

# 主席回顾

## Chairman's Review

我非常荣幸以法律援助服务局主席的身份，首次向各持份者汇报本局的工作。

我于2019年9月1日上任。在2019-2020年间，香港经历了异乎寻常的十二个月。政府向立法会司法及法律事务委员会就2019年《施政报告》及《施政报告附篇》中有关法律援助（法援）的政策措施作出的简报被迫延迟。由于2019新型冠状病毒在社区爆发，除紧急及必要服务外，所有法院／审裁处的聆讯延期，法律援助署的服务也暂停了约一个月。

法援服务是法律制度中不可或缺的一部分，对维护香港的法治扮演着重要的角色。法援的目的是确保所有具备合理理据在香港法院提出法律诉讼或抗辩的人士，不会因经济能力有限而无法寻求公义。因此，当法律援助申请人同时通过《法律援助条例》（《条例》）规定的经济审查和案情审查，他便符合资格获取法援。



It is indeed my pleasure and privilege to address, for the first time, our stakeholders in the capacity as Chairman of the Legal Aid Services Council.

I took office on 1 September 2019. During 2019-2020, Hong Kong experienced an extraordinary twelve months. The briefing to the Panel on Administration of Justice and Administration of the Legislative Council on the policy initiatives in relation to legal aid in the 2019 Policy Address and the Policy Address Supplement was delayed. Due to the spread of the COVID-19 epidemic in the community, except for urgent and essential services, all hearings of courts/tribunals have been adjourned and the services of Legal Aid Department have been suspended for about one month.

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, legal aid will be granted if the applicant is able to satisfy both the means test and merits test as provided by the Legal Aid Ordinance (LAO).

To pass the means test, the financial resources of the person applying for legal aid should not exceed the statutory financial eligibility limit (FEL). The FEL of the Ordinary Legal Aid Scheme

梁永祥博士 SBS, JP (主席)  
Dr William LEUNG Wing-cheung SBS, JP  
(Chairman)

要通过经济审查，申请法援人士的财务资源不得超过财务资格限额。普通法律援助计划（「普通计划」）和法律援助辅助计划（「辅助计划」）的财务资格限额均会进行检讨。自1999年9月起，政府会参考丙类消费物价指数的一般物价变动的情况，每年检讨该两个财务资格限额。政府亦曾在2011年，分别一次性大幅调高「普通计划」及「辅助计划」的财务资格限额48%和166%以加强公众寻求司法公义的途径。

行政长官于2019《施政报告附篇》公布，考虑到诉讼成本的升幅高于自2011年的一次性调整后一般物价变动的累积升幅，以及「普通计划」申请人对私人诉讼的负担能力，政府建议将「普通计划」的财务资格限额由307,130元提高至400,000元。政府亦建议将「辅助计划」的财务资格限额由1,535,650元上调至2,000,000元。除了因应诉讼成本相比于物价变动的升幅外，建议亦能帮助财务资源仅高于现时「辅助计划」财务资格限额的「夹心阶层」申请人，尤其是倚靠储蓄过活而没有固定收入的年长申请人，有可能因为案件复杂而需要动用所有资产以应付庞大的诉讼成本。

(OLAS) and that of the Supplementary Legal Aid Scheme (SLAS) are subject to reviews. Since September 1999, the Government has been making annual adjustments to the two FELs with reference to the general price movement based on the Consumer Price Index (C) (CPI(C)). The Government also made a one-off adjustment in 2011 to increase the FELs of OLAS and SLAS by 48% and 166% respectively with a view to enhancing the public's access to justice.

In the 2019 Policy Address Supplement, the Government proposed increasing the FEL for OLAS from \$307,130 to \$400,000 having regard to the higher increase in legal costs than that of general price movement since the last one-off adjustment in 2011, as well as the affordability of private litigation services to OLAS applicants. The Government also proposed increasing the FEL for SLAS from \$1,535,650 to \$2,000,000. Apart from the increase in legal costs as compared with price changes, the Government found merit in providing a modest buffer for "sandwich class" applicants with financial resources marginally higher than the FEL for SLAS, particularly elderly applicants who are living on savings (not regular income) and may otherwise need to exhaust all their assets to cope with tremendous legal costs for the more complicated cases.

