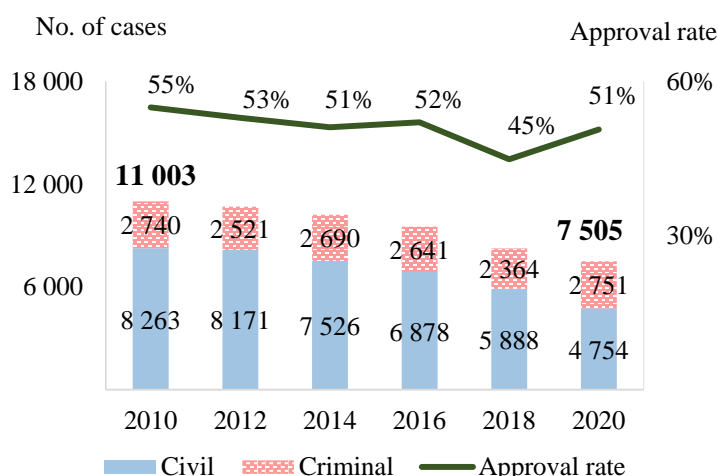


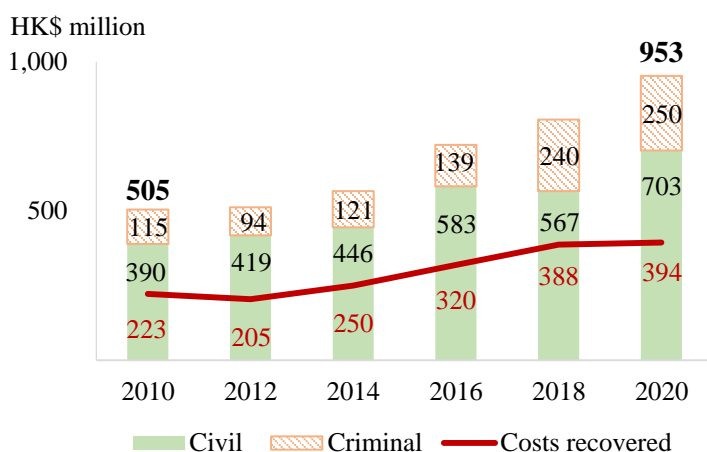


## Case assignments under Legal Aid System

**Figure 1 – Successful applications for legal aid**



**Figure 2 – Government expenditure on legal aid <sup>(1)</sup>**



Note: (1) Figures are for fiscal years beginning in April.

**Figure 3 – Maximum daily fees for criminal hearings**

	2010 (HK\$)	2020 (HK\$)	Increase
<b>Solicitor</b>			
DC	3,140	7,410	136%
CFI	4,780	8,750	83%
<b>Counsel</b>			
DC	7,360	13,220	80%
CFI	11,050	19,880	80%

## Highlights

- In Hong Kong, persons who lack the financial means but with reasonable grounds for taking or defending against a legal action can apply for legal aid from the Legal Aid Department (“LAD”). Between 2010 and 2020, the number of successful applications plummeted by 32% to 7 505, primarily because of the 42% drop in civil cases that was attributable mainly to decline in cases related to divorce-related matters. Meanwhile, the criminal litigation caseload held broadly stable over the period, and overall application approval rate hovered within a range of 45%-55% (**Figure 1**).

- Despite decreasing overall caseload, government expenditure on legal aid surged by 89% over the past decade to HK\$953 million in 2020-2021, roughly translating into a 177% upsurge in average per case costs to HK\$127,000 (**Figure 2**). In line with caseload distribution, civil cases continued to account for a lion share of total legal aid expenditure, at 74% in 2020-2021. However, if an aided person (“AP”) wins in a civil case, LAD can recover all or part of expenses from the costs and damages awarded by court. In 2020-2021, cost recovery amounted to HK\$394 million which was equivalent to 56% of total expenditure on civil cases.

