申報制度，以確保受助人是按其意願提名律師，而且並無與任何人（包括獲提名的律師、其僱員、代理或索償代理）達成協議，攤分在法律程序中可能討回的任何損害賠償、財產或訟費。法援署亦會提醒法援申請人，如有任何人接觸他們，聲稱可協助申請法援或向他們建議提名某一名律師，他們應向法援署職員舉報。受助人在選擇代表律師時如需要尋求意見，他們可聯絡和諮詢法援署。

### 監察外委律師的工作表現

法援署設有既定機制監察外委律師的工作表現，由署長擔任主席的部門監察委員會，負責評核外委律師辦辦法援個案的工作表現和委派予個別律師的法援個案數目。法援署的首長級人員亦會定期檢閱所有委派個案，以確保有關律師在辦辦法援個案時沒有出現不當行為或無故拖延的情況。在2014至2016年間，對於《名冊》內的律師在辦辦法援個案時出現不當行為，法援署採取的紀律處分如下：

that aided persons nominate lawyers of their own free will and that they have not agreed to share with any person(s) (including nominated lawyers or their employees, agents or claims agents) any damages, property or costs which they may recover in the proceedings. LAD also reminds legal aid applicants to report to LAD staff if they are approached by any person claiming to offer assistance in applying for legal aid or suggesting nomination of a particular lawyer. Aided persons may contact and consult LAD if they need advice on the choice of legal representatives.

### Monitoring performance of assigned lawyers

LAD has an established system to monitor the performance of assigned lawyers. The Departmental Monitoring Committee chaired by DLA evaluates the performance of assigned lawyers in handling legal aid cases and the number of legal aid cases assigned to individual lawyers. LAD's directorate officers also keep all assigned cases under regular review to ensure that there are no improprieties or undue delays in the handling of legal aid cases. Disciplinary actions taken by LAD against Panel lawyers in relation to handling of legal aid cases in 2014 to 2016 are shown below –

	2014	2015	2016
發出勸誠信的宗數 No. of advisory letters issued	4	0	2
在「工作表現及行為操守欠佳記錄冊」內作出記錄的宗數 No. of lawyers placed on the Record of Unsatisfactory Performance/Conduct	11	7	14
從《名冊》中除名的律師人數 No. of lawyers removed from the Legal Aid Panel	0	0	3

此外，廉政公署在2015年完成一項就委派民事案件予私人執業律師和專家的防止貪污研究，並提出多項建議以加強監督委派個案的程序，法援署已落實所有主要建議。

## 公眾教育

政府一直透過不同途徑加強宣傳和教育的工作，包括提醒市民切勿濫用法援。法援署致力推廣法援服務，每年均舉辦和參與多項活動，並透過網站、小冊子、電視宣傳短片、電台宣傳聲帶等，增加公眾對法援服務的了解。除了解釋案情審查的運作外，法援署亦積極向公眾傳達信息，讓公眾明白適當地申請和使用法援服務的重要性，其中包括提醒法援申請人如作出虛假陳述或提供不正確資料可被檢控；以及如有人曾多次申請法援，而有關行為足以構成濫用該服務，署長可命令法援署對該名人士日後提出的申請不予考慮，有效期最長為三年。法援署在未來會繼續推行有關公眾教育的工作。

本局非常感謝法援署為防止法援制度被不當使用和濫用，以及增強公眾對委派律師處理法援個案的認識所作出的努力。被拒法援個案上訴推翻署長決定的成功率並不高，涉及司法覆核的被拒法援個案的上訴成功率亦同樣不高，可見法援申請得到妥善和公正的處理。與臆測相反，獲批法援進行司法覆核的個案數目其實不多，在2016年，在接獲的437宗申請中，只有27宗獲批；不過值得注意的是，一些司法覆核案件如沒有獲批法援，也許不能上訴至終審法院，而有關案件的法院裁決實有助澄清 / 建立相關法例，例如，在兩個關於居留權資格的法援案件中（一宗是涉及在中國內地出生而被香港永久居民領養的人

Furthermore, in 2015 the Independent Commission Against Corruption completed a corruption prevention study on the assignment of civil cases to private practitioners and experts and made a number of recommendations on strengthening procedural supervision. LAD has implemented the key recommendations.

## Public Education

The Government has been stepping up publicity and educational efforts through various channels, including reminding the public not to abuse the use of legal aid. LAD is committed to promoting legal aid services by organising and participating in various activities, and enhancing public understanding of such services via websites, booklets, announcements in public interest on television and radio, etc. Apart from explaining how the merits test works, LAD emphasizes to the public the importance of proper application for and use of legal aid services. These include a reminder that legal aid applicants may be prosecuted for making false statements or furnishing incorrect information; and if a person has repeatedly applied for legal aid to the extent that his conduct has amounted to an abuse, DLA may order that no consideration shall be given to any future application made by that person for a period of up to three years. LAD will continue with its efforts on public education in future.

The Council appreciates the efforts of LAD to prevent the misuse and abuse of the legal aid system and to enhance public understanding of the assignment of lawyers in legal aid cases. The low success rates of appeals against DLA's decisions to refuse legal aid and legal aid appeals in JR cases reveal that legal aid applications have been properly and impartially processed. Contrary to speculations, not many legal aid applications for JR have been approved. In 2016, only 27 out of 437 applications were approved. It is also noted that but for legal aid, some of the JR cases may not have been able to reach the Court of Final Appeal (CFA) for a decision which clarifies/develops the law in the relevant area. For instance, in two leading legal aid test cases concerning the eligibility for right of abode of: i) persons born in Mainland China adopted by Hong Kong permanent residents; and ii) domestic helpers who have lived in Hong Kong



士，另一宗是涉及在港居住超過7年的外籍家庭傭工），終審法院的裁決有助建立或重申有關的入境政策。

為進一步增加公眾的認識，法援署已落實本局的建議，在該署的年報中披露更多統計數據。有關已經發放的法律援助資訊及相關建議，可在本年報的「法律援助資訊的傳遞」章節中查看。

for more than 7 years, the CFA judgments have resulted in immigration policies being either established or reaffirmed.

To further enhance public understanding, LAD has implemented the Council's suggestion that more statistics be published in its annual report. Greater detail of the legal aid information that has been disseminated and is suggested to be disseminated by LAD may be found in the "Dissemination of Legal Aid Information" section of this report.



## 為被扣留在警署人士 提供法律諮詢服務

### Provision of Legal Advice Services for Persons Detained in Police Stations



本局轄下的法律援助範圍興趣小組（「興趣小組」）曾就法律支援的涵蓋範圍應否擴大至包括被香港執法機構扣留的人士進行研究。在研究進行期間，興趣小組曾與相關持分者會面，包括兩個法律專業團體、法律援助署、當值律師服務和各執法機構。根據研究結果和建議，本局於2016年2月向政府提交意見書。

本局在意見書中建議設立一個由公帑資助的計劃，為被扣留人士一旦在其個人自由受到限制時，提供有關權益的法律意見。有關計劃應以試驗形式推行，並分階段落實和不時作出檢討。開始時，試驗計劃可先在四間具代表性的警署試行，為期不多於兩年。計劃試行一年和兩年後，應分別進行中期檢討和全面檢討。本局認為，透過單一或一系列循序漸進的試驗計劃，可以找出有關程序或財務方面可能出現的問題，然後透過進一步商議尋求解決方案。因應檢討的結果，本局認為可把有關服務擴展至其他警署和執法機構。

試驗計劃的主要特點概述如下：

LASC's Interest Group on Scope of Legal Aid of LASC has conducted a study on whether legal assistance should be extended to cover persons detained by law enforcement agencies in Hong Kong. When conducting the study, the Interest Group met with relevant stakeholders, including the two legal professional bodies, Legal Aid Department, Duty Lawyer Service (DLS) and law enforcement agencies. Based on the findings and recommendations of the study, the Council made a submission to the Government in February 2016.

