

## 市民對法援服務的一般誤解

## Common Misconceptions About Legal Aid Services

本署致力為市民提供專業及有效率的法援服務。為加深市民對法援服務的認識，下文特別載述一些對法援服務的普遍誤解：

✗ 法律援助署（法援署）會在3個月內完成所有民事法援申請的審批工作。

✓ 本署的目標是由申請當日起計3個月內完成民事法援申請的審批工作。在某些情況下，本署未必能夠在服務承諾所訂的時間內作出決定，例如申請人沒有依時提交經濟審查及案情審查所需的文件，或第三方需要一些時間才可向本署提供所需的資料。

✗ 儘管你的案件情況緊急，不要期望法援署會優先處理你的申請。

✓ 不對。如你的案件情況緊急，例如聆訊日期臨近，或提出訴訟的期限即將屆滿，或你遭受家庭暴力而有意申請強制令，本署會優先處理你的申請，並在申請當日即予處理。假如你的個案屬此類情況，你在申請時已帶備所有與個案及經濟狀況有關的資料及文件，例如糧單、銀行存摺等，將有助本署加快處理申請。

✗ 如民事案件的聆訊日期臨近，但法援署仍在審批你的申請，你便無須出庭，法援署會代你跟進。

✓ 如你的申請涉及法律程序，本署收到申請後便會通知法庭，而法庭在接獲通知後，通常會暫緩有關程序，包括已排期的聆訊。然而，是否暫緩聆訊，法庭有最終決定權。本署會盡快就申請作出決定，但有時未必能夠這樣做，在這情況下，除非法庭暫緩聆訊，否則你必須出席聆訊。

本署不提供法律諮詢服務。如對法庭聆訊或一般法律程序有疑問，你應考慮透過“免費法律諮詢計劃”尋求獨立的法律意見。有關該計劃的資料可於各區民政事務處索取，或瀏覽該計劃的網頁 [www.dutylawyer.org.hk](http://www.dutylawyer.org.hk)。

Legal Aid Department is committed to providing professional and efficient legal aid services to the public. To enhance better understanding of our services, we highlight below some of the common misconceptions about our services :

✗ LAD will complete processing of all applications for civil legal aid within 3 months.

✓ LAD aims to complete processing of a civil application for legal aid within 3 months from the date of application. LAD may not be able to make a decision within the time pledged if, for example, there is delay by the applicant in providing documents that are needed for carrying out the means and merit tests or it has taken time by a 3rd party to supply requisite information to LAD.

✗ Even if your case is urgent, don't expect LAD to give priority to processing your application.

✓ No. If your case is urgent, for example, there is imminent court hearing or the time for instituting proceedings is expiring soon or you want to seek an injunction because you are the victim of domestic violence, LAD will accord priority to these applications and process them on the same day you apply. If you have such a case, it will help speeding up the processing of the application further if you can bring along all the information and documents that you think is relevant to your case and your means such as pay slips, bank books etc.

✗ In civil cases, if there is an imminent court hearing but LAD is still processing your case, you don't have to attend court. LAD will follow up for you.

✓ If your application involves court proceedings, LAD will notify the court once you make the application. The notification will normally bring a stay to the proceedings including any scheduled hearing. However, the Court has the final say whether or not to stay the hearing. While LAD will try to make a decision on the application as soon as possible, it may not be always possible to do so, in which case and unless the Court stays the proceedings, you must attend the court hearing.

LAD does not provide legal advice service. In case you have any query concerning the court hearing or the proceedings in general, you should consider seeking independent legal advice by approaching the Free Legal Advice Scheme. Information relating to the scheme can be obtained from all District Offices or by visiting the Scheme's webpage [www.dutylawyer.org.hk](http://www.dutylawyer.org.hk).



❌ 法律援助的財務資格限額太低，除非我是低收入人士及只有少量儲蓄，否則根本不符合資格申請法律援助。

✅ 不對，實情並非如此。現時普通法律援助計劃（普通計劃）的財務資格限額為260,000元，法律援助輔助計劃（輔助計劃）為130萬元，但這些限額並非根據申請人的總收入（包括配偶的總收入，如有者）和資產值計算。因應申請人的個人狀況，本署會從其入息扣減多個法定扣減項目，例如租金／按揭供款、稅款、強積金供款、贍養費、為照顧沒有能力照顧自己的受養人而支付的款項，以及生活開支的法定豁免額，金額由每月5,720元至23,520元不等，視乎申請人的受養人數目而定。

