

**Advisory Committee on
Legal Advice for Unrepresented Litigants**

Minutes of the 3rd Meeting held on 22 June 2017

Date: 22 June 2017 (Thursday)
Time: 5:00 – 6:05 p.m.
Venue: Room G18, Ground Floor, High Court Building,
38 Queensway, Hong Kong

Attendance

Chairman

Mr PANG Kin-kee, SBS

Members

Ms Maggie CHAN

Prof. Anne CHEUNG

Ms Amarantha YIP

Mr Andy HO

Mr Laurie LO, JP

Ms Alice CHUNG, JP

Representative of the Judiciary

Representative of the Home
Affairs Bureau (“HAB”)

Representative of the Legal Aid
Department (“LAD”)

Secretary

Miss Cassia YU

Assistant Secretary (Civic
Affairs) (2)2, HAB

In attendance

Ms Karyn CHAN

Principal Assistant Secretary
(Civic Affairs)2, HAB

Mrs May TAM

Centre-in-charge, the Legal
Advice Scheme for
Unrepresented Litigants on Civil
Procedures Office

Absent with apologies

Mr Stephen HUNG

Mr Giles SURMAN

Mr Tony WAN

Miss Catherine YEN

Opening Remarks

The Chairman welcomed all to the third meeting of the Advisory Committee on Legal Advice for Unrepresented Litigants (“Advisory Committee”).

Agenda Item 1: Confirmation of Minutes of Previous Meeting

2. The Chairman invited comments from members on the draft minutes of the second Advisory Committee meeting. There being no comments from members, the minutes were confirmed without amendments.

Agenda Item 2: Matters Arising

3. The Chairman invited Miss Cassia YU, Secretary of the Advisory Committee, to report on matters arising from the previous meeting. On paragraph 9 of the minutes of meeting, the Secretary reported that to follow up on members’ endorsement of the proposal on setting up an additional office for the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures (the “Scheme”) near the District Court (“DC”), the Home Affairs Bureau (“HAB”) wrote to the Judiciary to seek an office space of about 150 to 200 m² in the Wan Chai Law Courts Building for the proposed new office. In parallel, HAB had prepared a proposed manpower and budget plan for the new office as set out in AC 02/2017 which would be discussed under Agenda Item 4.

4. As regards paragraph 12 of the minutes of meeting, the Chairman said that he had a meeting with DC and Family Court (“FC”) judges as well as representatives of the Judiciary on 8 June 2017. The judges were supportive of the proposal and the Judiciary had preliminarily identified office space of about 100m² in the Wan Chai Law Courts Building for the proposed office. The Judiciary indicated that they would further consider the request for an office area of 150 to 200 m² and revert when ready. Ms Karyn CHAN supplemented that the Judiciary had touched base with HAB for a site visit to the Wan Chai Law Courts Building. HAB would seek more information about the premises and follow up with the Judiciary.

Agenda Item 3: Operation of the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures (AC 01/2017)

5. The Chairman invited Mrs May TAM, Centre-in-charge of the Procedural Advice Scheme Office, to brief members on the operation of the Scheme. The salient points made by Mrs Tam were summarised as follows –

(a) Operational statistics

Since the launch of the Scheme in March 2013, the Scheme conducted 8 630 Quick Advice Sessions (“QAS”) and 60 Appointment Advice Sessions (“AAS”) for 2 878 eligible litigants in person (“LIPs”) as at end April 2017. The average number of advice sessions conducted per LIP was three.

As at end April 2017, 12 535 persons visited the Scheme office (i.e. according to the number of queue tickets issued) and 5 094 telephone enquiries were received. Details of the utilisation statistics of the Scheme collated from March 2013 to April 2017 are set out in Table A at Annex.

(b) Profile of litigants in person, nature of cases commenced and ineligible applications

According to the statistics collected since the commencement of the Scheme in March 2013, 69.1% of the LIPs assisted had secondary or below education level; 57.3% were aged above 50; and 76% had an income below \$20,000 per month or \$240,000 per year. As some LIPs spoke languages other than Cantonese and English, the Scheme arranged 37 advice sessions with free interpretation services for LIPs in need. 25.1% of the LIPs registered under the Scheme claimed that they had applied for legal aid. The self-reported results of their legal aid applications included “legal aid application rejected” and “awaiting legal aid decision”.

During the six-month period from 1 November 2016 to 30 April 2017, among the cases where proceedings had already commenced and assisted by the Scheme, 45.3% were High Court (“HC”) cases; 31.6% were DC cases; and 14.5% were FC cases.

The distribution of commenced cases at different court levels handled by the Scheme remained steady since the commencement of the Scheme.

For the period from 1 November 2016 to 30 April 2017, there were 166 cases seeking advice on the commencement of action. 87 out of the 166 cases (i.e. 52.4%) were FC cases, showing a rising trend when compared with that of 41.9% as collated since September 2015 when the Scheme began to advise on cases regarding commencement of action.

There were 233 ineligible applicants during the six-month period. The major reasons for refusal included LIPs seeking advice on matters outside the scope of the Scheme or on behalf of limited companies, and failing to provide sufficient information.

During the same period, two complaints from two LIPs regarding the arrangement of advice sessions were received. The complaints were investigated and found to be unsubstantiated. No follow-up action was required.

(c) Exit survey completed by LIPs and complaints

Of the feedback surveys received from 1 November 2016 to 30 April 2017, 98.4% of respondents agreed that the advice provided by the Scheme answered or partly answered their questions; 98.7% indicated that they would seek assistance from the Scheme again if necessary; and 97.2% would recommend the Scheme to friends and relatives.

