



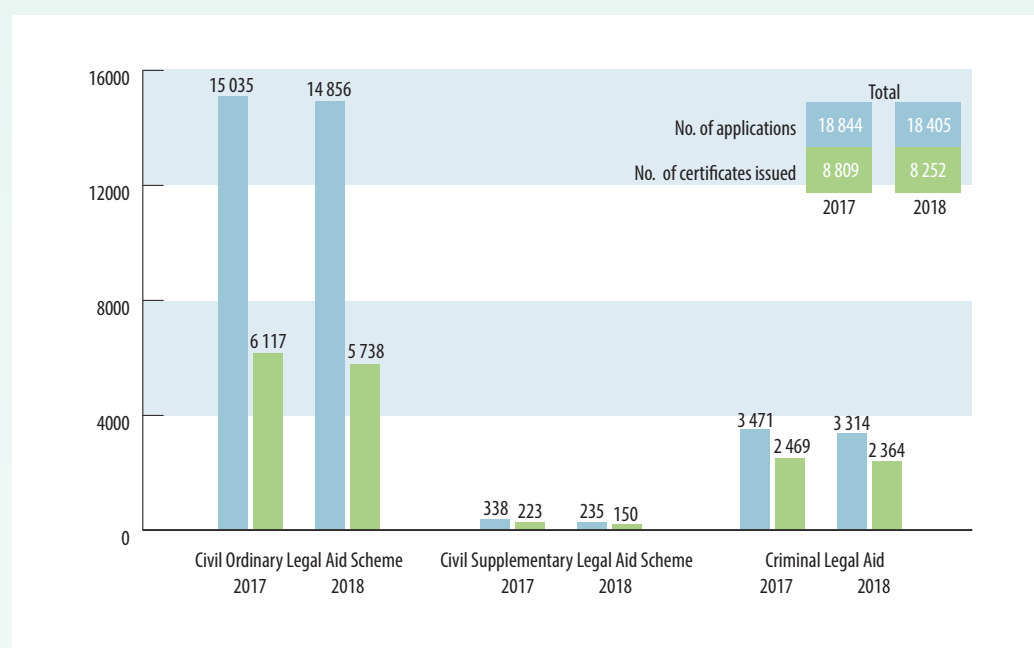
Chapter 2 Legal Aid Services

Legal aid business is conducted in the following service areas:

- Receiving and processing of legal aid applications;
- Assignments and monitoring of legal aid cases;
- Litigation services; and
- Related supporting legal services.

Application and Processing Services

In 2018, a total of 18 405 applications for legal aid were received and 8 252 legal aid certificates were issued:



Chapter 2

Legal Aid Services



Ms Mo Yuk-wah

*Deputy Director of Legal Aid
(Application and Processing)*

Legal Aid in Civil Cases

Civil legal aid applications, apart from applications relating to wages claims which are processed by the Insolvency Unit of the Litigation Division, are handled by the Application and Processing Division.

Ordinary Legal Aid Scheme

The Ordinary Legal Aid Scheme (OLAS) covers many different types of civil cases which are closely related to the public's daily lives. Types of cases covered include family disputes, employees' compensation claims, personal injury claims, immigration matters and other miscellaneous proceedings in the District Court, the Court of First Instance, the Court of Appeal and the Court of Final Appeal. It also covers applications to the Mental Health Review Tribunal and death inquests if the Director is of the opinion that the interests of public justice require legal aid be given.

Supplementary Legal Aid Scheme

Applicants whose financial resources exceed the statutory limit of OLAS of \$307,130 but is below \$1,535,650 may apply under the Supplementary Legal Aid Scheme (SLAS). The scope of SLAS covers employees' compensation claims and representation for employees in appeals against awards made by the Labour Tribunal irrespective of the amount of the claim. It also covers the following types of cases where the claim is likely to exceed \$60,000:

- personal injuries or death, medical, dental or legal professional negligence;
- professional negligence claims against certified public accountants (practising), registered architects, registered professional engineers, registered professional surveyors, registered professional planners, authorised land surveyors, registered landscape architects and estate agents;
- negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products; and
- monetary claims against vendors in the sale of completed or uncompleted first-hand residential properties.

In 2018, there were 235 SLAS applications and 150 legal aid certificates were issued under SLAS.

