

CONTROLLING OFFICER'S REPLY

CSO016

(Question Serial No. 3604)

Head: (94) Legal Aid Department

Subhead (No. & title): (-) Not Specified

Programme: (1) Processing of Legal Aid Applications

Controlling Officer: Director of Legal Aid (C. M. CHAN)

Director of Bureau: Director of Administration

Question:

- 1) Regarding judicial review (JR) cases relating to non-refoulement claims, please set out in a table the number of legal aid applications, the number of legal aid certificates granted and the relevant legal aid expenditure in each of the past 5 years (2021-22 to 2025-26).
- 2) On top of the legally-aided JR cases relating to non-refoulement claims, please set out in a table the details of other legally-aided JR cases in each of the past 5 years, including the number, the case numbers, the outcomes, the parties liable to pay costs and the quantum of costs, and the administrative departments, subject matters and law firms (and the counsel engaged by them) involved in the cases.
- 3) What were the respective numbers and proportions of cases involving advocacy work by solicitors and counsel assigned by the Legal Aid Department in each of the past 5 years (2021-22 to 2025-26)? What factors were considered in the assignment of cases to lawyers?
- 4) What is the progress of review on criminal legal aid fees?

Asked by: Hon KAN Wai-mun, Carmen (LegCo internal reference no.: 15)

Reply:

1. Regarding judicial review (JR) cases relating to non-refoulement claims, the number of legal aid applications, the number of legal aid certificates granted and the relevant legal aid expenditure over the past 5 years are set out below:

Year	Number of legal aid applications	Number of legal aid certificates granted	Legal aid expenditure on JR cases relating to non-refoulement claims with legal aid certificates granted in the respective year¹ (\$ million)
2021	326	70	10.2
2022	392	80	5.5

2023	341	74	4.2
2024	365	86	4.1
2025	588	134	1.3

Note 1: Since the legal proceedings of certain cases (especially those with legal aid granted in recent years) have remained ongoing, the amount of legal aid involved in cases with legal aid certificates granted may be subject to adjustment.

2. Regarding JR cases not relating to non-refoulement claims (other JR cases), the number of legal aid applications, the number of legal aid certificates granted and the relevant legal aid expenditure over the past 5 years are tabulated below:

Year	Other JR cases		
	Number of legal aid applications	Number of legal aid certificates granted	Legal aid expenditure on cases with legal aid certificates granted in the respective year ² (\$ million)
2021	124	14	7.2
2022	95	13	8.3
2023	113	6	1.9
2024	194	14	7.9
2025	140	4	2.6

Note 2: Since the legal proceedings of certain cases (especially those with legal aid granted in recent years) have remained ongoing, the amount of legal aid involved in cases with legal aid certificates granted may be subject to adjustment.

The outcomes of other JR cases with legal aid certificates granted in the respective year and the relevant proceedings concluded over the past 5 years and the corresponding percentages are set out below:

Year	Other JR cases		
	Percentage of cases with outcome in favour of the legally-aided person ³	Percentage of cases with outcome against the legally-aided person	Percentage of cases not pursued ⁴
2021	46%	39%	15%
2022	46%	46%	8%
2023	50%	50%	0%
2024	70%	30%	0%
2025 ⁵	0%	100%	0%

Note 3: The figures include cases in which:

- (1) the judgment was in favour of the aided person, including partly favourable ones;
- (2) precedent was set by the court subsequent to the grant of legal aid, which was favourable to the case of the aided person;

- (3) relief was given to the aided person by the opponent (government department/public organisation) before conclusion of the legal proceedings;
- (4) policy amendment was made by the opponent (government department/public organisation) so that relief could be obtained by the aided person who therefore did not have to continue the legal proceedings; and
- (5) judgment in favour of or partly in favour of the aided person was given by the court after an appeal was lodged.

Note 4: The figures include cases in which:

- (1) the aided person terminated or did not continue the proceedings; and
- (2) the Legal Aid Department (LAD) discontinued the legal aid.

Note 5: Legal aid certificates were granted only for 4 other JR cases in 2025. Among which, the outcomes of 3 cases were against the legally-aided persons and the legal proceeding of the remaining 1 case has remained ongoing.

LAD does not maintain information on the specific subject matters, administrative departments involved and the amount of costs payable to other government departments in other JR cases.

In addition, subject to the provisions of the Legal Aid Ordinance (Cap. 91), LAD shall not disclose, without the aided persons' consent, information on individual aided persons, including the case numbers of their legally-aided proceedings, the opponents involved and the particulars of their legal representatives.

3. The numbers and proportions of cases involving advocacy work by solicitors and counsel assigned by LAD over the past 5 years are tabulated below:

Year	Civil legal aid case	
	Counsel	Solicitor
2021	219	929
2022	226	839
2023	212	816
2024	212	807
2025	213	680

Year	Criminal legal aid case			
	Counsel	Solicitor		
		Solicitor advocate	Instructing solicitor	Sub-total
2021	2 894	50 (1.79%)	2 748 (98.21%)	2 798
2022	2 392	23 (0.97%)	2 351 (99.03%)	2 374
2023	2 669	4 (0.16%)	2 559 (99.84%)	2 563
2024	2 931	32 (1.11%)	2 852 (98.89%)	2 884
2025	3 157	84 (2.62%)	3 128 (97.38%)	3 212

In the course of selecting a counsel or a solicitor to act for an aided person, LAD will, with the aim of safeguarding the aided person's interest and ensuring proper use of public funds, consider the experience and expertise of the counsel or solicitors on the Legal Aid Panel (the Panel) and the type and complexity of the case to assign a counsel or solicitor suitable for the aided person. Generally speaking, to satisfy the assignment criteria, counsel or solicitors should be on the Panel, be in active practice, demonstrate a satisfactory performance record (including performance record in handling both legally aided and non-legally aided cases, such as the Record of Unsatisfactory Performance and Conduct maintained by LAD's Departmental Committee on Monitoring Assignments to Counsel and Solicitors regarding counsel or solicitors on the Panel in handling legally aided cases, and the records of disciplinary tribunal decisions from the 2 legal professional bodies), satisfy the minimum experience requirement specified for the relevant type of litigation work, not exceed the limit on assignments of legal aid work and/or, where appropriate, fees paid for such work in the past 12 months, and, in the case of solicitors, have the necessary support and facilities afforded by their firms to handle legal aid work.

LAD has consulted the Legal Aid Services Council (LASC) on the aforesaid selection criteria for assigned lawyers. Members of LASC include representatives of the 2 legal professional bodies.

4. LAD will, in accordance with the framework and amount set out in the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D), pay criminal legal aid fees to counsel and solicitors in private practice assigned to represent aided persons in handling criminal legal aid cases. The Government has conducted reviews on the fees on a biennial basis according to an established mechanism, taking into account changes in Consumer Price Index (C) (CPI(C)) within the reference period. In conducting the biennial reviews, the Government mainly considers general price movement within the reference period and whether there has been difficulty in engaging the services of counsel and solicitors.

The last biennial review was conducted in 2024. The Government adjusted the fees upwards by 3.9% based on the changes in the CPI(C) within the reference period from July 2022 to July 2024. The next review is expected to commence in the third quarter of this year according to the established mechanism. The Government will maintain close communication with the 2 legal professional bodies and has expressed its willingness to consider further views from them.

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