



**Statement by the Hong Kong Bar Association on the
Desirability of an Independent Legal Aid Authority - the current situation is an
Impediment to Access to Justice for Persons of Limited Means and
“the Sandwich Class”**

1. THE LEGAL AID DEPARTMENT IS NOT TRULY INDEPENDENT

The legal profession and Members of the Legislative Council have for decades been extremely concerned about the fundamental error in principle perpetrated by having the provision of Legal Aid administered by a Government Department staffed by seemingly unenlightened officials, who are appointed, promoted and paid by the Civil Service. This objection in principle was circumvented by previous Administrations arguing that the cases where pro-Government thinking in processing claims and handling cases were few or hard to prove. So the objection in principle and the risks of undetected cases of abuse, were down played to being nothing more than a mere perception or theoretical issue. Attempts were made in the 1990's to secure independence and the Legal Aid Services Council (LASC) was created as a *stop-gap measure* to secure operational independence, as a palliative for the lack of institutional independence. The objection in fundamental principle however remained unanswered or ignored. Empirical evidence clearly shows that lack of independence has led to a decline of Legal Aid coverage in real terms over the last 15 years. In consequence, independence is not only desirable but that it is essential now.

2. LEGAL AID IS NOT MEETING THE NEEDS OF HONG KONG PEOPLE

Since 2002 and more particularly since 2009, it is clear that the Legal Aid Department (LAD) under the umbrella of the Home Affairs Bureau (HAB) has not been responsive to societal demands for the increase in Legal Aid Provision in Hong Kong. An independent and strong judicial system has always been one of the main “selling points” for the Hong Kong SAR after 1997. Yet this has been rendered meaningless, as there has been a gradual

erosion of access to justice, through lack of proper provision of Legal Aid. Both sides of the profession have repeatedly been pressing and advocating for the increase in the Financial Eligibility Limits and a widening of the scope of Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS), to cover both inflation and the unmet demands and increasing need for access to justice for a decade. Having Legal Aid under a Government department, LAD, responsible to the HAB, has meant these needs are being neglected. Overall there has been reduced access to justice for persons of limited means or for members of the ‘Sandwich Class’; i.e. the lower middle class.

See **Enclosure I**: attached Summary of the status of the reforms for the Legco Panel meeting on the 10 July 2012. The Bar’s Draft Bill containing these reforms was approved by the LegCo Panel and a Resolution passed on the 22 July 2010. This amply demonstrates lack of action, support and disdain by previous the previous Administration(s).

3. THE LEGAL AID DEPARTMENT BUDGET IS EFFECTIVELY STATIC

The operational problems caused or contributed to by the lack of independence are evidenced by the following figures. From 1975 to 1997, the Department of Justice and the LAD generally always had budgets which were on a par: pre-handover these were typically in the region of HK \$5-600 million per annum mark. The Department of Justice now spends over \$1.3 billion annually, whereas the LAD only \$700 million in round terms over the last 15 years. So clearly Legal Aid has not matched this expansion, the financial eligibility limits have become more and more restrictive, as well as the lack of increase in the scope of the subject areas eligible for Legal Aid.

The most obvious omission in the last decade is in the failure to provide Legal Aid to those eligible out of the 22,000 people that lost money when Lehman Brothers went into liquidation in October 2008. Until recently, people were still demonstrating in the streets outside banks, complaining about their losses. Hardly the best example of access to justice provided by the legal system in Hong Kong. The Legal Aid SLAS Scheme could have helped eligible persons, and assisted persons to obtain appropriate compensation. The 10 - 15 % clawback out of the HK \$19 billion settlement could have funded SLAS for years, and it would have made eminent commercial sense for the LAD to have participated in the settlement process.

Ultra conservative management of SLAS funds can be seen in **Enclosure II**. SLAS should have given access to justice to the rightly aggrieved PCCW

Shareholders. See Re PCCW (2009) 3 HKC 292. The former Chief Executive in his Policy Address in October 2010 had already allocated \$100 million for the expansion of SLAS, but little progress has been made in this regard.