On top of the above 30% increase, the Government will make regular adjustments to the FELs to take into account the change in CPI(C) for the two-year period between July 2017 and July 2019 (+5.1% on aggregate) in accordance with the



除了上述的30%增幅，政府会根据年度检讨机制定期调整财务资格限额，以计及2017年7月至2019年7月两年期内丙类消费物价指数的变动（累计+5.1%），因此，「普通计划」的财务资格限额将由307,130元增加至420,400元，「辅助计划」的财务资格限额则由1,535,650元提高至2,102,000元。

本局欢迎是次上调的建议。

去年，政府邀请本局进行另一轮扩大「辅助计划」范围的检讨，特别研究纳入个别业主

annual review mechanism. That means the FEL for OLAS will be increased from \$307,130 to \$420,400, and the FEL for SLAS from \$1,535,650 to \$2,102,000.

The Council welcomes the proposed increase.

Last year the Government invited the Council to conduct another round of review of SLAS, in particular, to look into the possibility of expanding the scope of the Scheme to include claims made by individual owners against the incorporated owners (IOs) of multi-storey buildings.

SLAS is a self-financing legal aid scheme. The Supplementary Legal Aid Fund (SLAF) which finances SLAS is funded by

向多层大厦业主立案法团提出的申索的可能性。

「辅助计划」是以自负盈亏方式营运的法援计划。资助「辅助计划」的法律援助辅助计划基金（「辅助计划基金」）的经费，最初是来自奖券基金拨出的100万元种子基金，其后政府分两次注资合共1亿2,700万元。

「辅助计划基金」的其他经费来源包括「辅助计划」申请人须缴付的申请费、「辅助计划」受助人须缴付的中期分担费，以及从胜诉案件讨回的赔偿中扣除的最后分担费。

为维持财政稳健，「辅助计划」自推行以来，一直以胜诉机会较高，以及赔偿额与讼费比例较佳的案件作为援助对象。「辅助计划」主要涵盖那些已投保的被告人或可讨回赔偿机会较高的案件（例如与工作有关的意外而提出人身伤亡的申索）。「辅助计划」在财政上得以维持，很大程度是因为讨回赔偿的成功机会高。以往在考虑「辅助计划」可涵盖的新案件类别时，一直紧记这些原则，因此，本局避免将不涉及金钱申索或成功率较低和讨回赔偿机会较小的案件纳入「辅助计划」。

an initial seed money of \$1 million from the Lotteries Fund and two injections of \$127 million in aggregate by the Government. SLAF's income sources also include the application fees payable by SLAS applicants, interim contributions from persons aided by the Scheme and the final contributions from a percentage deduction of the damages recovered in successful cases.

To maintain its financial viability, SLAS has been targeting at cases that carry a high chance of success with good damages to costs ratio since inception. SLAS covers mainly cases where the defendants are insured or where the likelihood for payment of damages is high (e.g. claims for personal injuries or death and work-related accidents). The high chance of recovery of damages helps ensure, to a large extent, the financial sustainability of the Scheme. When deliberating on new categories of cases to be covered by SLAS in the previous reviews, these principles were borne in mind. Therefore, the Council has not sought to cover cases which do not involve monetary claims or have a relatively low success rate or poor prospect of recovery.

Against the above background, the Council has tried to collect information and data for analysing whether IOs are well targeted defendants with ability to pay awarded damages, and whether there is a high chance of success with good damages to costs ratio in claims against IOs. Unfortunately, so far the data obtained from the Government is very limited.





基于上述背景，本局尝试搜集资料和数据作分析，希望了解业主立案法团可否被视为具能力支付赔偿的被告，以及向业主立案法团提出的申索是否属胜诉机会较高和赔偿额与讼费比例较佳的案件。可惜，目前从政府方面得到的资讯相当有限，因此，本局现正寻求途径，在来年继续尝试从其他资料来源获取所需要的资讯。

在过去的年度，备受尊重的前主席李家祥博士离任，他自2012年领导本局，在任内贡献良多。本局衷心希望李博士未来发展顺利，并期望他可在法援局外继续支持本局的工作。在新一年，我虽不敢贸然预测，但相信未来的工作充满挑战。承先启后，本局将继续以坚定的步伐，履行本局的使命，为向公众提供优质、高效益和具透明度的法援服务而努力，以确保法律面前人人平等，即使经济能力有限的人士也能寻求正义伸张。

Thus, the Council is exploring ways to collect the required information from other possible sources in the year to come.

In the year under review, the Council saw the departure of our respected former chairman, Dr Eric Li Ka Cheung, who led the Council since 2012. He has made tremendous contributions to the Council during his tenure. The Council wishes Dr Li the best in his future endeavours and looks forward to his continued support outside the Council. As for the year to come, I believe there is a lot that can be done though I am not rash enough to forecast what will happen. Building on past successes, the Council will continue to take every measured step into the future with firm conviction in what we do, and will charge ahead with our mission in providing quality, efficient, effective and transparent legal aid services to members of the community with a view to ensuring equality before the law and access to justice by people of limited means.