



Chapter 2

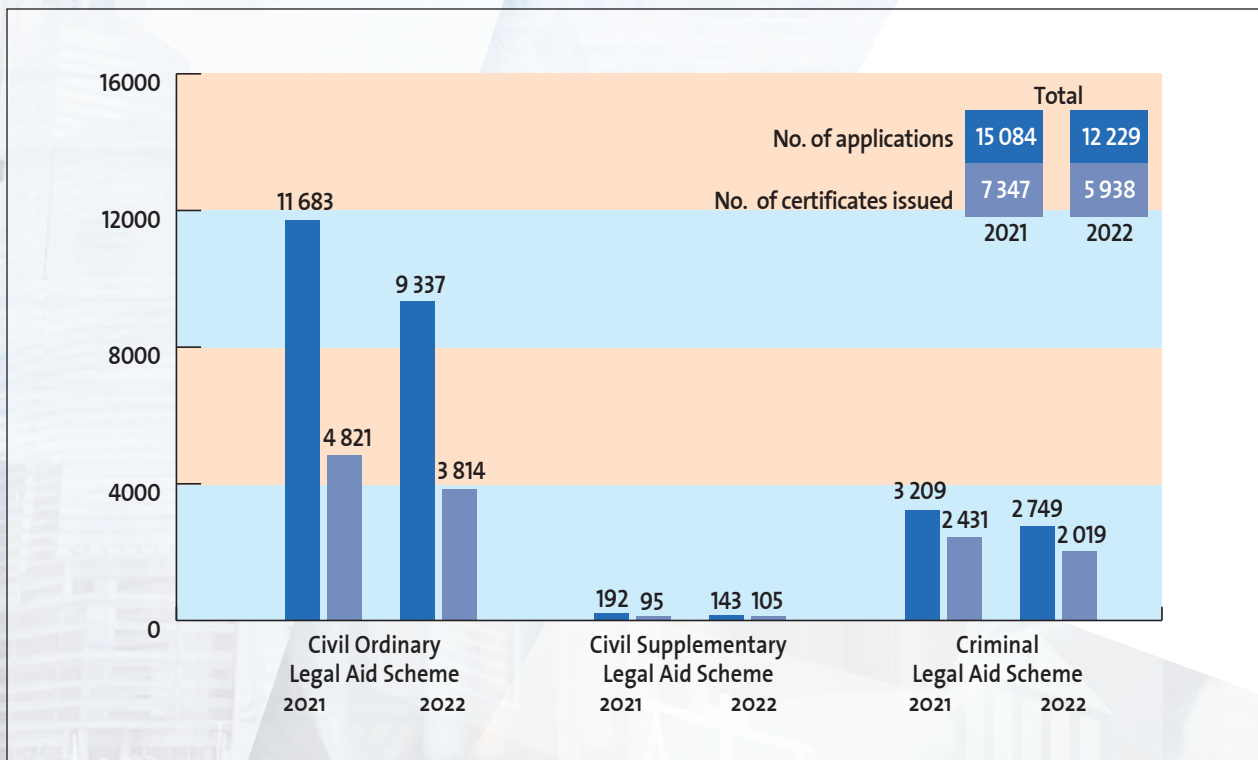
Legal Aid Services

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 2022, a total of 12 229 applications for legal aid were received and 5 938 legal aid certificates were issued:





Ms Juliana Chan Oi-yung
*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

Applicants whose financial resources are within the statutory limit of \$420,400 may apply for the legal aid under the Ordinary Legal Aid Scheme (OLAS). 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 injuries 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.

In 2022, there were 9 337 OLAS applications and 3 814 legal aid certificates were issued under OLAS.

