

ANNUAL REPORT ON BAR FREE LEGAL SERVICE SCHEME 2014/2015

The Scheme received a total of 320 applications in the 12-month period between 1st December, 2014 and 30th November, 2015 (the “report period”). Of the applications, the Scheme managed to review 234. It further reviewed another 34 applications, outstanding from the year before (December 2013/November 2014). In total, the Scheme reviewed 268 applications during the report period.

The 34 applications received during the previous report year that remained outstanding as at 30th November, 2014 were pending either review or further information. As indicated above, they were all reviewed in the course of the current report period. Representation was granted in one case only. This was an intended appeal to the Court of Final Appeal from the Court of Appeal against conviction. The application for leave to appeal was unfortunately dismissed on 22nd October, 2015. Written legal advice was tendered in one Criminal Appeal from the District Court against sentence. It was referred to the Legal Aid Department for reconsideration upon request of the advising counsel. Legal aid was granted. And the Co-ordinator is pleased to report that the appeal was in August 2015 allowed. As for the remainder, 25 applications were rejected for lack of merits and 5 applications were considered “not proceeded with” and the applicant in the last 2 matters decided to withdraw their applications. All 7 files were closed as a result.

At the end of last report period, i.e. 30th November, 2014, the outcome of 9 applications, all Criminal (received in the last report period) for which representation was granted, was still pending. In the course of the current report period, all 9 of them were resolved one way or the other. A clean win was achieved in only 1, an HCMA appeal against sentence. In a second HCMA appeal, the appeal against sentence was won but the appeal against conviction was dismissed. Two CACC appeals against conviction were dismissed and a Section 83P Petition to the Chief Executive for referral to the Court of Appeal in respect of conviction was rejected. Two HCMA matters were not followed up and therefore considered “not proceeded with” whereas an applicant in an application to the Court of Final Appeal for leave to appeal from an HCMA did not follow up where it reached the stage for him to either come up with the requisite filing fee or seek waiver of the fee from the Registrar of the Court of Final Appeal. The case was also considered “not proceeded with”. As for the last of the 9 cases, it was another intended application for leave to appeal to the Court of Final Appeal from the Court of Appeal. The Applicant deposited the requisite filing fee with the Scheme. However, the assigned counsel later changed his view and decided to withdraw his offer. The Scheme assigned the matter to another member for a second opinion and the conclusion went against the Applicant. The assistance was therefore withdrawn.

At the end of last report period, one matter, an HCMA against conviction, was still pending the decision of the Director of Legal Aid as to whether to grant legal aid. Legal aid was subsequently granted subject to contribution. But the appeal was in the event dismissed.

The only matter outstanding from the report period 2008/2009, a right of abode claim, has seen some happy progress. The assigned counsel reported orally that it is a matter of time the Hong Kong Immigration Department will make a decision in favour of the infant claimant who will then be able to apply for a one-way permit to come and settle and be with her birth father in Hong Kong.

For the report period 2011/2012, 5 matters, all civil, for which representation was granted, remained pending as at 30th November, 2014, have remained totally stagnant for the past 12 months, assigned counsel reported.

For the report period 2012/2013, 5 matters, 3 civil and 2 criminal, for which representation was granted were still pending outcome as at 30th November, 2014. The first civil matter is an Immigration Case. 12 months ago, assigned counsel orally reported that he was seriously considering withdrawing his assistance as the applicant was not prepared to act as advised. 12 months on, assigned counsel orally reported that the case was going in the right direction. He will make a report as soon as something concrete has come up. As regards the other two civil matters, they are Legal Aid Appeals taken out by the same applicant. Assigned counsel reported orally that the appeals are not yet ready for hearing. As for the two criminal matters, one was an intended application to the High Court for variation of bail pending trial in a magistrate's court. There has been no progress at all since the Scheme was first approached in June 2013. It is therefore considered "case not proceeded with". The other was an intended application to the Court of Final Appeal for leave to appeal against both conviction and sentence from an HCMA. Again, as there has been no progress at all since January 2013 and the CFA Registry reported that no formal record of application made was found, it is considered that the application is not proceeded with. The file was closed in both cases.

Of the 320 applications received in the current report period, 227 relate to criminal matters. The Scheme sought DLA's reconsideration in 2 of them, both with positive result. However, in one of them, legal aid was granted subject to financial contribution. The Applicant was unable to pay and free legal representation was ultimately granted. The appeal was later heard and allowed, retrial ordered.

