

CONTROLLING OFFICER'S REPLY

CSO032

(Question Serial No. 3097)

Head: (94) Legal Aid Department

Subhead (No. & title): (-) Not Specified

Programme: (3) Support Services

Controlling Officer: Director of Legal Aid (Thomas Edward KWONG)

Director of Bureau: Director of Administration

Question:

Despite the economic downturn, the costs of legal proceedings have been increasing instead of decreasing. Many people from the middle-income group or the sandwich class are unable to benefit from legal aid services due to the financial eligibility limits.

In the new financial year, is there any provision made for studying the feasibility of further adjusting upwards the financial eligibility limits for legal aid applicants, so as to benefit members of the public who cannot afford expensive legal costs? If yes, what will be the expenditure and manpower involved in the study?

Asked by: Hon TSE Wai-chun, Paul (LegCo internal reference no.: 53)

Reply:

It has been the Government's policy to ensure that all those who comply with the provisions of the Legal Aid Ordinance (LAO) (Cap. 91) and have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice because of a lack of means. To qualify for legal aid, a person has to satisfy both the means test and the merits test as stipulated in LAO.

For the purpose of means test, an applicant's financial resources comprising his/her disposable capital and annual disposable income must not exceed the relevant financial eligibility limits (FELs) under the Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS).

The FELs of OLAS and SLAS are subject to an annual review to take into account the changes in Consumer Price Index (C) (CPI(C)), as well as other ad hoc, one-off reviews and adjustments where the situations warranted. In fact, over the past 10 years, the FEL for OLAS has substantially increased by about 140% from \$175,800 to \$420,400, while the FEL for SLAS has substantially increased by about 330% from \$488,400 to \$2,102,000. The most recent adjustment was made on 26 June 2020, when an upward adjustment of FELs by 5.1% was made effective to reflect the accumulated changes in CPI(C) from July 2017 to July 2019.

In addition, a one-off upward adjustment of FELs by about 30% was also made effective on the same date having regard to the higher increase in legal costs than that of general price movement since the last one-off adjustment in 2011, as well as the affordability of private litigation services to legal aid applicants.

The Government has completed its 2020 annual review on FELs and reported the outcome to the Legislative Council Panel on Administrative Justice and Legal Services (the Panel) recently in February 2021. In view of the insignificant change of -0.1% in CPI(C) recorded during the reference period from July 2019 to July 2020 and minimal corresponding impact on FELs, the time and administrative costs involved in the requisite legislative processes may not be commensurate with the need for keeping up with the market. We therefore see merits to reserve the 0.1% decrease and consider it together with the outcome of the next annual review. We will monitor the change in CPI(C) and report to the Panel when the result of the next review covering the period from July 2020 to July 2021 is ready. There are no separate breakdown figures on the expenditure and manpower for conducting the annual reviews, which are among the duties of existing staff.

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