

我很高兴向大家介绍 2020-2021 年度报告，这是我第二份报告亦是我以法律援助服务局（法援局）主席身份首次完成的整年报告。

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。政府提供法援服务的目的是确保所有符合法律援助署（法援署）认可资格的申请人士，不会因经济能力有限而无法寻求公义。一般来说，当法援申请人同时通过《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。

作为经济审查的基础，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参考丙类消费物价指数的一般物价变动的情况作周年检讨。财务资格限额已由 2020 年 6 月 26 日起上调 5.1%，以反映由 2017 年 7 月至 2019 年 7 月丙类消费物价指数的累计变动。因此，「普通计划」的财务资格限额已提高至 420,400 元，而「辅助计划」的财务资格限额则提高至 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.



梁永祥教授 SBS, JP (主席)
Prof. William LEUNG Wing-cheung SBS, JP
(Chairman)

有关法律援助署署长（法援署署长）第一押记内，从配偶或前配偶获得可保留的每月赡养费和法援署署长可酌情扣除因在受助人遭遇严重困苦法定金额亦会安排每年作出检讨。

今年年初，政府已参考有关参照期内（即2019年7月至2020年7月）的丙类消费物价指数（即下跌了0.1%），完成了最新一轮有关财务资格限额及法援署署长第一押记内的两项款额的周年检讨。鉴于参照期内录得的丙类消费物价指数变动轻微，政府考虑当中相关的利与弊，决定保留0.1%的减幅，并与下一次周年检讨的结果一并考虑。政府会监察丙类消费物价指数的变动，并在下一次涵盖2020年7月至2021年7月的检讨得出结果后再向本局报告。

除了上述检讨，刑事法律援助的费用、检控费用及当值律师费用都已完成了两年一度的检讨。在进行有关检讨时，政府主要参考参照期内的一般物价变动情况，以及委聘大律师和律师时有否出现困难。在2020年完成的两年一度检讨，政府备悉在参照期内（即2018年7月至2020年7月）丙类消费物价指数上升了2.7%，因此建议把有关费用相应上调2.7%，本局欢迎上调费用的方案。

政府于2019年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向多层大厦业主立案法团提出申索的可能性。今年年初，本局开展了搜集资料和数据的工作，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。在收集相关资料和统计数字后，本局会研究资料，并提交建议予政府考虑。

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，庄伟伦先生、梁宏正先生与王惠贞女士完成本局任期而离任，他们在任期内对本局作出莫大贡献，本局衷心祝愿他们未来发展顺利，并期望他们在局外继续支持本局的工作。我亦衷心在此感谢所有本局成员的协助和支持，以及对法援署人员的敬业和专业精神作出肯定，否则不可能为市民提供如此优质的法律援助服务。

在 2020-2021 年间，由于新型冠状病毒在社区爆发，香港在过去 12 个月继续应对前所未有的挑战。同样地，法援制度亦面临严峻的考验，其持续性亦受到威胁。当务之急是以坚定和迅速的行动挽回公众对法援制度的信心。然而，这并不是容易的工作，法援署

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





基于《条例》约束，并不能透露任何案件的相关资料，即使是获批法援案件的案情，或在上诉过程中被驳回其拒绝法援申请的决定亦不容透露。保密要求限制了法援署向公众及时澄清案件审批理据的自由，令法援署的公正性受到公众质疑，以及史无前例的批评。

恰如行政长官于2021年6月初指出，法援制度必须与时并进及定期作出检讨。我相信政府很快会作出具体的建议，以改善现行的法援制度。本局将致力研究政府的建议，并就每项可能完善法援制度的建议提出意见。本局亦会尽力厘清社会上一些有关法援制度的误解，为市民提供更多关于法援制度的真实和正面讯息。承先启后，本局将继续以坚定的态度，为公众提供优质、高效益和具透明度的法援服务，以确保在法律面前人人平等，即使经济能力有限的人士也能寻求公义。

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.