SLAS is a self-financing scheme and is funded by contributions paid by the applicants upon acceptance of legal aid and contributions from monies recovered in the aided proceedings. The rates of contribution for personal injuries and employees' compensation claims and the provision of legal representation to employees for appeals against awards made by the Labour Tribunal range from 6% to 10%. For the remaining types of proceedings, the contribution rates range from 15% to 20%.

For the year ended 30 September 2018, a surplus of \$5.0 million was recorded as compared with a deficit of \$0.6 million in the year ended 30 September 2017 in the Supplementary Legal Aid Fund. As at 30 September 2018, the Fund had a balance of \$197.3 million. For details, please refer to [Appendix 1](#).

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Legal Aid Services



Distribution of Civil Legal Aid Applications Received in 2017-2018

	No. of Applications for Civil Legal Aid		
Case Types	2017	2018	% Change
Personal Injuries Claims	5 496	5 166	-6%
Matrimonial Cases	6 557	6 138	-6%
Land and Tenancy Disputes	515	502	-3%
Employment Disputes	86	62	-28%
Immigration Matters	144	139	-3%
Wage Claims	37	31	-16%
Others	2 538	3 053	20%
Total	15 373	15 091	-2%

Distribution of Civil Legal Aid Certificates Issued in 2017-2018

	No. of Certificates for Civil Legal Aid		
Case Types	2017	2018	% Change
Personal Injuries Claims	3 108	2 845	-8%
Matrimonial Cases	2 816	2 635	-6%
Land and Tenancy Disputes	88	103	17%
Employment Disputes	32	8	-75%
Immigration Matters	29	16	-45%
Wage Claims	28	15	-46%
Others	239	266	11%
Total	6 340	5 888	-7%

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Legal Aid Services



Ms Tse Sze-fong

*Assistant Director of Legal Aid
(Application and Processing)*

To facilitate the public to apply for legal aid, the Application and Processing Division provides an information and enquiry service through the Information and Application Services Unit. The Unit deals with enquiries from the public on matters such as the scope of legal aid, financial eligibility limits and application procedures. In 2018, the Unit received a total of 36 375 enquiries.

Eligibility

Regardless of their nationality or residence, applicants who pass both the means and merits tests will be granted legal aid. They are given the services of solicitors and, if necessary, counsel to represent them in legal proceedings conducted in Hong Kong courts.

Take-up Rate for Civil Legal Aid in 2017-2018



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Legal aid applications for judicial review received and certificates granted by categories

Calendar Year	Government policies and related matters		Immigration matters including non-refoulement claims		Others			
					Government and related Organization decisions		Non-Government related Organization decisions	
	Applications received	Certificates granted	Applications received	Certificates granted	Applications received	Certificates granted	Applications received	Certificates granted
2017	135	18	860	9	45	2	6	0
2018	91	18	1 386	39	57	2	13	1