In the submission, the Council recommended that a publicly funded scheme be set up to provide detainees with legal advice on their rights as soon as their liberty is restricted. The scheme should be introduced on a pilot basis, implemented in stages and kept under review. As a start, four representative police stations may be identified at which the pilot scheme should be tried out for up to two years. An interim review after the first year and a comprehensive review after the second year were also recommended. The Council considered that any possible logistic or financial concerns could best be tested out in a single or a series of progressive pilot schemes so that relevant issues could be identified and resolved through further discussions. Subject to the outcome of the reviews, the Council was of the opinion that the service might be extended to other police stations and law enforcement agencies.

The key features of the proposed pilot scheme are summarized below –

- (a) 該計劃應適用於某個別人士被扣留的期間（即其個人自由在警署內受到限制時），但不應包括在該名人士被正式落案起訴後的時段（即「警署至出庭間」的時段）。因為，一般在被落案起訴後，該名人士很快便會被安排出庭。當案件轉介至裁判法院後，當值律師服務便會向該名人士提供法律意見和支援；
- (b) 本局雖沒有就提供法律意見服務應否受時間限制作出確實的建議，但主流意見均認為向被扣留人士提供的服務不應超逾一小時。負責提供服務的律師應根據其專業判斷決定每個個案所需時間，對於一些涉及嚴重罪行的個案或在特殊情況下，例如被扣留人士對理解法律意見有困難時，該律師可延長服務的時限；
- (c) 由於面對面的對話可使律師更準確地引導和明白被扣留人士的憂慮和需要，有關計劃應包括安排律師親自前往警署為被扣留人士提供法律意見；
- (d) 為令被扣留人士迅速地得到法律支援，律師可透過電話提供初步法律意見；
- (e) 可設立一個電話服務中心，由具備處理刑事案件經驗的律師（「中心律師」）負責支援，透過電話向被扣留人士提供初步法律意見。中心律師可在有需要的情況下，聯絡值勤律師（即在預先核准的合資格律師名冊上的律師）前往警署與被扣留人士會面；以及



- (a) the scheme should cover the period when the individual is detained (i.e. as soon as his liberty is restricted in a police station) but should no longer be applicable after a charge has been laid (i.e. during the “police station to court” period). It is because the time gap between charge and appearance before the Magistrate is usually very short. The DLS would provide legal advice and assistance once the matter has been referred to the Magistrates’ Court;
- (b) the Council has not made a firm recommendation on whether an initial conference and advice should be limited and, if so, to what extent. The majority view was that the time of service provided to a detainee should not last for more than one hour. Attending lawyers should use their professional judgement to decide how much time should be spent on each case and may extend the service beyond the time limit in cases involving serious offences or special circumstances e.g. where the detainee has difficulty in understanding the advice;
- (c) the scheme should cover a lawyer’s attendance at the police station to give legal advice to the detainee in person because face-to-face contact will enable the lawyer to better elicit and understand the detainee’s concerns and needs;
- (d) to enable quick legal assistance, initial advice may be provided over the telephone;

- (f) 首次提供法律意見的服務應屬免費和毋須受經濟審查。倘被扣留人士有後續面談的需要，他／她須通過類似當值律師計劃所採用的經濟審查，並繳付500元至1,000元的分擔費。

政府相關的政策局和部門在收到本局的建議後，已開始研究建議的可行性。在2017年7月，民政事務局向立法會司法及法律事務委員會（「事務委員會」）報告有關本局的建議，並表示在完成內部審議後，將再次向事務委員會作出報告，並建議未來的路向。

本局在2017年8月舉行的會議上，扼要討論了事務委員會所表達的意見，並注意到有關方面關注建議的服務或會對資源和營運造成影響，但本局相信可能出現的困難／問題應與目前提供類似服務的國家所面對的大致相同。在英國，有一個特別為協助提供法律意見給被扣留在警署人士而設的流動應用程式正在開發，被扣留人士只需用一部平板電腦啟動該流動應用程式，便可輕易取得有關法律權益的資訊。另外，一項探討律師以流動應用程式（例如使用Skype）聯繫在囚人士的可行性研究即將展開。通過這個方式，律師不必親自到警署與被扣留人士面談，也可提供法律意見，同時有關方面毋須為面談所需的額外空間而擔憂。本局認為當推行向被扣留在警署人士提供法律意見的試驗計劃時，香港可參考相關的海外經驗。

本局很高興政府已開始研究此項建議的可行性，並期望有關的試驗計劃儘快落實推行。

- (e) a call centre, supported by lawyers with experience in criminal practice (“Centre Lawyers”), may be set up to provide initial telephone advice to detainees. The Centre Lawyer may contact lawyers on duty (i.e. lawyers on a pre-approved panel of eligible lawyers) to meet detainees in police stations as necessary; and
- (f) the initial legal advice session should be free of charge and non means tested. Subsequent visits to a detainee, if any, should be subject to a means test similar to the Duty Lawyer Scheme and a contribution in the range of \$500 to \$1,000 payable by the detainee.

After receiving the Council’s recommendations, relevant government bureaux and departments have been examining the feasibility. In July 2017, the Home Affairs Bureau reported the recommendations to the Legislative Council Panel on Administration of Justice and Legal Services. They informed the AJLS Panel that on completion of the internal deliberations, they would report back to the AJLS Panel on the recommended way forward.

Views expressed at the AJLS Panel meeting were briefly discussed at the Council’s meeting held in August 2017. Concerns over possible resources and operational implications were noted. However, the Council believes that any difficulties/problems that may arise should be common to countries currently providing similar services. In the UK, an App is being developed to facilitate providing legal advice to persons detained in police stations. With a tablet and the App, detainees can easily access information on their legal rights. A study will be conducted to examine the feasibility for lawyers to contact their clients in custody by using Skype, for instance. In this way, lawyers can provide legal advice services without going to police stations to speak to detainees in person. Additional space required for interviews would no longer be a concern. The Council considers that Hong Kong may refer to the relevant overseas experience when implementing the pilot scheme for providing legal advice to persons detained in police stations.

The Council is glad to see that the Government has started examining the feasibility of the proposal and looks forward to seeing its speedy implementation.



## 與持分者及其他 法律援助組織的聯繫 Communication with Stakeholders and Other Legal Aid Bodies

### 行政當局

法援局自成立以來，一直與負責制定法律援助政策及管理法律援助署的政策局保持密切聯繫。在2017-2018年間，民政事務局（「民政局」）繼續向本局通報關於政府就不同法援議題所作的建議或表達的立場，包括呈交立法會司法及法律事務委員會的文件。這些文件涉及法援申請人財務資格限額的檢討、本局就為被扣留在警署人士提供法律諮詢服務的建議、防止法援制度被不正當使用的措施、委派律師處理法援個案的情況、法律援助輔助計劃檢討後的法例修訂、法援的政策措施、以及法援政策範疇的轉移。民政局代表亦曾數次出席本局會議，就上述議題作出簡介，及與本局成員交流意見。

### 國際法律援助組織

應國際法律援助組織的邀請，本局主席李家祥博士於2017年6月14至16日，出席其在南非約翰尼斯堡舉行的雙年研討會。

### The Administration

Since its establishment, the LASC has maintained regular contacts with the government bureau responsible for formulating legal aid policy and housekeeping the Legal Aid Department (LAD). In 2017-2018, HAB continued to keep the Council informed of Government's proposals or positions on various legal aid issues, including the papers submitted to the Legislative Council Panel on Administration of Justice and Legal Services. Those papers were related to review of financial eligibility limits of legal aid applicants; Council's proposals on the provision of legal advice services to persons detained in police stations; measures to prevent the misuse of the legal aid system; assignment of lawyers in legal aid cases; legislative amendments for the review of the Supplementary Legal Aid Scheme; policy initiatives of legal aid; and the transfer of the legal aid portfolio. Representatives of HAB also attended some of the Council's meeting for briefing and exchanging views on some of the above-said matters.

### International Legal Aid Group

At the invitation of the International Legal Aid Group (ILAG), LASC chairman Dr Eric LI Ka Cheung attended its biennial conference held in Johannesburg, South Africa from 14 to 16 June 2017.



