

我很高興向大家介紹 2020-2021 年度報告，這是我第二份報告亦是我以法律援助服務局（法援局）主席身份首次完成的整年報告。

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要的角色。政府提供法援服務的目的是確保所有符合法律援助署（法援署）認可資格的申請人士，不會因經濟能力有限而無法尋求公義。一般來說，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。

作為經濟審查的基礎，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參考丙類消費物價指數的一般物價變動的情況作周年檢討。財務資格限額已由 2020 年 6 月 26 日起上調 5.1%，以反映由 2017 年 7 月至 2019 年 7 月丙類消費物價指數的累計變動。因此，「普通計劃」的財務資格限額已提高至 420,400 元，而「輔助計劃」的財務資格限額則提高至 2,102,000 元。另一方面，

I am pleased to present the Annual Report 2020-2021, which is my second report but the first one to cover a full year in my capacity as Chairman of the Legal Aid Services Council (the Council).

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 services provided by the Government is to ensure that all those applicants deemed qualified by Legal Aid Department (LAD) will not be denied access to justice because of a lack of means. Generally speaking, 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).

As the basis of means test, the relevant statutory financial eligibility limit (FEL) of the Ordinary Legal Aid Scheme (OLAS) and that of the Supplementary Legal Aid Scheme (SLAS) are annually reviewed with reference to the general price movement based on the Consumer Price Index (C) (CPI(C)). With effect from 26 June 2020, an upward adjustment of FELs by 5.1% was made to reflect the accumulated changes in CPI(C) from July 2017 to July 2019. The FEL of OLAS was increased to \$420,400 whilst that of SLAS was increased to \$2,102,000. On the other hand, in relation to the Director of Legal Aid (DLA)'s first charge, both the monthly maintenance payment for spouse or former spouse and the amount that DLA could exercise discretion to reduce in case of serious hardship of an applicant are also reviewed annually.



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(Chairman)

有關法律援助署署長（法援署署長）第一押記內，從配偶或前配偶獲得可保留的每月贍養費和法援署署長可酌情扣除因在受助人遭遇嚴重困苦的法定金額亦會安排每年作出檢討。

今年年初，政府已參考有關參照期內（即2019年7月至2020年7月）的丙類消費物價指數（即下跌了0.1%），完成了最新一輪有關財務資格限額及法援署署長第一押記內的兩項款額的周年檢討。鑑於參照期內錄得的丙類消費物價指數變動輕微，政府考慮當中相關的利與弊，決定保留0.1%的減幅，並與下一次周年檢討的結果一併考慮。政府會監察丙類消費物價指數的變動，並在下次涵蓋2020年7月至2021年7月的檢討得出結果後再向本局報告。

除了上述檢討，刑事法律援助的費用、檢控費用及當值律師費用都已完成了兩年一度的檢討。在進行有關檢討時，政府主要參考參照期內的一般物價變動情況，以及委聘大律師和律師時有否出現困難。在2020年完成的兩年一度檢討，政府備悉在參照期內（即2018年7月至2020年7月）丙類消費物價指數上升了2.7%，因此建議把有關費用相應上調2.7%，本局歡迎上調費用的方案。

政府於2019年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向多層大廈業主立案法團提出申索的可能性。今年年初，本局開展了搜集資料和數據的工作，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。在收集相關資料和統計數字後，本局會研究資料，並提交建議予政府考慮。

Early this year, the Government completed the latest round of annual review on FELs and the two amounts for DLA's first charge with reference to the CPI(C) for the reference period (i.e. July 2019 to July 2020), which had decreased by 0.1%. In view of the insignificant change in CPI(C) recorded during the reference period, the Government, after due consideration of relevant pros and cons, decided to reserve the 0.1% decrease and to consider it together with the outcome of the next annual reviews. The Government will monitor the change in CPI(C) and report to the Council when the result of the next review covering the period of July 2020 to July 2021 is ready.