4. **WHAT EVIDENCE IS THERE TO DEMONSTRATE THIS DECLINE?**

I Number of Applications and Grants over the last decade

- (a) Financial Eligibility Levels (FELs) have not kept pace with inflation such that less and less people are coming within the levels for Legal Aid. See **Enclosure III**.

Overall Applications and Grants have remained more or less static from Jan 2006 to March 2011.

- (b) Expended OLAS Costs for Criminal Cases remained static for that period, whereas Civil Costs went up by 25 %.
- (c) We have had in the last decade 4 % inflation compounded, whereas FELs prior to 2011 remained the same as at 2002.
- (d) These were increased by 50 % in 2011 for OLAS and by a factor of 3 for SLAS.
- (e) This has now led to an almost static grant rate for OLAS – plus 3 % only. For SLAS, despite the large increase of FELs from \$488,000 to \$1.3 million, the increase was only 17 % in 2011/12. The Bar and the Law Society asked for a doubling of OLAS FELs and \$3 million FEL for SLAS; the increase in uptake rates is dismal. See **Enclosure IV** from DLA.
- (f) One would have expected a ballooning of the figures for 2011 (May to April 2012) and a leveling off from May 2012 to now. This however has not been the case at all.
- (g) The scope of Legal Aid has not kept up with the expectations of the Hong Kong people, and to better cater for the need for better governance enforced by access to the rule of law. This is amply demonstrated by the failure of both the LAD and HAB to bring Class Actions within the Scheme; the Harbour Front Case, SARS Cases, derivatives claims emanating from the collapse of Lehman Brothers in 2008. (The Hong Kong Monetary Authority state in July 2012 that there have been 22,000 complaints alone in relation to the Lehman Brothers fiasco) PCCW minority shareholders in 2009 + New Class Action Report to Legco.
- (h) The result is a moribund Legal Aid Department (see paragraph 89 of the Bar's Submission on the Need to Establish an Independent Legal

Aid Authority dated 22 June 2012), who do not meet the needs, so Legal Aid is declining.

II Examination of the Court User Statistics

(a) Unacceptably high numbers of litigants in person (LIPs) in Civil Cases in all levels of the Courts leading to the establishment of:

- Court Liaison Office in the High Court to assist unrepresented litigants;
- The Bar Association Pro Bono Scheme;
- HAB's LIPS – yet to commence operation.

(b) Looking at the figures provided by the Judiciary Administrator to the LASC Interest Group in **Enclosure V** (High Court) (& District Court) and to the Bar Association **Enclosure VI** (Letter dated 3 August 2012) in civil cases the figures have remained within the range of 37% to 43 % throughout the decade, notwithstanding the impact of mediation, which should have reduced the number of unrepresented cases significantly.

(c) Looking at the same figures for the District Court the number of civil trial cases with LIPs has reached almost crisis proportions, at 65 %. This clearly demonstrates that the Legal Aid Department is not granting enough certificates for District Court Cases, and the impact on the proper administration of civil justice in the District Court must be seriously affected.

(d) The LASC Interest Group show just how the Legal Aid coverage has not met the needs of people using the Courts by subject: See **Enclosure V**.

Legal Aid gives good coverage in Personal Injuries cases as only 7 % of cases have a party who is not represented, in both the High Court and District Court. Yet other cases have a much higher percentage of parties who are unrepresented. This is the area which Legal Aid has refused to move into.

5. DEAD HAND AT THE TILLER OF LEGAL AID

This is not a matter of mere perception or theoretical injustice, and so to be brushed aside. These adverse outcomes are supported by figures. The largely abortive attempts to introduce a Comprehensive Reform Package over the last 3 years show the dead hand at the tiller of Legal Aid.

6. THE CONTINUING NEGATIVE + PIECEMEAL ATTITUDE TO REFORM

As Legal Aid is under a Government Department, the Home Affairs Bureau, attitudes of complacency and inertia prevail. “Everything is alright” seems to be the mantra relied upon to do nothing. So there is little or no investigation undertaken to address the question of unmet needs for legal aid reform and/or improvements. **Enclosure V** illustrates the negative attitude shown to a package of reforms which originally were proposed by the Bar, the Law Society and endorsed by the LASC some 10 years ago. This shows the lack of progress as a result of the attitudes of previous Administration(s) and the de facto control over expenditure and staff of LAD.