國際法律援助組織是一個由來自超過24個國家的法援專家，包括法律援助委員會的行政總裁和經理、高級官員和著名學者所組成的網絡，並由一個以Alan Paterson教授為主席的國際督導委員會指導。該組織的使命是通過就國際間為貧困人士提供法律服務的政策發展和研究進行討論，以改善以實證為本的政策制定。國際法律援助組織主要討論在已建立相當成熟法援制度的司法管轄區的特定議題，現正擴展至包括發展較落後，尤其接近研討會舉行地點的司法管轄區。

在參加國際法律援助組織研討會（「研討會」）後，李博士於2017年10月3日的本局會議上呈交了一份報告。報告的重點詳見下文。

大約有80名著名學者、高級官員、以及提供和管理法援服務的人士參加於2017年舉行的研討會，部分參加人士在研討會中發表了有關法援的最新研究和分享選定國家的法援經驗。

法援不再被視為「人人可免費享有」的服務，似乎是全球趨勢，有些國家更以衡工量值的方式去檢視支持法援服務的公帑或其他資助是否用得其所。雖然如此，全球的法援服務仍有很大的改善，而每一個國家的發展都是針對其本身獨特的需要。

在研討會中，香港的法援服務獲得讚揚，特別是法律專業人士的高參與率，以及法律援助輔助計劃的財務延續性。

李博士在報告中介紹了主辦國南非的法援服務管治架構。南非法律援助管治委員會通過其下的四個常務委員會，執行以下工作：



ILAG is a network of legal aid specialists including chief executives and managers from legal aid commissions, high ranking civil servants and leading academics in over 24 countries. It is guided by an international steering group chaired by Professor Alan Paterson. Its mission is to improve evidence-based policy-making in the field of poverty legal services through discussion on international developments in policy and research. ILAG focuses on issues raised in jurisdictions with highly developed systems of legal aid. It is expanding its brief to include jurisdictions with less developed systems, particularly jurisdictions close to its conference sites.

After attending the ILAG conference, Dr LI presented a report to the Council at its meeting held on 3 October 2017. Highlights of his report are given in the ensuing paragraphs.

The ILAG conference for 2017 was attended by about 80 leading academics, senior officials, administrators and providers of legal aid services. The conference was packed with presentations about the latest research and sharing of experiences from selected countries.

It seems to be a global trend that legal aid services should no longer be considered a “free for all”. In some countries, value for money analysis is carried out for the services to justify the use of public or other funds. Nevertheless, there has still been massive improvement in the global legal aid services. Each country’s development focuses on its specific areas of needs.

- (a) 制定整體目標，落實服務提供的風險管理框架；
- (b) 嚴格控制財務資源的使用，集中資源在策略範圍；
- (c) 發展資訊科技策略，以保障和提升服務表現；
- (d) 積極讓持分者參與服務。

李博士在報告內亦提到其他值得注意的研討會內容，包括：

- (a) 探究服務的發展空間—

有關法律需要的研究已成為全球趨勢，亦是一個帶來改變的契機。由於越來越多研究採納統一的標準，因此研究結果趨向一致。

- (b) 應用科技—

從報道到教育、提供法律意見、互動訓練、調解爭議等不同性質的網站正在開發當中。電腦和智能手機的應用大大減低了提供服務所需的成本和空間。同時，透過科技可將服務伸延至偏遠地區，以及協助服務提供人士編纂和分析數據，以監察服務表現和檢討政策。



The provision of legal aid services in Hong Kong was commended at the conference with tribute paid to both the high participation rate of the legal profession in providing legal aid services and the financial sustainability of the Supplementary Legal Aid Scheme.

The governance structure of legal aid services of host country, South Africa, was highlighted in Dr LI's report. Through its four standing committees, the governance board of South Africa Legal Aid performs the following functions:

- (a) to set overall goals and to implement a risk management framework with respect to delivery of services;
- (b) to impose strict control over the use of financial resources and to focus resources on strategic areas;
- (c) to develop IT strategies to guarantee and enhance performance; and
- (d) to actively engage stakeholders in the provision of services.

Dr LI also mentioned other notable sessions in his report. It included:

- (a) Exploring Gaps in Services -

Legal need studies have become a global trend and an agent for change. Consistent standards are increasingly adopted in the studies resulting in more aligned findings.

- (b) Technology -

Websites ranging from reporting to education, and providing advice, interactive training and dispute resolution are being developed. The use of computers and smart phones, etc., have greatly helped reduce costs and space required for the provision of services. Technology also makes it possible for services to be provided to remote areas and helps service providers compile and evaluate data when monitoring services and reviewing policies.

(c) 緊縮政策—

北歐國家的法援服務有外委趨向，而有關對申訴人向公共機關提出申索的法律支援已經停止。

(d) 為無法律代表人士安排的自助服務—

全方位自助中心越來越多為那些不合資格獲得或不需要全面法律代表的人士提供服務，此外，一些用淺白簡明文字將法律程序逐步羅列出來的資訊網站已被開發。

(e) 在警署內提供法律意見—

在英國，疑犯可透過平板電腦和流動應用程式輕易獲取有關法律權益的資訊，另外，由於學生會被警察視為「容易入罪」的一群，以增加刑事犯罪紀錄，因此萊斯特大學正開發一個專為學生而設的流動應用程式。

(f) 保證服務提供者的質素—

經濟合作暨發展組織有關成本效益和社會效益的指引已經落實。中國正進行大規模的同行評審計劃，藉以邁向「以客為本」的法律文化。

李博士認為研討會頗具啟發性，既能以國際最高標準作為檢討香港法援服務的基準，以突顯有待改善的地方，同時亦能提醒香港法援服務須應用科技提供法援服務，並須向義工、法律學生、自助組織提供支援，以便參與法援服務，尤其是針對社會弱勢社群的服務。李博士在報告中也提出以下建議：

(c) Nordic Countries Austerity Drive -

There is a move towards outsourcing legal aid. Support for claims against public authorities has ceased.

(d) Self-help for the Unrepresented -

Extensive self-help centres increasingly serve those who are not qualified or not requiring full legal representation. Websites containing information on step by step procedures in layman terms have been developed.

(e) Police Station Legal Advice -

In the United Kingdom, advice on suspects' legal rights is easily obtained through tablet computers and animated apps. Another app is being developed by Leicester University for school children who may be considered by police to be "easy hits" to increase criminal records.

(f) Quality Assurance of Services Providers -

The OECD guidelines on cost effectiveness and social benefits are being implemented. China is conducting a large program on peer review to shift its legal culture towards a more client-centred approach.

Dr LI considered that the conference was quite inspiring and helped benchmark the legal aid services of Hong Kong to the highest global standards revealing considerable scope for possible improvement. It was also a good reminder that technology should be embraced and support should be provided for the participation of volunteers, law students and self-help groups in the provision of legal services, especially to the more vulnerable groups in society. Dr LI also made the following recommendations in his report:

- (a) to engage non-government agencies which are serving the most vulnerable groups in Hong Kong (e.g. ethnic minorities, youth, problem families) in the provision of legal services;

- (a) 邀請服務香港弱勢社群（例如少數族裔、青少年、問題家庭）的非政府組織參與法援服務；
  - (b) 探討設定一個合理評估服務質素準則的可行性；
  - (c) 由獨立的跨國認可顧問承辦一項全面的服務差距分析（傾向更新於2006年進行的香港法律及相關服務的供求情況研究）；及
  - (d) 在差距分析完成後，考慮最合適香港的法援服務模式和管治架構。
- (b) to explore the feasibility of setting reasonable standards to evaluate the quality of the services currently provided;
  - (c) to undertake a comprehensive gap analysis of services (preferably to update the 2006 study on the demand for and supply of legal and related services in Hong Kong) by an independent internationally recognised consultant; and
  - (d) after the gap analysis, to consider which is the most appropriate model for delivery of legal aid services in Hong Kong and the most desired governance structure for the services.

