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扩大法律援助辅助计划

Expansion of
Supplementary Legal Aid Scheme



作为行政长官在关于由法援署提供的法律援助服务的政策上的咨询机构，本局在2010年3月致函民政事务局局长，表达对就评定法律援助申请人财务资格的准则每五年进行一次的检讨所作建议的意见；本局同时在信内表示，法律援助辅助计划（「辅助计划」）的援助范围应予以研究，而有关研究会由辖下的法律援助范围兴趣小组负责。

在2010年12月，本局向行政长官呈交「辅助计划」的检讨报告。行政当局在审视本局的建议，并考虑立法会司法及法律事务委员会和相关持分者，包括法律业界的意见后，最终定下其对「辅助计划」提案的立场，并于2011年3月和12月提交司法及法律事务委员会，及于2012年11月法例修订后，扩大了普通法律援助计划（「普通计划」）及「辅助计划」的援助范围。

自那时起，已有立法会议员和法律业界人士呼吁更进一步扩大援助范围。在民政事务局（民政局）的邀请下，本局成立了一个工作小组去进一步检讨「辅助计划」的援助范围。

The Council, being an advisory body of the Chief Executive on the policy of the legal aid services provided by Legal Aid Department ("LAD"), wrote to the Secretary for Home Affairs in March 2010 providing its views on the recommendations of the five-yearly review of the criteria used to assess the financial eligibility of legal aid applicants. In the letter, the Council also advised that the scope of Supplementary Legal Aid Scheme ("SLAS") was considered necessary to be studied and the study would be conducted by its Interest Group on Scope of Legal Aid.

In December 2010, the Council made a submission to the Chief Executive on the review of SLAS. Having studied the recommendations of the Council and taken into account the views of the Legislative Council ("LegCo") Panel of Administration of Justice and Legal Services ("AJLS") and relevant stakeholders including the legal profession, the Administration finalized its position on the proposals for SLAS and submitted it to the AJLS Panel in March and December 2011. The expanded scope of Ordinary Legal Aid Scheme ("OLAS") and SLAS was implemented in November 2012 after legislative amendments.

Since then, there have been calls for further expansion from LegCo members and members of the legal profession. On the invitation of the Home Affairs Bureau ("HAB"), the Council set up a working group to conduct a further review of the scope of SLAS.

扩大法律援助辅助计划工作小组 Working Group on Expansion of SLAS

扩大法律援助辅助计划工作小组（「工作小组」）由本局成员组成，其主要工作是研究进一步扩大「辅助计划」的援助范围的必要及可行性，以及如需扩大援助范围，应新增那类案件在计划内。除了工作小组成员的意见外，小组也考虑了其他人士的提议，尤其香港大律师公会在2010

The Working Group on Expansion of SLAS ("WG") is comprised of members of the Council. It is tasked to study whether it is necessary and feasible to further expand the scope of SLAS and, if so, which type(s) of cases should be added. In addition to the views from members of the WG, the WG has considered written submissions, the Hong Kong Bar Association's position papers on this topic dated 20 July 2010 and 5 November 2012 in particular, examined relevant

年7月20日和2012年11月5日就此议题发出的立场书，并查看了相关的统计数据和检阅其他有关的资料。工作小组亦慎重地商讨了香港大律师公会和香港律师会分别于2015年11月18日和24日，针对工作小组的初步建议书发出的书面意见。

「辅助计划」的进一步检讨 Further Review of SLAS

政府的法援政策目标是要确保任何具合理理据在香港法院提出诉讼或抗辩的人士，不会因缺乏经济能力而无法寻求公义。

任何人士如要获得法律援助，须按法例要求，同时通过经济审查及案情审查。目前，申请人的财务资源不超过290,380元，便符合资格申请「普通计划」，而这计划已涵盖大部分区域法院或更高法院的法律诉讼。「辅助计划」是提供给财务资源超出「普通计划」规定的限额，但又不超过某一金额的人士。现时，「辅助计划」的财务资格限额为1,451,900元。