7. THE LEGAL AID DEPARTMENT HAS BECOME BUREAUCRATIC

Solicitors and barristers are continually complaining about LAD not being responsive to clients or the public need. LAD is no longer perceived as being “customer friendly”. Instead it is known to be typically bureaucratic. This contributes to increased numbers of LIPs, feelings of injustice from unsatisfactory outcomes. All this adds to dissatisfaction with the Government, which is not seen to be doing enough to uphold the Rule of Law and increasing access to justice. The new Administration has a golden opportunity to make amends now.

8. LEGAL AID HAS NO DEPARTMENT DEALING WITH REFORM

There is no section in LAD tasked to reform and improve services to address unmet needs. The LAD is supposed to be under the LASC for policy. In reality it looks to HAB for leadership on policy. Therefore it responds to them rather than the public or the LASC. This contributes to the problem because HAB is a non-specialist bureau and has been negative towards reform. It has little interest and experience in initiating any reforms. HAB is ultimately a dead hand at the helm of the rudder of Legal Aid.

9. LASC'S ATTEMPTS AT REFORM

On the other hand, LASC has tried to initiate reform but dealing with LAD/HAB has been difficult. LASC has no legally trained or independent research staff. It has to rely on Government paid executive staff. LASC are not experts, they have constraints of time, meetings are monthly and they are not paid for the time needed. The advisory/ supervisory system of the LASC does not function as hoped. LASC cannot manage the LAD adequately and properly because it is the HAB which appoints and promotes. LASC was supposed to be responsible for policy, yet experience has shown that it is really the HAB policy which is implemented, not that of the LASC. The LASC Ordinance was a defective compromise; it was regarded as a stop gap half-way house to establishment of an Independent Legal Aid Authority (ILAA). See Section 4 (5 (b) of Cap. 349.

10. THE REALITY OF FINANCIAL CONSTRAINTS ON LAD

The choice presented by Government in October 1999 was either “no-cap on expenditure by LAD”, and therefore no independence, or there is a “cap” and there is independence. This was the “Hobson’s Choice” presented by the then Administration, when LASC last mooted the establishment of an ILAA. It is tasked to do this under the Legal Aid Services Council Ordinance Cap. 489 Section 4(5)(b), namely to examine “*the feasibility and desirability of the establishment of an independent legal aid authority.*” Currently, the LAD Budget is not being exceeded anyway. So the “no-cap” situation is neither beneficial nor a need. Instead the public would be better served by the choice for independence and obtaining the operational and institutional benefits arising from not being a Government department.

11. CONCLUSION

The lack of an ILAA which can negotiate with other Independent Departments, such as, Home Affairs, the Department of Justice, etc. as well as the Judiciary, is clearly an impediment to access to justice and must be reformed now. No one would suggest that the Department of Justice should be subject to the HAB.

Long overdue expansion in scope of services, and coverage can then proceed. It is feasible, desirable, if not essential, to make these changes now. There has been long term support across the benches of the Legislative Council, as well as both branches of the legal profession. Control via HAB and LAD is a hindrance. The best choice is to transfer Legal Aid to an Independent Legal Aid Authority as advised by LASC in their Report of 1998.

The new Administration is invited to grasp this unique opportunity to demonstrate its abiding obligation to promote and uphold the rule of law by establishing an ILAA. This will demonstrate this Administration's commitment to providing greater and better access to the courts to the people of Hong Kong.

