

DISCUSSION PAPER

ON

COMMUNITY LEGAL SERVICES

Prepared by the Committee to Study Community Legal Services Initiatives¹

A. INTRODUCTION

- A.1.** Community Legal Services (“CLS”) for the legal profession is a community initiative that will encourage advocates and solicitors of the Singapore Bar to provide legal assistance to low-income Singaporeans and the disadvantaged. Its objective is to provide a framework for the provision of legal services to members of the community who may not be able to gain access to legal services.
- A.2.** Under CLS, lawyers will be subject to a *mandatory* requirement (tied to their practising certificates) to provide legal assistance in certain prescribed areas of law. This will provide a much needed push for the profession to become more involved in serving the community. By providing the impetus for greater community involvement, it is hoped that this scheme will cultivate an ethos of service as well as a shared responsibility, and remind lawyers that the profession is a noble one with much to contribute to society. Additionally, CLS will provide lawyers with other avenues to interact beyond the confines of their firms and practice areas. This will strengthen the bonds within the legal community as well as its bonds with the wider community.
- A.3.** Importantly, CLS is also a response to the community’s need for more legal advice and representation, especially amongst indigents. For instance, a significant proportion of the litigants in the Subordinate Courts are unrepresented. It is hoped that CLS will greatly enhance access to justice for this section of society and plug the gap for legal assistance required by the community.
- A.4** CLS will be administered by the Law Society of Singapore’s (“the Law Society”) Pro Bono Services Office (“PBSO”).

¹ See Annex 1 for a list of the members in the Committee

B. LAWYERS FOR WHOM CLS WILL BE MANDATORY

B.1. *Qualified lawyers to come within CLS*

B.1.1. It is proposed that all lawyers who hold practising certificates with the Law Society will be required to carry out CLS. This will include lawyers holding practising certificates who work in foreign law firms under the Qualifying Foreign Law Practice scheme and in the context of Joint Law Ventures.

B.1.2. It is proposed that initially, foreign lawyers (not qualified to practise Singapore law) registered with the Attorney-General's Chambers, Legal Service Officers ("LSOs"), academics working in tertiary institutions, paralegals, in-house counsel, arbitrators, and legal counsel in government departments or ministries who are not LSOs should not be subject to CLS. The LSOs will be developing a parallel track of community initiatives, separate from CLS. This will address concerns about the inherent propensity for conflicts of interest that might arise if LSOs engage in CLS work. As for the other categories of legal professionals, feedback is being sought as to whether they should be included, and if so, how issues of oversight and competence can be satisfactorily addressed.

B.1. Summary of Proposals

B1.1. Only lawyers who hold practising certificates should initially come within CLS.

B.1. Questions for Consultation

Q.1. Would involving only lawyers who hold practising certificates be under-inclusive or over-inclusive in any way?

Q.2. If so, who else should be included/ excluded? How will legal professionals who have not practised be assessed for competence and supervised?

C. THE REQUIREMENTS FOR LAWYERS UNDER CLS

C.1. *Number of hours required under CLS*

C.1.1. It is proposed that CLS will have a mandatory minimum requirement of 16 hours per year per lawyer. This amounts to a contribution of approximately two working days per

lawyer. As CLS aims to involve as many members of the Bar in the carrying out of pro bono work as possible, the hours will not be transferrable between lawyers.

- C.1.2. It is proposed that the maximum number of hours which can be carried over to the next year will be eight (8) hours (*eg*, if a lawyer does 25 hours of pro bono work in 2012, even though this amounts to 9 hours more than what is required, only 8 hours can be carried over to fulfil 2013's CLS requirement).

C.1. Summary of Proposals

C.1.1. Lawyers under CLS will be required to fulfil 16 hours of pro bono work each year.

C.1.2. A maximum of 8 hours can be carried over from year to year.

C.1. Questions for Consultation

- Q.3. Is a mandatory minimum requirement of 16 hours feasible? If not, what should the mandatory minimum requirement be?
- Q.4. How many hours should be allowed to be carried over from year to year, if at all?
- Q.5. Will the cap on carry-over hours discourage lawyers from taking on complex trials?
- Q.6. Should the hours be transferrable between lawyers (especially within firms)?

C.2. Scope of work covered under CLS

C.2.1. In line with the core objective of serving the community, lawyers can only fulfil their CLS obligations in specific areas. Accordingly, CLS will only comprise legal assistance in four broad areas:

1. Criminal legal aid;
2. Civil legal aid;
3. Community mediation, legal clinics and various other voluntary services in the Subordinate Courts (*eg*, through the Community Justice Centre); and
4. Legal advisory work to approved institutions and charities which provide assistance to the community (such as Voluntary Welfare Organisations).

