

主席回顧

Chairman's Review

我非常榮幸以法律援助服務局主席的身分，首次向各持份者匯報本局的工作。

我於2019年9月1日上任。在2019-2020年間，香港經歷了異乎尋常的十二個月。政府向立法會司法及法律事務委員會就2019年《施政報告》及《施政報告附篇》中有關法律援助（法援）的政策措施作出的簡報被迫延遲。由於2019新型冠狀病毒在社區爆發，除緊急及必要服務外，所有法院／審裁處的聆訊延期，法律援助署的服務也暫停了約一個月。

法援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重要的角色。法援的目的是確保所有具備合理理據在香港法院提出法律訴訟或抗辯的人士，不會因經濟能力有限而無法尋求公義。因此，當法援申請人同時通過《法律援助條例》（《條例》）規定的經濟審查和案情審查，他便符合資格獲取法援。



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

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要通過經濟審查，申請法援人士的財務資源不得超過財務資格限額。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」）的財務資格限額均會進行檢討。自1999年9月起，政府會參考丙類消費物價指數的一般物價變動的情況，每年檢討該兩個財務資格限額。政府亦曾在2011年，分別一次性大幅調高「普通計劃」及「輔助計劃」的財務資格限額48%和166%以加強公眾尋求司法公義的途徑。

行政長官於2019《施政報告附篇》公佈，考慮到訴訟成本的升幅高於自2011年的一次性調整後一般物價變動的累積升幅，以及「普通計劃」申請人對私人訴訟的負擔能力，政府建議將「普通計劃」的財務資格限額由307,130元提高至400,000元。政府亦建議將「輔助計劃」的財務資格限額由1,535,650元上調至2,000,000元。除了因應訴訟成本相比於物價變動的升幅外，建議亦能幫助財務資源僅高於現時「輔助計劃」財務資格限額的「夾心階層」申請人，尤其是倚靠儲蓄過活而沒有固定收入的年長申請人，有可能因為案件複雜而需要動用所有資產以應付龐大的訴訟成本。

(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，政府會根據年度檢討機制定期調整財務資格限額，以計及2017年7月至2019年7月兩年期內丙類消費物價指數的變動（累計+5.1%），因此，「普通計劃」的財務資格限額將由307,130元增加至420,400元，「輔助計劃」的財務資格限額則由1,535,650元提高至2,102,000元。

本局歡迎是次上調的建議。

去年，政府邀請本局進行另一輪擴大「輔助計劃」範圍的檢討，特別研究納入個別業主

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

向多層大廈業主立案法團提出的申索的可能性。

「輔助計劃」是以自負盈虧方式營運的法援計劃。資助「輔助計劃」的法律援助輔助計劃基金（「輔助計劃基金」）的經費，最初是來自獎券基金撥出的100萬元種子基金，其後政府分兩次注資合共1億2,700萬元。

「輔助計劃基金」的其他經費來源包括「輔助計劃」申請人須繳付的申請費、「輔助計劃」受助人須繳付的中期分擔費，以及從勝訴案件討回的賠償中扣除的最後分擔費。

為維持財政穩健，「輔助計劃」自推行以來，一直以勝訴機會較高，以及賠償額與訟費比例較佳的案件作為援助對象。「輔助計劃」主要涵蓋那些已投購保險的被告人或可討回賠償機會較高的案件（例如與工作有關的意外而提出人身傷亡的申索）。「輔助計劃」在財政上得以維持，很大程度是因為討回賠償的成功機會高。以往在考慮「輔助計劃」可涵蓋的新案件類別時，一直緊記這些原則，因此，本局避免將不涉及金錢申索或成功率較低和討回賠償機會較小的案件納入「輔助計劃」。

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.



基於上述背景，本局嘗試搜集資料和數據作分析，希望了解業主立案法團可否被視為具能力支付賠償的被告，以及向業主立案法團提出的申索是否屬勝訴機會較高和賠償額與訟費比例較佳的案件。可惜，目前從政府方面得到的資訊相當有限，因此，本局現正尋求途徑，在來年繼續嘗試從其他資料來源獲取所需要的資訊。

在過去的年度，備受尊重的前主席李家祥博士離任，他自2012年領導本局，在任內貢獻良多。本局衷心希望李博士未來發展順利，並期望他可在法援局外繼續支持本局的工作。在新一年，我雖不敢貿然預測，但相信未來的工作充滿挑戰。承先啟後，本局將繼續以堅定的步伐，履行本局的使命，為向公眾提供優質、高效益和具透明度的法援服務而努力，以確保法律面前人人平等，即使經濟能力有限的人士也能尋求正義伸張。

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.