Supplementary Legal Aid Scheme

Applicants whose financial resources exceed the statutory limit of OLAS of \$420,400 but are below \$2,102,000 may apply for legal aid 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 \$75,000:

- 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;
- monetary claims against vendors in the sale of completed or uncompleted first-hand residential properties;
- professional negligence claims against financial intermediaries licensed or registered for Type 1 (dealing in securities), Type 2 (dealing in futures contracts) or Type 8 (securities margin financing) regulated activities within the meaning of the Securities and Futures Ordinance (Cap.571); and
- monetary claims in respect of derivatives of securities, currency futures or other futures contracts on the basis that the person was induced to deal in those derivatives, futures or contracts by fraud, deception or misrepresentation.

In 2022, there were 143 SLAS applications and 105 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 2022, a deficit of \$1.2 million was recorded as compared with a surplus of \$3.3 million in the year ended 30 September 2021 in the Supplementary Legal Aid Fund. As at 30 September 2022, the Fund had a balance of \$215.1 million. For details, please refer to [Appendix 1](#).

Distribution of Civil Legal Aid Applications Received in 2021-2022

Case Types	No. of Applications for Civil Legal Aid		
	2021	2022	% Change
Personal Injuries Claims	4 929	4 188	-15%
Matrimonial Cases	4 570	3 236	-29%
Land and Tenancy Disputes	465	370	-20%
Employment Disputes	57	36	-37%
Immigration Matters	112	44	-61%
Wage Claims	45	34	-24%
Others	1 697	1 572	-7%
Total	11 875	9 480	-20%

Distribution of Civil Legal Aid Certificates Issued in 2021-2022

Case Types	No. of Certificates for Civil Legal Aid		
	2021	2022	% Change
Personal Injuries Claims	2 430	2 002	-18%
Matrimonial Cases	2 079	1 551	-25%
Land and Tenancy Disputes	85	66	-22%
Employment Disputes	5	15	200%
Immigration Matters	0	1	-
Wage Claims	30	21	-30%
Others	287	263	-8%
Total	4 916	3 919	-20%



Ms Doris Lui Wai-lan
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 2022, the Unit received a total of 26 880 enquiries.

Eligibility for Legal Aid

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 2021-2022

Certificates
4 916

Take-up Rate
(as a % of offers)
94%



Certificates
3 919

Take-up Rate
(as a % of offers)
92%



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 organisation decisions		Non-government related organisation decisions	
	Applications received	Certificates granted	Applications received	Certificates granted	Applications received	Certificates granted	Applications received	Certificates granted
2021	71	11	334	70	37	3	8	0
2022	29	8	409	83	47	2	2	0

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.



Ms Jenny Leung Ping-ching
Assistant Principal Legal Aid Counsel /
Application and Processing (1)

Refusal Rate of Civil Legal Aid Applications in 2021-2022

Refusals

(a) on merits

4 790

Refusal Rate

(as a % of applications)

40%



Refusals

(a) on merits

3 851

Refusal Rate

(as a % of applications)

41%



(b) on means

819

Refusal Rate

(as a % of applications)

7%

(b) on means

660

Refusal Rate

(as a % of applications)

7%

Outcome of Civil Legal Aid Appeals in 2021-2022

Appeals Allowed

25

Success Rate

(as a % of appeals)

3%



Appeals Allowed

41

Success Rate

(as a % of appeals)

6%



Note: *The figures do not include appeals withdrawn.



Ms Amy Lee Ngar-ling
Assistant Principal Legal Aid Counsel /
Application and Processing (2)

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
2020	11 286	4 289	780	778	35
2021	11 875	4 790	819	839	25
2022	9 480	3 851	660	701	41

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

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
2020	359	252	8	91	5
2021	450	313	6	64	1
2022	487	367	6	115	3

* 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.



