

Application period for Subsidy Scheme for Beauty Parlours, Massage Establishments and Party Rooms to end on January 29

The application period for the Subsidy Scheme for Beauty Parlours, Massage Establishments and Party Rooms (the Scheme) relaunched under the Anti-epidemic Fund of the Government will close on January 29 (Friday). The Scheme's online application system (bmpsubsidy.gov.hk) will cease receiving applications after 11.59pm on January 29.

Beauty parlours, massage establishments and party rooms wishing to apply for the subsidy should submit their application through the online application system before the deadline. In general, late applications will not be entertained.

For enquiries concerning details and the application procedure of the Scheme, applicants can call the telephone hotline (1836 188) or send an email to info@bmpsubsidy.hk.

Housing Authority announces latest arrangements for public services

The following is issued on behalf of the Hong Kong Housing Authority:

In response to the Government's announcement that in addition to the continued provision of emergency services and essential public services, government departments will also resume the provision of some basic public services from January 28, the Hong Kong Housing Authority (HA) announced today (January 27) that although full-scale public service cannot be resumed at this stage, the HA will provide some basic public services starting from tomorrow (January 28) until further notice. The arrangements are as follows:

- All Estate Management Offices (EMOs) of public housing estates will be open from 10am to 4pm on Monday, Wednesday and Friday to handle matters in relation to the management of public housing estates and cases with prior appointments. For enquiries or assistance outside the opening hours, residents may call the contact telephone numbers provided by the respective EMOs, and staff will render assistance as much as

practicable. The EMOs' shroff offices will maintain closed. Tenants can pay rent at more than 1 000 locations, such as designated convenience stores and supermarkets. They may also make payments via the Payment by Phone Service. For details, please browse the following website:
www.housingauthority.gov.hk/en/public-housing/rent-related-matters/rent-payment-methods/index.html;

- The following subsidised housing offices will be open from 10am to 4pm on Monday, Wednesday and Friday to provide limited services:

- the White Form Secondary Market Scheme Unit at the HA Customer Service Centre (HACSC) in Lok Fu and Pioneer Place in Kwun Tong; and

- the Home Ownership Scheme (HOS) Secondary Market Scheme Unit and the Home Assistance Loan Unit in Lung Cheung Office Block, Wong Tai Sin;

- The HOS Sales Unit at the HACSC in Lok Fu and the Green Form Subsidised Home Ownership Scheme Sales Unit at Pioneer Place in Kwun Tong will only be open to applicants with prior appointments. For enquiries, please contact the HA Sales Hotline on 2712 8000;
- The Public Rental Housing (PRH) Application Office at the HACSC in Lok Fu will be open from 8am to 4pm on Monday, Wednesday and Friday to provide limited services in relation to matters involving PRH applications, while detailed vetting interviews and the flat selection exercise for Express Flat Allocation Scheme (2020) with prior appointments will proceed as scheduled;
- The Clearance Housing Office and Redevelopment Sub-section offices (Pak Tin, Mei Tung and Shek Lei Interim Housing) will be open from 10am to 4pm from Monday to Friday to provide limited services in relation to matters involving clearance housing or redevelopment; and
- The Shroff Office on the Ground Floor of the HA Headquarters will be open from 10am to 12.30pm and 2pm to 4pm from Monday to Friday. All payment collection services (including premium payments by Subsidised Sale Flats Scheme owners to enable them to complete transactions of their flats), with the exception of rental payment collection, will be in operation.

â€œ In addition, due to the above work arrangements, the HA may not be able to reply to public enquiries, requests or complaints in a timely manner. For enquiries, please call the HA hotline on 2712 2712.

LCQ20: Handling of non-refoulement claims

Following is a question by the Hon Elizabeth Quat and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (January 27):

Question:

It has been reported that the public expenditure in the past seven financial years on handling non-refoulement claims and related work exceeded \$6 billion, and the relevant estimated expenditure for the current financial year is as high as \$1,227 million, hitting a seven-year high. As at October last year, there were about 13 000 non-refoulement claimants (claimants) in Hong Kong. Among them, more than 8 000 claimants have lodged applications for leave for judicial review (JR) in relation to the results of their claims, and some claimants have even lodged appeals against the results of such applications. Some members of the public consider that the judicial proceedings and legal aid system have been abused, leading to wasteful spending of a considerable amount of public funds and aggravating the financial burden on the Government. In this connection, will the Government inform this Council:

(1) whether it knows the number of applications for leave for JR received by the Judiciary from claimants in each of the past two years and the number of appeals lodged by claimants against the results of such applications;

(2) of the respective numbers of legal aid applications from claimants received, approved and rejected by the Legal Aid Department in each of the past three years; if there were rejected applications, of the reasons for that; whether the Government has found abuses of the legal aid system by claimants; if so, of the proposals to resolve the problem;

(3) given that under the legal aid system, the numbers of civil legal aid cases assigned to individual solicitors and counsels within the past 12 months are capped at 35 and 20 respectively, of the respective numbers of (i) solicitors and (ii) counsels, in each of the past three years, to whom non-refoulement claim cases were assigned within the past 12 months, with a breakdown by the range to which the number of cases belonged (set out in tables of the same format as the table below); the measures in place to prevent solicitors and counsels from being assigned too many non-refoulement claim cases, thus affecting their provision of services to local aided persons;

Year: _____

	Number of non-refoulement claim cases assigned						
	5 or below	6 to 10	11 to 15	16 to 20	21 to 25	26 to 30	31 to 35
(i)							
(ii)					(Not applicable)		

(4) of the measures in place to prevent non-refoulement claim cases from being assigned to several certain solicitors or counsels in a concentrated manner, and the new measures in place to prevent the problem of champerty from occurring in those cases; and

(5) given an upsurge of the number of cases related to non-refoulement claims in recent years, whether it knows if the Judiciary will consider setting up special courts to expedite the handling of case backlogs, so as to avoid the delay in the hearing of other civil cases; if the Judiciary will, of the details and timetable; if not, the reasons for that, and whether the Judiciary will consider extending the office hours of courts and making arrangements for courts to sit on Saturdays to conduct hearings?

Reply:

President,

According to the Judiciary, to avoid abuses in the use of judicial reviews (JR), including those relating to non-refoulement claims, leave must be obtained from the court before any application for JR can be instituted. This helps screen out cases which are not reasonably arguable with a realistic prospect of success. Where leave to apply for JR is refused by the Court of First Instance of the High Court (CFI), or the application for JR is refused after leave to apply for JR is granted, the applicant may appeal to the Court of Appeal of the High Court (CA). If the appeal is refused by the CA, an application for leave to appeal may be filed with the CA or the Court of Final Appeal (CFA), and if granted, the applicant may lodge the appeal with the CFA.

The policy objective of legal aid is to ensure that no one with reasonable grounds for taking or defending a legal action is denied access to justice because of lack of means. The Legal Aid Ordinance (Cap. 91) (LAO) provides that legal aid will only be granted to applicants who have satisfied both the merits test and the means test. After legal aid is granted, the Director of Legal Aid (DLA) may act for an aided person through in-house professional lawyer of the Legal Aid Department (LAD) or assign any lawyer in private practice selected from the Legal Aid Panel (the Panel) by the DLA or the aided person.

A reply to each part of the question is as follows:

(1) According to the Judiciary, the numbers of cases relating to non-refoulement claims at various levels of court from 2018 to 2020 (up to September 30, 2020) are as follows:

Number of cases relating to non-refoulement claims from 2018 to 2020 (up to September 30, 2020)	
Year of filing	Number of cases
Leave applications for JR relating to non-refoulement claims filed with the CFI	
2018	2 851
2019	3 727
2020 (up to September 30)	1 879
Civil appeals relating to non-refoulement claims at the CA	
2018	393
2019	351
2020 (up to September 30)	349
Leave applications for (civil) appeal relating to non-refoulement claims at the CFA	
2018	65
2019	388
2020 (up to September 30)	199

(2) As the figures for 2020 are still under compilation, the numbers of legal aid applications in relation to non-refoulement claims, legal aid certificates granted and applications refused from 2017 to 2019 are as follows:

Legal aid applications in relation to non-refoulement claims			
Year	Number of applications received	Number of legal aid certificates granted [^]	Number of applications refused [^]
2017	1 020	32	981
2018	1 500	46	1 429
2019	690	71	620

[^]Some of the legal aid certificates granted and applications refused do not necessarily correspond to the legal aid applications made in the same year.