Apart from the above-said reviews, the criminal legal aid fees, prosecution fees and duty lawyer fees are also subject to regular review which is conducted on a biennial basis. In conducting the biennial review, the Government takes into account mainly general price movement during the reference period and whether there has been difficulty in engaging the services of counsel and solicitors. In the biennial review of 2020, noting that the CPI(C) for the reference period (i.e. July 2018 to July 2020) increased by 2.7%, the Government proposed to adjust these fees upwards by 2.7% accordingly. The Council welcomes the proposed upward adjustment.

In 2019, 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. Early this year, the Council kicked off a research in collection of 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. Upon collection of relevant data and statistics, the Council will examine the information and tender its recommendations for consideration by the Government.

在 2020 年 8 月，莊偉倫先生、梁宏正先生與王惠貞女士完成本局任期而離任，他們在任期內對本局作出莫大貢獻，本局衷心祝願他們未來發展順利，並期望他們在局外繼續支持本局的工作。我亦衷心在此感謝所有本局成員的協助和支持，以及對法律援助署人員的敬業和專業精神作出肯定，否則不可能為市民提供如此優質的法律援助服務。

在 2020-2021 年間，由於新型冠狀病毒在社區爆發，香港在過去 12 個月繼續應對前所未見的挑戰。同樣地，法律援助制度亦面臨嚴峻的考驗，其持續性亦受到威脅。當務之急是以堅定和迅速的行動挽回公眾對法律援助制度的信心。然而，這並不是容易的工作，法律援助

The Council bade farewell to Mr Warren Patrick GANESH, Mr Clarence LEUNG Wang-ching and Ms Connie WONG Wai-ching, who retired from the Council after fulfilling their tenures with tremendous contributions in August 2020. The Council wishes them the best in their future endeavours and looks forward to their continued support outside the Council. My heartfelt appreciation goes to all members of the Council to whom I am most indebted for their assistance and support. Recognition should also be given to the dedication and professionalism of the staff of LAD, without which quality legal aid services would not have been possible.

In the year of 2020-2021, Hong Kong has continued to take another twelve months of unprecedented challenges due to the spread of the COVID-19 epidemic in the community. Likewise, the legal aid system has also been facing serious





基於《條例》約束，並不能透露任何案件的相關資料，即使是獲批法援案件的案情，或在上訴過程中被駁回其拒絕法援申請的決定亦不容透露。保密要求限制了法援署向公眾及時澄清案件審批理據的自由，令法援署的公正性受到公眾質疑，以及史無前例的批評。

恰如行政長官於2021年6月初指出，法援制度必須與時並進及定期作出檢討。我相信政府很快會作出具體的建議，以改善現行的法援制度。本局將致力研究政府的建議，並就每項可能完善法援制度的建議提出意見。本局亦會盡力釐清社會上一些有關法援制度的誤解，為市民提供更多關於法援制度的真實和正面訊息。承先啟後，本局將繼續以堅定的態度，為公眾提供優質、高效益和具透明度的法援服務，以確保在法律面前人人平等，即使經濟能力有限的人士也能尋求公義。

challenges which threaten its viability into the future. Conscious and timely actions would be necessary to improve public confidence in the legal aid system. This however is not an easy task because LAD is bound by the LAO not to disclose any information about the case; not about the merits of the case that justify approval, nor its refusal decision being overruled in the appeal process. The confidentiality requirement limits LAD's liberty to make timely clarifications to the public on the rationale of decisions. This has lately called into question the impartiality of the LAD and exposed it to unprecedented criticism from the public.

As rightly pointed out by the Chief Executive in early June 2021, the legal aid system should keep up with the times and should be reviewed periodically. I am confident that the Government will soon come up with a concrete proposal for enhancement of the prevailing legal aid system. The Council will endeavour to examine the proposal from the Government and render necessary views for every possible step-up to the legal aid system. We shall also put persistent and conscious effort in dispelling the fallacies of public beliefs and presenting the truth of the legal aid system to the public. Building on past successes, the Council will continue to take every measured step into the future with firm assurance in what we do 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.