Miss Ada Wong Yiu-ming
Assistant Principal Legal Aid Counsel
(Kowloon Branch Office)

Outcome of Civil Cases Closed in 2022

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)	0% (3%)	45% (50%)	0% (0%)	0% (15%)	14% (6%)	5% (0%)	36% (26%)	100%

* Protection of Wages on Insolvency Fund Board

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

Case Type	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	92% (94%)	2% (1%)	1% (1%)	2% (1%)	3% (3%)	100%
<i>Employees' Compensation Claims</i>	94% (95%)	1% (1%)	1% (1%)	1% (1%)	3% (2%)	100%
<i>Personal Injuries</i>	92% (92%)	2% (1%)	1% (1%)	2% (2%)	3% (4%)	100%
<i>Running Down</i>	93% (96%)	1% (0%)	1% (1%)	1% (1%)	4% (2%)	100%
Medical / Dental / Professional Negligence	70% (61%)	7% (9%)	0% (2%)	7% (14%)	16% (14%)	100%
Miscellaneous	62% (60%)	17% (18%)	8% (7%)	1% (2%)	12% (13%)	100%
Overall	87% (89%)	4% (3%)	2% (2%)	2% (2%)	5% (4%)	100%

(2021 figures in bracket)

Legal Aid in Criminal Cases

Criminal legal aid applications are processed by the Crime Section of the Litigation Division.

Distribution of Criminal Legal Aid Applications Received in 2021-2022

Case Types	No. of Applications for Criminal Legal Aid		
	2021	2022	% Change
Committal Proceedings in the Magistrates' Court	418	409	-2%
District Court Trials	1 520	1 338	-12%
Court of First Instance Trials	317	268	-15%
Magistrates' Court Appeals to the Court of First Instance	413	237	-43%
District Court Appeals to the Court of Appeal	260	247	-5%
Court of First Instance Appeals to the Court of Appeal	131	122	-7%
Appeals in the Court of Final Appeal	83	78	-6%
Others	67	50	-25%
Total	3 209	2 749	-14%

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.

Distribution of Criminal Legal Aid Certificates Issued in 2021-2022

Case Types	No. of Applications for Criminal Legal Aid		
	2021	2022	% Change
Committal Proceedings in the Magistrates' Court	412	381	-8%
District Court Trials	1 529	1 216	-20%
Court of First Instance Trials	324	264	-19%
Magistrates' Court Appeals to the Court of First Instance	37	41	11%
District Court Appeals to the Court of Appeal	45	45	0%
Court of First Instance Appeals to the Court of Appeal	41	38	-7%
Appeals in the Court of Final Appeal	12	16	33%
Others	31	18	-42%
Total	2 431	2 019	-17%

Take-up Rate for Criminal Legal Aid in 2021-2022

Certificates
2 431

Take-up Rate
(as a % of offers)
97%



Certificates
2 019

Take-up Rate
(as a % of offers)
97%





Ms Mo Yuk-wah
Deputy Director of Legal Aid (Litigation)



Ms Nancy Keung Mei-chuen
Assistant 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 2022, there were six refusals on means, all of which were also refusals on merits. 60 applications were refused because the applicants concerned failed to supply the Director with the necessary information to conduct the means test. The Director exercised discretion and granted legal aid in 52 cases even though the means of the applicants exceeded the financial eligibility limit.

For refusal in respect of an appeal to the Court of Final Appeal, the applicant may appeal to the 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 2022, no appeal was made to the Review Committee.



Miss Doreen Chan Dao-kit
Assistant Principal Legal Aid Counsel (Crime)

Refusal Rate of Criminal Legal Aid Applications in 2021-2022

Refusal on Merits

689

(Appeal cases)
(657)

(Other cases)
(32)

Refusal Rate
(as a % of applications)

21%

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

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Refusal on Means

(including refusals where applicants failed to
provide necessary information on means)

90 (75)

Refusal Rate
(as a % of applications)

3%



Refusal on Merits

527

(Appeal cases)
(497)

(Other cases)
(30)

Refusal Rate
(as a % of applications)

19%

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

6

Refusal on Means

(including refusals where applicants failed to
provide necessary information on means)

66 (60)

Refusal Rate
(as a % of applications)

2%



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 <https://www.lad.gov.hk> or the mobile phone version to access the means test calculator. In 2022, the means test calculator and its mobile version received 6 091 and 7 106 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 the 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 2022

