

主席回顧 Chairman's Review

我很高興向大家介紹 2022-2023 年度報告，這是我第四份以法律援助服務局（法援局）主席身份完成的年報。

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》規定的經濟審查和案情審查，他便符合資格獲取法援。本局會繼續聚焦監督由法援署提供的法援服務的管理，並就完善法援署的管理和運作透明度提出各種可行的建議。

I am pleased to present the Annual Report 2022-2023, which is my fourth report 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. The Council will continue to focus on overseeing the administration of the legal aid services provided by LAD and to suggest every possible ways of improvement in the administration and operational transparency of LAD.



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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。在2019年7月至2020年7月的周年檢討中，政府認為值得保留0.1%的減幅，留待取得其後的丙類消費物價指數的累計變動才一併考慮。在參照期由2020年7月至2022年7月內，丙類消費物價指數錄得3.1%的升幅，政府已完成有關財務資格限額的周年檢討工作，並建議把財務資格限額上調3.0%，以反映由2019年7月至2022年7月的三年累計變動。法援署署長第一押記的周年檢討亦將採取上述安排。

As the basis of means test, the relevant statutory financial eligibility limit (FEL) of the Ordinary Legal Aid Scheme 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)). In the last round of annual review for the reference period from July 2019 to July 2020, the Government saw merits to reserve the 0.1% decrease and would consider it together with the accumulated changes in CPI(C) later. For the reference period from July 2020 to July 2022, an increase of 3.1% in CPI(C) was recorded. The Government has completed the annual review of the FELs and recommended increasing the FELs by 3.0% to reflect the accumulated changes recorded for the three-year reference period from July 2019 to July 2022. The above arrangement will also be adopted for the annual review for the Director of Legal Aid's (DLA) First Charge.

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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，以及在委聘大律師和律師時有否出現困難。在2022年完成的兩年一度檢討，政府因應在參照期內（即2020年7月至2022年7月）丙類消費物價指數上升3.1%，建議把有關費用上調3.1%。本局歡迎政府上調有關費用。

鑑於法援制度對維護本港法治的重要性，政府必須維持公眾對該制度的信心，確保法援制度持續達到市民的期望。按照上述方針，政務司司長辦公室與法援署於2021年進行檢視法援制度。在推行完善法援制度措施前，社會越來越關注提名律師機制被濫用的可能，以及大部分案件有否集中於少數律師、律師事務所或大律師事務所處理。隨著2021年年底全面實行所有改善措施後，法援署在2023年2月從(a)委派案件、(b)透明度及(c)管理三個層面向本局匯報實行改善措施後的成效。

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 took into account mainly general price movement during the reference period and whether there has been any difficulty in engaging the services of counsel and solicitors. In the biennial review of 2022, noting that the CPI(C) for the reference period (i.e. July 2020 to July 2022) increased by 3.1%, the Government proposed to adjust these fees upwards by 3.1% accordingly. The Council welcomes the proposed upward adjustment.

Given the importance of the legal aid system in upholding the rule of law in Hong Kong, it is essential to maintain public's confidence in the system, and to ensure that the system can continue to meet the aspirations of the community. Along this direction, the Chief Secretary for Administration's Office and LAD have examined the legal aid system and conducted a review in 2021. Prior to the introduction of the enhancement measures, there were growing community concerns over the potential abuse in the nomination of lawyers and majority of cases were concentrated in a handful of lawyers, law firms or chambers. With all the enhancement measures fully implemented by the end of 2021, LAD reported to the Council in February 2023 the impact of the implementation from three perspectives, namely (a) assignment, (b) transparency and (c) management.

