

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援個案統計數據和法援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，以及法援財政預算 / 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援申請。

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援進行的法律程序是有合理理據提出或抗辯，而法援署必須信納該案件有合理的成功機會；如給予申請人法援是不合理的，則可能會拒絕提供法援。

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 grant 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.