Miss Ada Wong Yiu-ming

*Assistant Principal Legal Aid Counsel /
Application and Processing (1)*

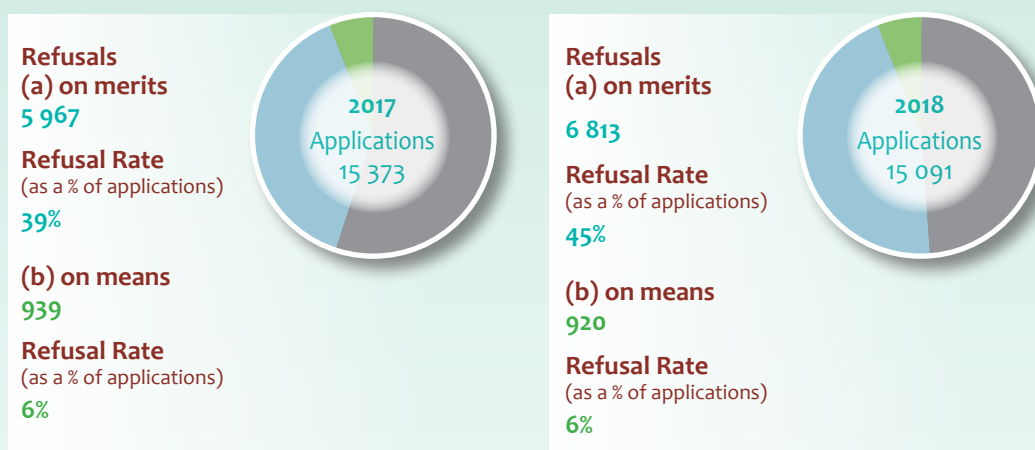
Refusal of Legal Aid

An applicant who is refused legal aid in civil matters on either means or merits may appeal to the Registrar of the High Court. In respect of the Court of Final Appeal cases, the applicant may appeal to a Review Committee comprising the Registrar of the High Court, a barrister and a solicitor appointed by the Chairman of the Hong Kong Bar Association and the President of the Law Society of Hong Kong respectively. The decision of the Registrar or the Review Committee is final.

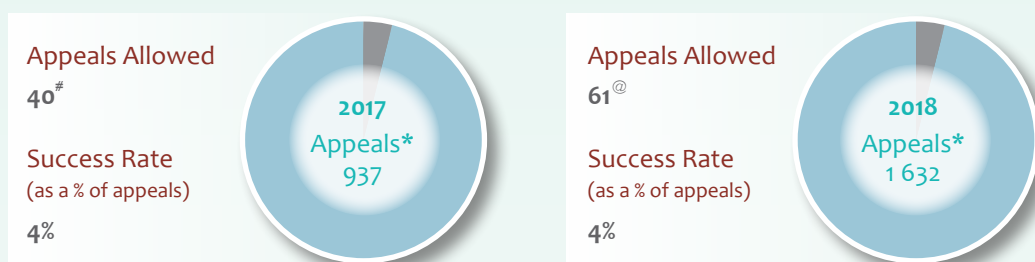
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Refusal Rate of Civil Legal Aid Applications in 2017-2018



Success Rate of Civil Legal Aid Appeals in 2017-2018



Notes: * The figures do not include appeals withdrawn.

This figure covered group cases and connected cases. Legal aid appeals allowed in 2017 consisted of group cases that related to foreign domestic helpers' claims of the same nature and immigration-related connected cases.

@ This figure covered connected or related cases.

Civil Legal Aid Applications by Refusals and Outcomes of Legal Aid Appeals

Calendar Year	Civil Legal Aid Applications	Refusal		Legal Aid Appeals	
		on Merits*	on Means*	Heard	Allowed
2016	14 733	5 294	786	750	28
2017	15 373	5 967	939	937	40 [#]
2018	15 091	6 813	920	1 632	61 [@]

*Refusal on both Merits and Means is included in Refusal "on Means" as well as Refusal "on Merits".

#This figure covered group cases and connected cases.

@ This figure covered connected or related cases.

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Legal Aid Services



Ms Amy Lee Ngar-ling

*Assistant Principal Legal Aid Counsel /
Application and Processing (2)*

Legal Aid Applications for Judicial Review by Refusals and Outcomes of Legal Aid Appeals

Calendar Year	Applications	Refusal		Legal Aid Appeals	
		on Merits*	on Means*	Heard	Allowed
2016	437	352	8	111	0
2017	1046	848	8	217	4
2018	1547	1519	8	763	14

*Refusal on both Merits and Means is included in Refusal "on Means" as well as Refusal "on Merits".

Note : The statistics in the above tables are year based. A refusal or legal aid appeal may be related to a civil legal aid application made in the previous year. According to section 10(3) of the Legal Aid Ordinance, a person shall not be granted legal aid in connection with any proceedings unless he shows that he has reasonable grounds for taking, defending, opposing or continuing such proceedings or being a party thereto and may also refused legal aid where it appears to the Director of Legal Aid that it is unreasonable to grant legal aid. Regarding the legal merits test, the court does not have to be satisfied that it is more probable than not that the issue of fact will be decided in the legal aid applicant's favour. But it has to be satisfied that the applicant has shown that there is a reasonable, as opposed to a fanciful, chance of the court at the trial deciding that issue of fact in his favour.

