

ANNUAL REPORT ON BAR FREE LEGAL SERVICE SCHEME 2022/2023

The Scheme received a total of 163 applications in the 12-month period between 1st December, 2022 and 30th November, 2023 (the “report period”). Of the applications, the Scheme managed to review 118. It further reviewed another 28 applications which were pending review/information as at 30th November, 2022. In total, the Scheme reviewed 146 applications during the report period.

The 28 applications referred to in the preceding paragraph were part of a total of 37 cases outstanding from the applications received during the previous report year. Of the additional 9, all were cases for which representation was granted but the outcome was still pending as at 30th November, 2022. Of the 28 applications, 17 were rejected for lack of merits, 7 were considered Not Proceeded With. Advice was given in 3 when representation was refused and advice only was given in the last one. Of the 9 matters for which representation was granted in 2021/2022, 7 were criminal appeals, 1 in a Magistracy Court, 5 in the Court of Appeal (CACC), and 1 in the Court of Final Appeal (FAMC). In one case, application for leave to appeal before a single judge was heard and leave was granted on some of the grounds put forward. Legal aid certificates were issued to both Scheme assigned counsel to conduct the Full Court hearing. And upon the request of the 2nd Legal Aid assigned counsel, further junior counsel was assigned by the Scheme. And the Full Court hearing is pending. This case is treated a new case received in the current report year. Application for leave to appeal against conviction (Full Court) was allowed and sentence set aside in 1, application for leave was refused in 2; application for leave was withdrawn during the appeal hearing in 1; application for leave to appeal to the CFA was dismissed and in the final case (a Magistracy case), the court acquitted the defendant after trial. This was a case in which the Applicant taxi driver was charged with “Taxi refusing hire”. As for the remaining 2 matters, they were civil in nature. One was a legal Aid Appeal in relation to an appeal to the Court of Appeal from an Employees’ Compensation Case on costs only. Whilst the Legal Aid Appeal was pending hearing, the Applicant’s leave application and renewed leave application were both heard and dismissed on merits. The Legal Aid Appeal therefore lapsed. The second one was also on appeal from an Employees’ Compensation Case. The appeal was heard in January this year but the judgment is still pending as at the date of this report.

For the report period 2015/2016, the only outstanding matter is a Petition to the Chief Executive under Section 83P Criminal Procedure Ordinance. The Applicant was convicted of murder. A Petition was presented in March 2019. The Security Bureau updated the Scheme once in a while to say the matter was under consideration, something of substance finally came in March 2022 when assigned counsel were invited

to comment in writing on the Provisional View expressed by the Secretary for Security on the Applicant's Petition. Assigned counsel submitted a joint comments under cover of letter dated 15th July, 2022, the extended deadline allowed. By letter dated 16th February, 2023, the Secretary for Security rejected the Petition.

For the report period 2018/2019, only 1 matter remained outstanding from 12 months ago. That is an HCAL, an application for judicial review. The Co-ordinator regrets to report that not much progress has occurred since 12 months ago.

For the report period 2020/2021, only 1 matter (CACC) remained outstanding from 12 months ago. It was a renewed application for leave to appeal against conviction. The hearing before the Full Court finally took place on 22nd November, but the judgment has yet to be delivered as at the date of this report.

Of the 163 applications received in the current report period, 57 are criminal in nature. Representation was granted in 3: all CACC, one application for leave to appeal against conviction and sentence, the one application for leave to appeal against sentence out of time. And the 3rd one is where the Scheme assigned a 2nd junior to assist Legal Aid Assigned counsel to pursue the Full Court hearing in a CACC, the matter that was mentioned in para 2 of this report. Legal advice was rendered in 6 matters, 4 of which were where representation was applied for and 2 were where only legal advice was sought.

Turning now to civil matters, there are 106 cases. For the very first time, no legal representation was granted. Not only that, no approaches were made to the Legal Aid Department for reconsideration. Legal advice was rendered in 15 cases. In addition, legal advice was rendered in another 10 case upon refusal of legal representation sought.

Of the total of 163 cases, 45 cases have not been reviewed as yet, 6 of which are pending review, 27 of which are pending information/further information, 1 Applicant withdrew her application and did not offer any explanation, the other withdrew because the underlying case had proceeded and completed, and 10 cases were considered not proceeded with, either because the applicants failed to provide appeal bundles or other necessary documents/information in criminal appeals or applicants in civil matters failed to provide full Reasons for Refusal necessary for the hearing of Legal Aid Appeals.

There are now 301 Panel A members and 23 Panel B members. In the course of the current report period, a total of 9 Panel B members received fees from the Scheme totaling HK\$31,500.00. However, 1 member is due to receive HK\$4,500.00 in fees for work already rendered in the report period.

