

Report of the Standing Committee on Legal Aid Reform 2019

1. The Committee has, after years of persistent campaigning, finally achieved some progress this year.
2. On Financial Eligibility Limit (FEL), the Government proposes to increase the FEL of the Ordinary Legal Aid Scheme (“OLAS”) by about 30%, i.e. from the current level of \$307,130 to \$400,000; and increase the FEL of the Supplementary Legal Aid Scheme (“SLAS”) by about 30%, i.e. from the current level of \$1,535,650 to \$2,000,000 in the Policy Address 2019. The last increase was in 2012/3.
3. On section 26A Scheme, the Legal Aid Services Council (“LASC”) finally decided in November to increase the fixed fees to counsel by 53% to \$23,000 (originally \$15,000) for criminal cases and by 45% to \$58,000 (originally \$40,000) for civil cases. This is the first fee adjustment since the Scheme was set up in 2002 which still does not take account of travelling time and conference fees.
4. On the newly established Patrick Yu Memorial Scholarship, this Committee also assists the Scholarship Committee to liaise with the Director of Legal Aid in order to set up a new scholarship to help the newly called members to get more exposure in Court.
5. Be that as it may, it is still a long way to tackle the obstacles imposed to hinder access to justice. We will have to see whether these measures show increase in certificate grants for civil cases, and whether the number of unrepresented litigants drop in higher courts.
6. Members’ fee increases are still linked to Consumer Price Index (“CPI”). CPI reflects the impact of consumer price change on the household sector as a whole but the Committee fails to see the logical reason in linking CPI with members’ practises. Further CPI does not have rental increases as an element. Members’ fees should rather be linked to the Master Pay Scale of Government servants, so the fee increases come across the board.
7. On OLAS and SLAS, the Government has yet to answer the Committee’s long term campaign of widening the net to cover Mental Health cases, Competition cases, Incorporated Owners for property damage and claims for Land Compensation under the Land (Compulsory Sale for Re-development) Ordinance. The Committee will continue to advocate the FEL should rather be linked with the costs of the provision of legal services generally.
8. We still regularly receive members’ requests for assistance from the Committee about their low or long overdue interim/final payments from the Legal Aid Department. Members whose Legal Aid Fees are delayed or not paid at all should continue to write to this Committee. We continue to be concerned that slow, low or non-payment of fees will discourage members from taking on difficult or unusual legal aid assignments.

9. The following members served on this Committee this year:

Jeffrey Tam (Chairman)
Ruy Barretto SC (Vice-chairman)
Nicholas Pirie
David Ma
Jeffrey Li
Adgie Chan
Azan Marwah
Albert Wan
Adrian Lo
Ivan Shuen.

10. I take this opportunity of thanking members of the Committee for their support. In particular, I would record my appreciation to Mr. Ruy Barretto SC and Nicholas Pirie whose long association with these matters was of immense benefit to the work of this Committee.

Jeffrey Tam
Chairman
Standing Committee on Legal Aid Reform

December 2019