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Outcome of Civil Cases Closed in 2018

Case Type	Settlement before Issuing Petition	Order for Winding-up/ Bankruptcy	Petition Dismissed upon settlement	Petition Stayed	Petition Dismissed	Referral to PWIFB*	Others	Total
Wage Claims (Winding-up / Bankruptcy)	1%(6%)	89%(86%)	0%(1%)	0%(1%)	1%(0%)	7%(1%)	2%(5%)	100%

* Protection of Wages on Insolvency Fund Board
(2017 figures in bracket)

Case Type	Relief Obtained	Relief Not Obtained	Withdrawn	Total
Matrimonial Cases	83%(84%)	4%(5%)	13%(11%)	100%

(2017 figures in bracket)

Case Types	In Favour	Not In Favour	Discharged / Revoked prior to Proceedings	Discharged at aided person's Request during Proceedings	Discharged / Revoked during Proceedings	Total
Personal Injuries Claims	94%(95%)	2%(1%)	1%(1%)	1%(1%)	2%(2%)	100%
Employees' Compensation Claims	96%(96%)	1%(1%)	1%(1%)	1%(1%)	1%(1%)	100%
Personal Injuries	93%(93%)	2%(1%)	2%(1%)	1%(2%)	2%(3%)	100%
Running Down	93%(95%)	1%(1%)	0%(2%)	2%(1%)	4%(1%)	100%
Medical / Dental / Professional Negligence	76%(69%)	2%(2%)	6%(9%)	4%(2%)	12%(18%)	100%
Miscellaneous	52%(56%)	21%(19%)	14%(9%)	3%(7%)	10%(9%)	100%
Overall	89%(89%)	4%(4%)	3%(2%)	1%(2%)	3%(3%)	100%

(2017 figures in bracket)

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Legal Aid Services



Mr Jason Chan Mau-kwan

*Assistant Principal Legal Aid Counsel
(Kowloon Branch Office)*

Legal Aid in Criminal Cases

Criminal legal aid applications are processed by the Crime Section.

Distribution of Criminal Legal Aid Applications Received in 2017-2018

Case Types	No. of Applications for Criminal Legal Aid		
	2017	2018	% Change
Committal Proceedings in the Magistrates' Courts	490	536	9%
District Court Trials	1 334	1 313	-2%
Court of First Instance Trials	476	452	-5%
Magistrates' Court Appeals to the Court of First Instance	455	352	-23%
District Court Appeals to the Court of Appeal	296	261	-12%
Court of First Instance Appeals to the Court of Appeal	246	240	-2%
Appeals in the Court of Final Appeal	148	123	-17%
Others	26	37	42%
Total	3 471	3 314	-5%

Applicants whose means exceed the statutory limit may be granted legal aid if the Director of Legal Aid is satisfied that it is desirable in the interests of justice to grant legal aid.

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Legal Aid Services

Distribution of Criminal Legal Aid Certificates Issued in 2017-2018

Case Types	No. of Certificates for Criminal Legal Aid		
	2017	2018	% Change
Committal Proceedings in the Magistrates' Courts	476	504	6%
District Court Trials	1 273	1 236	-3%
Court of First Instance Trials	477	441	-8%
Magistrates' Court Appeals to the Court of First Instance	65	35	-46%
District Court Appeals to the Court of Appeal	59	53	-10%
Court of First Instance Appeals to the Court of Appeal	74	63	-15%
Appeals in the Court of Final Appeal	38	24	-37%
Others	7	8	14%
Total	2 469	2 364	-4%

Take-up Rate for Criminal Legal Aid in 2017-2018



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Legal Aid Services



Ms Juliana Chan Oi-yung

*Deputy Director of Legal Aid
(Litigation)*

Refusal of Criminal Legal Aid

If an applicant is refused criminal legal aid on merits, he can apply to the judge who may grant legal aid on his own initiative provided the applicant is eligible on means.

In 2018, there were 13 refusals on means, all of which were also refused on merits. The Director exercised discretion and granted legal aid in 44 other cases even though the means of the applicants exceeded the financial eligibility limit. 10 applications were refused because the applicants concerned failed to supply the Director with the necessary information to conduct a means test.



Mr Steve Wong Yiu-fai

*Assistant Director of Legal Aid
(Litigation)*

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Legal Aid Services

For refusal in respect of an appeal to the Court of Final Appeal, the applicant may appeal to a Review Committee chaired by the Registrar of the High Court and comprising a barrister and a solicitor appointed by the Chairman of the Hong Kong Bar Association and by the President of the Law Society of Hong Kong respectively. The decision of the Committee is final. In 2018, no appeal was made to the Review Committee.



