

For information**Legislative Council
Panel on Administration of Justice and Legal Services****Annual Review of Financial Eligibility Limits of Legal Aid Applicants****PURPOSE**

This paper informs members of the outcome of the annual review of the financial eligibility limits (“FELs”) of legal aid applicants completed for the reference period from July 2017 to July 2018 and our proposed way forward.

THE REVIEW MECHANISM

2. At present, a person whose financial resources¹ do not exceed \$307,130 is financially eligible for legal aid under the Ordinary Legal Aid Scheme (“OLAS”) which covers civil proceedings in the District Court or higher courts as set out in section 5(1) of the Legal Aid Ordinance (“LAO”) (Cap. 91) and criminal legal aid under the Legal Aid in Criminal Cases Rules (Cap. 221D). The corresponding upper limit for Supplementary Legal Aid Scheme (“SLAS”) is \$1,535,650 as specified in section 5A(b) of the LAO.

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

4. In the previous annual review, the Government proposed to increase FELs by 1.7% in accordance with the Consumer Price Index (C) (“CPI(C)”) changes between July 2016 and July 2017. We informed this Panel in April 2018 and the resolution on the proposed increase to FELs was approved by

¹ “Financial resources” means the aggregate of an applicant’s yearly disposable income and disposable capital. A person’s disposable income is his/her gross income minus deductible items as allowed under the Legal Aid (Assessment of Resources and Contributions) Regulations (“the Regulations”) (Cap. 91B). A person’s disposable capital consists of all assets of a capital nature, such as the sum of his / her credit balance, money due to him / her, the value of the person’s 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.

LegCo in November 2018. The adjusted FELs came into effect on 23 November 2018.

THE CURRENT REVIEW

5. The Government has completed a new round of annual review on FELs. Noting that the CPI(C) for the reference period (i.e. July 2017 to July 2018) has increased by 2.3%, we propose to adjust the FELs upwards by 2.3% accordingly. The impact of general price movement after July 2018 will be reflected in the next review. The existing FELs and proposed FELs are shown below –

	Existing FEL	Proposed FEL²
OLAS	\$307,130	\$314,190
SLAS	\$1,535,650	\$1,570,970

6. In conducting the previous biennial reviews, the Government sought assistance from the two legal professional bodies but was advised that information on private litigation costs was not available. We are working on the possible way forward for the biennial review and will consult the Legal Aid Services Council (“LASC”) and this Panel when ready.

CONSULTATION

7. We have informed LASC, the Hong Kong Bar Association and the Law Society of Hong Kong of the outcome of the annual review.

FINANCIAL IMPLICATIONS

8. The proposal to increase FELs is estimated to incur an additional recurrent expenditure of about \$1.5 million in a full year by the Legal Aid Department (“LAD”). LAD will absorb the additional expenditure and workload in effecting the changes to FELs with its existing resources.

² The figures are rounded to the nearest \$10.

WAY FORWARD

9. Section 7 of the LAO provides that LegCo may, by resolution, amend the amounts of financial resources specified in sections 5 and 5A of the LAO. In accordance with section 7 of the LAO, we plan to move a resolution in LegCo to adjust FELs upwards by 2.3%, i.e., from \$307,130 to \$314,190 for OLAS, and from \$1,535,650 to \$1,570,970 for SLAS.

ADVICE SOUGHT

10. Members are invited to note the outcome of the review and the way forward.

Chief Secretary for Administration's Office
Legal Aid Department
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