## PILnet: The Global Network for Public Interest Law

PILnet是一個全球性的非牟利組織，透過義務法律服務和其他創新合作，致力啟發和吸引更多律師和法律學生參與公眾利益事務。

在2017年6月，PILnet向法援局致送一本題為「THIS WAY — Finding Community Legal Assistance in Hong Kong」的報告。該報告是由PILnet 和跨國律師事務所歐華律師事務所聯合編撰，試圖找出香港低收入人士和邊緣社群未被滿足的法律需要，亦闡述現有的免費法律服務，限制社區法律服務的障礙，以及其他普通法司法管轄區的社區法律服務模式。

為回應PILnet的建議，本局、民政局、法援署與PILnet在2017年11月舉行了一次非正式會議，就報告內容和建議交流意見。會議後，法援署為PILnet提供補充資料，以便PILnet更新報告內論述法援署服務的章節。

## PILnet: The Global Network for Public Interest Law

PILnet is a global non-profit organization that seeks to inspire and engage more lawyers and law students in public interest work through pro bono and other innovative collaborations.

In June 2017, PILnet sent the LASC a copy of its report entitled “THIS WAY – Finding Community Legal Assistance in Hong Kong”. The report was prepared by PILnet in association with DLA Piper, an international law firm. It seeks to identify unmet legal needs of low income and marginalized communities in Hong Kong, and to discuss the free legal services currently available, barriers restricting community legal services and models of community legal services in other common law jurisdictions.

In response to the suggestion of PILnet, an informal meeting was held between the Council, Home Affairs Bureau, Legal Aid Department (LAD) and PILnet in November 2017 to exchange views on the findings and recommendations in the report. After the meeting, supplementary information was provided by LAD to PILnet for updating those sections of the report on the legal aid services provided by the Department.





## 活動

本局主席為香港律師會主辦的「法律周2017」暨「青Teen講場2017」開幕典禮擔任主禮嘉賓。儀式於2017年11月25日舉行，一同出席活動的還有香港特別行政區行政長官林鄭月娥女士、終審法院首席法官馬道立先生、立法會法律界功能界別議員郭榮鏗大律師、法律援助署署長鄺寶昌先生、公民教育委員會委員林長志先生、香港大律師公會副主席毛樂禮資深大律師，香港律師會會長蘇紹聰律師，以及「法律周2017」和「青Teen講場2017」籌委會主席梁寶儀律師及湯文龍律師。

## Activity

The Council Chairman officiated at the joint opening ceremony of “Law Week 2017” and “Teen Talk 2017” which was launched by The Law Society of Hong Kong. The opening ceremony was held on 25 November 2017. It was also attended by the Honourable Mrs Carrie LAM CHENG Yuet-ngor, Chief Executive of HKSAR; the Honourable Mr Geoffrey MA, Chief Justice of the Court of Final Appeal; Mr Dennis KWOK, Legislative Council Member for the Legal Functional Constituency; Mr Thomas KWONG, Director of Legal Aid; Mr LAM Cheung Chi, Member of Committee on the Promotion of Civic Education; Mr Jose-Antonio MAURELLET SC, Vice-Chairman of the Hong Kong Bar Association; Mr Thomas SO, President of The Law Society of Hong Kong; and Ms Nancy LEUNG and Mr Roden TONG, the Organizing Committee chairs of “Law Week 2017” and “Teen Talk 2017”.

## 大律師證明書計劃 Certificate by Counsel Scheme

根據《法律援助條例》第26A條的規定，凡向終審法院提出上訴而不獲批法律援助的人士，可以在法律援助署署長作出拒絕批出法援的決定後28天內申請覆核。尋求覆核的申請必須附有由在香港執業的大律師發出的證明書，述明該申請人有合理機會向終審法院上訴得直，以及提出該項意見的理由。

上述人士如非因經濟理由而被拒批出法律援助，可申請本局的援助計劃，本局會為合資格申請人免費安排簽發一張大律師證明書。在民事案件方面，本局只會考慮為已在上訴法庭進行聆訊，並有意就實質裁決所頒布的判決、判定或命令向終審法院提出上訴的案件，安排簽發大律師證明書。

在2017年4月1日至2018年3月31日期間，本局共接獲55宗要求提供大律師證明書的申請。其中最多申請人涉及的刑事案件類別是「販賣危險藥物」，佔總刑事案件申請的37.5%；至於申請人所涉及的民事案件，則沒有顯著的主要類別。在55宗申請中，42宗獲批，9宗被拒，3宗被終止，另有1宗被撤回。

在已簽發的42份大律師證明書中，7份證明申請人有合理機會上訴得直，另外35份則述明申請人提出的上訴並無合理機會成功。

Under section 26A of the Legal Aid Ordinance, a person who has been refused legal aid in respect of his appeal to the Court of Final Appeal (CFA) may seek a review of the Director of Legal Aid's refusal within 28 days of the decision. The application for review must be accompanied by a certificate by counsel stating that the person has a reasonable prospect of success in the appeal and the grounds for that opinion.

For the above-mentioned applicant, if he has been refused legal aid other than on ground of means, he may consider applying for the assistance scheme administered by the LASC. Eligible applicants will be provided with a certificate by counsel free of charge. For civil cases, a certificate by counsel will only be provided if the case has been heard by the Court of Appeal (CA) and the intended appeal to the CFA is related to a judgment or decision or order on the substantive merits of the case as opposed to an interlocutory decision or order by the CA.

From 1 April 2017 to 31 March 2018, the Council received 55 applications for the provision of a certificate by counsel. The most common type of criminal case involved was "trafficking in dangerous drugs" accounting for 37.5% of total criminal applications. As for civil cases, there was no prevalent majority type of case. Of the 55 applications, 42 were approved, 9 were refused, 3 were aborted and 1 was withdrawn.

Of the 42 certificates by counsel issued, 7 certificates stated that the applicants had reasonable prospects of success in their intended appeal while 35 stated that they did not.

至於該7宗獲大律師證明申請人有合理機會上訴得直的案件，法援署經覆核後，決定為其中6宗提供法律援助。

For the 7 cases certified by counsel to have reasonable prospects of success, the Legal Aid Department (LAD) granted legal aid to 6 applicants after reviewing the matter.

在2016-2017年度及2017-2018年度接獲的申請的相關統計列表如下：

The relevant statistics on the applications received in 2016-2017 and 2017-2018 are set out in the table below –

	2016年4月1日至 2017年3月31日 1.4.2016 to 31.3.2017			2017年4月1日至 2018年3月31日 1.4.2017 to 31.3.2018		
	刑事案件 Criminal Case	民事案件 Civil Case	總計 Total	刑事案件 Criminal Case	民事案件 Civil Case	總計 Total
<b>申請 Applications</b>						
獲批 Approved	36	3	39	38	4	42
被拒 Refused	10	4	14	7	2	9
被中止 Aborted	0	0	0	2	1	3
被撤回 Withdrawn	0	0	0	1	0	1
總計 Total	46	7	53	48	7	55
<b>大律師證明書 Certificates by counsel</b>						
有合理機會上訴得直案件 Cases having reasonable prospects of success	7	0	7	7	0	7
無合理機會上訴得直案件 Cases not having reasonable prospects of success	29	3	32	31	4	35
總計 Total	36	3	39	38	4	42
<b>有合理機會上訴得直案件 Cases having reasonable prospects of success</b>						
經法援署覆核後獲提供法律援助 Legal aid granted after review by LAD	6	0	6	6	0	6
經法援署覆核後不獲提供法律援助 Legal aid not granted after review by LAD	1	0	1	1	0	1
總計 Total	7	0	7	7	0	7

以上統計數據顯示：

- (a) 2017-2018年度總申請數目輕微上升了3.8%（由2016-2017年度的53宗上升至2017-2018年度的55宗）；主要是由於與刑事案件有關的申請上升了4.3%（由2016-2017年度的46宗上升至2017-2018年度的48宗）；
- (b) 在2016-2017及2017-2018年度，獲大律師確認有合理機會上訴得直的案件的百分比約為17%；及
- (c) 法援署因應大律師意見提供法律援助的案件的百分比，維持在85.7%。