Ms Nancy Keung Mei Chuen
*Assistant Principal Legal Aid Counsel
(Crime)*

Refusal Rate of Criminal Legal Aid Applications in 2017-2018

Refusal on Merits

848

(Appeal cases)
(834)

(Other cases)
(14)

Refusal Rate (as a % of applications)
24%

Legal aid granted by judges notwithstanding the Director of Legal Aid's refusal
13

Refusal on Means (including refusals where applicants failed to provide necessary information on means)
30(16)

Refusal Rate (as a % of applications)
1%



Refusal on Merits

745

(Appeal cases)
(721)

(Other cases)
(24)

Refusal Rate (as a % of applications)
22%

Legal aid granted by judges notwithstanding the Director of Legal Aid's refusal
14

Refusal on Means (including refusals where applicants failed to provide necessary information on means)
23(10)

Refusal Rate (as a % of applications)
1%





Legal Aid Electronic Services Portal

Civil legal aid applicants of the age of 18 and over and all criminal legal aid applicants can access the Legal Aid Electronic Services Portal (LAESP) to submit pre-application information forms online for non-urgent civil or criminal cases as a first step towards making an application for legal aid.

The LAESP also has a means test calculator, which allows members of the public to conduct a preliminary assessment of their eligibility on means if they apply for legal aid. Members of the public can visit the departmental website at www.lad.gov.hk or the mobile phone version to access the means test calculator. In 2018, the means test calculator and its mobile version received 4751 and 8097 hits respectively.

Legal Aid Assignments and Monitoring

Assignments

When assigning legal aid cases, interest of the legally aided persons is the paramount consideration. Hence, legal aid work is not distributed to counsel or solicitors on the Legal Aid Panel equally. Counsel or solicitors are selected having regard to their level of experience and expertise, the nature and complexity of the particular case, with reference to established guidelines and criteria, which include, amongst others, minimum experience requirements, past performance records and the limit on assignments of legal aid work.

Distribution of Civil and Criminal Assignments to Solicitors / Counsel in 2018

No. of Assignments	No. of Counsel			
	*Below 3 Years	*3-5 Years	*6-10 Years	*Over 10 Years
1-4	9	37	41	156
5-15	0	5	16	183
16-30	0	0	5	41
31-50	0	0	0	1
Over 50	0	0	0	0
Total	9	42	62	381

*Years of post-call experience

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No. of Assignments	No. of Solicitors			
	*Below 3 Years	*3-5 Years	*6-10 Years	*Over 10 Years
1-4	0	32	53	532
5-15	1	10	28	266
16-30	0	3	14	113
31-50	0	1	6	15
Over 50	0	0	0	1
Total	1	46	101	927

*Years of post-admission experience

The Department set up the Departmental Committee on Monitoring Assignments to Counsel and Solicitors to ensure that cases are assigned in accordance with the established assignment criteria and guidelines. The Committee is chaired by the Director of Legal Aid and comprises directorate officers of the Department. It considers reports on the unsatisfactory performance/conduct of assigned lawyers.

In 2018, on the advice of the Committee, one counsel and five solicitors were removed from the Legal Aid Panel, 22 solicitors were put on the Record of Unsatisfactory Performance/Conduct and advisory letter was issued to one solicitor.

Since the assignment of legal aid cases is based on the experience of Panel lawyers in the past three years, the Department regularly updates Panel lawyers' experience to maintain the integrity of the legal aid assignment system. Panel lawyers are reminded to submit Data Update Form before the expiry of the three-year period so that their personal particulars, experience and expertise can be updated regularly.

Mediation in Legal Aid Cases

Legal aid covers mediators' fees and related expenses incurred by aided persons undergoing mediation in the course of the aided proceedings. In 2018, funding for mediation was approved in 919 assigned out cases, out of which 168 were matrimonial cases.



Litigation Services

In-house Civil Litigation

The Civil Litigation Section (CLS) of the Litigation Division undertakes civil litigation for aided persons whose cases have been assigned in-house.



Ms Juliana Chan Miu-kuen

*Assistant Principal Legal Aid Counsel
(Civil Litigation 1)*

Personal Injury Litigation

In 2018, Civil Litigation (1) of CLS took up 180 personal injuries cases including employees' compensation claims, traffic accident claims and negligence claims. Damages over \$1 million were recovered for aided persons in six cases. In one case, the damages recovered were over \$15 million. The total amount of damages recovered was about \$58 million.