「辅助计划」在1984年开始运作，最初的1百万元种子基金由奖券基金拨出、其余经费来自政府于1995年注资的2,700万元、申请人缴付的申请费、受助人缴付的中期分担费和从胜诉案件讨回的损害赔偿中扣除的最终分担费、判与的讼费以及执行第一押记的收入等。

「辅助计划」按财政自给自足的基础建立。一直以来，「辅助计划」涵盖的法律诉讼种类为：(a) 因涉及对个人而非商业机构或一个组群的市民做成重大伤害或不

statistics and reviewed other materials. The WG has also deliberated the written submissions of Hong Kong Bar Association and the Law Society of Hong Kong dated 18 and 24 November 2015 respectively which were made in response to the preliminary proposal of the WG.

The Government's policy objective of legal aid is to ensure that no one with reasonable grounds for pursuing or defending a legal action in the Hong Kong courts is denied access to justice because of a lack of means.

To qualify for legal aid, a person is required by law to satisfy the means test and the merits tests. At present, a person whose financial resources do not exceed \$290,380 is financially eligible for legal aid under the OLAS, which covers most proceedings at District Court level and above. The SLAS is available to those whose financial resources exceed the upper limit allowed under OLAS, but are below a certain amount. The financial eligibility limit (FEL) for SLAS is currently set at \$1,451,900.

SLAS came into operation in 1984. It is funded by the initial seed money of \$1 million from the Lotteries Fund, an injection of \$27 million from the general revenue in 1995, the application fees payable by applicants, the interim contributions from aided persons and the final contributions from a percentage deduction of the damages recovered in successful cases, costs awarded and receipts from first charge enforcement, etc.

SLAS is established on the bases of self-financing and financial viability. All along, the types of proceedings covered by SLAS are those: (a) which deserve priority for public funding in the sense that significant injury or injustice to the individual, as distinct from that to a commercial concern or a group of citizens, is involved;

公，而值得优先获得公帑资助的个案；以及(b) 涉及金钱申索并有良好胜诉以及讨回讼费及赔偿机会的个案。

「辅助计划」最初只适用于涉及人身伤亡的赔偿申索，其后于1992年扩大至雇员补偿申索，并于1995年涵盖因医疗、牙科及法律专业疏忽而提出的申索。

在2012年11月，「辅助计划」的涵盖范围大幅扩大。除了上述申索外，「辅助计划」的涵盖范围扩大至包括更多类别的专业疏忽申索、关于保险人或其中介人在销售个人保险产品时涉及疏忽的申索、就售卖已落成或未落成的一手住宅物业而向卖方提出的金钱申索，以及因应劳资审裁处所作裁决而提出上诉的个案中为雇员提供法律代表。

立法会财务委员会在2012年12月批准注资1亿元，支持已扩大涵盖范围的「辅助计划」的运作。截至2016年3月底，法律援助辅助计划基金的结余为1.915亿元。

以下是「辅助计划」的申请及获批法律援助证书的统计数字：

and (b) which involve monetary claims and have a high success rate and a good chance of recovering costs and damages.

SLAS was limited initially to cover claims for damages for personal injuries or death. It was expanded in 1992 to include employees' compensation claims and in 1995 civil proceedings for medical, dental and legal professional negligence.

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

The LegCo Finance Committee's funding approval of \$100 million was obtained in December 2012 to support the operation of the expanded SLAS. As at the end of March 2016, the balance of the Supplementary Legal Aid Fund was \$191.5 million.

