

ANNUAL REPORT ON BAR FREE LEGAL SERVICE SCHEME 2019/2020

The Scheme received a total of 206 applications in the 12-month period between 1st December, 2019 and 30th November, 2020 (the “report period”). Of the applications, the Scheme managed to review 176. It further reviewed another 19 applications which were pending review/information as at 30th November, 2019. In total, the Scheme reviewed 195 applications during the report period.

The 19 applications referred to in the preceding paragraph were part of a total of 24 cases outstanding from the applications received during the previous report year. Of the additional 5, 4 were cases for which representation was granted but the outcome was still pending as at 30th November, 2019 and the remaining 1 was where Legal Aid Department’s decision whether to grant legal aid upon reconsideration was still pending (please see below paragraph 4). Of the 19 applications, 5 were rejected for lack of merits, 4 were considered Not Proceeded With, advice was given in 3, 1 was pending Legal Aid Department’s decision, applicants withdrew in 2, Legal Aid was granted in 1 following the Scheme’s approach for re-consideration, and representation was granted in 3. However, in one of the last mentioned 3 cases, assigned counsel decided to withdraw when he felt that he was unable to proceed any further. As regards the other 2 matters, 1 is pending hearing the other the appeal was heard and dismissed. All 3 matters are criminal in nature.

Of the 5 matters for which representation was granted in 2018/2019, 2 were criminal and 3 were civil. Both criminal matters were concluded. 1 appeal, a HCMA, was heard and allowed with re-trial ordered and the other appeal, a CACC, legal aid was granted after Legal Aid Department was approached for re-consideration. As for the three civil matters, 1 is a CACV, an appeal from a HCAL, 1 is a HCAL and the third is a LAA. The CACV and HCAL are pending a new hearing date as the original dates were affected by Covid-19 whereas the LAA has been abandoned as the applicant decided not to pursue the underlying HCA, an action commenced by her late husband.

Legal Aid Department refused to grant legal aid in the single case that was referred to it and still pending a decision as at 30th November, 2019. Following DLA’s refusal, the Scheme assigned a member to conduct the appeal with a positive outcome. This was in fact the appeal that was heard and allowed with a re-trial ordered mentioned in the preceding paragraph. That is why the Scheme granted representation in a total of 5 cases, not just 4 as the Scheme rendered more than one type of service in one single case, i.e. Application No 145/2019.

For the report period 2012/2013, the only outstanding matter, an immigration case, is now considered closed. Assigned counsel now took the view that the applicant can re-apply for assistance if and when the Immigration Department decides to take actions against her.

For the report period 2015/2016, the only outstanding matter is a Petition to the Chief Executive under Section 83P Criminal Procedure Ordinance. However, the Chief Executive has yet to make a decision. The Petition was presented in March 2019, and the applicant was convicted of murder.

For the report period 2016/2017, the only matter that remained outstanding 12 months ago continues to be unresolved. Assigned counsel has recently reconnected with the applicant.

For the report period 2017/2018, a magistracy appeal against conviction was heard in August 2019 but the judgment was only delivered over a year later on 10th September, 2020. The Coordinator is pleased to report that the appeal was allowed.

Of the 206 applications received in the current report period, 85 relate to criminal matters. Representation was granted in 3: all CACC and pending, 1 pending hearing and 2 pending hearing dates. The Scheme sought DLA's reconsideration in 2 CACC cases. Legal aid was granted in 1 and a decision is pending in the other. Unfortunately, in the former, an appeal against sentence, the application for leave to appeal against sentence was heard before a single judge and dismissed. Legal advice was rendered in 19 matters, 9 of which was where representation was applied for and another one was where Legal Aid Certificate was granted by the single judge hearing the application for leave. The applicant attended the hearing in person following the Scheme's advice as to what steps to take. The appeal was subsequently heard by the full court and allowed, the applicant being represented by Legal Aid assigned counsel. As for the remaining 9 cases, advice was rendered in 7 where representation was not applied for and Legal Aid Department was approached for reconsideration in 2 following advice rendered by reviewing counsel. These last two matters have been referred to in the early parts of this paragraph.