在2017-2018年度，就42宗成功獲批的申請，合共撥出1,152,000元作為支付大律師及律師提供證明書的費用，詳情如下：

	獲批申請數目 Number of Applications Approved	每宗個案的大律師費用 Counsel's Fee/Case	大律師費用總計 Total Counsel Fees	每宗個案的律師費用 Solicitor's Fee/Case	律師費用總計 Total Solicitor Fees	費用總數 Total Fees
刑事案件 Criminal Case	38	\$15,000	\$570,000	\$9,000	\$342,000	\$912,000
民事案件 Civil Case	4	\$40,000	\$160,000	\$20,000	\$80,000	\$240,000
總數 Total	42		\$730,000		\$422,000	\$1,152,000

援助計劃自2002年4月實施以來，合共批出1 054宗申請，以及撥出29,076,000元支付提供大律師證明書的費用。

The above statistics reveal that –

- (a) the total number of applications in 2017-2018 has slightly increased by 3.8% (from 53 in 2016-2017 to 55 in 2017-2018), which is mainly caused by the increase of 4.3% in the number of applications for criminal cases (from 46 in 2016-2017 to 48 in 2017-2018);
- (b) the percentages of cases certified by counsel to have reasonable prospects of success in 2016-2017 and 2017-2018 are about 17%; and
- (c) the percentage of cases where legal aid was granted by LAD in light of the counsel certificates remains at 85.7%.

In 2017-2018, a total of \$1.152 million was committed as fees for counsel and solicitors to provide certificates for the 42 approved applications. Details are as follows –

Since the implementation of the assistance scheme in April 2002, a total of 1 054 applications have been approved and \$29.076 million has been committed for the provision of certificates by counsel.



# 行政 Administration

## 本局會議出席紀錄

本局在2017-2018年度召開了6次會議，其中一次出席成員數目未達法定人數要求。各成員出席率列表如下：

## Attendance at Council Meetings

In 2017-2018, the LASC has convened six meetings but there were not enough members present to constitute a quorum for one of the meetings. The attendance rate of members is set out in the table below:

法援局成員姓名 Name of Council Members	出席會議次數* No. of Meetings Attended*	出席率 Attendance Rate
李家祥博士 Dr Eric LI Ka Cheung	5	100%
周凱靈女士 Ms Juliana CHOW	3	60%
鄭心怡女士 Ms Anna KWONG	5	100%
劉麥嘉軒女士 Mrs Ayesha LAU	4	80%
梁宏正先生 Mr Clarence LEUNG	4	80%
彭韻僖女士 Ms Melissa PANG	5	100%
潘素安女士 Ms Josephine PINTO	4	80%
王惠貞女士 Ms Connie WONG	1	20%
法援署署長 Director of Legal Aid	5	100%

\* 不包括該次出席成員數目未達法定人數的會議  
excluding the meeting for which there were not enough members present to constitute a quorum

## 環保措施

本局依循「減少、再用、回收」概念，盡力成為有環保意識的消費者。於2017-2018年度，本局延續所有減廢節能的措施，並將兩件已損壞的辦公室設備更換為有能源標籤或低耗能的產品。為進一步減少對環境的影響，本局已加強培訓以提升員工的環保意識，同時鼓勵他們積極參與制定保護環境的措施。

## 職員編制

截至2018年3月31日止，秘書處有兩個職位由本局聘請的合約員工擔任，另外四個職位則由政府借調公務員擔任。

## Environmental Initiatives

The Council has sought to implement the Reduce, Reuse and Recycle (3Rs) concept and to be an environmentally conscious consumer. All existing measures to minimize waste, conserve energy, etc. were continued in 2017-2018. Two items of office equipment, which were no longer working, were replaced by models with lower energy consumption or showing the "Energy Label". To further minimize the environmental impact, the Council also enhances staff awareness and participation in devising measures to protect the environment.

## Staffing

As at 31 March 2018, two posts in the Secretariat were filled by contract staff and four other posts were filled by civil servants seconded from the Government.

# 審計署署長報告— 法律援助服務局 帳目審計結果

## Report of the Director of Audit on the Accounts of LASC



### 獨立審計師報告 致立法會

#### 意見

我已審計列載於58至70頁法律援助服務局的財務報表，該等財務報表包括於2018年3月31日的資產負債表與截至該日止年度的收支帳目、權益變動表和現金流量表，以及財務報表的附註，包括主要會計政策概要。

我認為，該等財務報表已按照香港會計師公會頒布的《香港財務報告準則》真實而中肯地反映法律援助服務局於2018年3月31日的財務狀況及截至該日止年度的財務表現及現金流量，並已按照《法律援助服務局條例》（第489章）的規定妥為擬備。

#### 意見的基礎

我已按照《法律援助服務局條例》第13(1)條的規定及審計署的審計準則進行審計。我根據該等準則而須承擔的責任，詳載於本報告「審計師就財務報表審計而須承擔的責任」部分。根據該等

### Independent Auditor's Report To the Legislative Council

#### Opinion

I have audited the financial statements of the Legal Aid Services Council set out on pages 58 to 70, which comprise the balance sheet as at 31 March 2018, and the income and expenditure account, statement of changes in equity and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In my opinion, the financial statements give a true and fair view of the financial position of the Legal Aid Services Council as at 31 March 2018, and of its financial performance and cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards ("HKFRSs") issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA") and have been properly prepared in accordance with the Legal Aid Services Council Ordinance (Cap. 489).

#### Basis for opinion

I conducted my audit in accordance with section 13(1) of the Legal Aid Services Council Ordinance and the Audit Commission auditing standards. My responsibilities under those standards are

準則，我獨立於法律援助服務局，並已按照該等準則履行其他道德責任。我相信，我所獲得的審計憑證是充足和適當地為我的審計意見提供基礎。

### **法律援助服務局就財務報表而須承擔的責任**

法律援助服務局須負責按照香港會計師公會頒布的《香港財務報告準則》及《法律援助服務局條例》的規定擬備真實而中肯的財務報表，及落實其認為必要的內部控制，使財務報表不存有因欺詐或錯誤而導致的重大錯誤陳述。

在擬備財務報表時，法律援助服務局須負責評估其持續經營的能力，以及在適用情況下披露與持續經營有關的事項，並以持續經營作為會計基礎。

### **審計師就財務報表審計而須承擔的責任**

我的目標是就整體財務報表是否不存有任何因欺詐或錯誤而導致的重大錯誤陳述取得合理保證，並發出包括我意見的審計師報告。合理保證是高水平的保證，但不能確保按審計署審計準則進行的審計定能發現所存有的任何重大錯誤陳述。錯誤陳述可以由欺詐或錯誤引起，如果合理預期它們個別或匯總起來可能影響財務報表使用者所作出的經濟決定，則會被視作重大錯誤陳述。

在根據審計署審計準則進行審計的過程中，我會運用專業判斷並秉持專業懷疑態度。我亦會：

further described in the *Auditor's responsibilities for the audit of the financial statements* section of my report. I am independent of the Legal Aid Services Council in accordance with those standards, and I have fulfilled my other ethical responsibilities in accordance with those standards. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### ***Responsibilities of the Legal Aid Services Council for the financial statements***

The Legal Aid Services Council is responsible for the preparation of the financial statements that give a true and fair view in accordance with HKFRSs issued by the HKICPA and the Legal Aid Services Council Ordinance, and for such internal control as the Legal Aid Services Council determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Legal Aid Services Council is responsible for assessing its ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

### ***Auditor's responsibilities for the audit of the financial statements***

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Audit Commission auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.