Followings are the statistics on the numbers of applications and legal aid certificates granted in respect of SLAS:

「辅助计划」的申请及获批法律援助证书的数目 No. of Applications Received and Certificates Granted under SLAS

年度 (十月至九月) Year (Oct - Sep)	人身伤害的赔偿申索 Personal Injuries Claim		专业疏忽的赔偿申索 Professional Negligence Claim		其他 Others		总计 Total	
	申请 Application	证书 Certificate	申请 Application	证书 Certificate	申请 Application	证书 Certificate	申请 Application	证书 Certificate
2008-2009	165	112	15	7	-	-	180	119
2009-2010	123	97	16	7	-	-	139	104
2010-2011	148	104	16	10	-	-	164	114
2011-2012	152	112	20	8	1	1	173	121
2012-2013	191	149	21	8	3	1	215	158

「辅助计划」申请被拒的数目 No. of Refusals under SLAS

年度 (十月至九月) Year (Oct - Sep)	未能通过经济审查而被拒的申请 Refusal on Means	未能通过案情审查而被拒的申请 Refusal on Merits
2008-2009	1	33
2009-2010	2	24
2010-2011	-	21
2011-2012	-	22
2012-2013	4	30

自涵盖范围扩大后，法援署仍就新增的援助法律诉讼累积经验，并评估它们对法律援助辅助计划基金的影响。从下表可以看到，2012年并没有接获太多有关新增案件类别的申请。

Since the expansion in 2012, LAD has been gaining experience on the newly added proceedings and assessing their impact on the Supplementary Legal Aid Fund. It is noted from the table below that there are not much applications received for the cases introduced in 2012.

于2012年新增的案件类别的申请数目 No. of Applications in respect of Cases Introduced in 2012

年度 (十月至九月) Year (Oct - Sep)	8种新增专业疏忽的赔偿申索 8 New Professional Negligence Claims	个人保险疏忽的赔偿申索 Personal Insurance Negligence Claims	售卖一手住宅物业 Sale of First- hand Residential Properties	劳资审裁处的上诉 Employees' Labour Tribunal Appeal
2012-2013	1 [#]	-	-	1 [*]
2013-2014 (截至2014年2月28日) (up to 28 Feb 2014)	-	-	-	1 [@]

未能通过案情审查 Refused on merits

* 法律援助证书获批 Certificate granted

@ 提供法援的建议失效 Offer lapsed

法律援助辅助计划基金的财务可行性，取决于涵盖在「辅助计划」的申索类别的选择、案情审查、诉讼成功率、可收回讼费的能力以及赔偿与诉讼费用的比率。现时，大部分包括在「辅助计划」的申索均有投保，而且申请多是涉及有非常高胜诉和高赔偿比率的人身伤害案件。

Financial viability of the Supplementary Legal Aid Fund depends on the choice of claims covered, the merits test, the success rate in litigation, the recoverability of legal costs spent and the damages to costs ratio. At present, most of the SLAS claims are covered by insurance policies and the bulk of the SLAS cases are personal injuries claims which have a very high success rate and high compensation ratio.

「辅助计划」的案件一旦败诉，双方的讼费便需由法律援助辅助计划基金承担，这对该基金来说会是一个沉重的打击。在2008年，一宗由「辅助计划」资助，双方的讼费涉及1,700万元的人身伤害案件败诉，便导致法律援助辅助计划基金的资金由1.02亿元锐减至8,800万元。此外，如果没有银行利息的收益，法律援助辅助计划基金在过去10年大部分时间都会录得净亏损。基于这个背景下，法援署获额外拨款以应对上次扩大「辅助计划」的范围。

The loss of any SLAS case impacts heavily on the Supplementary Legal Aid Fund as it has to bear the costs of both sides. In 2008, the loss of a SLAS funded personal injuries claim with estimated costs of \$17 million led to a drastic reduction of the Supplementary Legal Aid Fund from \$102 million to \$88 million. It is also noted that without the gain from bank interest, there will be a net loss in most of the past 10 years. It was against this background that separate funding was sought for the last expansion of SLAS.