Hong Kong Bar Association

26th September 2012

3. A Checklist of the Reform position.

- (a) HAB principles for the expanded SLAS are contrary to past principles and not consistent with Article 35 of the Basic Law nor Section 10(3) of the LA Ordinance – the key principle of expanding legal aid scope to increase access to justice and the rule of law was identified by LegCo members;
- (b) HAB Failed to see the Reforms as a Package – however, proceeding piece meal is better than nothing provided there is continuous progress in reform; the \$100 million injection was promised on the assumption there was a coherent package of reforms giving wider access to justice.
- (c) No sound reason given for refusing to adopt the Financial Eligibility Limits (FELs) proposed by the Bar for OLAS \$350,000 and for SLAS \$3m – HAB contrary to Scott Report principles, (must include costs of Defendants not only Plaintiff costs as the actual total cost of proceedings) - but better than nothing. The Take up Rate for OLAS occasioned by the increase in FELs from \$175,800 to \$260,000 has yielded only a 3.5 % increase in Applications and grants for Legal Aid. The increase in FELS for SLAS from \$488,000. To \$1.3 m has yielded a 14 % increase in applications and grants. (On 30th March 2011 a Resolution of the Legislative Council, LN 51 of 2011 set out the changes and . By LN 83 of 2011 this came into operation on 18th May 2011.) See Legal Aid Letter 28th June 2012 to NP

The Bar Association and Law Society had advocated a much bigger increase for OLAS to \$350,000 and SLAS to \$3 million, in view of the unmet needs. These are small percentage increases given the 50 % increase in OLAS Fels (3.5 %) only 15 % for SLAS when the FEL was raised 3 times. Therefore in the next session we would ask the Sub-Committee to revisit this, and the former Chief Executive committed HK \$100 million to this process. We have had inflation over the last 2 year since we started this process of the order of 10-12 % in any event.

The continuing unmet needs are demonstrated by the Judiciary Administrator's Letter of the 9th February 2012, demonstrated the under representation in civil cases in both the District and High Courts.

The overall number of Certificates from 2006 through to 2011 has remained much the same. See Summary Sheet by the Legal Aid Department to NP dated 1st August 2011. Marked Appendix F

- (d) Proposal for Age related exemption for assets test, should be age 55. However, the age 60 compromise proposed by Administration is a reasonable beginning, However, there is only partial exemption of assets of only up to \$260,000 given per LN 35 of 2011 dated 15th February 2011. Such a limited exemption is mean spirited and is contra to the intention of the reform, which is to protect the assets of the elderly from having to be 'used up' in litigation

before they become “eligible” and when they cannot earn back those monies because they are approaching the end of their working life.

- (e) Amendments to cover CFA cases still needed: see Bar draft Bill of July 2011;
- (f) Expansion of scope of Professional Negligence: - accepted but too limited. No sound reason provided to exclude Independent Financial Advisors, especially since a new tribunal is being proposed for cases upto \$600,000. Accordingly, SLAS should be available for cases valued from \$60,000 upwards both in the Financial Services Tribunal, and District Court and High Court for higher value cases - but a welcome beginning to the expansion of scope;
- (g) Sale of insurance products- accepted, - but should include Insurance Intermediaries, brokers and agents;
- (h) Claims against Developers in sale of first hand Residential properties- accepted – but too narrow. It should cover all New properties as often properties are presold or “flipped” before completion and should be wider since estate agents are being included for professional negligence; some defects in new buildings do not appear for years, so the claims could be for cases within 6 years to cover contract claims and subsequent purchasers within 6 years per Section 4 of the Limitation Ordinance Cap.347.
- (i) Employees claims on appeal from the Labour Tribunal- accepted, but should include Enforcement of awards;
- (j) Derivatives etc – HAB wished to defer and study any detailed proposal next legislative session, but this has been advocated since 2002, long before Lehman Brothers, and there is public need and strong LegCo and LASC support. The current position is to only remove the exception from OLAS but not to reform SLAS to include such cases. The ‘sandwich class’ have been the main victims of such products so excluding such cases from SLAS makes no sense. Limitation periods are running from 2007 so action is needed soon to avoid prejudice to the victims.
- (k) Claims against Incorporated Owners – HAB reject this but LegCo support;
- (l) Property Damage Claims from small marine accidents – HAB reject but provide no adequate reason;
- (m) Claims against Property Developers by minority owners in compulsory sales – HAB reject this LegCo proposal which LegCo strongly supported; and see SCMP Leader “Social justice is more than hollow words” dated 4th April 2011. The Bar believes this form of minority protection is required, given that mediation in many cases is a process of head bashing.
- (n) Claims in respect of Trusts – HAB reject but LegCo support; There is no reason not to support this initiative. now that the Trustees Association have

introduced a Code of Professional Conduct, and most if not all have Professional Indemnity Insurance Cover.

