

Annual Report on Bar Free Legal Service Scheme 2023/2024

The main point to report is that due to the Bar's need to redistribute its resources, it has been decided that the Bar Free Legal Service Scheme has to come to an end sometime this year. And to facilitate a smooth winding up of the Scheme's operations, the Bar Council issued a formal notice to the effect that no new applications to the Scheme would be entertained as from 24th May, 2024. Therefore, all new requests for assistance received after 24th May, 2024 have been returned under cover letters stating the reason for the return.

Due to the aforesaid situation, the Scheme officially received a total of 63 applications up to 23rd May, 2024 (the "report period"). Of the applications 62 have been dealt with. The only one outstanding is a Legal Aid Appeal. A letter inviting a formal application with named supporting materials was issued on 12th July, 2024. If no formal application is made on or before 12th January, 2025, the matter will be considered "application not proceeded with".

The Scheme further received another 32 applications which were pending review / information as at 30th November, 2023. In total, the Scheme reviewed 94 applications during the report period.

The 32 applications referred to in the preceding paragraph were part of a total of 36 cases outstanding from the applications received during the previous report year. Of the additional 4, 3 were cases for which representation was granted but the outcome was still pending as at 30th November, 2023, the 4th one was still pending review and decision. Of the 32 applications, representation was granted in 3, 10 were rejected for lack of merits/means. 1 was withdrawn and 18 cases were considered "Not proceeded with". In 3 cases where representation sought was refused, legal advice was nevertheless rendered. Of the total 5 matters for which legal representation was granted in 2022/2023, all were criminal appeals in the Court of Appeal. In one case, the Scheme assigned the 2nd junior alone where legal aid was granted following a successful Scheme-assisted hearing before a single judge but legal aid certificate was issued to cover Scheme assigned leading counsel and 1st junior counsel only. The Co-ordinator is pleased to report that in the Full Court hearing, although appeal against conviction was dismissed, the Applicant's sentence was reduced from 28 years to 25 years. As for the other 4 criminal appeals, 1 was heard and dismissed and 3 are pending hearing, with hearing dates set respectfully for December, 2024, January, 2025 and February, 2025.

For the report period 2018/2019, only 1 matter remained outstanding as on 30th November, 2023. The Co-ordinator is pleased to report that the matter, an HCAL case concerning a family of 4's non-refoulement claims, was, after 5 years of postponement, finally heard on 2nd August, 2024 and leave to seek a judicial review of the Immigration Department's and appeal board's decisions was granted. It is expected that legal aid will be granted following the grant of leave.

For the report period 2020/2021, only 1 matter remained outstanding on 30th November, 2023. That was a criminal appeal that was heard and dismissed but the judgment had yet to be published. Right now the only outstanding matter is the settlement of the junior counsel's fees.

For the report period 2021/2022 the only matter outstanding on 30th November, 2023 was a civil appeal from an Employees' Compensation Case. The appeal was heard in January, 2023 but the judgment was only published on 25th March, 2024. The Co-ordinator is pleased to report that the Applicant's appeal was won.

Of the 63 applications received between 1st December, 2023 and 23rd May, 2024, 34 are criminal in nature. Representation was granted in 3, all CACCs (single judge hearings), 1 was heard and dismissed, the other 2 were consolidated and heard with leave to appeal granted to pursue the Applicant's appeal against sentence. The single judge also granted an appeal aid certificate. Legal advice was rendered in 7 matters, 6 were where representation was applied for but rejected, and 1 was where only legal advice was sought.

Turning now to civil matters, there are 29 cases. No legal representation was granted. No approaches were made to the Legal Aid Department for reconsideration either. Legal advice was rendered in 2 cases upon refusal of legal representation sought.

All 63 applications have been reviewed and dealt with.