法律援助辅助计划基金净收益 / 亏损和基金结余 Net Gain/Loss and Fund Balance of Supplementary Legal Aid Fund

年度 (十月至九月) Year (Oct - Sep)	个案录得的 净收益 / (亏损) Net Gain/(Loss) from Cases (A)	银行利息 净收益* Net Gain from Bank Interest* (B)	全年净收益 / (亏损) Net Gain/(Loss) for the Year (C) = (A) + (B)	基金结余 Fund Balance (D)
	\$	\$	\$	\$
2003-2004	4,164,402	522,724	4,687,126	91,856,625
2004-2005	(265,822)	1,675,852	1,410,030	93,266,655
2005-2006	3,093,366	4,389,395	7,482,761	100,749,416
2006-2007	(3,164,067)	4,226,936	1,062,869	101,812,285
2007-2008	(17,409,800)	3,251,543	(14,158,257)	87,654,028
2008-2009	(1,358,963)	1,554,781	195,818	87,849,846
2009-2010	(1,268,936)	557,199	(711,737)	87,138,109
2010-2011	(534,164)	992,432	458,268	87,596,377
2011-2012	(2,250,191)	1,567,579	(682,612)	86,913,765
2012-2013 (未经审计) (unaudited)	(2,324,374)	1,810,206	(514,168)	#186,399,597

* 已减去银行费用的银行利息 Bank interest less bank charges

包括2013年1月政府注资的1亿元 Including fund of \$100 million injected by Government in Jan 2013

建议 Recommendations

当检讨「辅助计划」时，工作小组除审议扩大「辅助计划」涵盖范围的必要及可行性外，也在考虑新增案件的类别时考量 i) 是否涉及金钱申索；ii) 申索成功机会是否很高；及 iii) 是否有良好的讨回讼费及赔偿的机会。

经商讨后，工作小组建议「辅助计划」的涵盖范围应可循序渐进地扩大。针对上述的背景因素，「辅助计划」应继续以财政自给自足的形式运作，并应密切监察法律援助辅助计划基金的财务情况。为方便未来进一步检讨「辅助计划」的涵盖范围，工作小组认为有需要为新增案件类别收集统计资料，以及分析其对法律援助辅助计划基金的影响。本局支持有关建议。

建议加入「辅助计划」的新案件类别在随后的段落中详述。

In reviewing SLAS, apart from the question of whether it is necessary and feasible to expand the scope of SLAS, the matters of: i) whether monetary claims are involved; ii) whether the claims have a high success rate; and iii) whether there is a good chance of recovering costs and damages have also been taken into account when considering the types of cases that should be added in the scheme.

After deliberation, the WG recommended that the scope of SLAS should be further expanded on an incremental basis. Against the background above-mentioned, the Scheme should continue to be self-financing and financially viable, and the viability of the Supplementary Legal Aid Fund should be closely monitored. To facilitate future review of the scope of SLAS, it was found necessary to create and maintain statistics on the newly added types of cases, and to conduct analysis of their impact on the Supplementary Legal Aid Fund. The recommendations have the Council's support.

Detailed recommendations in respect of the types of cases that have been considered for inclusion in the SLAS are given in the ensuing paragraphs.



向多层大厦业主立案法团提出的申索

Claims against the Incorporated Owners of a Multi-Storey Building

在上次检讨时，行政当局不赞同将就财物损毁而向多层大厦业主立案法团提出的申索纳入「辅助计划」涵盖范围，亦表明因无强制规定业主立案法团要为第三者财物损毁购买保险，一旦涉及相关的诉讼，有关的法律费用便须由个别业主承担。此外，行政当局认为法律援助如只涵盖向业主立案法团提出的申索，而不是包括所有财物损毁的个案，这做法并不公平。本局理解这些要点。

在今次检讨中，由于社会非常关注大厦翻新及维修合约出现围标的情况，工作小组特别研究应否由「辅助计划」提供法援予个别业主，协助他们对抗业主立案法团的不当行为。例如业主立案法团未能按照既定程序或越权办事，包括在没有足够通知或出席成员未达会议的法定人数的情况下召开会议，讨论会严重损害个别业主权益的议题等。

然而，工作小组认同，类如就财物损毁所提出的申索，假若「辅助计划」只向业主立案法团提供资助，这会令人觉得做法欠缺公平及很难明白其中不同的处理原则。再者，围标未必涉及金钱申索，在法律援助辅助计划基金的有限资源的前提下，任何败诉的法律诉讼均会对其产生不良影响。同时，竞争条例已全面生效，而竞争事务委员会亦开展了「打击围标 全城目标」的活动，全力打击围标行为。在这情况下，工作小组认为暂时不应将向多层大厦业主立案法团提出的申索纳入「辅助计划」，此议题可在适当的时候再次探讨。