- 識別和評估因欺詐或錯誤而導致財務報表存有重大錯誤陳述的風險；設計及執行審計程序以應對這些風險；以及取得充足和適當的審計憑證，作為我意見的基礎。由於欺詐可能涉及串謀、偽造、蓄意遺漏、虛假陳述，或凌駕內部控制的情況，因此未能發現因欺詐而導致重大錯誤陳述的風險，較未能發現因錯誤而導致者為高；
- 了解與審計相關的內部控制，以設計適當的審計程序。然而，此舉並非旨在對法律援助服務局內部控制的有效性發表意見；
- 評價法律援助服務局所採用的會計政策是否恰當，以及其作出的會計估計和相關資料披露是否合理；
- 判定法律援助服務局以持續經營作為會計基礎的做法是否恰當，並根據所得的審計憑證，判定是否存在重大不確定性，而該不確定性是與可能對法律援助服務局持續經營的能力構成重大疑慮的事件或情況有關。如果我認為存在重大不確定性，則有必要在審計師報告中請使用者留意財務報表中的相關資料披露。假若所披露的相關資料不足，我便須發出非無保留意見的審計師報告。我的結論是基於截至審計師報告日止所取得的審計憑證。然而，未來事件或情況可能導致法律援助服務局不能繼續持續經營；以及

As part of an audit in accordance with the Audit Commission auditing standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Legal Aid Services Council's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Legal Aid Services Council;
- conclude on the appropriateness of the Legal Aid Services Council's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Legal Aid Services Council's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Legal Aid Services Council to cease to continue as a going concern; and

- 評價財務報表的整體列報方式、結構和內容，包括所披露資料，以及財務報表是否中肯反映交易和事項。
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

審計署署長  
(審計署首席審計師梁家倫先生代行)

2018年8月23日

審計署  
香港灣仔告士打道7號  
入境事務大樓26樓



LIANG Kar-lun, Ken  
Principal Auditor  
For Director of Audit

23 August 2018

Audit Commission  
26th Floor  
Immigration Tower  
7 Gloucester Road  
Wanchai, Hong Kong

## 資產負債表 Balance Sheet

於2018年3月31日 AS AT 31 MARCH 2018

		註釋 Note	2018 港幣 HK\$	2017 港幣 HK\$
<b>非流動資產</b>	<b>NON-CURRENT ASSETS</b>			
物業、廠房及設備	Property, plant and equipment	3	<u>77,816</u>	<u>71,964</u>
<b>流動資產</b>	<b>CURRENT ASSETS</b>			
現金及現金等值項目	Cash and cash equivalents	4	<b>874,209</b>	379,976
應收利息	Interest receivable		<b>6</b>	3
按金	Deposit		<b>2,200</b>	2,200
			<b>876,415</b>	382,179
<b>流動負債</b>	<b>CURRENT LIABILITIES</b>			
未支付約滿酬金	Provision for gratuities		<b>(13,918)</b>	(13,298)
未放取假期撥備	Provision for untaken leave		<b>(7,948)</b>	(6,420)
			<b>(21,866)</b>	(19,718)
<b>淨流動資產</b>	<b>NET CURRENT ASSETS</b>		<u><b>854,549</b></u>	<u>362,461</u>
<b>淨資產</b>	<b>NET ASSETS</b>		<u><b>932,365</b></u>	<u>434,425</u>
上列項目代表：	Representing:			
<b>政府基金</b>	<b>GOVERNMENT FUNDS</b>			
經常性補助基金	Recurrent subvention fund		<u><b>932,365</b></u>	<u>434,425</u>

隨附註釋1至12亦為上述財務報表的一部分。

The accompanying notes 1 to 12 form part of these financial statements.

此等財務報表已於2018年8月23日經法律援助服務局核實及批准發行。

Approved and authorised for issue by the Legal Aid Services Council on 23 August 2018.



(李家祥博士) Dr Eric Li Ka Cheung  
主席 Chairman

## 收支報表

### Income and Expenditure Account

截至2018年3月31日止年度 FOR THE YEAR ENDED 31 MARCH 2018

		註釋 Note	2018 港幣 HK\$	2017 港幣 HK\$
<b>收入</b>	<b>INCOME</b>			
政府補助	Government subventions	6	<b>7,007,000</b>	6,757,360
利息收入	Interest income		<b>22</b>	24
			<b>7,007,022</b>	6,757,384
<b>支出</b>	<b>EXPENDITURE</b>			
職員酬金	Staff emoluments	7	<b>(4,272,182)</b>	(4,140,121)
租金及管理費	Rent and management fees		<b>(1,931,709)</b>	(1,900,209)
其他開支	Other expenses	8	<b>(305,191)</b>	(282,629)
			<b>(6,509,082)</b>	(6,322,959)
<b>本年度盈餘</b>	<b>SURPLUS FOR THE YEAR</b>		<b>497,940</b>	434,425
其他全面收入	Other comprehensive income		-	-
<b>本年度全面收益總額</b>	<b>TOTAL COMPREHENSIVE INCOME FOR THE YEAR</b>		<b>497,940</b>	<b>434,425</b>

隨附註釋1至12亦為上述財務報表的一部分。

The accompanying notes 1 to 12 form part of these financial statements.

## 權益變動表

### Statement of Changes in Equity

截至2018年3月31日止年度 FOR THE YEAR ENDED 31 MARCH 2018

		港幣 HK\$
<b>經常性補助基金</b>	<b>RECURRENT SUBVENTION FUND</b>	
於2016年4月1日結餘	<b>Balance as at 1 April 2016</b>	390,360
退還政府款項	Refunded to Government	(390,360)
當年全面收益總額	Total comprehensive income for the year	<u>434,425</u>
於2017年3月31日結餘	<b>Balance as at 31 March 2017</b>	434,425
當年全面收益總額	Total comprehensive income for the year	<u>497,940</u>
於2018年3月31日結餘	<b>Balance as at 31 March 2018</b>	<u><u>932,365</u></u>

隨附註釋1至12亦為上述財務報表的一部分。

The accompanying notes 1 to 12 form part of these financial statements.

## 現金流量表

## Statement of Cash Flows

截至2018年3月31日止年度 FOR THE YEAR ENDED 31 MARCH 2018

	註釋 Note	2018 港幣 HK\$	2017 港幣 HK\$
<b>經營活動的現金流量</b>	<b>Cash flows from operating activities</b>		
本年度盈餘	Surplus for the year	<b>497,940</b>	434,425
折舊	Depreciation	<b>20,248</b>	19,135
利息收入	Interest income	<b>(22)</b>	(24)
未支付約滿酬金增加	Increase in provision for gratuities	<b>620</b>	876
未放取假期撥備增加 / (減少)	Increase / (Decrease) in provision for untaken leave	<b>1,528</b>	(573)
<b>經營活動所得的現金淨額</b>	<b>Net cash generated from operating activities</b>	<b>520,314</b>	453,839
<b>投資活動所得的現金流量</b>	<b>Cash flows from investing activities</b>		
購入物業、廠房及設備	Acquisition of property, plant and equipment	<b>(26,100)</b>	(49,280)
已收利息	Interest received	<b>19</b>	21
<b>投資活動所用的現金淨額</b>	<b>Net cash used in investing activities</b>	<b>(26,081)</b>	(49,259)
<b>融資活動所得的現金流量</b>	<b>Cash flows from financing activities</b>		
退還政府款項	Amount refunded to Government	-	(390,360)
<b>融資活動所用的現金淨額</b>	<b>Net cash used in financing activities</b>	-	(390,360)
<b>現金及現金等值項目增加淨額</b>	<b>Net increase in cash and cash equivalents</b>	<b>494,233</b>	14,220
年初的現金及現金等值項目	Cash and cash equivalents at beginning of year	<b>379,976</b>	365,756
年末的現金及現金等值項目	Cash and cash equivalents at end of year	<b>874,209</b>	379,976

隨附註釋1至12亦為上述財務報表的一部分。

The accompanying notes 1 to 12 form part of these financial statements.

