

Panel on Administration of Justices and Legal Services
List of follow-up actions

The requested information arising from the discussion on “Provision of legal aid and assignments of lawyers to legally aided persons by the Legal Aid Department” at the Panel meeting on 23 March 2015 is as follows –

Receiving and processing of applications

Civil cases

- (a) numbers of civil legal aid applications received, granted and refused under the Ordinary Legal Aid Scheme (“OLAS”) and the Supplementary Legal Aid Scheme (“SLAS”) each year in the past three years;***
- (b) target processing time and performance pledge for civil legal aid applications and the percentage of civil legal aid applications processed within the performance pledge in each year in the past three years;***

Criminal cases

- (c) numbers of criminal legal aid applications received, granted and refused under OLAS each year in the past three years;***
- (d) target processing time and performance pledge for criminal legal aid applications and the percentage of criminal legal aid applications processed within the performance pledge in each year in the past three years;***

(a) and (c)

The number of legal aid applications received, refused and certificates granted under the Ordinary Legal Aid Scheme (“OLAS”) and the Supplementary Legal Aid Scheme (“SLAS”) in 2012 to 2014¹ are set out in the following table:

¹ The table sets out the numbers of applications received, refused and certificates granted in the specified year. As some applications may not be refused or have certificates granted in the same year as the applications were received, the total number of applications received may not tally with the sum of applications refused and certificates granted in that year.

	2012		2013		2014	
	OLAS	SLAS	OLAS	SLAS	OLAS	SLAS
Civil cases (OLAS & SLAS)						
Applications received	16 332	201	15 494	197	16 050	238
Refused –						
<i>merits</i> ²	5 178	32	5 117	21	5 541	42
<i>means</i> ³	788	0	795	5	911	1
<i>both merits and means</i> ⁴	110	0	136	1	134	1
Refused total ⁵	5 856	32	5 776	25	6 318	42
Certificates granted	8 028	143	7 239	147	7 351	175
Criminal cases (OLAS)						
Applications received		3 684		3 797		3 717
Refused –						
<i>merits</i> ²		943		889		823
<i>means</i> ³		40		54		38
<i>both merits and means</i> ⁴		31		32		24
Refused total ⁵		952		911		837
Certificates granted		2 521		2 785		2 690

(b) and (d)

The performance target and percentage of applications processed within the performance target in 2012 to 2014 are set out in the following table:

- ² Figures including all applications that failed the merits test, including those that also failed the means test. The figures are provided to demonstrate the proportion of applications that failed the merits test among all refused applications.
- ³ Figures including all applications that failed the means test, including those that also failed the merits test. The figures are provided to demonstrate the proportion of applications that failed the means test among all refused applications.
- ⁴ Figures including only applications that failed both the means and merits tests, and overlap the separate figures setting out the number of applications that failed the merits or means tests. The figures are provided to demonstrate the proportion of applications that failed both the merits and means tests among all refused applications.
- ⁵ Figures representing actual applications refused. As the figures for applications that failed both the merits and means tests would overlap, the total refusal figure may be lower than the sum of the separate figures for applications refused on merits and means.

Application type	Performance target	Actual performance		
		2012	2013	2014
Civil cases	85% of applications processed within 3 months from date of application	89%	85%	83%
Criminal cases				
Appeals –				
- Against sentence	90% of applications processed within 2 months from date of application	97%	95%	96%
- Against conviction	90% of applications processed within 3 months from date of application	95%	94%	92%
Court of First Instance/District Court	90% of applications processed within 10 working days from date of application	96%	94%	94%
Committal proceedings	90% of applications processed within 8 working days from date of application	94%	95%	92%

Cases relating to “Occupy Central” movement

- (e) numbers of applications received and refused for cases arising from or relating to the “Occupy Central” movement;***
- (f) average time taken to complete the processing of all legal aid applications arising from or relating to the “Occupy Central” movement;***
- (g) number of legal aid cases concerning the “Occupy Central” movement in which the lawyers assigned to handle the case were nominated by the aided persons;***

(e) to (g)

The figures on cases relating to the “Occupy Central” movement are set out in the following table:

No. of applications received (as at 2 September 2015)	No. of decisions made (as at 2 September 2015)		Average time taken to complete processing of applications	No. of solicitors ⁶ assigned based on nominations by aided persons
	No. of offers	No. of refusals		
82	24	38	38.5 working days	5

Human rights cases

- (h) *numbers of applications relating to human rights received and refused each year in the past three years;*
- (i) *numbers of legal aid certificates issued for human rights cases each year in the past three years whereby the financial eligibility limit of the aided persons was waived by the Director of Legal Aid;*

(h) and (i)

Figures on civil cases in which a breach of the Hong Kong Bill of Rights Ordinance (Cap. 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue (human rights cases) are set out in the following table:

	2012	2013	2014
No. of applications involving human rights cases	1	4	17
No. of applications involving human rights cases refused	0	2	6
No. of applications where Director of Legal Aid's discretion under Section 5AA of the Legal Aid Ordinance was exercised to waive the financial eligibility limit ("FEL") for the applicant	1	1	0

⁶ The number of counsel assigned based on the nomination of aided persons (APs) is not available since very often the counsel to be assigned, as in other categories of cases, were recommended or requested by the assigned solicitors (ASs). Some ASs might have discussed the choice of counsel with AP before making the recommendation or request while some ASs might have made their recommendation or request based on their professional judgment. LAD, therefore, only maintains the statistics on counsel nominated by AS/AP without further categorising them into nomination of AP or AS.

No. of legal aid certificates issued subsequent to waiving FEL	0	0	0
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Applications involving complicated legal issues

(j) *number of independent legal opinion sought from outside counsel under section 9 of the Legal Aid Ordinance ("LAO") (Cap. 91) for applications involving complicated legal issues and the number of counsel who provided such section 9 opinions for each year in the past three years;*

(j)

The number of independent legal opinion sought from outside counsel under Section 9 of the LAO for applications involving complicated legal issues is set out in the following table:

	2012	2013	2014
No. of section 9 opinion sought	136	116	90
No. of counsel including Senior Counsel assigned for section 9 opinion	50	57	45

Legal aid costs

(k) *the amounts spent on civil legal aid cases by case types under OLAS and SLAS each year in the past three years;*

(l) *the amounts spent on criminal legal aid cases by case types under OLAS each year in the past three years;*

(k) & (l)

Legal aid costs spent on legal aid cases by case types under OLAS and SLAS⁷ are set out in the following table:

Case Types	2012-13 (\$)	2013-14 (\$)	2014-15 (\$)
OLAS (Civil)			
Personal injuries claims	212,481,482	232,391,395	244,378,523
Matrimonial	88,805,818	88,657,142	73,469,687
Land and tenancy disputes	16,466,444	23,818,716	16,776,170
Employment disputes	3,278,323	4,233,206	1,538,325

⁷ Amount paid includes solicitor costs, Counsel fees, costs to opposite parties and disbursements.

Case Types	2012-13 (\$)	2013-14 (\$)	2014-15 (\$)
Immigration matters	7,075,743	5,703,189	6,276,596
Wages claims	1,162,642	896,871	951,774
Others	89,542,447	107,767,345	102,543,548
Total	418,812,900	463,467,863	445,934,623
OLAS (Criminal)			
Trials	85,441,809	96,307,995	108,568,566
Appeals	6,426,702	8,004,814	9,599,612
Appeals in the Court of Final Appeal	1,865,849	2,804,284	2,741,844
Committals and others	242,168	147,435	161,934
Total	93,976,527	107,264,529	121,071,955
SLAS⁸			
Professional negligence claims	3,124,074	1,536,300	2,510,259
Personal injuries claims	12,836,149	13,149,282	14,554,394
Others	-	17,815	178,709
Total	15,960,224	14,703,397	17,243,362

Note: Figures rounded to the nearest dollar.

Assignment of lawyers to aided persons

(m) *the number of civil cases assigned to the top 50 Legal Aid Panel⁹ counsel and solicitors with the most number of assigned cases, the types of cases assigned, and the total amounts of legal fees expended to these counsel and solicitors in the past year; and*

(n) *the number of criminal cases assigned to the top 50 Legal Aid Panel counsel and solicitors with the most number of assigned cases, the types of cases assigned, and the total amounts of legal fees expended to these counsel and solicitors in the past year.*

(m)

The number of civil cases assigned to the top 50 Legal Aid Panel counsel and solicitors with the most number of assigned cases, the types of cases assigned, and the total amount of legal fees expended to these counsel and solicitors in the past year are set out in the following table:

⁸ The financial year for SLAS begins on 1 October and ends on 30 September.