In the last review of SLAS, the Administration did not propose to expand the scope of SLAS to cover property damage claims against the incorporated owners of a multi-storey building. It also revealed that there was no mandatory requirement for the incorporated owners to procure insurance to cover damages to property of the third party, so individual owners would be the ones who were responsible for a share of the legal costs if proceedings involving property damage claims arose. Besides, the Administration also viewed that it would be unfair if legal aid was made available only for claims against incorporated owners instead of all property damage cases. The Council took note of these points.

In the current review, since the issue of bid-rigging for building renovation and maintenance contract is a big concern of the community, the WG has focused on the study if legal aid should be provided under SLAS to help individual owners counter act against the improprieties of incorporated owners, for instance, the incorporated owners' failure to follow the established procedures or the act that is outside its authorities say not enough notice or members to make a quorum for a meeting to discuss matters that will adversely affect the benefit of individual owners, etc.

It is however recognized that as in the case of property damage claims, the inclusion of claims solely against incorporated owners under SLAS may give an impression that it is unfair and it will not be easy to explain the difference in treatment. Besides, monetary claims may not be involved in relation to the issue of bid-rigging. Any loss in the proceedings will adversely affect the Supplementary Legal Aid Fund which is limited in resources. In addition, the Competition Ordinance is in full force and the Competition Commission has kicked off its "Fighting Bid-rigging Cartels" Campaign and committed to use the full extent of its power to end bid-rigging cartels. In view of the circumstances, the WG considered that claims against the incorporated owners of a multi-storey building should not be included in SLAS for the time being and the issue might be re-visited in due course.



独立财务顾问 Independent Financial Consultants

根据证券及期货事务监察委员会（证监会）所示，如法团获发牌进行第1类（证券交易）、第2类（期货合约）或第8类（证券保证金融资）的受规管活动，必须为有关活动投保保险并将之保持有效。工作小组因此认为，向已在证监会注册及须投保的独立财务顾问提出金额超逾60,000元的申索，可以纳入「辅助计划」。

According to the Securities and Futures Commission, if a corporation is licensed for Type 1 (dealing in securities), Type 2 (dealing in future contracts) or Type 8 (securities margin financing) regulated activities, it is required to take out and maintain insurance. The WG therefore considered that monetary claims exceeding \$60,000 against independent financial consultants registered under the Commission and required to have insurance cover could be included in SLAS.



有关金融衍生工具的申索 Derivatives Claims

由于「普通计划」的涵盖范围已于2012年11月扩大至包括在销售证券衍生工具、货币期货或其他期货合约时涉及诈骗、失实陈述或欺骗情况的金钱申索，工作小组认为有关相同种类和涵盖范围、金额超逾60,000元的金融衍生工具的申索亦应纳入「辅助计划」。

Since the OLAS was expanded in November 2012 to cover monetary claims in derivatives of securities, currency futures or other futures when fraud, misrepresentation or deception was involved at the time of purchase, the WG considered that the same types and scope of coverage of derivatives claims exceeding \$60,000 should also be included in SLAS.



小型海事意外 Small Marine Accidents

「辅助计划」已涵盖涉及人身伤害赔偿申索的小型船只意外。纯粹因财物损毁索偿的机会极小，就算发生，船主的保险人亦会保障投保客户的利益。因此，工作小组不建议将涉及财物损毁索偿的小型海事意外纳入「辅助计划」。

Small boat accidents resulting in claims for damages for personal injuries have already been covered under SLAS. The chance of claims purely for property damage is quite remote. Even if it occurs, the insurers of the boat owners will safeguard their insured clients' interest. Therefore, the WG did not recommend extension of SLAS to claims for property damage from small marine accidents.