Legal costs recovered for the professional litigation work done by Civil Litigation (1) of CLS were about \$6.4 million.

Family Litigation

In 2018, the Family Unit of the Civil Litigation (2) of CLS took up a total of 837 family cases including divorce, maintenance, custody and property disputes. It also handled enforcement proceedings for the recovery of outstanding maintenance and costs in family cases litigated in-house.

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Legal Aid Services



Miss Doreen Chan Dao-kit

*Assistant Principal Legal Aid Counsel
(Civil Litigation 2)*

Wage Claims

The Insolvency Unit of the Civil Litigation (2) of CLS assists employees referred by the Labour Relations Office of the Labour Department to recover arrears of wages and other employment-related benefits. It also handles the ensuing winding-up or bankruptcy proceedings.

Where there is sufficient evidence to support the presentation of a petition for winding-up or bankruptcy but it is uneconomical or unreasonable in the particular circumstances to institute court proceedings, the Unit will refer the case to the Protection of Wages on Insolvency Fund Board for consideration of ex-gratia payments to the employees.

In 2018, the Insolvency Unit took out 15 winding-up and one bankruptcy petitions. A total of 316 cases were referred to the Protection of Wages on Insolvency Fund Board for ex-gratia payments.

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Legal Aid Services



In-house Criminal Litigation

In addition to processing legal aid applications for criminal cases, in-house lawyers in the Crime Section of the Litigation Division also represent legally aided persons at committal proceedings in the Magistrates' Court, plea day hearing in the District Court, listing hearings in the Court of First Instance as well as bail applications at all levels of court. They also act as instructing solicitors in cases in the Court of First Instance, the Court of Appeal and the Court of Final Appeal.

In 2018, 84% of all criminal cases in the District Court in Hong Kong were legally aided, as were 90.7% of criminal cases in the Court of First Instance.

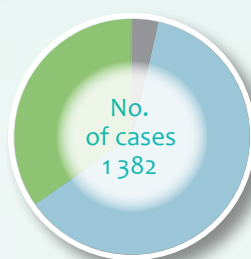
In 2018, the Crime Section handled 1 382 cases in-house:

Court of First Instance of High Court Trials & Appeals
53(3.8%)

District Court-Plea Days
853(61.7%)

Committal Proceedings & Others
476(34.4%)

Total
1 382(100.0%)



(as a % of total cases handled in-house)

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Legal Aid Services



Mrs Christina Hadiwibawa Cheung Ying-man

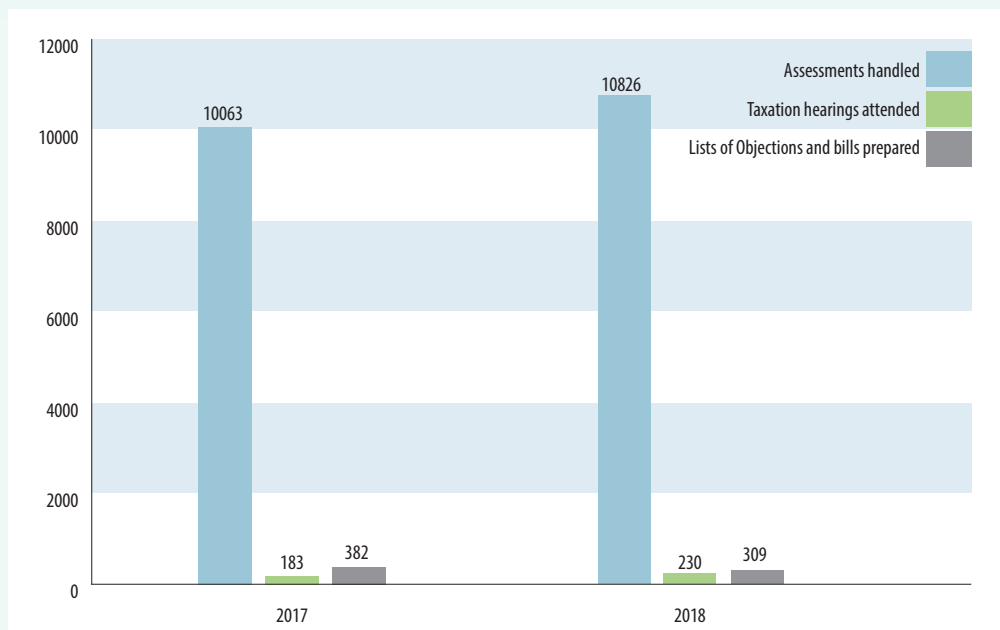
*Assistant Principal Legal Aid Counsel
(Legal and Management Support)*

Related Legal Support Services

Costing

The Department's Costing Unit assesses all bills of costs submitted by assigned solicitors and opposite parties, prepares lists of objections and bills and attends taxation hearings.