- (o) Claims involving disputes between Limited Companies and their minority shareholders – HAB reject this probably through lack of understanding. If they read the Re PCCW Case 2009 3 HKC 292 – the judgment of the Court of Appeal - This was a case of vote manipulation where there was an unaccountable drop in value of the shares, and privatisation was put forward , so as to deprive the shareholders of the true value of their shares, the Court refused to sanction the Scheme of Arrangement – this would have been a fraud on the minority. See Section 166 and the Court always has the power to award costs in favour of minority shareholders. This is similar to its powers under Section 168 A. ;
- (p) Claims arising from Sale of Goods and provision of services – HAB reject for no valid reason, but LegCo support;
- (q) Class Actions which are an important adjunct to the above and part of future CJR reforms, were also omitted from the HAB Paper. The Bar had put forward class actions for disasters, environmental damage, consumer or product liability, claims by employees against employers where insolvency proceedings have been instituted or are being instituted and building management disputes; Class Actions are now being actively considered, public interest litigation must be covered by Legal Aid; and the Court does grant costs to persons who have been affected, as well as those who have a legitimate interest in pursuing say an application for judicial review. E.g. the Harbour Protection Litigation, where the court ordered costs against the Government.
- (r) A special discretion should be reposed in the Director of Legal Aid in appropriate class action cases to grant legal aid in appropriate cases.
- (s) Thus 7 out of about 16 reforms are under way in some form, but only 4 of the 14 SLAS reforms are partly accepted. There is much room for further reform.

4. HAB LC Paper No. CB (2)600/11-12(01) provided on 14th December 2011 for LegCo Panel, paragraphs 5-7. **The refusal to consider Minority Owners' Compulsory Sale Order cases is based on illogical reasoning.** Just because 26 out of 27 applications were approved by a tribunal where there is no Legal Aid does not prove that Legal Aid should not be granted to 1 out of 27 applications, one of which may have merits, and which merits could be detected on the merits testing done under normal Legal Aid processing, and which adjudicated result could be used as a fairer precedent. Just because an application is approved does not imply that the right sum was achieved, especially in cases where the developer is fully represented and the individual is not adequately represented. In such situations, the individuals lose

out and are aggrieved. An unsatisfactory result is almost forced onto the individuals. Mediation, without the sanction of legal action, in case the developer is not reasonable, is a toothless strategy with little or no credibility. Because there has been a mediated result, does not mean there has been a "successful mediation", as parties are often made "all or nothing offers" in these cases. Note there was no "exit poll" conducted to see how satisfied or dissatisfied the 26 were.

5. As noted before, "high chance" of success is not the correct criteria for expansion of Legal Aid. Hence, HAB decision making is based on erroneous criteria. This proposed reform, made by the LegCo Panel, has clear merits and should proceed.
6. Paper paragraph 8-11. The rejection of claims for Sale of Goods and Provision of Services is based on an error. Just because the Administration objects to Legal Aid for cases with small amounts of money, this is not a valid objection since Schedule 3 of SLAS classifies \$60,000 or above as being cases of significant injury or injustice. Small cases are thus excluded anyway from SLAS accordingly this is not a valid or justifiable objection.
7. The inference from paragraphs 10 and 11 is that "significant consumer interests or issues of a substantial impact on consumers" are responsibilities which are being ducked by the HAB. They are attempting to pass the buck to the Consumer Legal Action Fund which may not have the ability or resources to take on significant cases. The lack of resources has already hampered litigation in financial services cases. It is obvious that such significant cases of injury or injustice with substantial impact on the community or society ought rightly to be eligible so that once the individual case's merits are established, Legal Aid can be granted. The Government's reasoning is again not logical and contradicts the Legal Aid Department's own mission (and Schedule 3) which is to provide access to justice for significant cases or those with impacts on society.
8. This is linked to the reform proposal for Class actions so, for example, SLAS can be granted in the groups of cases of heart pacemakers which have broken down. These are not personal injury cases and so access to justice is being denied.
9. The Annex to the Paper containing the Administration's Proposals demonstrates lack of adequate action. This demonstrates the Administration is not responding to LegCo Panel's views. A year has passed and there is nothing except repetition mostly of what has been said before, save for the concession that Lehman Brothers type cases will now be covered. Where is the draft Bill? Where is the timetable? This lack of action/inaction by the HAB shows little effort to implement the Chief Executive's Policy Address of 2010.
10. The Panel Meeting of 20th December 2011 showed the consensus for more expansion of SLAS and concluded that after the implementation of the proposals by the Administration the Panel should further discuss other proposals not supported by the Administration with a view to mapping out the way forward for the next term of LegCo to follow up. Neither the Bar Association nor the Law Society, have been