少数份数业主就强制售卖向发展商提出的申索

Claims against Property Developers by Minority Owners in Compulsory Sales

由于少数份数业主就强制售卖向发展商提出的申索多与土地审裁处发出售卖的命令有关，而有关命令一般都不涉及金钱申索，工作小组认为这项申索不应纳入「辅助计划」。

Noting that claims against property developers by minority owners in compulsory sales are related to the Lands Tribunal's orders to sell and normally do not involve monetary claims, the WG considered that such claims should not be covered by SLAS.



信托

Trusts

一般来说，任何人均可被委任为信托的受托人，他/她不一定是一名专业人士。因此，如就涉及信托的问题向受托人提出申索，并不能确定是否能讨回费用和损害赔偿。即使是一名专业人士，例如律师被指派为受托人，此类涉及专业人士的申索亦已涵盖在专业疏忽的申索范围内，所以工作小组认为不适当/无必要扩大「辅助计划」以涵盖对违反信托的受托人提出的申索。

In general, any person could be appointed as trustee for a trust. He/she may not necessarily be a professional. Hence, it could not be sure whether costs and damages could be recovered if claims in respect of the trust occur. Even if a professional say solicitor is assigned as trustee, the claims against such kind of professional are already covered by professional negligence claims. Therefore, the WG considered it not appropriate/ necessary to expand SLAS to cover claims for breach of trust against trustees.



有限公司与其小股东之间的争议

Disputes between Limited Companies and Their Minority Shareholders

由于已列明不把涉及有限公司与其股东之间有关权益争议的申索包括在「普通计划」内，加上这类申索不一定涉及金钱，工作小组不建议「辅助计划」纳入这类申索。

Since claims involving disputes between limited companies and their shareholders regarding their respective rights are expressly excluded from OLAS and such claims may not necessarily be related to monetary claims, the WG considered that SLAS should not be expanded to cover this type of claims.



销售商品和提供服务 Sale of Goods and Provision of Services

由于香港海关会就《商品说明条例》采取行动，以及消费者委员会成立的消费者诉讼基金亦会涵盖消费者的集体诉讼，工作小组建议暂时不把与销售商品和提供服务有关的申索纳入「辅助计划」的涵盖范围。

The WG recommended not including claims arising out of the sale of goods and the provision of services in SLAS for the time being because action will be taken by the Customs and Excise Department under the Trade Descriptions Ordinance, and consumer class actions will be covered by the Consumer Legal Action Fund set up by the Consumer Council.



集体诉讼 Class Action

集体诉讼可以透过不同的方式构建成，可以是具名的原告人或一些具名的原告人代表一个人或机构的集体，就受到相同的伤害或损失提出申索。工作小组认为当集体诉讼法例完备时，行政当局应积极考虑将这类申索涵盖在内。另外，法援署署长应有权酌情批准法援予合适的集体诉讼案件，灵活应对不断变化的情况。

There are different ways to structure a class action system. It could be a named plaintiff or a number of named plaintiffs to file a claim on behalf of a “class” of people or businesses who claim to have suffered from a common injury or loss. The WG considered that the inclusion of this item should be actively considered when the law governing class action is available. It also viewed that the Director of Legal Aid should have discretion to grant legal aid in appropriate class action cases to allow elasticity for evolving situation.



诽谤诉讼和选举呈请 Defamation Proceedings and Election Petitions

民政局和法援署曾协助完成一项就海外司法管辖区有否将选举呈请和诽谤诉讼纳入法援涵盖范围内的调查。所得到的资料显示，在英格兰和威尔斯、澳洲新南威尔斯和维多利亚州、新西兰、北爱尔兰、加拿大安大略省、苏格兰和星加坡，均没有将选举呈请纳入法援范围。至于诽谤诉讼，除了英格兰和威尔斯、澳洲新南威尔斯、北爱尔兰和苏格兰，在特别或例外的情况下会提供法律援助外，上述大部分的海外司法管辖区皆没有把诽谤诉讼纳入法援范围。在香港，选举呈请和诽谤诉讼并不包括在「普通计划」内。在考虑以上各点后，工作小组不建议「辅助计划」的涵盖范围扩大至包括这两类案件。

