

Report of the Standing Committee on Legal Aid Reform 2020

1. This is a difficult year for everyone. The coronavirus has affected people from all walks of life and members of the Bar are of no exception. Whilst it is understandable that the Judiciary decided to adopt a general adjournment period, the three months of GAP certainly created a cash flow problem for some of the members. Therefore, the HKBA has written to the Legal Aid Department (“Department”) to ask to clear up outstanding payments due to members in February 2020. The Director of Legal Aid (“Director”) has replied favourably and we understand some members with legal aid practice received outstanding payments to embrace the difficult period.
2. The Committee has also helped members who sought help from the Committee to liaise with the Department of Legal Aid about outstanding payments.
3. The social events that started from June 2019 led to a surge of prosecutions in public order events related cases. A significant number of cases are heard in the District Court which leads to a number of issues about assignment, pool of counsel, quota system to name but a few. The Bar Council and the Committee held a conference with the Director to resolve those issues and to clear any ambiguities in September 2020.
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. A bar circular has been issued in November 2020 and it is expected that the first round of application will begin in July 2021.
5. The HKBA and the Law Society of Hong Kong have also written a joint letter to the Director of Administration about the disparity between the criminal and civil legal aid fees. It is the Committee’s firm belief that it is not for members to subsidize the costs of discharging the Government’s constitutional duty to ensure access to justice under the Basic Law.
6. Be that as it may, it is still a long way to tackle the obstacles imposed that 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.
7. 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 any logical reason for 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.
8. The HKBA and the Committee also discuss with various bodies including the Insurance Authority about the low coverage of Marine Insurance and the lack of marine version of “Motor Insurance Bureau” set up for marine accidents in Hong Kong Waters.

9. On OLAS and SLAS, the Government has yet to answer the Committee's long term campaign for 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 for the FEL to be linked with the costs of the provision of legal services generally.

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

Jeffrey Tam (Chairman)
Ruy Barretto SC (Vice-chairman)
Nicholas Pirie
David Ma
Joe Chan
William Hui
Jeffrey Li
Adgie Chan
Azan Marwah
Anthony Ko
Ivan Suen
Albert Wan
Adrian Lo
Andrew Lau
Abigail Liu
Josh Baker

11. I take this opportunity to thank 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

1 December 2020