

LA/ADM/115/54 (Pt.6)
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11 May 2002

Mrs. Percy MA,
Clerk to Panel,
Legislative Council,
Legislative Council Building,
8 Jackson Road, Central,
Hong Kong.

BY FAX & BY POST

(Fax No.: 2509 9055)

Dear Mrs. Ma,

LegCo Panel on Administration of Justice and Legal Services
Review of provision of legal aid services

I thank you for your letter dated 29 April 2002.

(a) On the frequency of the Legal Aid Department in instructing leading counsel in criminal litigation

Since 1 May 1999 until 3 May 2002, leading counsel has been instructed on 26 occasions for advice or for litigation in respect of 22 criminal cases involving trials and appeals.

Where counsel (including senior counsel) are assigned to act for legally aided clients they have to meet certain laid-down criteria including minimum experience requirements endorsed by the Legal Aid Services Council and supported by the two legal professional bodies. Counsel is selected according to the established criteria and the complexity of the case having regard to clients' interests.

Cases where senior counsel is assigned to act for legally aided clients are normally cases of exceptional difficulty, gravity or complexity, or involving points of general and public importance. Whether counsel appearing for the prosecution is a senior counsel is one of the factors but not the decisive factor in our consideration whether senior counsel should be assigned to act for a legally aided person in any case.

The majority of the counsel assigned to represent a legally aided client in the Court of Appeal or above has not less than 15 years of criminal litigation experience.

(b) On whether insurance compensation obtained by an applicant will be taken into account in determining the disposable income under the Supplementary Legal Aid Scheme (SLAS)

Insurance monies received by an applicant for legal aid are regarded as the capital of the applicant except where they are allowed to be deducted from the calculation of the financial resources of an applicant under the Legal Aid (Assessment of Resources and Contributions) Regulations (the Regulations).

By virtue of Rules 12 and 13 in Schedule 2 of the Legal Aid (Assessment of Resources and Contributions) Regulations, the following categories of compensation or donations received by an applicant are disregarded in computing an applicant's financial resources :

- (i) compensation received under Employees Compensation Ordinance Cap. 282;
- (ii) compensation received under the Pneumoconiosis (Compensation) Ordinance, Cap 360;
- (iii) compensation received under the Occupational Deafness (Compensation) Ordinance, Cap. 469;
- (iv) payment received under the Traffic Accident Victims (Assistance Fund) Ordinance Cap. 229;
- (v) interim payment made pursuant to a court order or agreement having the same effect; and
- (vi) reasonable amount of donation or gift received by an applicant.

Yours sincerely,

(Mrs. Fanny YU)
for Director of Legal Aid

c.c. D of Admin (Attn.: Mr. James CHAN)