The HAB together with the LAD have helped conduct a research on whether election petitions and defamation proceedings are covered by legal aid in overseas jurisdictions. Available information indicates that election petitions are generally not covered by legal aid in England & Wales, New South Wales and Victoria of Australia, New Zealand, North Ireland, Ontario of Canada, Scotland and Singapore. As for defamation proceedings, it is not covered by legal aid in Ontario of Canada, Victoria of Australia and Singapore, and it is generally not covered except under special or exceptional circumstances in England & Wales, New South Wales of Australia, Northern Ireland and Scotland. In Hong Kong, legal aid is not provided for election petitions and defamation proceedings under OLAS. Having considered the above, the WG did not recommend extending SLAS to these two types of cases.



申请人的财务资格限额 Financial Eligibility Limit

经考虑本局于2010年提交与「就评定法律援助申请人财务资格的准则每五进行年一次的检讨」有关的建议后，行政当局接纳把「辅助计划」的财务资格限额调高至1,300,000元。这限额是按2008年实际进入审讯的「辅助计划」案件的平均诉讼费，即1,297,000元而设定。「辅助计划」的财务资格限额现时为1,451,900元。

基于相同的准则，工作小组研究了法援署在过去6年的平均诉讼费用以检讨申请人的财务资格限额，相关数字如下：

年份 Year	平均诉讼费 Average Legal Costs
2009	\$577,229
2010	\$308,026
2011	\$582,161
2012	\$766,618
2013	\$643,778
2014	\$728,869

鉴于过去几年的平均诉讼费用均相当接近，工作小组暂时不建议调整「辅助计划」的财务资格限额水平，但认为应要持续监察并每年作出检讨。

Following the recommendation of the Council in the five-yearly review of the criteria used to assess the financial eligibility of legal aid applicants in 2010, the Administration adopted \$1.3 million as the level of FEL for SLAS. Such amount was based on the average legal costs (i.e. \$1.297 million) of a SLAS case that actually went to trial in 2008. The FEL for SLAS is currently set at \$1,451,900.

Using the same approach to review the FEL, the WG has studied the average legal costs of LAD in the past six years. The respective figures are:

In view that the average legal costs provided by LAD appear to be roughly the same throughout the years, the WG did not propose any change to the level of FEL for SLAS for the time being but recommended it be monitored and reviewed every year.



与年龄有关的资产审查豁免

Age Related Exemption for Assets Test

就与年龄有关的资产审查豁免以评估法律援助申请人的财务资源，本局在2011年8月3日致民政局的函件中，曾建议行政当局设定在55岁。工作小组对此提议持相同看法，认为有需要保护长者不会被诉讼耗尽所有资产，因为有关长者已差不多到达工作生涯的最后阶段，难以赚回所耗款额。

Regarding the age related exemption for assets test in assessing the financial resources of legal aid applicants, the Council has proposed in its letter to HAB dated 3 August 2011 the Administration to take age 55. The WG maintained the view because it is considered necessary to protect the assets of the elderly from being “used up” in litigation as they are approaching the end of their working life and could not earn back those monies.

本局在讨论计划书时，尽管受人力和资源的限制，只能与两个法律专业团体交换意见，而不是听取所有相关持分者的提议，本局认为上述的建议公平而合理。本局相信相关政府政策局如有需要，在确定政府的立场前，可以先进行咨询以广泛收集所有持分者的意见。

本局已在2016年7月把建议提交给行政长官。为香港的利益着想，本局已促请政府认真考虑，尽快推行有关建议。

The Council considers the foregoing recommendations fair and reasonable though, with only limited manpower and resources, it has exchanged views with the two legal bodies instead of collecting views from all relevant stakeholders when the proposals were discussed. The Council also considers that, if necessary, the related government bureau could initiate a consultation which should be wide enough to involve all the stakeholders before finalizing its position.

The recommendations were submitted to the Chief Executive in July 2016. For the benefit of Hong Kong, the Council also urged the government to seriously consider an early implementation of the recommendations without delay.