Legal representation was granted in 4 further criminal matters, all HCMA's. The Applicant in one case decided to go private after Perfected Grounds of Appeal were filed

on his behalf. As for the remaining three, their outcome is still pending. Legal advice was tendered in a total of 15 matters including the 2 referrals back to DLA for reconsideration mentioned in the preceding paragraph. In addition, legal advice was rendered in another 48 matters upon refusal of legal representation on merits.

Turning now to civil matters, there are 93 applications. Only assistance granted was in the form of written legal advice, either by letter or by email. In addition, legal advice was rendered in another 18 matters upon refusal of legal representation on merits/means.

The nomination of members for an award under the Recognition Scheme for Provision of Pro Bono Legal Services organized by the Home Affairs Bureau was closed on 31st October, 2015. A total of 4 nominations were made. The presentation of the awards is to take place on 5th January, 2016.

On the issue of the security of the staff of the Scheme, the Co-ordinator again regrets to report that there has been no change of position from 12 months ago.

There are now 231 Panel A members and 44 Panel B members. In the course of the current report period, a total of 4 Panel B members have received fees from the Scheme totaling HK\$17,500.00.

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

A. Statistics relating to Year 2008/09

Outcome of cases where representation granted but result was still pending as at November 2015:	1
Pending:	1

B. Statistics relating to Year 2011/12

Total no. of applications where representation granted but result was still pending as at November 2015:	5
Pending:	5

C. Statistics relating to Year 2012/13

Total no. of applications where representation granted pending hearing/hearing results as at Nov. 2015:	5
a. No. of cases considered	
“not proceeded with”:	2
b. Pending	3

D. Statistics relating to Year 2013/14

1. Total no. of applications pending review/information as at Nov. 2014:	34
a. No. of cases rejected:	25
b. No. of cases considered “not proceeded with”:	5
c. No. of cases where representation granted:	1
Outcome of cases where representation granted:-	
Won:	0
Lost:	1
d. No. of cases where advice given:	1
e. No of cases referred to Legal Aid Department for Reconsideration:	1
f. No. of cases where Legal Aid granted:	1
g. No. of cases where application withdrawn	2

(NB: the case in D1d, e, f relate to same matter)

2. Outcome of cases where representation granted pending hearing/hearing results as at Nov 2014:	9
Won:	2 (1 partial win)
Lost:	4 (1 partial win)
No. of case considered “not proceeded with”	3
Assistance Withdrawn:	1
3. No. of cases where DLA approached for Consideration /re-consideration for which DLA decision was pending as at 30 th November, 2015	1
Outcome: Granted with contribution	

E. Statistics relating to Year 2014/15 (the current report period)

1. Total No. of applications received:	320
a. No. of cases reviewed:	234
b. No. of cases pending review:	8
c. No. of cases pending information:	21

- d. No. of cases ignored: 4
- e. No. of cases withdrawn 1
- f. No. of cases considered "not proceeded with": 28
 - i. Appeal heard
and disposed of: 7
 - ii. Appeal abandoned:6
 - iii. Applications not
followed up: 13
 - iv. Legal aid granted 1
 - v. Own legal
representative 1

- g. No. of cases where representation granted: 5
 - i. Criminal matters: 5 (Won - 1
Lost - 0
pending – 3
withdrawal - 1)
 - ii. Civil matters: 0


- h. No. of cases where advice given: 18
 - i. Criminal matters: 13
 - ii. Civil matters: 5

- i. No. of cases where Director of Legal Aid
approached for consideration/reconsideration: 2
 - a. Criminal matters: 2 (Granted – 2, 1 with financial
contribution, later legal
representation granted and
appeal allowed)
 - b. Civil matters: 0

- 2. Total no. of applications where legal advice rendered
upon refusal of legal representation on merits/means 66
 - a. Criminal matters: 48
 - b. Civil matters: 18

(NB: the 66 cases in 2 above were all part of the cases rejected.)

There is now HK\$746,394.47 standing to the credit of the Scheme. A sum of HK\$14.73 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\$ 17,500.00 paid to Panel B members referred to above.



Sze Kin
Co-ordinator

Dated 23rd December 2015