LAD has put in place a mechanism to guard against abuse of legal aid. As mentioned above, legal aid will only be granted to applicants who have satisfied both the merits test and the means test. As such, all legal aid applications (including the applications for JR in relation to non-refoulement claims) are processed by Legal Aid Counsel employed by LAD. In assessing the merits of an application, LAD will carefully look into and consider the facts of the case, evidence available and the legal principles applicable to the case to determine whether there are reasonable grounds for legal aid to be granted. Even if an applicant is successfully granted legal

aid, LAD will still monitor his/her case from time to time to ensure that there are sufficient grounds for the aided person to continue to receive legal aid. Otherwise, LAD will discharge the legal aid certificate.

As for those legal aid applications related to non-refoulement claims, among the applications refused, the majority of them were refused on merits.

As a matter of fact, the success rate for legal aid applications related to non-refoulement claims is quite low. From 2017 to 2019, the success rate for such cases was 4.6 per cent, which accounted for only 0.84 per cent of all successful civil legal aid cases.

(3) The numbers of solicitors/counsel assigned by the LAD to handle legal aid applications in relation to non-refoulement claims from 2017 to 2019 are as follows:

2017:

	5 cases or below	6 to 10 cases	11 to 15 cases	16 to 20 cases	21 to 25 cases	26 to 30 cases	31 to 35 cases
Total number of solicitors	20	4	0	0	0	0	0
Total number of counsel	22	0	0	0	0	0	0

2018:

	5 cases or below	6 to 10 cases	11 to 15 cases	16 to 20 cases	21 to 25 cases	26 to 30 cases	31 to 35 cases
Total number of solicitors	22	3	1	0	0	0	0
Total number of counsel	15	2	0	0	0	0	0

2019:

	5 cases or below	6 to 10 cases	11 to 15 cases	16 to 20 cases	21 to 25 cases	26 to 30 cases	31 to 35 cases
Total number of solicitors	20	1	3	0	0	0	0

Total number of counsel	21	5	0	0	0	0	0
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The above statistics show that there is no question of any individual solicitor/counsel having been assigned too many cases related to non-refoulement claims. In any case, to ensure that no assigned lawyer handles too many legal aid cases, LAD sets a limit on the number of assignments for each lawyer. Regarding civil legal aid cases (including those related to non-refoulement claims), the limit on assignments for each solicitor is 35 civil legal aid cases in the past 12 months; while for each counsel, the limit on assignment is 20 civil legal aid cases.

(4) In Hong Kong, champerty and maintenance are criminal offences under the Criminal Procedure Ordinance (Cap. 221). Such offences (including conspiring to commit or inciting others to commit an offence) are punishable by imprisonment of seven years and a fine.

Regarding nomination of lawyers by legally aided persons, LAD, having consulted the Legal Aid Services Council and the two legal professional bodies, introduced a "Declaration System" in September 2013 with a view to preventing improper touting or champerty activities. The system seeks to ensure that an aided person nominates a lawyer solely at his own will without reaching any agreement with any person (including the lawyer nominated, his employee, agent or claim agent) regarding the sharing of damages, assets or costs that may be recovered in a proceeding. Also, LAD maintains communication with the two legal professional bodies to prevent improper touting activities in legal aid cases. A clear message that the improper behaviour of assigned lawyers will be dealt with seriously has also been disseminated to the public through publicity and education. Depending on the nature of individual cases, the LAD may also refer such cases to the Police for investigation.

As to the practice of allowing aided persons to nominate lawyers, LAO provides that apart from assigning an in-house lawyer to act for an aided person, DLA may also assign a private legal practitioner on the Panel who is selected by DLA or the aided person. When an aided person nominates a lawyer pursuant to LAO by himself/herself, having regard to the interest of the aided person, LAD normally gives weight to his/her nomination. However, LAD may also reject the nomination if the lawyer nominated by the aided person is considered not appropriate on grounds such as having previous records of unsatisfactory performance, disciplinary actions taken against the nominated lawyer by a regulatory body, or language requirements of the proceedings which are likely to undermine the aided person's interest in the proceedings; or the aided person has made repeated or late requests for change of lawyer without reasonable grounds.