There are 307 Panel A members and 21 Panel B members. In the period between 1st December, 2023 and the date of this report, a total of (7) Panel B members received fees from the Scheme, totaling HK\$**27,500.00.**

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

A. Statistics relating to Year 2018/2019

Total no. of applications where representation granted pending hearing / hearing result as at November, 2023 : **1**

Civil : **1 (HCAL) WON**

B. Statistics relating to Year 2020/2021

Total no. of applications where representation granted pending judgment as at November, 2023 : **1**

Criminal : **1 (CACC) Dismissed**

C. Statistics relating to Year 2021/2022

Total no. of applications where representation granted pending judgment as at November, 2023 : **1**

Civil : **1 (CACV) WON**

D. Statistics relating to Year 2022/2023

I – Total no. of applications pending review / information as at November, 2023: **33**

a. No. of cases where representation granted: 3

Outcome: pending hearing

b. No. of cases rejected: 10

c. No. of cases withdrawn: 1

d. No. of cases “Not proceeded with” : 3

e. No. of cases considered “Not proceeded with” : 15

f. No. of cases pending review: 1

g. No. of cases where advice given upon refusal of representation: 1

II – Total no. of applications where representation granted pending hearing date / hearing / results as at November, 2023 : **5**

Criminal : 5 (all CACCs)

Dismissed : 1

Partial win : 1

Pending hearing : 3

E. Statistics relating to Year 2023/2024 (the Current Report period)

Total no. of applications received: 63

1. No. of cases reviewed: 63

a. No. of cases rejected: 45

b. No. of cases where representation granted: 3

i) Criminal : 3 (all CACCs)

Won : 2

Lost : 1

c. No. of cases where advice only given: 1

i) Criminal : 1

d. No. of cases where legal advice rendered upon refusal of representation:

i) Criminal: 6

ii) Civil: 2-

e. No. of cases considered “Not proceeded with”: 12

- (Applications not followed up: 12 (no formal applications / papers))
- f. No. of cases withdrawn: 1
- g. No. of cases not entertained: 1

Fees paid and payable to junior members under Panel B Pilot Scheme

1. Cheques issued & payable

No.	Ref. No.	Date Assigned	Junior Counsel	Date Paid	HK\$
1	136/2023 Quintero Bernal Diego-Jhovanny	10 Nov 2023	Tang Wing Chi	3 Jul 2024	3,500
2	169/2022 Muhammad Asghar	20 Jun 2024	Choi Hui Yan Karen	10 Jul 2024	4,500
3	036/2024 Yuen Ka Ki	7 Aug 2024	Choi Gavin Gwan Pok	12 Aug 2024	4,000
4	103/2021 Lim Shu-kei	13 Sep 2024	Chu Pak Ning	17 Sep 2024	4,000
5	154/2023 Madam Tarin Marities Carvajal	13 Sep 2024	Ka Ki Jacqueline Chan	17 Sep 2024	4,000
6	160/2019 Hossain Ahmed	15 Oct 2024	Kim Joseph Mak Kim Ki McCoy	17 Oct 2024	4,000
7	045/2024 Wong Ming Chun	9 Oct 2024	Wong Oi Ling Natalie	10 Oct 2024	3,500

The Scheme holds 2 bank accounts, one savings and one current. There is now HK\$742,466.07 in credit in the Savings Account including interest earned in the past 9 months in the sum of HK\$ 3,215.39. As for the current account, the balance is HK\$9,536.96. The amount which is needed to be refunded to the family member of one applicant in the sum of HK\$7,736.96, as reported in the last report, still stays in the account. The Application no. concerned is 089/2021, the Applicant's name is Mr. Sysoev Igorevich Iurii and the assigned counsel was Mr. James McGowan.

The above information will be needed if ever a refund is to be made.

The HSBC charges a monthly fee of HK\$20.00 for paper statements. There has been a deduction of HK\$ 240 since 30th November, 2023. The total cash to the Scheme's credit in both bank accounts therefore stands at HK\$ 752,003.03.

Miss Sze Kin
Co-Ordinator
Bar Free Legal Services Scheme
Hong Kong Bar Association

6 December, 2024