No. of Assignments	No. of Counsel			
	*Below 3 Years	*3-5 Years	*6-10 Years	*Over 10 Years
1-4	7	22	54	141
5-15	0	7	27	207
16-30	0	0	1	29
31-50	0	0	0	0
Over 50	0	0	0	0
Total	7	29	82	377

* Years of post-call experience

No. of Assignments	No. of Solicitors			
	*Below 3 Years	*3-5 Years	*6-10 Years	*Over 10 Years
1-4	1	17	84	509
5-15	0	12	31	249
16-30	0	2	8	81
31-50	0	0	0	3
Over 50	0	0	0	0
Total	1	31	123	842

* 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 2022, on the advice of the Committee, 1 counsel and 12 solicitors were put on the Record of Unsatisfactory Performance / Conduct and advisory letters were issued to 2 counsel.

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 2022, funding for mediation was approved in 684 assigned out cases, out of which 127 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 2022, Civil Litigation (1) of CLS took up 147 personal injuries cases and seamen wages claims. 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. The total amount of damages and seaman wages recovered was about \$40 million and US\$1.75 million respectively.

Legal costs recovered for the professional litigation work done by Civil Litigation (1) of CLS were about \$7.4 million.

Family Litigation

In 2022, the Family Unit of the Civil Litigation (2) of CLS took up a total of 513 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.



Miss Emily Ho Wai-han
*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 Division 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 2022, the Insolvency Unit took out 20 winding-up and one bankruptcy petitions. A total of 292 cases were referred to the Protection of Wages on Insolvency Fund Board for ex-gratia payments.

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 hearings 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 2022, 80.6% of all criminal cases in the District Court in Hong Kong were legally aided, as were 95.1% of criminal cases in the Court of First Instance.

In 2022, the Crime Section handled 834 cases in-house:

Court of First Instance of High Court Trials & Appeals

31 (3.7%)

District Court-Plea Day Hearings

461 (55.3%)

Committal Proceedings & Others

342 (41.0%)

Total

834 (100.0%)