Survey respondents also provided reasons for not engaging lawyers for their cases. 74.9% indicated that they could not afford lawyers' fees; 11.1% indicated that they had the ability to conduct the proceedings without lawyers or they preferred not to engage lawyers in the proceedings; and 6.9% indicated they had applied for legal aid but were rejected.

(d) Community lawyers and student volunteers

As at end April 2017, there were 88 community lawyers enrolled under the Scheme and the number of student volunteers registered in the 2016/17 academic year was 102.

6. The Chairman thanked Mrs Tam for the report. He noted that the numbers of visitors to the Scheme office and eligible applications were increasing steadily and the users' satisfaction with the Scheme service remained high. He considered these indicators useful in showing that the Scheme had served its objective of assisting LIPs and supporting the case for setting up an additional office near the DC.

7. Some members enquired about the statistics set out in Table A at Annex. Mrs Tam's response and clarifications were summarised as follows –

(a) Eligible LIPs and applications

LIPs may attend a maximum number of five advice sessions every three months for the same case and were required to complete a re-application for each advice session to prove their eligibility for the Scheme. As the number of eligible applications covered initial applications and subsequent re-applications, the total number of eligible applications exceeded that of eligible LIPs;

(b) Telephone enquiries and advice sessions

The Scheme provided legal advice to LIPs in person but not over the phone. Telephone enquiries were mainly related to the scope of service of the Scheme and the application procedures. The increase in the number of telephone enquiries received in 2016 was mainly due to enhanced publicity and referrals by the Judiciary.

As the Scheme provided legal advice on procedural matters only, QAS of about 15 minutes per session normally sufficed. LIPs who required interpretation services would be arranged to attend AAS lasting for 45 minutes.

(c) Community Lawyers

Lawyers with at least two years' post-qualification experience and a valid practicing certificate were eligible to enroll as community lawyers under the Scheme.

Mrs Tam explained that under the existing mechanism, the Scheme would approach community lawyers enrolled when full-time resident lawyers were on leave.

In response to a member's concern about the engagement of community lawyers, the Chairman said that there was a need to engage full-time resident lawyers under the Scheme as they would be more familiar with the procedural matters and would speedily assist LIPs during peak hours. Master Andy HO supplemented by making reference to the situation in the United Kingdom where resident lawyers were also engaged to ensure the continuity of provision of service. He added that some community lawyers might not have the necessary experience or specialty to advise on procedural matters in details.

Master Ho pointed out that there might be a need to engage more community lawyers with expertise in family law for the new office and the Scheme might consider appealing to the Family Law Committee of the Law Society in due course. He would defer to the Scheme's staff to review in the light of the operational experience after the opening of the new office. A member offered to help promote the Scheme to members of the Small and Medium Law Firms Association of Hong Kong.

Agenda Item 4: Proposal on an Additional Office for the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures (AC 05/2016)

8. The Chairman said that as deliberated at the previous meeting, there was a need for setting up an additional office near the DC. Apart from the issue of office space as discussed under agenda item 2, the Chairman invited the Secretary to brief members on the proposed manpower and budget plan for the new office. The Secretary reported that subject to the Judiciary's advice on the availability of space in the Wan Chai Law Courts Building in 2018-19, HAB planned to seek additional resources in the Government's next internal Resource Allocation Exercise ("RAE") as follows –

- (a) five additional staff namely two Resident Lawyers, one Executive Officer I, one Legal Assistant and one Assistant Clerical Officer for the Scheme in 2018-19 and onwards;
- (b) a one-off capital provision of \$2.3 million for the set-up and renovation of the new office in 2018-19; and

- (c) a recurrent provision of \$3.3 million for the full-year operation of the new office including the annual staff cost incurred in (a) above in 2018-19 and onwards.

9. The Chairman noted that the above manpower and budget proposal for the new office was prepared with reference to operational experience of the existing office. The Chairman expected that the service demand in the new office would be high and there would be security concerns if the office space was inadequate. Some members also shared the Chairman's concern. On members' suggestion of writing to the Judiciary, Ms Karyn CHAN said that HAB had written to the Judiciary on 16 May 2017 and provided relevant statistics to support our request.

10. Master Ho noted from the manpower proposal that civil servants would be engaged for the new Scheme office while a few incumbent staff at the existing office were engaged under Non-Civil Service Contract terms. He raised concerns about the difference in the remuneration package for the new recruits and the existing staff which may give rise to management issues. Ms Chan said that the existing staff on contract terms had been serving in the Scheme office since the introduction of the Scheme on a pilot basis in 2013. As the Scheme became a regular Government programme in 2016, there was a need to review the staff employment terms and convert the contract positions into civil service posts in the long run. To ensure the continuity and smooth operation of the Scheme, the review and conversion would be conducted by phases. As for the proposed new office which was to be set up after the Scheme had become a regular Government programme, it would be more appropriate to engage the staff on civil service terms as with other regular Government programmes.

Agenda Item 5: Any other business

11. Mrs Tam briefed members on the updates of the improvement works and staff establishment for the existing office –

- (a) an office renovation exercise was carried out in April 2017. The reception area was enlarged and partitions between counters were installed to better protect applicants' privacy;
- (b) an Interactive Voice Response Telephone System would be ready in summer 2017 to better handle and manage telephone enquiries;

and

- (c) an additional staff member reported duty in April 2017 to help receive applications and public enquiries. There were six staff members engaged under the Scheme in total.

12. The Chairman noted that the next meeting would be held in late 2017.

13. There being no further business, the meeting ended at 6:05 p.m.

**Secretariat,
Advisory Committee
on Legal Advice for Unrepresented Litigants
September 2017**