

主席回顾 Chairman's Review

我很高兴向大家介绍2022-2023年度报告，这是我第四份以法律援助服务局（法援局）主席身份完成的年报。

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》规定的经济审查和案情审查，他便符合资格获取法援。本局会继续聚焦监督由法援署提供的法援服务的管理，并就完善法援署的管理和运作透明度提出各种可行的建议。

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。在2019年7月至2020年7月的周年检讨中，政府认为值得保留0.1%的减幅，留待取得其后的丙类消费物价指数的累计变动才一并考虑。在参照期由2020年7月至2022年7月内，丙类消费物价指数录得3.1%的升幅，政府已完成有关财务资格限额的周年检讨工作，并建议把财务资格限额上调3.0%，以反映由2019年7月至2022年7月的三年累计变动。法援署署长第一押记的周年检讨亦将采取上述安排。

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，以及在委聘大律师和律师时有否出现困难。在2022年完成的两年一度检讨，政府因应在参照期内（即2020年7月至2022年7月）丙类消费物价指数上升3.1%，建议把有关费用上调3.1%。本局欢迎政府上调有关费用。

鉴于法援制度对维护本港法治的重要性，政府必须维持公众对该制度的信心，确保法援制度持续达到市民的期望。按照上述方针，政务司司长办公室与法援署于2021年进行检视法援制度。在推行完善法援制度措施前，社会越来越关注提名律师机制被滥用的可能，以及大部分案件有否集中于少数律师、律师事务所或大律师事务所处理。随著2021年年底全面实行所有改善措施后，法援署在2023年2月从(a)委派案件、(b)透明度及(c)管理三个层面向本局汇报实行改善措施后的成效。

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，委派给各《名册》律师的平均案件数目大幅减少，显示这项措施有效减少案件过度集中于某些律师／大律师的可能性，长远而言亦有助增加可接办法援案件的律师数目。此外，直接委派刑事案件律师对于消除公众以为在刑事案件可提名律师属法定「权利」的误解能发挥关键作用。

在透明度方面，因取得法援申请人书面同意在法律援助署署长认为适当时可披露申请结果及／或批准或拒绝申请的理由，法援署便可推行更有系统的宣传沟通计划，并建立更快速的回应机制，迅速澄清立场或案件详情，避免公众产生不必要的误解。此外，法援署定期会在其网页上公布法援统计资料，有助宣传法援署的工作，使公众更认识及了解其工作。

在管理方面，法援署成立了部门司法覆核监察委员会，以监督司法覆核案件的管理工作。法援署已修订其《大律师／律师办理民事／刑事案件指引》，要求大律师／律师在自己无法履行职责时须以书面向法援署汇报。法援申请人须于法援申请获批前及之后申报其他经济资助来源。法援署亦会于局方的例行会议上向本局汇报具体个案。

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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我十分欣赏法援署为完善香港法律援助制度所作出的努力，并相信有关措施能持续地带来显著的成效。然而，偶有社会人士基于猜测或在缺乏事实理据的情况下提出对法援事宜的批评，有些批评更会在社交媒体广泛流传。在这方面，我于2023年初主动争取本局成员的支持，邀请法援署制定公众沟通计划，以积极消除社会对法援服务的误解及不实指责。法援署最近已提出一套有系统的计划，用以加强宣传及提高对不实报导的反应能力，并加强与持份者的联系。我期待这项计划于来年实施后能达至理想成果。同时，本局将继续如实表述由政府提供的法援服务情况。

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.





因确信公正的法援制度是社会的核心所在，本局将继续竭力确保在法律面前人人平等，即使经济能力有限的人，也能寻求正义伸张，维护和巩固香港社会的法治精神。

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.