資產方面，申請人的唯一／主要居所，以及涉及訴訟的物業價值都不會計算在內。年滿60歲的申請人，更可獲額外扣減資產豁免額，金額相等於普通計劃財務資格限額的數目，現時為260,000元。

因此，要計算申請人的財務資源是否符合資格獲批法律援助，只要把申請人每年可動用收入和可動用資產相加便可。

如申請人的財務資源超逾財務資格限額，法援署署長（署長）在某些情況下可豁免財務資源的上限，向申請人批出法援，惟該申請人須按其經評定的財務資源繳付較高的分擔費。詳情請參閱本署的“怎樣申請民事訴訟的法律援助”或“怎樣申請刑事訴訟的法律援助”小冊子，以及“法律援助-財務資料一覽表”單張。

因此，入息高或擁有較多資產的人也可能符合資格獲批法援。根據本署記錄，有申請人月入約58,000元和擁有130萬元資產，也符合資格在普通計劃或輔助計劃下獲批法援。

❌ The financial eligibility limit for legal aid is so low that I do not stand a chance of qualifying for legal aid unless I have a small income and little savings.

✅ No. This is not always the case. It is because the financial limit for legal aid currently at \$260,000 for the Ordinary Legal Aid Scheme (OLAS) and \$1.3m for the Supplementary Legal Aid Scheme (SLAS) is not calculated by reference to a person's gross income (including that of the spouse, if any) and value of his assets. Depending on an applicant's personal circumstances, an applicant is entitled to various statutory deductions off the income such as rent/mortgage repayment, tax, MPF payment, maintenance payment, care allowance for dependants who are unable to care for themselves as well as a statutory allowance for living expenses, the amount of which ranges from \$5,720 per month to \$23,520 depending on the number of dependants the applicant has.

For capital, the value of an applicant's sole/main dwelling and property which is subject of dispute in the proceedings will be disregarded. If the applicant is over the age of 60, a further capital disregard equivalent to the amount of the financial eligibility limit (FEL) for OLAS currently at \$260,000 will be given.

The financial resources of an applicant which determine if he qualifies for legal aid is therefore the aggregate of an applicant's annual disposable income and disposable capital.

For applicants whose financial resources exceed the FEL, the Director of Legal Aid may in certain circumstances exercise his discretion to waive the upper financial limit and grant legal aid subject to the payment of a contribution at higher rates calculated in accordance with the applicant's assessed financial resources. For details, please see the Department's "How to Apply" leaflets on Legal Aid in Civil Cases or Legal Aid in Criminal Cases and the "Legal Aid-Financial Information Sheet".

Accordingly, it is possible that a person with reasonably large income or capital asset can be eligible for legal aid. Records kept by the Department show that applicants with income of about \$58,000 and capital of \$1.3m qualified for legal aid under OLAS and SLAS respectively.





以下例子進一步解釋有關的計算方法：

The following examples will help to explain the situation better.

例1：家庭成員包括2名成年人、1名小孩及2名年長父母

Scenario 1 : Household of 2 adults, 1 child and 2 elderly parents

可動用收入：

Disposable Income：

總收入

Gross Income: \$60,000

－按揭供款

Mortgage instalment: \$16,000

－管理費

Management fees: \$850

－個人豁免額

Personal allowance: \$19,650

－贍養費

Maintenance payment: \$7,000

－薪俸稅

Salaries tax: \$5,000/year (年)

= \$16,083

可動用資產：

Disposable Capital：

－1個聯名擁有的住宅單位（自住）：5,000,000元（不計算在內）

1 joint-name residential flat (self occupied) : \$5 million (disregarded)

－個人名義的銀行存款

Savings in sole-name bank account : \$30,000

= \$30,000

財務資源總額：16,083元 x 12 (192,996元) + 30,000元 = 222,996元

Total financial resources: \$16,083 x 12 (\$192,996) + \$30,000 = \$222,996

申請人通過經濟審查，符合資格獲得在普通計劃下的法援。

The applicant passes the means test and is eligible for legal aid under OLAS.

例2：家庭成員包括2名成年人

Scenario 2 : Household of 2 adults

可動用收入：

Disposable Income：

總收入

Gross Income: \$16,000

－租金

Rental: \$1,900

－個人豁免額

Personal allowance: \$9,810

= \$4,290

可動用資產：

Disposable Capital：

－銀行存款

Savings in bank account: \$1,500,000

扣減

less


－長者資產豁免額

Capital disregard for elderly: \$260,000

= \$1,240,000

財務資源總額：4,290元x 12 (51,480元) + 1,240,000元 = 1,291,480元

Total financial resources: \$4,290x12 (\$51,480) + \$1,240,000 = \$1,291,480

申請人通過經濟審查，符合資格在輔助計劃下獲批法援。

The applicant passes the means test and is eligible for legal aid under SLAS. 