- C.2.2. The first two areas are focused on contentious matters and court work in criminal and civil areas. Although CLS extends beyond these two areas of law, they will be the main focus of CLS.
- C.2.3. One of the key ideas behind the broad scope of legal assistance that constitutes CLS is that CLS should not exclude lawyers who have no initial competence and/or abiding interest in these areas and/or court work. To address this issue, lawyers who are keen to take on work that is beyond their areas of specialisation will be paired up with other lawyer(s) who have more experience in those areas. This is in line with CLS' aim to extend its reach to as wide a section of the Bar as possible.
- C.2.4. Mediation under CLS only refers to community mediation, which includes family mediation (*eg*, at the Subordinate Courts' Family Resolution Chambers), civil mediation (*eg*, at the Subordinate Courts' Primary Dispute Resolution Centre) and criminal case resolution at the Subordinate Courts and the Community Mediation Centre.
- C.2.5. Apart from mediation, the Subordinate Courts also have further avenues for voluntary services, such as the free legal clinics at the HELP centre for criminal, civil and family cases. General advisory work given at various other legal clinics, subject to the clearance of PBSO, will also constitute CLS.
- C.2.6. Another option for lawyers who prefer not to take up court work is to opt to give legal advice to institutions and charities instead. The institutions and charities which can come under CLS will be approved by PBSO. These could also be in the context of work done overseas for these listed entities.

C.2. Summary of Proposals

- C.2.1. Legal assistance which falls under CLS will be limited to the areas of criminal legal aid, civil legal aid, community mediation, participation in free legal clinics, voluntary services in the Subordinate Courts and legal advisory work to approved institutions and charities.

C.2. Questions for Consultation:

- Q.7. Do you agree with the four broad areas listed above?
- Q.8. What other areas of legal assistance should be included under CLS?
- Q.9. Which institutions and/or charities should be eligible to receive legal advice under CLS?

Q.10. Should voluntary work with legal institutions such as the Law Society and the Singapore Academy of Law be allowed to fall under work constituting CLS?

C.3. Contributions-in-lieu

C.3.1. Consideration is being given to permit lawyers who may not be able to fulfil their CLS requirements to give contributions-in-lieu instead. The two options need not be mutually exclusive; lawyers can choose to do a combination of both. For instance, it is possible for a lawyer to do 8 hours of pro bono work and provide 8 hours worth of contributions-in-lieu.

C.3.2. These contributions will be calculated according to pre-determined hourly rates.

C.3.3. The revenue generated through contributions-in-lieu will be channeled back into the operational costs of CLS. This will potentially be a significant source of revenue for the scheme that should not be discounted.

C.3. Questions for Consultation

Q.11. Should contributions-in-lieu even be an option?

Q.12. Should the rates be uniform across the spectrum of lawyers?

Q.13. If not, what criteria should the rates be based on (*eg*, seniority/ practice area)? Also, should the rates be calculated at a market rate (*eg*, the billing rate) or a discounted rate?

D. HONORARIUMS

D.1. To be administered based on separate subsidised services schemes

D.1.1. Lawyers may receive an honorarium for pro bono work done under CLS in excess of the proposed 16 hours of mandated pro bono work. It might be preferable not to have a central determination of (i) whether an honorarium is to be disbursed, and (ii) if so, what its rate should be. These decisions will continue to be taken by the various schemes (*eg*, LASCO), according to their individual policies. This will give them more autonomy to pursue policies to best meet their needs for assistance.

D.1. Summary of Proposals

D.1.1. Honorariums may be given to lawyers for pro bono work done beyond the quota of 16 hours.

D.1.2. The amount of honorarium, if at all, will be determined by the individual schemes under which work is done.

E. INTRODUCING CLS TO THE PROFESSION

E.1. *Publicity and timelines*

E.1.1. CLS will need support from the legal community and ought to be seen as a move on the part of the profession to benefit the community. All the different sectors of the legal community should work together to create a self-sustaining eco-system of community legal assistance. To this end, publicity must be generated for CLS.

E.1. Questions for Consultation

Q.14. Should the implementation of CLS be phased (as is the case for Continuing Professional Development), and if so, how?

F. CONCLUSION

F.1 Members of the legal community and all other interested parties are invited to give their feedback on the questions raised above, as well as any other views in relation to CLS. Feedback can be sent via post or email to the following:

Working Group on CLS
c/o Mr Loong Seng Onn
Singapore Academy of Law
1 Supreme Court Lane, Level 4
Singapore 178879
feedback_cls@sal.org.sg

F.2 The deadline for feedback is 4pm on 21 November 2012 (Wednesday).

Annex 1

The Committee to Study Community Legal Services Initiatives

Chairman	The Honourable Justice V K Rajah, Judge of Appeal
Members	The Honourable Solicitor-General Mrs Koh Juat Jong Dr Beh Swan Gin, Permanent Secretary, Ministry of Law Ms Valerie Thean, Director-General (Legal Group), Ministry of Law Mr Tan Siong Thye, Chief District Judge, Subordinate Courts Mr Wong Meng Meng S.C., WongPartnership LLP Mr Harry Elias S.C., Harry Elias Partnership LLP Mr N. Sreenivasan, Straits Law Practice LLC Ms Lisa Sam, Lisa Sam & Company Ms Serene Wee, Chief Executive, Singapore Academy of Law
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