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

A. Statistics relating to Year 2015/2016

Total no. of applications where representation granted pending CE's decision as at November 2022:	1
Closed:	1

B. Statistics relating to Year 2018/2019

Total no. of applications where representation granted pending hearing/hearing results as at November 2022:	1
Civil:	1 (HCAL)
	Pending hearing

C. Statistics relating to Year 2020/2021

Total no. of applications where representation granted pending hearing/hearing results as at November 2022:	1
Criminal:	1 (CACC)
	Pending judgment

D. Statistics relating to Year 2021/2022

I. Total no. of applications pending review/information as at Nov. 2022	28
a. No. of cases rejected:	17
b. No. of cases considered "Not Proceeded With":	7
c. No. of cases where advice given upon refusal of representation:	3
d. No. of cases advice only was given	1

II. Total no. of applications where representation

granted pending hearing/hearing results as at November 2022:	9
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Criminal :	7 (5 CACC, 1 FAMC, 1 Magistracy trial)
Win:	3 (1 CACC single judge, leave granted, LA granted, 1 CACC Full Court, 1 Magistracy trial)
Loss:	3 (2 CACC, 1 FAMC)
Application for leave withdrawn:	1 (CACC)
Civil :	2 (1 LAA, 1 CACV)
Lapsed:	1 (LAA, underlying appeal lost)
Pending judgment:	1 (CACV)

E. Statistics relating to Year 2022/2023 (the current report period)

Total No. of applications received:	163
I. No. of cases REVIEWED	118
a. No. of cases rejected:	82
b. No. of cases ignored:	2
c. No. of cases where representation granted:	3
i. Criminal:	3
pending hearing:	1
pending hearing date:	2
d. No. of cases where advice only given:	17
i. Criminal:	2
ii. Civil:	15
e. No. of cases where Director of Legal Aid approached for reconsideration:	0
f. No. of cases where legal advice rendered upon refusal of representation:	14
i. Criminal:	4
ii. Civil:	10
II. No. of cases NOT REVIEWED	45
a. No. of cases pending review:	6
b. No. of cases pending information:	27
c. No. of cases withdrawn:	2
d. No. of cases considered "Not Proceeded With"	10
Application not followed up:	10 (no formal applications/papers, 8 civil, 2 criminal)

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

1. Cheques issued

No.	Ref. No.	Date Assigned	Junior Counsel	Date Paid	HK\$
1	089/2021 Sysoev Igorevich Iurii	7 th July 2021	Cyndi T Y Ho	21 st Dec 2022	4,000
2	007/2022 Indah Veby Mega	22 nd Dec 2021	Conan K. L. Shek	30 th Dec 2022	2,000
3	047/2022 Oliinyk Alla	23 rd Nov 2022	Amy Chan Sze Nga	23 rd Feb 2023	4,000
4	018/2022 Raman Kapusamy	22 nd Mar 2022	Athena Cheung	26 th April 2023	2,000
5	072/2022 Fung Siu Lung Joe	7 th June 2022	Cecilia Tsang Sze Hang	29 th May 2023	3,500

6	023/2022 Tarin Marites Carvajal	31 st Mar 2022	Jacqueline Ka Ki Chan	3 rd July 2023	4,000
7	068/2022 Yeung Chung Yin	18 th July 2022	Tina Y T Mok	9 th Aug 2023	4,000
8	081/2022 Low Ling Lee	26 th Oct 2022	Chow Cheuk Sang Jackson	30 th Oct 2023	4,000
9	037/2022 Yeung Chun-hin	17 th Mar 2022	Angel H. Y. Wong	13 th Nov 2023	4,000
				Total:	<u>31,500</u>

2. Cheques payable as at 8th Dec, 2023 (last day)

No.	Ref. No.	Date Assigned	Junior Counsel	Date case closed	HK\$
1	169/2022 Muhammad Asghar	23 rd Nov 2022	Karen Choi Hiu Yan	12 th Jan 2023	4,500
				Total:	<u>4,500</u>

The Scheme holds 2 bank accounts, one Savings and one Current. There is now HK\$739,250.68 in credit in the Savings account including interest earned in the past 12 months in the sum of HK\$1,538.08. As for the Current Account, the credit balance is HK\$13,673.96. An Applicant's family remitted from abroad a sum of HK\$38,736.96 to the Scheme to cover expert's fees in a CACC case. A total of HK\$31,000.00 has been paid as per the Applicant's instructions, leaving a credit balance of HK\$7,736.96. The assigned counsel indicated that he was minded to take the matter to the CFA on a pro bono basis. The remainder in the sum of HK\$7,736.96 stays in the Scheme's account pending further action.

The HSBC charges a monthly fee of \$20.00 for paper statements. There has been a total deduction of HK\$240.00 in the 12 months. The total cash to the credit of the Scheme in both bank accounts therefore stands at HK\$752,924.64.

Sze Kin
Co-ordinator

Dated: 15th December 2023