

ANNUAL REPORT ON BAR FREE LEGAL SERVICE SCHEME 2016/2017

The Scheme received a total of 262 applications in the 12-month period between 1st December, 2016 and 30th November, 2017 (the “report period”). Of the applications, the Scheme managed to review 225. It further reviewed another 18 applications, outstanding from the year before (December 2015/November 2016). In total, the Scheme reviewed 243 applications during the report period.

The 18 applications referred to in the preceding paragraph were part of 25 applications that were received during the previous report year and remained outstanding as at 30th November, 2016. They were then pending either review or further information. 18 applications, as stated above, were reviewed and the remaining 7 applications were considered not proceeded with. In some cases the applicants failed to provide case papers as requested; in others, hearings were concluded before the applicants took steps to further their applications; there was one case in which the Applicant actually abandoned his application for leave to appeal against conviction. As regards the 18 applications that were reviewed, representation was granted in one case only. That was a Petition to the CEO in relation to a murder conviction. The case is still pending as at the date of this report. Oral and written legal advice was rendered in one Immigration matter (non-refoulement claim) concerning a family of 7 from Vietnam. The remaining 16 applications were rejected either on means (1 case) or on merits (15 cases).

At the end of last report period i.e. 30th November, 2016, the outcome of 6 applications, 5 criminal and 1 civil, received in the 2015/2016 report period, for which representation was granted, was still pending. In the course of the current report period, all 6 of them were resolved. In one Criminal Appeal, Legal Aid was granted so the Scheme dropped out of the picture; in one Magistracy Appeal, assigned counsel was unable to contact the Applicant, assistance was therefore withdrawn; one CACC and one HCMA were heard and dismissed; one Petition to the CEO was turned down; and last but not least, Scheme-assigned counsel managed to persuade a Master of the High Court that a proposed settlement in a Personal Injuries action was in the interest of a infant beneficiary.

For the report period 2011/2012, of the 5 matters, all civil, for which representation was granted, 3 related Personal Injuries cases came to a closure. Assigned counsel reported that the Applicant wanted to withdraw her application in all 3 cases as she did not expect the opposite party (the plaintiff) to take the proceedings any further as they had remained dormant for over 8 years. Assigned counsel’s suggestion to apply to court to strike out the plaintiff’s claims for want of prosecution was declined. As for the other 2 remaining cases, they concerned a mother and son’s torture claims. However, assigned counsel has not come back at all with regard to the progress or outcome of the cases.

For the report period 2012/2013, out of the 4 civil matters for which representation was granted that remained pending, the Co-ordinator is pleased to report that in one Immigration Case, permission to stay in Hong Kong has been granted, and in 2 other related cases, Legal Aid was granted to the Applicant to pursue a claim against his former employers (the Fire Services Department) for wrongful dismissal. As for the 4th matter, an Immigration case concerning a mother and 2 children from the Mainland, one child's problem has been resolved in that she is now attending an institution for tertiary education on a student visa. In time to come, she should have no problem acquiring permanent resident's status. Assigned counsel has not heard from the other child or the mother for some time. He will report to the Scheme as and when he has further news.

For the report period 2014/2015, representation was granted in the one matter that remained pending review at the end of last report period, i.e. 30th November, 2016. It was a Magistracy Appeal against conviction. The appeal was heard but dismissed. The matter has however yet to be finalised as the issue of a costs order against the Applicant remains to be determined.

Of the 262 applications received in the current report period, 176 relate to criminal matters. Representation was granted in 5, one application for leave to the Court of Final Appeal, 2 appeals to the Court of Appeal and 2 Magistracy Appeals. All 5 matters are still pending. The Scheme sought DLA's reconsideration in 3 cases. Legal aid was granted in one, rejected in the second, and its decision is still pending in the third. The Scheme granted representation to the Applicant in the case that legal aid was turned down. Legal advice was rendered in 17 matters including the 3 referrals back to DLA for reconsideration. In addition, legal advice was rendered in another 7 matters upon refusal of legal representation on merits/means.

Turning now to civil matters, there are 86 applications. Representation was granted in 2 of them. One was a Legal Aid Appeal in relation to a deportation order. That resulted in legal aid being granted; the other was also a Legal Aid Appeal. The Applicant wishes to judicially review the decision of the Immigration Department to charge him with a criminal offence. The case is pending the outcome of a Magistracy Appeal when the assigned counsel would be in a better position to evaluate the merits of the case. Legal advice was rendered in 15 matters including 1 referral back to DLA for reconsideration. Legal advice was also rendered in another 8 matters upon refusal of legal representation on merits.

The Co-ordinator wishes to point out that there are quite a few members of the public

who somehow take the view they are entitled to pro bono assistance as of right. If their applications are turned down, they tend to resort to some rather unreasonable antics such as repeated nuisance telephone calls or attendance in person to verbally abuse staff members.

There are now 241 Panel A members and 55 Panel B members. In the course of the current report period, a total of 2 Panel B members have received fees from the Scheme totaling HK\$6,500.00.

The following is a summary of the outcome of the applications: -

A. Statistics relating to Year 2011/12

Total no. of applications where representation granted but result was still pending as at November 2016:	5
Withdrawn:	3
Pending:	2 (no further information on progress)

B. Statistics relating to Year 2012/13

Total no. of applications where representation granted pending hearing/results as at November 2016:	4
Resolved:	1
LA granted:	2
Partly resolved:	1

C. Statistics relating to Year 2014/15

Total no. of applications pending review as at Nov. 2016:	1
Representation granted:	1
Outcome:	Lost (issue of costs pending)

D. Statistics relating to Year 2015/16

Total no. of applications pending review/information as at Nov. 2016:	25
a. No. of cases rejected:	16
b. No. of cases considered "not proceeded with":	7

(already included in “not proceeded with”)

- c. No. of cases where representation
Granted 1
- d. No. of cases where oral and written
advice given: 1

E. Statistics relating to Year 2016/17 (the current report period)


Total No. of applications received:		262
a. No. of cases reviewed:		225
b. No. of cases pending review:		8
c. No. of cases pending information:		13
d. No. of cases where assistance granted but pending further action:		2
e. No. of cases ignored:		4
f. No. of cases withdrawn		2
g. No. of cases considered “not proceeded with”:		16
i. Appeal heard and disposed of:	5	
ii. Applications not followed up:	10	
iii. Applicant Re-applied for LA and decision pending:	1	
h. No. of cases where representation granted:		7
i. Criminal matters:	5	
(all pending)		
ii. Civil matters:	2	
(LA granted - 1 pending - 1)		
i. No. of cases where advice given:		32
i. Criminal matters:	17	
ii. Civil matters:	15	

- j. No. of cases where Director of Legal Aid
approached for consideration/reconsideration: 4
 - i. Criminal matters: 3 (Granted - 1,
Rejected - 1
Pending - 1)
 - ii. Civil matters: 1 (Granted - 1)

- k. Total no. of applications where legal
advice rendered upon refusal of legal
representation on merits/means 15
 - i. Criminal matters: 7
 - ii. Civil matters: 8

(NB: the 15 cases in 2 above were all part of the cases rejected.)

There is now HK\$747,468.92 standing to the credit of the Scheme. A sum of HK\$14.70 was earned by way of bank interest. The revenue expenditure of the Scheme continues to be met by the general funds of the Bar Association including the HK\$6,500.00 paid to Panel B members referred to above.


Sze Kin
Co-ordinator

Dated 15th December 2017