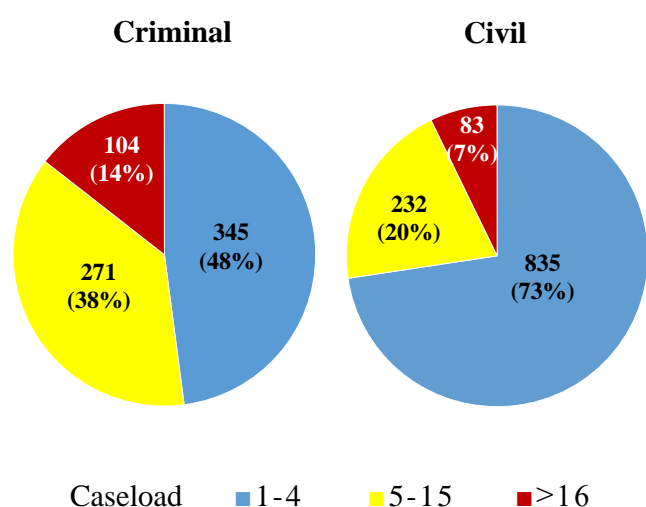
- The aforementioned upsurge in legal aid expenditure could be attributable to both increased complexity of cases and higher market fees in litigation (**Figure 3**). Taking the prescribed fee levels paid by LAD to external lawyers in criminal cases as an illustration, fees were revised upward on eight occasions during 2008-2020 (see ISSH27/18-19), with due regard to market developments. For instance, maximum hearing fees payable to solicitors soared by 136% to HK\$7,410 per day for District Court (“DC”) between 2010 and 2020, and by 83% to HK\$8,750 per day for Court of First Instance (“CFI”) over the same period.

## Case assignments under Legal Aid System (cont'd)

**Figure 4 – Annual distribution of criminal case assignments**

No. of cases	No. of lawyers		
	2015	2018	2020
1-4	461	315	345
5-15	293	322	271
≥16	12	50	104
<b>Total</b>	<b>766</b>	<b>687</b>	<b>720</b>

**Figure 5 – Number of assigned lawyers by criminal and civil caseload in 2020**



**Figure 6 – Annual distribution of civil case assignments**

No. of cases	No. of lawyers					
	Overall civil cases			Segment of JR cases		
	2015	2018	2020	2015	2018	2020
1-4	965	897	835	58	43	32
5-15	235	252	232	12	6	14
≥16	151	107	83	0	0	1
<b>Total</b>	<b>1 351</b>	<b>1 256</b>	<b>1 150</b>	<b>70</b>	<b>49</b>	<b>47</b>

### Highlights

- On case assignments, while APs could nominate private lawyers to represent them, LAD lowered the upper limits on annual caseload for each lawyer in 2018 with a view to reducing overconcentration of caseload in the hands of certain lawyers. Taking criminal case assignments as an illustration, maximum annual assignments per lawyer were lowered from 30 to 25. Even so, this had not reversed the skewed distribution so far, with 104 lawyers taking up at least 16 cases in 2020, twice the corresponding figure (50 lawyers) in 2018 (**Figures 4 and 5**). This gave rise to concerns within the legal profession that the case assignments were not evenly distributed amongst lawyers.
- On the other hand, the lowered caps on civil case assignments per lawyer (from 25 to 20 for barristers and 45 to 35 for solicitors) in 2018 were more impactful, cutting the number of lawyers taking up at least 16 cases from 107 to 83 between 2018 and 2020 (**Figures 5 and 6**). However, it was not so in the segment of judicial review (“JR”) cases, which accounted for a small share of civil litigation caseload. Though none of the lawyers reached the aforementioned ceiling, 15 lawyers handled at least five JR-related cases in 2020, up noticeably from just six in 2018. According to the Government, there were concerns observed in the community that JR-related case assignments were tilted towards a small group of lawyers “with certain political inclination”.
- To address fairness and other concerns, the Government adjusted the case assignment system in December 2021, such as (a) assigning lawyers to APs by LAD in criminal cases instead of accepting nominations from APs; (b) lowering the upper limits on civil cases further to 15 for barristers and 30 for solicitors; and (c) imposing an upper limit specifically on JR-related cases, at three cases for barristers and five cases for solicitors. While there are views in the legal profession that such changes would adversely impact APs’ right to choose lawyers, the Government responds with justifications in terms of prudent use of public resources and emphasizes that the revised mechanism remains fully compliant with the Basic Law.

Data source: Latest figures from the Legal Aid Department.

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10 February 2022  
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