



Legal aid for criminal proceedings in Hong Kong

Figure 1 – Total number of applications for legal aid, 2008-2018

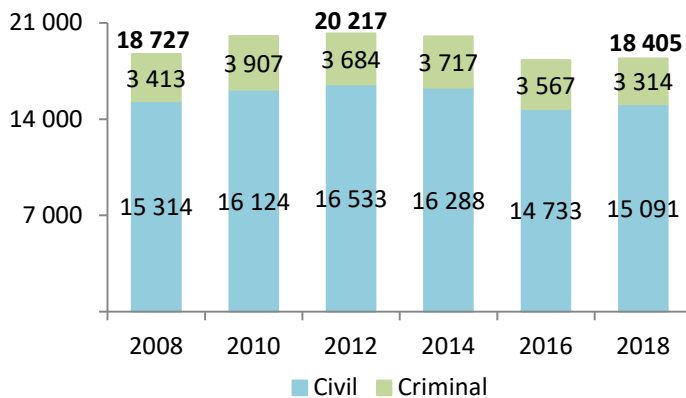
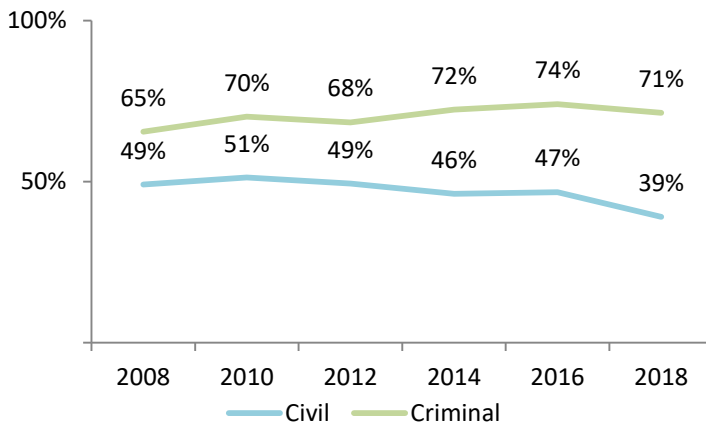


Figure 2 – Approval rate* for legal aid applications, 2008-2018



Note: (*) It refers to the number of issued legal aid certificates ("LAC") as percentage of the number of applications of that year.

Figure 3 – Legal aid applications* for criminal cases and its approval rate by courts in 2017

	Applications (% of total)	LAC issued (% of total)	Approval rate (%)
Magistrates' Court [^]	490 (14%)	476 (19%)	97%
District Court	1 334 (38%)	1 273 (52%)	95%
Court of First Instance	931 (27%)	542 (22%)	58%
Court of Appeal	542 (16%)	133 (5%)	25%
Court of Final Appeal	148 (4%)	38 (2%)	26%
Others	26 (1%)	7 (0%)	27%
Total	3 471	2 469	71%

Notes: (*) Including legal aid for trials and appeals at different courts.
([^]) Only for committal proceedings.

Highlights

- In Hong Kong, persons who lack the means but with reasonable grounds for taking or defending a legal action can apply for legal aid services from the Legal Aid Department ("LAD"). During 2008-2018, the annual number of legal aid applications has fallen marginally by 2% to 18 405 in 2018, with the split between civil cases and criminal cases holding broadly stable at around 80% to 20% over the past decade (Figure 1).
- Legal aid applications are approved only when they pass both the financial eligibility test and merits test. Over the past decade, the approval rate for civil cases has dropped noticeably from 49% in 2008 to 39% in 2018, primarily seen in matrimonial cases (Figure 2). By contrast, the approval rate for criminal cases has increased from 65% to 71% over the same period, along with reduced proportion of appeal cases (which are more difficult to pass the merit tests after initial judgment at lower courts).
- This piece focuses on legal aid services for accused person in criminal cases. In 2017, altogether 2 469 legal aid applications for criminal cases were approved. About half of these approved cases were related to trials at District Court, with an approval rate of 95% (Figure 3). However, the approval rate declined when moving up the level of court hearings mainly for appeals, to 58% at Court of First Instance, 25% at Court of Appeal and 26% at Court of Final Appeal. By and large, about 97% of the refusals on criminal applications was due to failure to pass the merit test, and the rest on the ground of means test.

