

## **Report on Bar Free Legal Service Scheme 2015/2016**

The Scheme received a total of 273 applications in the 12-month period between 1<sup>st</sup> December, 2015 and 30<sup>th</sup> November, 2016 (the “report period”). Of the applications, the Scheme managed to review 223. It further reviewed another 21 applications, outstanding from the year before (December 2014/November 2015). In total, the Scheme reviewed 244 applications during the report period.

The 21 applications referred to in the preceding paragraph were part of 29 applications that were received during the previous report year and remained outstanding as at 30<sup>th</sup> November, 2015. They were then pending either review or further information. 21 applications, as stated above, were reviewed and the remaining 8 applications were considered not proceeded with. Either the applicants failed to provide case papers or hearings were concluded before the applicants took steps to further their applications. As regards the 21 applications that were reviewed, representation was granted in one case only. That was a criminal appeal against sentence in the Court of Appeal. The appeal was heard in January and successful, with both sentence of imprisonment and period of disqualification reduced. Written legal advice was rendered in another Criminal Appeal against both conviction and sentence in the Court of Appeal. It was then referred to the Legal Aid Department for reconsideration in respect of appeal against conviction upon request of advising counsel. Legal aid was later granted. The Co-ordinator is pleased to report that the appeal was in July 2016 heard and allowed. A retrial was ordered. As for the remainder, 16 applications were rejected for lack of merits, applicants in 2 decided not to proceed with their respective applications and 1 application is now pending review by counsel.

At the end of last report period, i.e. 30<sup>th</sup> November, 2015, the outcome of 3 applications, all Magistracy Appeals (received in the 2014/2015 report period), for which representation was granted, was still pending. In the course of the current report period, all 3 of them were resolved. An appeal against conviction was allowed, but an appeal against sentence was dismissed; and in the 3<sup>rd</sup> matter, an appeal against conviction and sentence, it had a mixed outcome, with conviction dismissed but sentence allowed.

The only matter outstanding from the report period 2008/2009, a right of abode claim, has now been concluded finally with a happy outcome. The Applicant, a young female adult now, was granted a one-way permit to join her birth father in Hong Kong. She has recently obtained a Permanent ID card and been attending college in Hong Kong.

For the report period 2011/2012, the 5 matters, all civil, for which representation was granted that remained pending as at 30<sup>th</sup> November, 2016, have not apparently made any

progress at all. The Scheme has not heard from the respective assigned counsel in the last 12 months.

For the report period 2012/2013, 3 matters, all civil, for which representation was granted, were still pending outcome as at 30<sup>th</sup> November, 2015. The Co-ordinator regrets to report that nothing further has been heard from the respective assigned counsel in the last 12 months.

Of the 273 applications received in the current report period, 185 relate to criminal matters. Representation was granted in 7, 2 appeals to the Court of Appeal, 4 Magistracy appeals and one petition under Section 83P of the Criminal Procedure Ordinance to the Chief Executive Officer. In respect of 2 magistracy appeals, the applicants decided to instruct private representation. The pro bono representation was therefore withdrawn. As for the remaining 4 appeal matters, 2 are pending hearing dates and the other 2 are pending hearing. The Chief Executive's decision is pending in the final matter. The Scheme sought DLA's reconsideration in another 2 cases, both appeal to the Court of Appeal, and both with positive results. The latest position is that both appeals are pending hearing. Legal Advice was rendered in 14 matters including the 2 referrals back to DLA for reconsideration. In addition, legal advice was rendered in another 10 matters upon refusal of legal representation on merits/means.

Turning now to civil matters, there are 88 applications. Representation was granted in 2 of them, one was an application by a public housing tenant for leave for Judicial Review of a Notice to Quit by the Housing Authority. The outcome was the Housing Authority agreed to withdraw the Notice to Quit so the applicant gets to remain in her housing unit thereupon the applicant withdrew her application for Judicial Review. The other is a Personal Injuries case where infant interest is involved. The applicant, the widow of the deceased victim, sought counsel's pro bono assistance for a written advice and attendance in court to persuade the court that the proposed settlement is acceptable. The matter has been adjourned pending the resolution of DLA's First Charge. Legal advice only was rendered in 7 matters and legal advice was also rendered in another 8 matters upon refusal of legal representation on merits.

The Co-ordinator regrets to report that a dissatisfied applicant resorted to conduct amounting to nuisance to vent his dissatisfaction by calling the Scheme repeatedly, at times as many as 30 odd times a day. He also called the general line of the Bar Secretariat many times a day, in addition. The matter was reported to the Bar Council and the decision was that a report ought to be made to the police. That was done sometime in

July 2016. The nuisance calls have now more or less died out. It is believed that the police contacted the caller to warn him that his conduct if persisted any further would land him in trouble with the criminal court.

There are now 238 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\$14,500.00.

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

A. Statistics relating to Year 2008/09

Outcome of cases where

representation granted: 1

Outcome: won  
(Right of abode, HK Permanent ID)

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  
(no further information  
on progress)

C. Statistics relating to Year 2012/13

Total no. of applications where representation granted

pending hearing/hearing results as at Nov. 2015: 3

Pending: 3  
(no further information  
on progress)

D. Statistics relating to Year 2014/15

1. Total no. of applications pending review/information  
as at Nov. 2015: 29

a. No. of cases rejected: 16

b. No. of cases considered  
“not proceeded with”: 8

c. No. of cases where representation granted: 1

Outcome:- won

- 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
- h. No. of cases pending review 1

(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 2015: 3
  - Won: 1
  - Partial win/loss: 1
  - Lost: 1

- 3. No. of cases where DLA approached for reconsideration for which DLA decision was pending as at 30<sup>th</sup> November, 2015 1
  - Outcome: Granted

E. Statistics relating to Year 2015/16 (the current report period)

- 1. Total No. of applications received: 273
  - a. No. of cases reviewed: 223
  - b. No. of cases pending review: 11
  - c. No. of cases pending information: 13
  - d. No. of cases ignored: 2
  - e. No. of cases withdrawn 2
  - f. No. of cases considered “not proceeded with”: 26
    - i. Appeal heard  
and disposed of: 7
    - ii. Appeal abandoned: 2
    - iii. Applications not  
followed up: 13
    - iv. Legal aid granted 1
    - v. Own legal  
representation: 3

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| g.  | No. of cases where representation granted:  | 9  |
| i.  | Criminal matters: 7<br>(pending H/D - 2<br>pending hearing - 2<br>pending outcome<br>from CEO - 1<br>withdrawn - 2) |    |
| ii. | Civil matters: 2<br>(won – 1<br>pending outcome – 1)  |    |
| h.  | No. of cases where advice given:  | 19 |
| i.  | Criminal matters: 12  |    |
| ii  | Civil matters: 7  |    |
| i.  | No. of cases where Director of Legal Aid<br>approached for consideration/reconsideration:                           | 2  |
| a.  | Criminal matters: 2 (Granted – 2,<br>both cases are pending<br>hearing)   |    |
| 2.  | Total no. of applications where legal advice rendered<br>upon refusal of legal representation on merits/means       | 18 |
| a.  | Criminal matters: 10  |    |
| b.  | Civil matters: 8  |    |

(NB: the 18 cases in 2 above were all part of the cases rejected.)

There is now HK\$746,409.22 standing to the credit of the Scheme. A sum of HK\$14.75 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\$ 14,500.00 paid to Panel B members referred to above.

Sze Kin  
Co-ordinator

8 December 2016