## 擴大法律援助計劃的涵蓋範圍

## Expansion of Scopes of Legal Aid Schemes

《2012年法律援助（修訂）規例》及《2012年法律援助（評定資源及分擔費用）（修訂）規例》由二〇一二年十一月三十日起生效。因應法例的修訂，普通法律援助計劃（普通計劃）及法律援助輔助計劃（輔助計劃）的涵蓋範圍現已擴大至包括：

### 普通計劃

在銷售證券衍生工具、貨幣期貨或其他期貨合約時涉及詐騙、失實陳述或欺騙情況的金錢申索。

### 輔助計劃

(a) 涉及下列類別而索償金額很可能超過60,000元的案件：

- (i) 涉及執業會計師、註冊建築師、註冊專業工程師、註冊專業測量師、註冊專業規劃師、認可土地測量師、註冊園境師，以及地產代理專業疏忽的申索；
- (ii) 關於保險人或其中介人在銷售個人保險產品時涉及疏忽的申索；以及
- (iii) 就售賣已落成或未落成的一手住宅物業向賣方提出的金錢申索。

(b) 在針對勞資審裁處所作裁決而提出的上訴中，為僱員提供法律代表，不論爭議金額為何。

有關輔助計劃現行涵蓋的各類案件、申請費及分擔費比率的詳情，請參閱“怎樣申請法律援助輔助計劃”小冊子或瀏覽本署網頁[www.lad.gov.hk](http://www.lad.gov.hk)。

On 30 November 2012, the Legal Aid (Amendment) Regulations 2012 and the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulations 2012 came into operation. As a result, the scopes of the Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS) have been expanded to cover:

### OLAS

Monetary claims in derivatives of securities, currency futures or other futures contracts when fraud, misrepresentation or deception is involved in respect of the sale.

### SLAS

- (a) (i) professional negligence claims against certified public accountants (practising), registered architects, registered professional engineers, registered professional surveyors, registered professional planners, authorized land surveyors, registered landscape architects and estate agents;
- (ii) negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products; and
- (iii) monetary claims against vendors in the sale of completed or uncompleted first-hand residential properties where the claim is likely to exceed \$60,000
- (b) representation for employees in appeals against awards made by the Labour Tribunal irrespective of the amount in dispute.

For details of the existing scope, the application fee and the rates of contribution payable for different types of cases covered by SLAS, please refer to our "How to Apply" leaflet on SLAS or visit our website at [www.lad.gov.hk](http://www.lad.gov.hk).

## 法援服務宣傳短片

## New Video on Legal Aid Services

在二〇一一至一二年度，本署提供的法援服務作出多項修訂。為了讓市民得知最新情況，本署重新製作有關法援服務的宣傳片，內容加插在實施每五年進行一次的檢討所提出的改善措施後，對法援服務所帶來的改變，以及普通法律援助計劃和法律援助輔助計劃擴大涵蓋範圍。

新影片現已在本署各辦事處播放，亦已上載本署網頁。



2011/12 has seen a great deal of changes to the legal aid services administered by the Department. In order to capture those changes and update our video film on legal aid services, a new video was made to include those changes brought about by the implementation of the improvement measures arising out of the 5-yearly review and the expansion of the scope of the Ordinary Legal Aid Scheme and Supplementary Legal Aid Scheme.

The new video is being shown in our office premises. It is also available from the Department's homepage.



## 調整個人豁免額 Personal Allowances Adjustment

法定個人豁免額每年會按前一年的物價水平作出調整。法定個人豁免額乃在計算申請人的財務資源時，可從收入扣除的其中一個項目。本署已因應檢討結果上調本年的豁免額。

新的個人豁免額由二〇一三年二月二十五日起生效。  
詳情如下：

Each year, the statutory personal allowance, which is given to all applicants for legal aid as a deduction against income when calculating their financial resources, is adjusted based on the consumer price level of the previous year. Adjustment this year has resulted in an upward increase.