## 帳目附註

### 1. 一般資料

法律援助服務局（「本局」）於1996年9月1日根據《法律援助服務局條例》（第489章）成立。

本局是一個非牟利組織，旨在監管在香港由法律援助署提供的法律援助服務，並就法律援助政策向政府提供意見。

本局註冊辦事處的地址為香港銅鑼灣告士打道262號中糧大廈16樓1601室。

### 2. 主要會計政策

#### 2.1 符合準則聲明

財務報表乃根據香港會計師公會頒布的香港財務報告準則的所有適用規定，以及《法律援助服務局條例》的有關規定編製。

#### 2.2 編製基準

財務報表按應計記帳方式及歷史成本法編製。

編製符合香港財務報告準則的財務報表需要管理層作出會影響會計政策的實施、以及資產與負債和收入與支出的呈報款額的判斷、估計及假設。該等估計及相關的假設，均按經驗及其他在有關情況下被認為合理的因素而制訂。倘若沒有其他現成數據可供參考，則會採用該等估計及假設作為判斷有關資產及負債的帳面值的基礎。估計結果或會與實際價值有所不同。

## Notes to The Financial Statements

### 1. General Information

The Legal Aid Services Council (“the Council”) was established on 1 September 1996 under the Legal Aid Services Council Ordinance (Cap. 489).

The Council is a non-profit-making organisation formed for the objective of supervising the provision of legal aid services in Hong Kong provided by the Legal Aid Department and advising the Government on legal aid policy.

The address of its registered office is Room 1601, 16/F, COFCO Tower, 262 Gloucester Road, Causeway Bay, Hong Kong.

### 2. Significant Accounting Policies

#### 2.1 Statement of compliance

The financial statements have been prepared in accordance with all applicable Hong Kong Financial Reporting Standards (HKFRSs) issued by the Hong Kong Institute of Certified Public Accountants and the requirements of the Legal Aid Services Council Ordinance.

#### 2.2 Basis of preparation

The financial statements have been prepared on an accrual basis and under the historical cost convention.

The preparation of financial statements in conformity with HKFRSs requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets, liabilities, income and expenditure. The estimates and associated assumptions are based on experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

該等估計及相關假設會被不斷檢討修訂。如修訂只影響作出修訂的會計期，會在該期內確認，但如影響作出修訂的會計期及未來的會計期，有關修訂便會在該期及未來的會計期內確認。

本局在實施會計政策時並不涉及任何關鍵的會計判斷。在結算日亦無對未來作出任何主要的假設或估計有其他重要的不明朗因素會構成重大風險，導致資產和負債的帳面值在來年需大幅修訂。

### 2.3 採納新訂 / 經修訂香港財務報告準則

本局已採納所有於現行會計期間有效並與本局相關的新訂 / 經修訂香港財務報告準則。

本局並無採用任何於本會計期間尚未生效的修訂、新準則及詮釋，本局正就該等修訂、新準則及詮釋在首次採用期間預期會產生的影響進行評估。直至目前為止，所得結論是採納該等修訂、新準則及詮釋不大可能對本局的運作成果及財務狀況構成重大影響，除了適用於2019年1月1日或之後開始之會計期的香港財務報告準則第16號：租賃。香港財務報告準則第16號將主要影響本局作為承租人對若干物業（現時分類為經營租賃）採用的會計處理方法。預期採納香港財務報告準則第16號將導致資產及負債均有所增加，同時影響租約期間於收支帳表確認開支的時間。本局尚未評估該準則對本局財務帳目的影響。

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods.

There are no critical accounting judgements involved in the application of the Council's accounting policies. There are neither key assumptions concerning the future nor other key sources of estimation uncertainty at the balance sheet date that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities in the next year.

### 2.3 Adoption of new / revised HKFRSs

The Council has adopted all new/revised HKFRSs which are effective and relevant to the Council for the current accounting period.

The Council has not early adopted any amendments, new standards and interpretations which are not yet effective for the current accounting period. The Council is in the process of making an assessment of what the impact of these amendments, new standards and interpretations is expected to be in the period of initial adoption. So far, it has concluded that the adoption of them is unlikely to have a significant impact on the Council's result of operations and financial position, except for HKFRS 16 Leases which is effective for accounting periods beginning on or after 1 January 2019. HKFRS 16 will primarily affect the Council's accounting as a lessee of leases for premises which are currently classified as operating leases. The adoption of HKFRS 16 is expected to lead to an increase in both assets and liabilities and affect the timing of expense recognition in the income and expenditure account over the period of the leases. The Council has yet to assess the impact of the standard on its financial statements.



## 2.4 收益確認

當可以合理地確定本局會履行政府補助的附帶條件並收到補助時，該政府補助便會在收支賬目內確認為收入。

與收入有關的政府補助會在相關支出產生時，在收支帳目內確認為有關期間的收入。

利息收入採用實際利息法以應計基礎確認入帳。

## 2.5 物業、廠房及設備

物業、廠房及設備包括價值5,000元或以上的傢具及裝置、辦公室及電腦設備，其估計可使用期超過一年。

物業、廠房及設備以成本減累計折舊及任何減值虧損後列帳。折舊乃按物業、廠房及設備的成本減除其估計剩餘價值後，以直線法按以下估計可使用期計算：

傢具及裝置	10年
辦公室設備	5年
電腦設備	3年

出售物業、廠房及設備產生的收益或虧損乃按出售收入淨值與資產的帳面值的差額決定，並於出售日於收支帳確認。

## 2.4 Revenue recognition

A government subvention is recognised when there is a reasonable assurance that the Council will comply with the conditions attaching to it and that the subvention will be received.

Government subventions relating to income are recognised in the income and expenditure account over the period necessary to match them with the costs they are intended to compensate.

Interest income is recognised as it accrues using the effective interest method.

## 2.5 Property, plant and equipment

Property, plant and equipment include furniture and fixtures, office equipment and computer equipment costing HK\$5,000 or more with estimated useful lives longer than one year.

Property, plant and equipment are stated in the balance sheet at cost less accumulated depreciation and any impairment losses. Depreciation is calculated to write off the cost of property, plant and equipment, less their estimated residual values, on a straight-line basis over their estimated useful lives as follows:

Furniture and fixtures	10 years
Office equipment	5 years
Computer equipment	3 years

Gains or losses arising from the disposal of property, plant and equipment are determined as the difference between the net disposal proceeds and the carrying amount of the asset, and are recognised in the income and expenditure account at the date of disposal.

## 2.6 僱員福利

合約酬金、薪金及年假均於員工提供相關服務的年度內記帳並確認為支出。員工相關成本包括政府提供予員工的退休及住房福利，於提供服務的年度內列作支出。

## 2.7 經營租賃

凡所有權的絕大部分風險和回報由出租人保留的租賃，均列作經營租賃。根據經營租賃（扣除出租人給予的任何優惠）作出的租賃付款按相關租賃期以直線法於收支帳中扣除。

## 2.8 現金及現金等值項目

就現金流量表而言，現金及現金等值項目包括庫存現金、活期存款，及其他短期高度流動投資項目。短期高度流動投資是指可隨時轉換為已知數額的現金，其涉及的價值改變風險不大於購入時於三個月內期滿的投資。

## 2.6 Employee benefits

Contract gratuities, salaries and annual leave entitlements are accrued and recognised as expenditure in the year in which associated services are rendered by the staff. Staff on-costs, including pension and housing benefits provided to the staff by the Government, are charged as expenditure in the year in which the services are rendered.

## 2.7 Operating lease

Leases in which a significant portion of the risks and rewards of ownership is retained by the lessors are classified as operating leases. Rental payments made under operating leases (net of any incentives received from the lessors) are charged to the income and expenditure account on a straight-line basis over the period of the relevant leases.

## 2.8 Cash and cash equivalents

For the purpose of the statement of cash flows, cash and cash equivalents comprise cash on hand, demand deposits and other short-term highly liquid investments that are readily convertible to a known amount of cash and are subject to an insignificant risk of changes in value, having been within three months of maturity when acquired.