Cases handled by the Costing Unit in 2017-2018





Enforcement

The Department's Enforcement Unit (EU) handles enforcement proceedings for the recovery of judgment debts and costs in legally aided cases. In 2018, a total of 242 cases were assigned to the EU. In 136 cases, enforcement proceedings were instituted. About 44% of the proceedings were instituted within 1 month from the date the cases were assigned to the handling professional officers. The table below shows the length of time taken for enforcement proceedings to be commenced from the date of assignment:

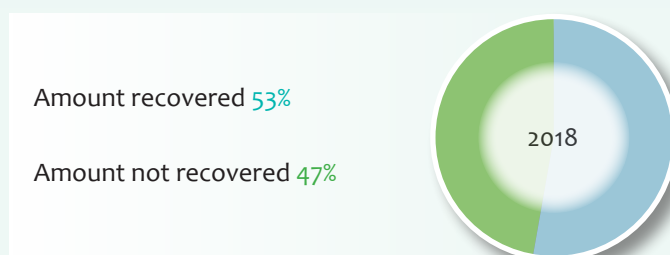
Time taken for the commencement of enforcement proceedings in 2018 :

Within 1 month	Within 2 months	Within 3 months	More than 3 months	Total no. of cases
59(66)	56(57)	11(24)	10(7)	136(154)
44% (43%)	41%(37%)	8% (16%)	7% (4%)	100% (100%)

(2017 figures in bracket)

Some of these cases were settled prior to the commencement of or during the enforcement proceedings where the judgment debtors undertook, through negotiation and production of supporting documents, to pay the outstanding amount by installments.

The costs and damages recovery ratio for cases with enforcement actions handled by the Department and finalised in 2018 is as shown in the chart below:



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Legal Aid Services

Top 20 Solicitors in terms of Civil Case Assignments in 2018 by Case Types and Percentage Shares in the Total Number of Civil Case Assignments to Solicitors
(From 1.1.2018 to 31.12.2018)

Rank by order	No. of Assignments by Case Types#						% Share
	PI-related	JR	MIM	MAT	Others	Total	
1	3	0	0	1	34	38	0.7%
2	37	0	0	0	0	37	0.7%
3	36	0	0	1	0	37	0.7%
4	33	0	0	4	0	37	0.7%
5	35	0	0	0	0	35	0.7%
6	31	0	0	4	0	35	0.7%
7	28	0	0	5	0	33	0.6%
8	33	0	0	0	0	33	0.6%
9	31	0	0	2	0	33	0.6%
10	33	0	0	0	0	33	0.6%
11	31	0	0	2	0	33	0.6%
12	31	0	0	1	0	32	0.6%
13	32	0	0	0	0	32	0.6%
14	31	0	0	1	0	32	0.6%
15	31	0	0	1	0	32	0.6%
16	30	0	0	1	0	31	0.6%
17	31	0	0	0	0	31	0.6%
18	31	0	0	0	0	31	0.6%
19	30	0	0	0	0	30	0.6%
20	22	0	0	2	6	30	0.6%
Subtotal for Top 20	600	0	0	25	40	665	12.7%
Total no. of assignments to solicitors in civil cases	2 992	61	18	1 846	303	5 220	100%

Notes:

The civil assignment limit for panel solicitor is 35 cases within the past 12 months.

Figures may not add up to total due to rounding.

Case types:

PI related - Employees' Compensation, Damages for Assault, Dental Negligence, Medical Negligence, Personal Injuries, Professional Negligence, Traffic Accident, SLAS Employees' Compensation, SLAS Medical Negligence, SLAS Personal Injuries and SLAS Running Down

JR - Judicial Review

MIM - Immigration

MAT - Matrimonial

Others – Miscellaneous and Land or Tenancy Disputes

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