Full details of the new personal allowances effective as from February 25, 2013 are as follows:

住戶人數 Household Size	經調整的豁免額 Adjusted Allowance	原來的豁免額 Previous Allowance
申請人 Applicant only	\$5,720	\$5,540
申請人及一名受養人 Applicant with 1 dependant	\$9,810	\$9,500
申請人及兩名受養人 Applicant with 2 dependants	\$12,810	\$12,410
申請人及三名受養人 Applicant with 3 dependants	\$16,120	\$15,620
申請人及四名受養人 Applicant with 4 dependants	\$19,650	\$19,030
申請人及五名受養人 Applicant with 5 dependants	\$21,870	\$21,180
申請人及六名或以上受養人 Applicant with 6 or more dependants	\$23,520	\$22,780

申請人欲了解本身的財務狀況是否符合資格獲批法援，可以電腦或手機瀏覽本署網頁[www.lad.gov.hk](http://www.lad.gov.hk)，點擊“電子服務”，選擇經濟審查計算程式，便可進行初步評估。你須正式提交申請，在本署職員進行經濟審查後，本署才可確定你是否符合獲批法援的資格。🌐

If you want to get an idea of whether you are likely to qualify for legal aid on means, you can try the LAD's means test calculator by going to the Department's website at [www.lad.gov.hk](http://www.lad.gov.hk) using a computer or via your mobile phone and click "Electronic Services" in the manual bar. The test result is for reference only and your eligibility for legal aid cannot be determined until LAD carries out a means test after you have made an application. 🌐





## 向青少年推廣法援服務

## Meeting with the Young People at School

本署一直致力在社區進行推廣，本署兩名律師於二〇一二年十一月向地利亞修女紀念學校（百老匯）300多名學生講解本署提供的法援服務。這次探訪活動是本署的周年外展計劃活動之一，對象以高中學生為主，特別是少數族裔的學生。當日除播放介紹本署服務的短片（英語版）外，還向學生派發以印度語、巴基斯坦語和尼泊爾語等語文印製有關法援服務的小冊子。🌐

As an on-going effort to reach out to the community, two of our professional officers met some 300 students of the Delia Memorial School (Broadway) in November 2012 and briefed them on the legal aid services provided by the Department. The school visit was part of the annual outreach programme for senior students in the secondary schools, in particular for the ethnic minorities. English video introducing the Department's services was also shown and information pamphlets in other languages, including Hindi, Urdu and Nepali, were given to interested students. 🌐

## 非婚姻民事訴訟調解計劃

## Mediation for Non-Matrimonial Civil Cases

在法庭進行訴訟，可以十分昂貴及費時。有見及此，法庭鼓勵訴訟人嘗試透過調解解決爭議。自二〇〇九年推行民事司法制度改革後，民事訴訟的法援受助人可獲資助進行調解，作為排解糾紛的另一途徑以解決在獲批法援的訴訟中所要處理的爭議。

Litigating through the courts can be lengthy and expensive. For this reason, the court encourages litigants to attempt mediation to resolve their legal disputes. Since the implementation of the Civil Justice Reform in 2009, legally aided persons involved in civil proceedings have been given funding support for mediation as an additional means of resolving the disputes for which they are given legal aid.

本署印製了“民事法援案件（非婚姻訴訟）調解計劃”便覽，向法援受助人解釋什麼是調解、透過調解可取得的成果，以及外委律師在調解所擔當的角色等。便覽備有英文和中文繁、簡體版。🌐

A factsheet on mediation in legally aided non-matrimonial civil cases has been issued. It aims to provide information such as what is mediation, what can be achieved through mediation and the role of the assigned lawyer in mediation to the legally aided persons. The factsheet is available in English, Traditional Chinese and Simplified Chinese. 🌐



## 搬遷通知

## We Have Moved

本署總部負責處理民事法援申請及有關查詢工作的諮詢及申請組，已由金鐘道政府合署24樓遷往25樓。

The Information & Application Services Unit (IASU) which handles civil legal aid applications and related enquiries at our Headquarters in the Queensway Government Offices has been relocated from the 24th floor to the 25th floor.

該組所有電話號碼維持不變。政府電話簿亦載有本署的電話號碼，詳情請瀏覽<http://www.directory.gov.hk>。🌐

The telephone numbers for IASU remain unchanged. You can also find us in the Government Telephone Directory at <http://www.directory.gov.hk> 🌐

### 查詢 Enquiries

香港金鐘道六十六號金鐘道政府合署二十七樓  
27/F, Queensway Government Offices, 66 Queensway, Hong Kong  
二十四小時查詢熱線  
24-hour Enquiries Hotline 2537 7677

法律援助署網頁  
LAD Website [www.lad.gov.hk](http://www.lad.gov.hk)  
法律援助署電子郵箱  
LAD email [ladinfo@lad.gov.hk](mailto:ladinfo@lad.gov.hk)