Legal aid for criminal proceedings in Hong Kong (cont'd)

Figure 4 – Legal aid cost* for criminal cases, 2007-2017

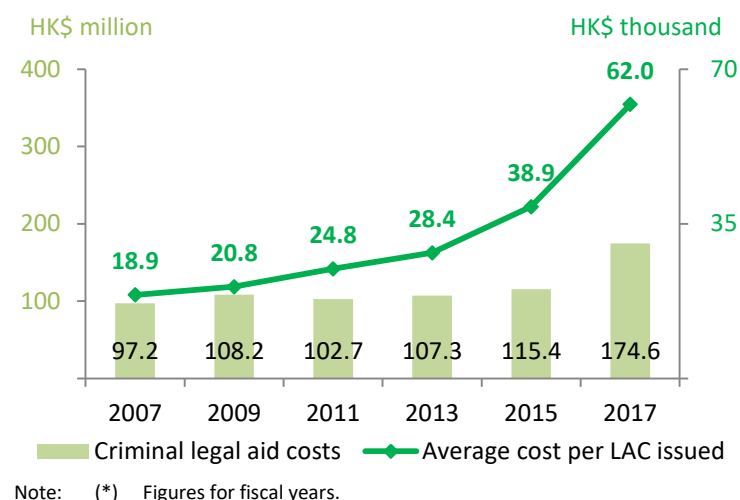


Figure 5 – In-house criminal litigation in 2017

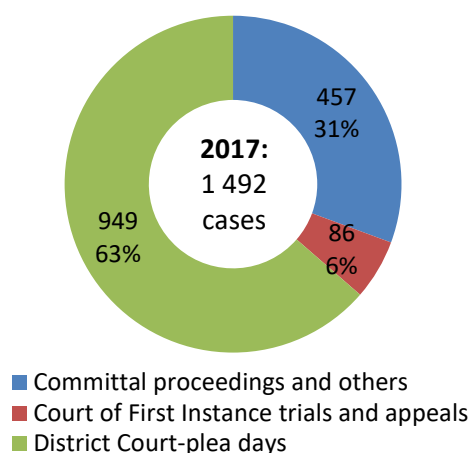


Figure 6 – Criminal legal aid assignment to counsel and solicitors by years of experience in 2017

No. of cases	Below 3 years	3-5 years	6-10 years	Over 10 years	Sub-total (%)
1-4	7	13	47	305	372 (52%)
5-15	0	4	17	286	307 (43%)
16-30	0	0	4	36	40 (6%)
>30	0	0	0	1	1 (0.1%)
Total (%)	7 (1%)	17 (2%)	68 (10%)	628 (87%)	720 (100%)

Highlights

- On annual cost of legal aid for criminal cases, it surged by a cumulative 80% during 2007-2017 (**Figure 4**). Coupled with a reduced number of caseload, the average cost per criminal case increased more significantly by 228% to HK\$62,000 in 2017. This was partly due to (a) cumulative increase in legal aid fees for criminal cases by 31% in five biennial reviews since 2008; (b) upward adjustment of legal aid fees for criminal cases by 50% for counsel and 25%-40% for solicitors since November 2016; and (c) introduction of "marked brief system" in March 2012, resulting in more accurate account of time and cost spent by lawyers in such cases.
- A legal aided person can either be represented by an in-house lawyer of LAD or a privately practising lawyer on assignment. In 2017, the Crime Section of LAD handled a total of 1 492 cases or 60% of the approved cases (**Figure 5**). Among all these cases, plea day hearing in the District Court accounted for 63%, followed by committal proceedings in the Magistrates' Court (31%) and trials and appeals in the Court of First Instance (6%).
- In 2017, a total of 720 privately practising lawyers on the Legal Aid Panel were assigned to act for the aided person in criminal cases, 87% of whom had over 10 years of post-admission experience (**Figure 6**). The caseload distribution was rather even, as over 94% of lawyers handled 15 cases or less in 2017. Although LAD has reduced the annual limit of criminal cases handled by a lawyer from 30 to 25 as from January 2018, the impact should be small as only one lawyer had exceeded such limit in 2017.

Data source: Latest figures from Legal Aid Department.

Research Office
Information Services Division
Legislative Council Secretariat
31 May 2019
Tel: 2871 2146

Statistical Highlights are compiled for Members and Committees of the Legislative Council. They are not legal or other professional advice and shall not be relied on as such. Statistical Highlights are subject to copyright owned by The Legislative Council Commission (The Commission). The Commission permits accurate reproduction of Statistical Highlights for non-commercial use in a manner not adversely affecting the Legislative Council, provided that acknowledgement is made stating the Research Office of the Legislative Council Secretariat as the source and one copy of the reproduction is sent to the Legislative Council Library. The paper number of this issue of Statistical Highlights is ISSH27/18-19.