## 3. 物業、廠房及設備

## 3. Property, Plant and Equipment

		電腦設備 Computer equipment 港幣 HK\$	辦公室設備 Office equipment 港幣 HK\$	傢具及裝置 Furniture and fixtures 港幣 HK\$	總數 Total 港幣 HK\$
<b>成本</b>	<b>Cost</b>				
於2016年4月1日	At 1 April 2016	96,972	42,574	-	139,546
當年購入	Addition during the year	-	24,530	24,750	49,280
當年註銷	Disposal during the year	(23,006)	-	-	(23,006)
於2017年4月1日	At 1 April 2017	73,966	67,104	24,750	165,820
當年購入	Addition during the year	26,100	-	-	26,100
當年註銷	Disposal during the year	(320)	-	-	(320)
於2018年3月31日	At 31 March 2018	<u>99,746</u>	<u>67,104</u>	<u>24,750</u>	<u>191,600</u>
<b>累積折舊</b>	<b>Accumulated depreciation</b>				
於2016年4月1日	At 1 April 2016	80,523	17,204	-	97,727
當年撇除	Charge for the year	9,467	8,431	1,237	19,135
當年註銷回撥	Written back on disposal	(23,006)	-	-	(23,006)
於2017年4月1日	At 1 April 2017	66,984	25,635	1,237	93,856
當年撇除	Charge for the year	7,707	10,066	2,475	20,248
當年註銷回撥	Written back on disposal	(320)	-	-	(320)
於2018年3月31日	At 31 March 2018	<u>74,371</u>	<u>35,701</u>	<u>3,712</u>	<u>113,784</u>
<b>淨值</b>	<b>Net book value</b>				
於2018年3月31日	At 31 March 2018	<u>25,375</u>	<u>31,403</u>	<u>21,038</u>	<u>77,816</u>
於2017年3月31日	At 31 March 2017	<u>6,982</u>	<u>41,469</u>	<u>23,513</u>	<u>71,964</u>

## 4. 現金及現金等值項目

## 4. Cash and Cash Equivalents

		2018 港幣 HK\$	2017 港幣 HK\$
銀行存款	Cash at bank	<b>872,636</b>	379,029
庫存現金	Cash in hand	<b>1,573</b>	947
		<u><b>874,209</b></u>	<u>379,976</u>

## 5. 或然儲備

經行政署長在1999年6月9日的函件批准，本局可保留一項或然儲備。儲備的最大金額為以下金額總額：

- (a) 在上一年度所獲得的銀行利息；及
- (b) 本局在上一年度的經常性補助（不包括銀行利息）除卻開支所得盈餘的5%。

由2016-17年度開始，儲備上限已變動至年度核准的經常性補助（即上年度經審計財務報表所列的補助金額）的15%。如儲備水平超越了上限，本局須於經審核帳目發布後的下個財政年度，將超出的款額歸還政府。

## 6. 政府補助

從香港特別行政區政府收取的補助為\$7,007,000港元（2017年：6,757,360港元）：

## 5. Contingency Reserve

As agreed in the Director of Administration's letter of 9 June 1999, the Council can carry a contingency reserve. The maximum amount of reserve is the sum of:

- (a) bank interests earned in the preceding year; and
- (b) 5% of the surplus of the Council's recurrent subvention (excluding bank interest) over expenditure in the preceding year.

With effect from 2016-17, the reserve ceiling has been varied to 15% of the approved annual recurrent subvention, which refers to the subvention amount stated in the audited financial statements in the preceding year. If the level of the reserve exceeds the ceiling, the Council should return the amount in excess to the Government in the following financial year upon issuance of the audited financial statements.

## 6. Government Subventions

Subventions received from the Government of the Hong Kong Special Administrative Region amounted to HK\$7,007,000 (2017: HK\$6,757,360):

		2018 港幣 HK\$	2017 港幣 HK\$
每年經常性資助	Annual recurrent grant	<b>6,607,000</b>	6,367,000
非經常性資助	Non-recurrent grant	<b>400,000</b>	-
或然資助	Contingency grant	-	390,360
政府補助	Subventions from the Government	<b><u>7,007,000</u></b>	<b><u>6,757,360</u></b>

7. 員工酬金

7. Staff Emoluments

		2018 港幣 HK\$	2017 港幣 HK\$
公務員員工：	Civil service staff:		
薪金	Staff cost	<b>3,907,771</b>	3,798,662
非公務員合約員工：	Non-civil-service contract staff:		
薪金	Staff salaries	<b>322,870</b>	304,073
約滿酬金	Gratuities	<b>16,287</b>	15,763
強積金	Provident fund	<b>17,306</b>	15,204
未放取假期撥備	Provision for untaken leave	<b>7,948</b>	6,419
		<b>364,411</b>	341,459
		<b>4,272,182</b>	4,140,121

8. 其他支出

8. Other Expenses

		2018 港幣 HK\$	2017 港幣 HK\$
編製年報 / 通訊	Production of annual report/newsletter	<b>58,759</b>	63,612
常規出版物、期刊及雜誌	General publications, periodicals and journals	<b>45,434</b>	44,892
會計費用	Accountancy fee	<b>40,500</b>	40,500
研討會支出	Conference expenses	<b>41,724</b>	8,882
其他行政支出	Other administration expenses	<b>98,526</b>	105,608
折舊	Depreciation	<b>20,248</b>	19,135
		<b>305,191</b>	282,629

## 9. 財務風險管理

本局以銀行存款為主要財務工具，而由該等財務工具引起的風險主要是信貸風險和流動資金風險。

### 信貸風險

信貸風險是指某一方未能償還債務而導致另一方招致財政損失。為減低信貸風險，本局的現金存放於香港一間主要的持牌銀行。

### 流動資金風險

流動資金風險是指機構在支付財務負債時遇到困難。本局已制定一項流動資金政策，由本局成員定期檢討。此政策規定本局的流動資金每月維持在一個穩健水平，確保有足夠流動資金支付債務。

## 10. 資本管理

本局的唯一資本來源是政府的經常性補助。本局管理資本的目標是為：

- 符合法律援助服務局條例；及
- 維持資本水平以資助本局的營運以達到第一點所述的目標。

本局對資本的管理，是要確保本局有足夠的資本水平去應付未來支出，包括現金流量的預計需要及未來財務負債及承擔。

## 9. Financial Risk Management

The Council's major financial instruments are cash at bank. The main risks associated with these financial instruments are credit risk and liquidity risk.

### Credit risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. In order to minimise the credit risk, the Council's cash at bank is placed with a major licensed bank in Hong Kong.

### Liquidity risk

Liquidity risk is the risk that an entity will encounter difficulty in meeting obligations associated with financial liabilities. The Council has laid down a liquidity policy which is reviewed regularly by the Council members. This policy requires the Council to maintain a conservative level of liquid funds on a monthly basis to ensure the availability of adequate liquid funds to meet all obligations.

## 10. Capital Management

The capital of the Council consists solely of funds from the recurrent government subvention. The Council's objectives when managing capital are:

- to comply with the Legal Aid Services Council Ordinance; and
- to maintain a capital base to fund the operation of the Council for the objective stated in Note 1 above.

The Council manages its capital to ensure that the level is adequate to fund future expenditure, taking into account its projected cash flow requirements, future financial obligations and commitments.

## 11. 承擔

根據不可撤銷經營租賃，未來須支付的最低租賃付款總額如下：

## 11. Commitments

The future aggregate minimum lease payments under non-cancellable operating leases are as follows:

		2018 港幣 HK\$	2017 港幣 HK\$
一年內	Within 1 year	<b>1,726,608</b>	909,200
第二到五年內	After 1 year but within 5 years	<b>2,654,892</b>	-
		<b><u>4,381,500</u></b>	<u>909,200</u>

## 12. 財務資產及財務負債的公平值

所有財務資產及財務負債均以與其公平值相同或相差不大的金額在資產負債表內列帳。

## 12. Fair Values of Financial Assets and Liabilities

All financial assets and liabilities are stated in the balance sheet at amounts equal to or not materially different from their fair values.