While an aided person usually chooses to nominate a lawyer who has experience and expertise in the relevant case, the lawyer concerned must meet the assignment criteria of LAD (including limit of cases assigned and/or the ceiling of legal aid costs received) before he can be assigned by LAD. As a matter of fact, a total of 518 counsel and 1 046 solicitors were assigned

legal aid cases in 2019. Among them, counsel and solicitors with experience of ten years or above accounted for 80 per cent and 85 per cent respectively. LAD does not consider that legal aid cases (including cases relating to non-refoulement claims) are disproportionately taken up by a handful of lawyers.

(5) As the processing of non-refoulement claim-related cases usually has to go through the CFI, the CA and then the CFA according to the established procedures, the Judiciary considers that the most efficient and effective way to cope with the heavy caseload relating to non-refoulement claims is to timely increase judicial manpower. As such, the Judiciary has no plan to set up any special court, extend court sitting hours, or arrange Saturday sittings for this purpose. The Judiciary will continue to proactively implement the following measures to process, among others, non-refoulement claim cases more expeditiously:

(a) The Judiciary launched a new round of open recruitment for Judges and Judicial Officers (JJOs) for all levels of courts in November 2020 with a view to increasing the substantive judicial manpower to cope with the operational needs of the courts. In February 2019, on top of the existing JJOs, the Judiciary created four Deputy Registrar of the High Court posts to increase judicial manpower in the Masters Office of the High Court;

(b) for the CFI, the Judiciary has been engaging additional temporary judicial manpower to expedite the processing of applications for JR. The Judiciary will continue to adopt this arrangement as far as practicable;

(c) paper disposal will continue to be adopted to deal with suitable cases (interlocutory matters in particular);

(d) for the CA,

(i) the Judiciary has introduced amendments to the High Court Ordinance (Cap. 4) to streamline court procedures and facilitate processing of cases in the CA, including JR cases relating to non-refoulement claims. The amendments mainly include the extension of the use of a 2-Judge bench of the CA to determine more types of cases and the clarification of the powers of additional CFI or CA judges to dispose of cases on paper without having physically to "sit" in court. The amendments have come into effect on January 18, 2021;

(ii) the Judiciary will seek the approval of the Legislative Council to create one additional Justice of Appeal of the CA post to increase the judicial manpower for dealing with cases; and

(e) for the CFA, the Judiciary has been making arrangements to engage more non-permanent judges to expedite the handling of relevant cases.

Service arrangements for Independent Checking Unit

To tie in with the Government's announcement that in addition to the continued provision of emergency services and essential public services, government departments will also resume the provision of some basic public services from January 28, a spokesman for the Transport and Housing Bureau said today (January 27) that the Independent Checking Unit (ICU) under the Office of the Permanent Secretary for Transport and Housing (Housing) will reopen its receipt counter and general enquiry counter at 8/F, Lung Cheung Office Block, Lung Cheung Road, Wong Tai Sin, Kowloon, with reduced service hours, to provide services including inspection and copying services for Hong Kong Housing Authority building records, receipt of building control applications and documents, as well as handling public enquiries. The service counters will be open from 10am to 4pm, Monday to Friday.

The ICU will limit the number of service users at any one time in order to achieve social distancing. Members of the public, when entering the Lung Cheung Office Block and offices of the ICU, shall wear masks at all times and comply with infection control measures such as temperature checks and crowd control arrangements.

For emergency reports and general enquiries, people may call 1823 or inform the ICU by email, post or fax:

Email: icuebt@hd.gov.hk

Mailing address: 8/F, Lung Cheung Office Block, Lung Cheung Road, Wong Tai Sin, Kowloon

Fax: 3162 0069

LCQ5: Poverty line

Following is a question by the Hon Tommy Cheung and a reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (January 27):

Question:

The current poverty line framework takes into account only the income of households but not their assets. The "Hong Kong Poverty Situation Report 2019" (the Report) indicates that among some 390 000 poor elders in 2019, as high as 30 per cent of them had owner-occupied housing. The Report acknowledges that the actual living standard of the "income-poor, owning property of certain value" elders could have been underestimated. As pointed

out in the report entitled "Hong Kong at a Crossroads – Let's be Honest about Poverty!" published by the Business and Professionals Federation of Hong Kong in December last year, the definition of poverty adopted by the Government is flawed, resulting in elders with no income but owning properties of certain value being classified as poor, which is unreasonable. As such, the poverty line simply cannot accurately reflect the true picture of poverty in Hong Kong, making it difficult for the poverty alleviation policies to offer appropriate solutions to the problems. In this connection, will the Government inform this Council:

(1) whether it has compiled statistics on the current average asset value of each household among the poor population; if not, whether it will collect the relevant information;

(2) whether it will review the practice of adopting the concept of relative poverty in setting the poverty line framework, and study the adoption of the concept of absolute poverty instead; if so, of the details; if not, the reasons for that; and

(3) given that the population of Hong Kong is ageing, more and more elders with no income but owning properties of certain value will be classified as poor, what measures the Government has put in place to make the poverty line accurately reflect the true picture of poverty in Hong Kong?

Reply:

President,

The poverty line was devised to provide objective quantitative analysis for the poverty situation in Hong Kong as an analytical tool to monitor and understand the poverty situation, formulate poverty alleviation policies and assess policy effectiveness in an ongoing manner. It also provides a common basis for the discussion of poverty situation in the community. In September 2013, the Commission on Poverty (CoP) announced the first official poverty line and its analytical framework. It was decided that the poverty line would be set at 50 per cent of the median monthly household income before policy intervention (i.e. before taxation and social welfare transfers). Poverty statistics for Hong Kong have since been updated annually by the Census and Statistics Department (C&SD) and the Office of the Government Economist under the poverty line framework for ongoing monitoring of the poverty situation in Hong Kong. To date, the Government has published eight annual poverty situation reports.

My reply to the questions raised by Hon Tommy Cheung is as follows:

(1) The value of assets owned by individual households or individuals is highly sensitive privacy data. It is difficult to collect such data through household surveys in practice and information so collected is unreliable. C&SD had tried to do so but to no avail as many respondents were reluctant to disclose information about their asset.

(2) Formulated by the CoP, the analytical framework of the poverty line is based on the concept of "relative poverty", with monthly household income before policy intervention (i.e. before taxation and social welfare transfers) adopted as the basis for measurement. The poverty line is set at 50 per cent of the median household income by household size. The concept of "relative poverty" has been widely adopted amongst developed economies, such as the Organisation for Economic Co-operation and Development and the European Union. The statistics so compiled are generally comparable internationally and easy to understand. The fact that some non-governmental organisations in Hong Kong have for years adopted the concept of "relative poverty" as the basis for analysing the poverty situation also demonstrates the receptiveness of the relevant analytical framework generally.

The concept of "absolute poverty" focuses on measuring the living standard at subsistence level or satisfying basic needs. For example, the World Bank has set the international poverty line at US\$1.9 per day. It is a concept more widely adopted amongst developing economies.

(3) The population of Hong Kong has continued to age and the number of retired elderly people has continued to increase. Statistically, these retired elderly people would be categorised as poor as most of them do not have regular income. The Government and the CoP are cognisant of the limitation of using household income as the sole indicator for measuring poverty under the poverty line analytical framework. Hence, the CoP has agreed to introduce supplementary analysis to help the public understand the poverty situation in a more comprehensive manner.

Some elderly households have a certain amount of assets or receive support from non-household members (e.g. their children) by directly paying for some of their expenditures. Yet, the poverty line analytical framework will not take these factors into account. It is therefore possible that the actual living standard of these elderly people is being underestimated. As such, when analysing the elderly poverty situation, the Government also utilises other statistics to conduct a multi-faceted supplementary analysis in parallel so as to reflect the livelihood of the poor elderly in a more holistic manner. This, to a certain extent, has made up for the current analytical framework's limitation of not taking assets into account.

As regards the analysis on "income-poor, owning property of certain value" elderly people, the "Hong Kong Poverty Situation Report 2019" (the Report) carries a detailed analysis by estimating the number of elderly households with all members aged 55 or above and residing in owner-occupied mortgage-free housing, the value of which, if converted to monthly receivable life annuity payouts, would not be lower than the poverty line. This provides data of another perspective to reflect the property asset situation of some elderly people. In addition, the Report carries an analysis on the support to poor households (in particular poor elderly households) through direct payment for their expenditure by non-household members. These multi-faceted analyses in conjunction with the poverty line framework should facilitate better understanding of the situation of poor elderly.

Thank you, President.