shown any new “road map”, or “plan” to consider the other amendments on a logical or rational basis. To date we have seen no proposals at all 7 months later.

11. The Bar puts forward the rest of the Package as summarized herein so unmet needs for relatively ordinary people, for access to justice are addressed as soon as possible and the decline in Legal Aid is halted. **We urge the New Administration to expand the Proposals to bring them into line with the law and the views expressed by the LegCo Panel and the proposals of the Bar Association of July 2010 and thereafter.**

12. **The Bar states that the need for an Independent Legal Aid Authority is clear when viewed in the light of the lack of progress on needed reforms to meet the expanding needs of society for access to justice.** The LASC Monitoring system is just not working, and any such progress is essentially dependent upon the free services provided by members of the Board of LASC, and no professional establishment to speak of. The Bar Association’s Submission on the need to establish an Independent Legal Aid Authority of June 2012 is attached herewith.

13. **Equality before the law provided by equal access to justice via Legal Aid is a key component of our justice system** where the gulf between the powerful and the victim or complainant can be considerable. Access to dispute resolution systems, negotiations, mediation are helpful but are not a substitute for genuine access to justice unless the victim or complainant of limited means has legal representation so that there is equality in the access to justice. Pro bono systems are not a substitute for Legal Aid as it does not provide equality before the law in the access to justice. Negotiation and mediation systems are a toothless remedy unless Legally Aided litigation is available.

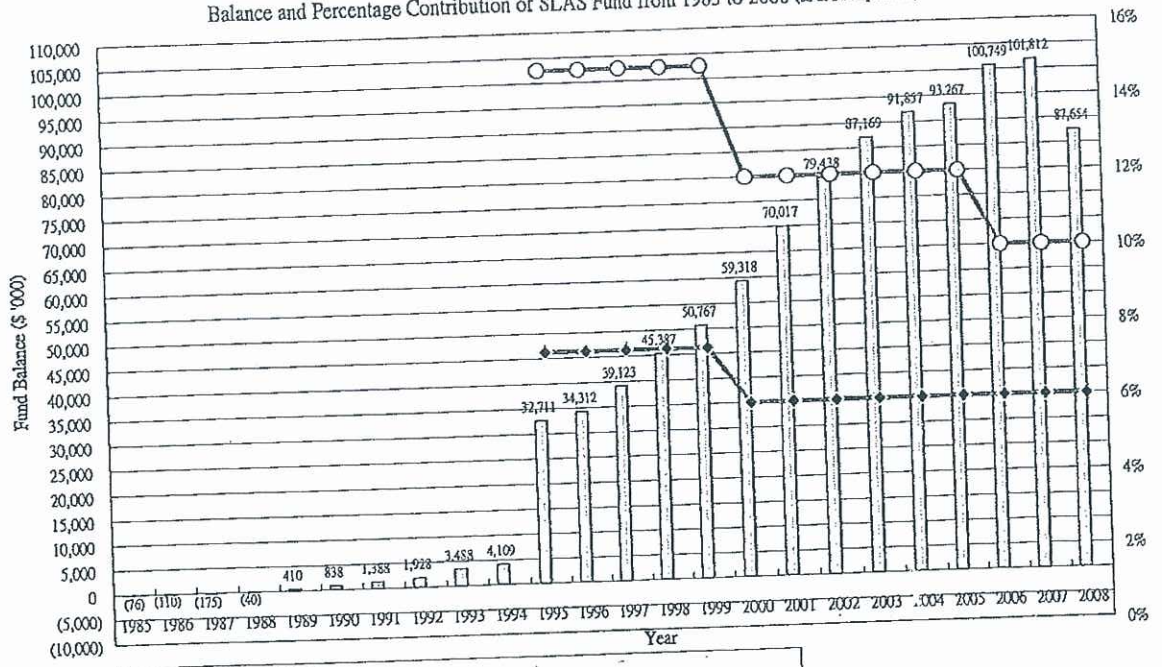
14. In summary, **Legal Aid must be reformed** by a process including reforms to provide for unmet needs, access to justice and equality before the law, SLAS expansion, and independence. An objective for a new statutory authority could be to provide access to justice and equality before the law to those of limited means. **These four limbs provide a reasonable policy approach for the new Administration.**