Turning now to civil matters, there are 121 matters. No applicant was granted representation. Legal advice was rendered in 14 cases. In addition, legal advice was rendered in another 24 matters upon refusal of legal representation sought.

There are now 270 Panel A members and 73 Panel B members. In the course of the current report period, a total of 4 Panel B members received fees from the Scheme totaling HK\$10,750.00.

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

A. Statistics relating to Year 2012/13

Total no. of applications where representation granted
but result was still pending as at November 2019: 1
 Considered closed: 1

B. Statistics relating to Year 2015/16

Total no. of applications where representation granted
pending CE's decision as at November 2019: 1
 Pending: 1

C. Statistics relating to Year 2016/17

Total no. of applications where representation granted
pending resolution as at November 2019: 1
 pending: 1

D. Statistics relating to Year 2017/2018

Total no. of applications where representation granted
pending judgment as at November 2019: 1
 Appeal allowed: 1

E. Statistics relating to Year 2018/19

I. Total no. of applications pending review/information
as at Nov. 2019 19

- a. No. of cases rejected: 5
- b. No. of cases considered
 "Not Proceeded With": 4
- c. No. of cases where representation
 granted: 3
 - pending hearing: 1
 - appeal dismissed: 1
 - counsel withdrew: 1
- d. No. of cases where advice given: 3
- e. No. of cases pending DLA's decision: 1
 (applicant re-applied for LA)
- f. No. of cases where applicants withdrew
 application: 2
 - 1. LA granted: 1
 - 2. Case settled: 1

g.	No. of cases where DLA approached for reconsideration:	1
	LA granted:	1
II. Total no. of applications where representation granted pending hearing/hearing results as at November 2019:		
a.	Criminal: 2	5
	Won & re-trial:	1 (HCMA)
	Referred to LA & LA granted:	1 (CACC)
b.	Civil: 3	
	pending :	2
	applicant withdrew:	1
III. Total no. of cases where written advice given and referral to DLA for reconsideration pending DLA's decision as at 30 th November 2019:		
	LA rejected:	1 (HCMA) (won & re-trial)

Note: the HCMA case under II a is in fact the very same case under III.

F. Statistics relating to Year 2019/20 (the current report period)

Total No. of applications received:	206
I. No. of cases REVIEWED	176
a. No. of cases rejected:	112
b. No. of cases ignored:	4
c. No. of cases where representation granted:	3
i. Criminal:	3
pending hearing /date:	2
Pending hearing:	1
ii. Civil:	nil

d.	No. of cases where advice only given:	21
	i. Criminal:	7
	ii. Civil:	14
e.	No. of cases where Director of Legal Aid approached for reconsideration:	2
	Criminal:	2
	Granted:	1
	Pending:	1
	Civil:	nil
f.	No. of cases where legal advice rendered upon refusal of representation:	34
	i. Criminal:	10
	ii. Civil:	24
II.	No. of cases NOT REVIEWED	30
a.	No. of cases pending review:	11
b.	No. of cases pending information:	12
c.	No. of cases withdrawn:	0
d.	No. of cases considered "Not Proceeded With"	7
	i. Appeal heard and	
	Disposed of:	1 (criminal 058/2020)
	ii. Appeal Abandoned:	1 (criminal 042/2020)
	iii. Application not	
	followed up:	5 (no papers, 3 civil, 2 criminal) (024, 028, 039, 043, 063/2020)
	iv. Legal aid granted:	0
	v. Private repn:	0
	vi. Re-application	
	to DLA:	0

There is now HK\$737,663.12 standing to the credit of the Scheme. A sum of HK\$167.61 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\$10,750.00 paid to Panel B members referred to above.

Sze Kin

Co-ordinator

Dated 3rd December 2020