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



Related Legal Support Services

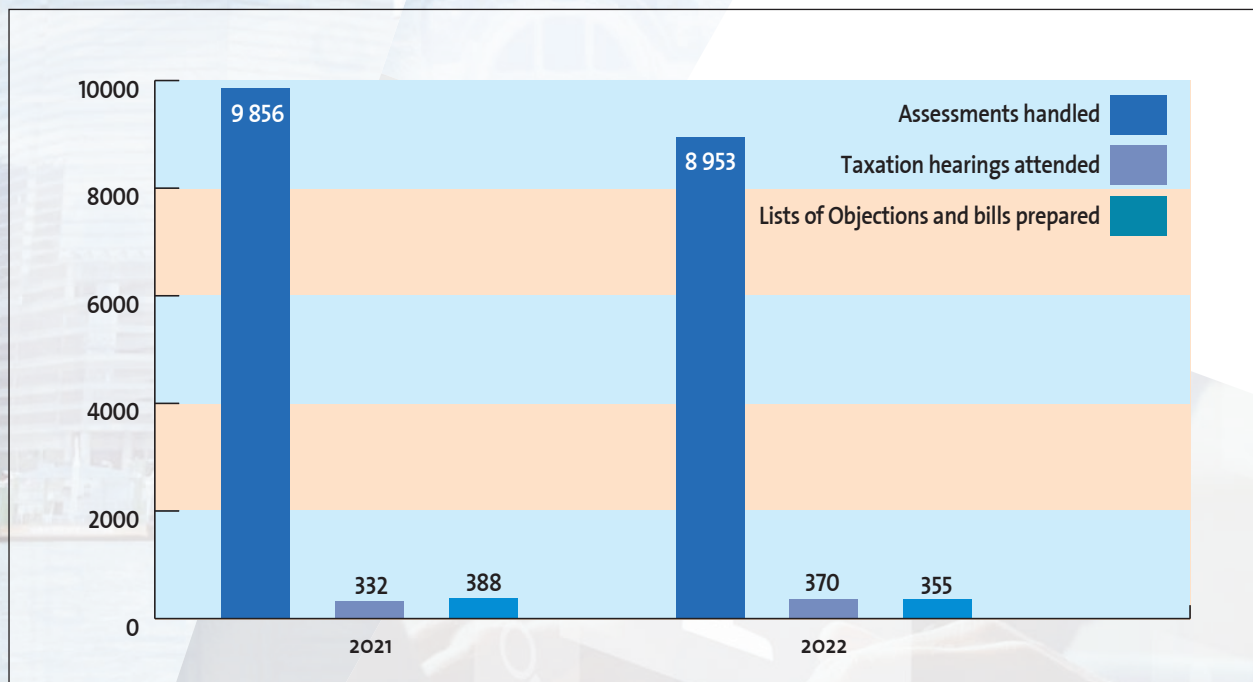
Costing

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.



Ms Christina Cheung Ying-man
*Assistant Principal Legal Aid Counsel
 (Legal and Management Support)*

Cases Handled by the Costing Unit in 2021-2022



Enforcement

The Department's Enforcement Unit (EU) handles enforcement proceedings for the recovery of judgment debts and costs in legally aided cases. EU's work in the first half of 2022 continued to be affected by the COVID-19 pandemic and the special work arrangement for the Court and the Department. In 2022, a total of 183 cases were assigned to the EU. In 90 cases, enforcement proceedings were instituted. About 8% of the proceedings were instituted within 1 month from the date when the cases were assigned to the handling professional officers. The table below shows the time taken for enforcement proceedings to be commenced from the date of assignment:

Time Taken for the Commencement of Enforcement Proceedings in 2022:

Within 1 month	Within 2 months	Within 3 months	More than 3 months	Total no. of cases
7 (39)	33 (40)	27 (17)	23 (13)	90 (109)
8% (36%)	37% (37%)	30% (15%)	25% (12%)	100% (100%)

(2021 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 instalments.

The costs and damages recovery ratio for cases with enforcement actions handled by the Department and finalised in 2022 is as shown in the chart below:

Amount recovered

31%

Amount not recovered

69%



Top 20 Solicitors in terms of Civil Case Assignments in 2022 by Case Types and Percentage Shares in the Total Number of Civil Case Assignments to Solicitors

(From 1.1.2022 to 31.12.2022)

Rank by order Share	No. of Assignments by Case Types#						% Share
	PI-related	JR	MIM	MAT	Others	Total	
1	31	0	0	0	0	31	0.9%
2	30	0	0	0	0	30	0.8%
3	29	0	0	0	0	29	0.8%
4	27	0	0	0	0	27	0.8%
5	26	0	0	1	0	27	0.8%
6	9	0	0	17	0	26	0.7%
7	25	0	0	0	0	25	0.7%
8	24	0	0	1	0	25	0.7%
9	23	0	0	1	1	25	0.7%
10	25	0	0	0	0	25	0.7%
11	25	0	0	0	0	25	0.7%
12	25	0	0	0	0	25	0.7%
13	25	0	0	0	0	25	0.7%
14	25	0	0	0	0	25	0.7%
15	21	0	0	1	2	24	0.7%
16	19	0	0	1	4	24	0.7%
17	24	0	0	0	0	24	0.7%
18	23	0	0	1	0	24	0.7%
19	23	0	0	0	0	23	0.6%
20	23	0	0	0	0	23	0.6%
Subtotal for Top 20	482	0	0	23	7	512	14.4%
Total no. of assignments to solicitors in civil cases	2137	102	3	1098	211	3551	100.0%

Note: The civil assignment limit for panel solicitor is 30 cases within the past 12 months; and for judicial review - related cases is 5 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, SLAS Professional Negligence and SLAS Running Down

JR – Judicial Review

MIM – Immigration

MAT – Matrimonial

Others – Miscellaneous