⁹ The Director of Legal Aid maintains separate panels of counsel and solicitors who are willing to investigate, report and give opinion upon applications for legal aid and to act for aided persons, as required under the Legal Aid Ordinance (Cap. 91). As at 1 September 2015, there were 906 counsel and 2 267 solicitors on the Legal Aid Panel.

Rank in 2014	Personal Injuries Claims	Matrimonial Cases	Immigration Matters	Others ¹⁰	Total	Fees expended in 2014 for OLAS ¹¹	Fees expended in 2014 for SLAS ⁸	Fees expended in 2014 OLAS + SLAS ⁸
						(\$)	(\$)	(\$)
1	26	1	0	109	136	1,531,029	0	1,531,029
2	0	2	46	34	82	5,557,078	0	5,557,078
3	23	11	1	31	66	2,558,269	0	2,558,269
4	51	0	0	0	51	217,138	0	217,138
5	48	2	0	0	50	486,900	0	486,900
6	50	0	0	0	50	87,544	0	87,544
7	43	6	0	0	49	67,722	5,155	72,877
8	47	0	0	2	49	0	0	0
9	45	3	0	0	48	241,415	0	241,415
10	36	8	0	3	47	1,264,156	0	1,264,156
11	31	15	0	1	47	20,400	0	20,400
12	42	4	0	0	46	0	0	0
13	45	0	0	0	45	1,076,684	0	1,076,684
14	44	1	0	0	45	435,649	0	435,649
15	41	2	0	2	45	673,812	0	673,812
16	27	14	0	4	45	278,664	0	278,664
17	42	1	0	1	44	5,070	0	5,070
18	43	0	0	0	43	26,976	23,700	50,676
19	34	7	0	1	42	2,000	0	2,000
20	40	0	0	2	42	10,132	5,000	15,132
21	32	5	0	4	41	1,267,584	203,120	1,470,704
22	40	0	0	1	41	98,674	76,822	175,496
23	40	0	0	1	41	47,915	0	47,915
24	21	17	0	3	41	385,644	3,200	388,844
25	38	1	0	1	40	577,867	4,893	582,760
26	30	4	0	6	40	1,218,430	0	1,218,430
27	37	1	0	0	38	1,551,239	0	1,551,239
28	38	0	0	0	38	125,666	0	125,666
29	7	1	0	30	38	39,890	0	39,890
30	36	1	0	0	37	961,229	0	961,229
31	31	5	0	0	36	168,847	0	168,847
32	36	0	0	0	36	1,195,104	192	1,195,296
33	34	2	0	0	36	997,781	5,340	1,003,121
34	27	0	0	9	36	1,843,226	162,725	2,005,951
35	34	0	0	1	35	1,524,617	15,150	1,539,767
36	23	11	0	1	35	1,097,294	3,820	1,101,114
37	30	3	0	1	34	1,635,605	0	1,635,605
38	24	2	0	8	34	3,825,040	0	3,825,040
39	31	1	0	1	33	1,864,055	0	1,864,055
40	30	2	0	0	32	678,483	0	678,483
41	25	5	0	2	32	1,824,227	0	1,824,227
42	25	0	0	7	32	103,435	0	103,435
43	27	1	0	3	31	282,490	0	282,490
44	30	1	0	0	31	573,866	0	573,866
45	30	0	0	0	30	42,780	0	42,780
46	26	0	0	4	30	125,585	0	125,585

¹⁰ Including land and tenancy, employment disputes, wage claims and asylum seeker cases.

¹¹ The legal fees paid to lawyers are compiled on cash basis. The amount of fees paid to a particular lawyer during a specific period might not necessarily be related to the legal aid work assigned to him/her in the same period.

