

Report on Bar Free Legal Service Scheme 2012/2013

The Scheme received a total of 315 applications in the 12-month period between 1st December, 2012 and 30th November, 2013 (the “report period”). Of the applications, the Scheme managed to review 237. It further reviewed another 37 applications outstanding from the previous year (December 2011/November 2012). In total, the Scheme reviewed 274 applications during the report period.

At the end of the last report year, 51 applications received during the last report period were pending either review or further information. As indicated above, 37 were reviewed in the course of the current report period. As for the remaining 14 applications, 12 were considered closed as the applications were not proceeded with whereas 2 are still pending further information from the Applicants.

Of the said 37 applications that were reviewed, representation was granted in 2, both criminal appeals in the Court of Appeal, with positive results. Written legal advice was rendered in another 3 matters, 2 of which, both criminal appeals, were subsequently referred to the Legal Aid Department for reconsideration resulting in the granting of legal aid. Assistance was declined in all the other 32 cases.

At the end of last report period i.e. November, 2012, the outcome of 11 matters, 5 criminal and 6 civil for which representation was granted, was still pending. In the course of the current report period, 5 matters, 4 criminal and 1 civil, were resolved. The only civil matter that was resolved was an immigration matter. The Applicant wished to apply for Judicial Review of a deportation order issued against him. Following a written advice, the matter was referred to the Legal Aid Department for reconsideration. DLA maintained its stance so representation was granted for the Legal Aid Appeal that was later won. In this matter, a solicitor was assigned, also on a pro bono basis, to assist the assigned counsel at the specific request of assigned counsel. Of the 4 criminal matters, 3 magistracy appeals and 1 CACC appeal, 2 magistracy appeals were won and the other two appeals were dismissed.

The only matter outstanding from the report period 2008/2009 has made some headway since 12 months ago. Assigned counsel reported that the case, a claim for right of abode, has now been referred to the Immigration Department, pending response therefrom.

For the report period 2010/2011, the outcome of only one case remained pending 12 months ago. This was a CACC appeal which was unfortunately dismissed in January, 2013.

Of the 315 applications received in the current report period, 220 relate to criminal matters. The Scheme sought DLA's reconsideration in five of them, all with positive results. They are 1 application to CFA for leave, 3 CACC appeals and 1 HCMA appeal.

Legal representation was granted in 23 applications, 4 were won, 4 were lost, 10 are still pending and representation was withdrawn in the remaining 5.

In 2 of the last 5 cases, representation was withdrawn following the grant of legal aid (bail pending appeal in HCMA). In the 3rd case, the Applicant decided to retain private representation. In the 4th case, the Applicant was found afterwards to have formally abandoned his application for leave to appeal. And in the 5th case, the matter was settled before hearing in the magistracy. Of the said 23 matters, 3 are application for leave to the CFA, 4 HCMA appeals, 10 CACC appeals and 5 High Court bail applications and 1 magistracy trial. Legal advice was rendered in 14 matters.

Turning now to civil matters, there are 95 applications. Assistance in one form or another was given in 11 matters. Legal representation was granted in 3, consisting of 2 Legal Aid Appeals that have been heard and won and 1 Immigration matter that is pending negotiation with the Immigration Department, concerning revocation of the Applicant's HK permanent ID Card. The two Legal Aid Appeals were respectively concerned with a property possession/ownership dispute and a matrimonial ancillary relief dispute.

On the issue of the security of the staff of the Scheme, the Co-ordinator regrets to report that nothing seems to have been done about her report that was submitted in August, 2012.

There are now 195 Panel A members and 72 Panel B members. In the course of the current report period, a total of 12 Panel B members have received fees from the Scheme totalling HK\$39,000.00.

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 2012: 1

Pending: 1

B. Statistics relating to Year 2010/11

Outcome of cases where representation granted but result was still pending as at November 2012: 1

Lost: 1

C. Statistics relating to Year 2011/12

1. Total No. of applications pending review/further information as at Nov. 2012 51

(i) No. of cases reviewed 37

(ii) No. of cases considered "not proceeded with" 12

(iii) No. of cases pending further information 2

(iv) No. of cases where representation granted 2

(v) Outcome of cases where representation granted:

Won: 2

(vi) No. of cases where advice given: 3

(vii) No. of cases referred to Legal Aid Department for reconsideration 2

(viii) No. of cases where Legal Aid granted 2

2. No. of cases where representation granted but result was still pending as at November, 2012: 11

(i) Won: 3

(ii) Lost: 2

(iii) Pending: 6

D. Statistics relating to Year 2012/13 (the current report period)

1. Total No. of applications received: 315

2. No. of cases reviewed: 237

3. No. of cases pending review: 6

4. No. of cases pending further information: 35

5. No. of cases not accepted for consideration: 3

6.	No. of case withdrawn: (Intended High Court bail application, bail granted by a magistrate)	1
7.	No. of cases where application not proceeded with	33
	(a) Appeal heard and disposed of:	9
	(b) Appeal abandoned:	3
	(c) Applications not followed up:	20
	(d) Legal Aid granted:	1
8.	No. of cases where representation granted:	25
	a) Criminal matters: 23 (Won – 4, Lost – 4, representation withdrawn – 5, pending hearing– 10)	
	b) Civil matters: 3 (Won – 2, pending result – 1)	
9.	No. of cases where advice given:	22
	a) Criminal matters: 14	
	b) Civil matters: 8	
10.	No. of cases where Director of Legal Aid approached for consideration/reconsideration:	5
	a) Criminal matters: 5 (Granted – 5)	

There is now HK\$746,365.01 standing to the credit of the Scheme. A sum of HK\$14.70 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\$ 39,000.00 paid to Panel B members referred to above.

Sze Kin
Co-ordinator

6 December 2013