Hong Kong Bar Association

5th July 2012
[8290.rb]

13.

Balance and Percentage Contribution of SLAS Fund from 1985 to 2008 (as at 30 September)



Fund balance
 ○ Contribution % (for cases settled after delivery of brief or proceeded to trial)
 ◆ Contribution % (for cases settled before delivery of brief to Counsel)

Note 1: The figures above are rounded up to the nearest thousand dollar.
 Note 2: For contribution % before the year 1995, please refer to the Table "A" attached.



HADDY PY
LEE/LAD/HKSARG

01.08.2011 15:58

cc

bcc

Enclosure III

Subject Legal aid statistics

High importance Return receipt Sign Encrypt

Dear Mr Pirle,

I refer to our telephone conversation and set out below the information requested:

No. of legal aid applications

Year	Civil	Criminal	Total
2006	17 422	3 779	21 201
2007	15 598	3 765	19 363
2008	15 314	3 413	18 727
2009	17 357	3 816	21 173
2010	16 124	3 907	20 031
2011 (up to March)	3 759	841	4 600

No. of legal aid certificates

Year	Civil	Criminal	Total
2006	9 356	2 357	11 713
2007	7 937	2 507	10 444
2008	7 513	2 235	9 748
2009	9 031	2 800	11 831
2010	8 263	2 740	11 003
2011 (up to March)	1 939	598	2 537

Legal aid costs

Year	Civil (\$m)	Criminal (\$m)	Total (\$m)
2006/2007	313.199	105.489	418.688
2007/2008	331.031	97.181	428.212
2008/2009	347.302	82.809	430.111
2009/2010	377.546	108.221	485.767
2010/2011	390.103	115.205	505.308

Website of Legal Aid Department

<http://www.lad.gov.hk/eng/home/home.html>

<http://www.lad.gov.hk/eng/ppr/publication/ldr.html> (LAD Annual Reports from 2006 to 2009)

Website of the Law Society of Hong Kong

http://www.hklawsoc.org.hk/pub_e/default.asp

Haddy Lee
PS to DDLA/ADM
(Tel: 2867 3011)



法律援助署
Legal Aid Department

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28 June 2012

Mr. Nicholas Pirie
Barrister-at-law
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Central, Hong Kong

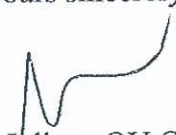
Dear Mr. Pirie,

Re: Expansion of the Scope of Legal Aid in Civil Cases

I refer to your letter dated 15 June 2012 and set out in the table below the information requested:

	Number of applications			Number of certificates granted		
	OLAS (Civil)	SLAS (Civil)	Total	OLAS (Civil)	SLAS (Civil)	Total
2010 (Jan - Dec)	15,981	143	16,124	8,157	106	8,263
2011 (Jan - May)	6,536	56	6,592	3,124	40	3,164
2011 (Jun - Dec)	9,783	105	9,888	5,069	64	5,133
2012 (Jan - May)	6,450	76	6,526	3,356	57	3,413