Rank in 2014	Personal Injuries Claims	Matrimonial Cases	Immigration Matters	Others ¹⁰	Total	Fees expended in 2014 for OLAS ¹¹ (\$)	Fees expended in 2014 for SLAS ⁸ (\$)	Fees expended in 2014 OLAS + SLAS ⁸ (\$)
47	28	2	0	0	30	629,447	0	629,447
48	29	1	0	0	30	289,899	0	289,899
49	29	1	0	0	30	979,729	0	979,729
50	30	0	0	0	30	332,228	0	332,228
Total	1 656	144	47	273	2 120	40,828,515	509,117	41,337,632

(n)

The number of criminal cases assigned to the top 50 Legal Aid Panel counsel and solicitors with the most number of assigned cases, the types of cases assigned, and the total amount of legal fees expended to these counsel and solicitors in the past year are set out in the following table:

Rank in 2014	Appeals	High Court trials	District Court trials	Total	Fees expended in 2014 ¹¹ (\$)
1	0	17	8	25	341,671
2	12	7	4	23	851,035
3	11	3	7	21	747,190
4	9	12	0	21	468,218
5	2	10	7	19	439,870
6	1	11	6	18	156,040
7	2	11	5	18	350,398
8	15	2	0	17	227,958
9	10	3	4	17	546,633
10	5	3	8	16	206,816
11	0	13	3	16	295,110
12	6	2	8	16	602,465
13	2	12	2	16	276,931
14	3	10	3	16	205,117
15	3	7	6	16	370,803
16	0	7	9	16	345,704
17	0	11	5	16	321,142
18	3	9	4	16	712,680
19	1	6	8	15	430,497
20	0	5	10	15	184,282
21	9	4	2	15	541,955
22	1	9	5	15	457,590
23	0	6	8	14	442,120
24	5	3	6	14	259,669
25	1	8	5	14	638,910
26	3	9	2	14	672,345
27	4	5	5	14	369,917
28	0	9	5	14	167,813
29	1	7	6	14	720,865

Rank in 2014	Appeals	High Court trials	District Court trials	Total	Fees expended in 2014 ¹¹ (\$)
30	2	6	6	14	190,753
31	4	7	3	14	306,664
32	9	3	2	14	482,405
33	5	5	3	13	235,195
34	0	4	9	13	186,344
35	6	4	3	13	366,765
36	1	11	1	13	471,122
37	1	11	1	13	517,615
38	1	5	7	13	316,679
39	0	12	1	13	479,667
40	6	5	2	13	885,875
41	0	3	10	13	265,026
42	1	11	0	12	95,050
43	1	8	3	12	467,685
44	0	10	2	12	842,993
45	1	9	2	12	374,712
46	0	9	3	12	150,235
47	0	7	5	12	112,670
48	0	2	10	12	205,505
49	3	4	5	12	336,908
50	0	12	0	12	605,835
Total	150	369	229	748	20,247,442

The Government was also requested to:

- (a) follow up with the Legal aid Services Council ("LASC") Working Group on Expansion of SLAS on providing a progress report of its review;*
- (b) follow up with LASC that it should suitably consider the views of or consult further with the Hong Kong Bar Association and The Law Society of Hong Kong regarding the review; and*
- (c) review the existing limits on legal aid assignments, in view of the comments made by some members of the legal sector that legal aid work was often distributed to same counsel and solicitors on the Legal Aid Panel.*

(a) & (b)

The LASC has formed a Working Group on Expansion of SLAS to conduct the review. In the course of the review, the Working Group will take into account comments expressed by stakeholders including the two legal professional bodies. We understand that the LASC has shared the preliminary proposals with the Hong Kong Bar Association and the Law Society of Hong Kong in mid July 2015. The LASC will duly consider the views of the two legal professional bodies on the review of SLAS before finalising its recommendations to the Government.

(c)

Since February 2015, in addition to personal injury and related cases, strict adherence to the assignment criteria on the number of cases has been extended to cover all types of cases except judicial review cases whereby aided persons' nominations had been turned down when the number of assignments to the solicitor concerned has reached the assignment limit. The LAD has been collating relevant assignment statistics since then. As it takes time to fully reflect in the statistics the effect of the further extension of the strict adherence to assignment criteria, LAD will consider reviewing the assignment limits when the impact and analysis of the above arrangements are studied.

Home Affairs Bureau
25 September 2015