在委派案件方面，委派給各《名冊》律師的平均案件數目大幅減少，顯示這項措施有效減少案件過度集中於某些律師／大律師的可能性，長遠而言亦有助增加可接辦法援案件的律師數目。此外，直接委派刑事案件律師對於消除公眾以為在刑事案件可提名律師屬法定「權利」的誤解能發揮關鍵作用。

在透明度方面，因取得法援申請人書面同意在法律援助署署長認為適當時可披露申請結果及／或批准或拒絕申請的理由，法援署便可推行更有系統的宣傳溝通計劃，並建立更快速的回應機制，迅速澄清立場或案件詳情，避免公眾產生不必要的誤解。此外，法援署定期會在其網頁上公佈法援統計資料，有助宣傳法援署的工作，使公眾更認識及了解其工作。

在管理方面，法援署成立了部門司法覆核監察委員會，以監督司法覆核案件的管理工作。法援署已修訂其《大律師／律師辦理民事／刑事案件指引》，要求大律師／律師在自己無法履行職責時須以書面向法援署匯報。法援申請人須於法援申請獲批前及之後申報其他經濟資助來源。法援署亦會於局方的例行會議上向本局匯報具體個案。

On assignment, the average number of cases assigned to each panel lawyer has been reduced significantly showing that the enhancement measure is useful in reducing possibility of over concentration of cases among certain solicitors/counsel, and widening of the pool of lawyers available for taking up legal aid cases in the longer run. Also, direct assignment of lawyers in criminal cases plays a pivotal role in eliminating the public's misconception that nomination of lawyers for criminal cases is a statutory "right".

On transparency, with written consent from legal aid applicants for LAD to disclose the result and/or the reason for granting/refusing the applications whenever DLA considers appropriate, LAD could develop a more structured publicity communication plan and work towards a swifter response mechanism to clarify its stance or case details in a prompt manner to avoid any unnecessary misunderstanding by the public. Besides, LAD has regularly released legal aid statistics on its homepage which helps to promote LAD's work in raising public awareness and understanding of its work.

On management, a Departmental Judicial Review (JR) Monitoring Committee was formed by LAD to oversee the administration of JR cases. LAD has also amended its Guidance Notes to Counsel/Solicitors for handling civil/criminal cases requiring them to report in writing if they would not be able to perform their duties. Legal aid applicants were required to declare alternative source of financial aid before and after the approval of legal aid application. LAD would also report to the Council on specific cases at the regular meetings.

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我十分欣賞法援署為完善香港法律援助制度所作出的努力，並相信有關措施能持續地帶來顯著的成效。然而，偶有社會人士基於猜測或在缺乏事實理據的情況下提出對法援事宜的批評，有些批評更會在社交媒體廣泛流傳。在這方面，我於2023年初主動爭取本局成員的支持，邀請法援署制定公眾溝通計劃，以積極消除社會對法援服務的誤解及不實指責。法援署最近已提出一套有系統的計劃，用以加強宣傳及提高對不實報導的反應能力，並加強與持份者的聯繫。我期待這項計劃於來年實施後能達至理想成果。同時，本局將繼續如實表述由政府提供的法援服務情況。

I appreciate the effort that LAD has made to the betterment of legal aid system in Hong Kong and trust that the positive impact of the measures would be noticeable and persistent. Yet, from time to time, there were criticisms raised by some members of the public on certain legal aid cases based on speculative information and such unfounded accusations sometimes even further go viral through social media. In this regard, I took the initiative to solicit support from members of the Council to invite LAD in early 2023 to establish a public communication plan for dispelling social misconceptions and unfounded criticisms on legal aid services in a responsive manner. LAD recently came up with a structured plan to step up publicity, enhance the responsiveness to inaccurate media reports and strengthen collaboration with stakeholders. I look forward to the beneficial effect of the plan upon implementation in the coming year. In parallel, the Council would continue to faithfully tell the true and good stories of legal aid services provided by the Government whenever applicable.





因確信公正的法援制度是社會的核心所在，本局將繼續竭力確保在法律面前人人平等，即使經濟能力有限的人，也能尋求正義伸張，維護和鞏固香港社會的法治精神。

In the belief that an impartial legal aid system is the crux of our society, the Council will continue to work towards the vision of actively contributing to uphold and enhance the rule of law by striving to ensure equality before the law and access to justice by people of limited means.