Yours sincerely,


(Ms. Juliana OY Chan)
for Director of Legal Aid

Statistics on Trial/Appeal involving Unrepresented Litigants in High Court (2002-2008)

Hearing nature	No. of hearings involving unrepresented litigant(s) / Total no. of hearings							
	2002	2003	2004	2005	2006	2007	2008	
Trial/Appeal (All CA & CFI civils)	*482/1123 (43%)	524/1162 (45%)	437/1039 (42%)	459/1113 (41%)	378/1021 (37%)	372/985 (38%)	406/960 (42%)	
Civil Appeals (Appeals to CA)	106/231 (46%)	64/203 (32%)	72/211 (34%)	90/276 (33%)	97/282 (34%)	80/264 (30%)	108/308 (35%)	
Civil Appeals (Appeals to CFI)	162/211 (77%)	227/308 (74%)	176/233 (76%)	157/202 (78%)	93/163 (57%)	100/151 (66%)	124/151 (82%)	
Appeal against Master's decision	82/251 (33%)	91/218 (42%)	83/210 (40%)	93/233 (40%)	67/165 (41%)	77/189 (41%)	65/141 (46%)	
Civil	132/430 (31%)	142/433 (33%)	106/385 (28%)	119/402 (30%)	121/411 (29%)	115/381 (30%)	109/360 (30%)	

*If CA hearings on R.O.A cases in 2002 are taken into account, the total figures would be 6383/7032 (91%).

Statistics on Trial Involving Unrepresented Litigants in District Court (2002-2008)

Hearing nature	No. of hearings involving unrepresented litigant(s) / Total no. of hearings							
	2002	2003	2004	2005	2006	2007	2008	
Trial (All DC civils)	167/343 (49%)	162/347 (47%)	166/337 (49%)	174/324 (54%)	216/419 (52%)	193/411 (47%)	160/316 (51%)	
Civil Action (non-TRD)	97/227 (43%)	111/250 (44%)	102/211 (48%)	127/217 (59%)	161/289 (56%)	98/210 (47%)	91/170 (54%)	
Personal Injuries Action	15/27 (56%)	12/23 (52%)	10/36 (28%)	14/45 (30%)	18/69 (26%)	33/96 (34%)	24/76 (32%)	
Miscellaneous Proceedings	2/3 (67%)	1/5 (33%)	6/8 (75%)	2/3 (67%)	4/6 (67%)	6/12 (50%)	3/8 (38%)	
Other civils#	53/86 (62%)	38/71 (54%)	48/82 (59%)	31/58 (53%)	33/55 (60%)	56/93 (60%)	42/62 (68%)	

#Other civils refer to Distraint Case, Estate Agents Appeal, Employees' Compensation Case, Equal Opportunity Case, Miscellaneous Appeal, Occupational Deafness (Compensation) Appeal, Pneumoconiosis (Compensation) Appeal and Stamp Appeal.



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3 August 2012

Mr Nicholas Pirie
Member of the Bar Association Special Committee
c/o 11/F, Baskerville House
13 Duddell Street
Central
Hong Kong

Dear Mr Pirie,

Statistics on Unrepresented Litigants

I refer to your letter of 27/7/2012 requesting for the figures of the first 6 months of 2012 on this subject. Please find below the figures asked for which have been incorporated in the table on this subject sent previously on 9.2.2012.


Statistics on Civil Appeals/Trials involving Unrepresented Litigants * in the High Court and District Court 2007-2012 (up to 30/6)

Year	2007	2008	2009	2010	2011	2012 (up to 30/6)
High Court (Civil Appeals & Trials)	38%	42%	41%	42%	36%	38%
District Court (Civil Trials)	47%	51%	55%	53%	51%	65%

* Any one of the parties not legally represented in the hearing will be counted as hearing involving unrepresented litigants.

2. Thanks for your attention.

Yours sincerely,


(Roger LAW)
for Judiciary Administrator