




Legal Aid Department

Not Happy that Someone is Given Legal Aid

**Can Anything be Done ?**





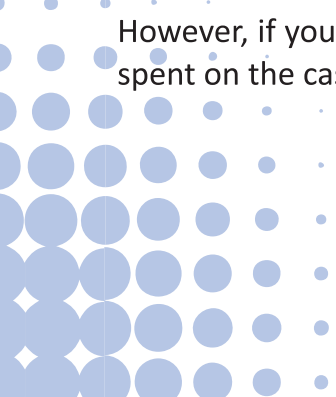
This leaflet explains the steps we will take when you tell us that someone who should not qualify has been granted legal aid.

## Why tell us?

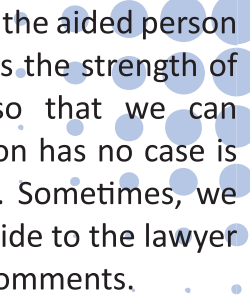
Legal aid is to allow persons of limited financial resources to obtain the services of a solicitor and, if necessary, a barrister to represent them in proceedings before the courts in Hong Kong. To qualify, applicants must pass a means and a merits test. If you believe that a person should not have been given legal aid, you can let us know. This is called making "representations". We welcome genuine representations and we will deal with them as thoroughly as possible so that legal aid is only made available to those who qualify.

## How do we deal with representations?

### Representations on the **merits** of the case:



We grant legal aid to persons so that they can take or defend court proceedings. Although we determine whether there is a reasonable claim or defence when deciding the application, it is the court which ultimately decides who will win the case. However, if you think it is unreasonable for public money to be spent on the case, you can write to us.




You do need to give us reasons, for example, the aided person has withheld essential information that affects the strength of the case and what that information is, so that we can investigate. Simply stating that an aided person has no case is not sufficient for us to start an investigation. Sometimes, we may have to forward the information you provide to the lawyer representing the aided person for views and comments.

### Representations on the **means** of the aided person:

Representations on the financial circumstances of aided persons are handled by the Department's Special Duties and Research Unit. The Unit will look at the representations made in light of the financial information provided by the aided person.

You need to give us as many details as you can that make you think the aided person is not financially eligible. For example, if you claim the aided person owns property, details about where the property is should be provided or that the aided person has savings, details should be provided about the amount and the bank(s) in which the monies are deposited. We cannot start an investigation by just relying on a simple statement alleging that an aided person has other assets and should not be eligible for legal aid. To enable us to conduct a thorough investigation, we may have to disclose the information provided by you to the aided person. The disclosure will also give the aided person an opportunity to explain.



## Common reasons why legal aid is continued despite representations:

Common reasons for continuing legal aid despite **merits** representations are:

- where the information provided does not add anything to what the aided person or assigned lawyer has already told us or
- where the information is about a question of fact which is up to the court to decide, for example, whether the aided person is telling the truth about what happened in an accident claim
- the aided proceedings have already concluded

Common reasons for continuing legal aid despite **means** representations are:

- where the information provided was about property which we do not take into account, such as the main or only dwelling of the aided person, or something which is the subject matter in dispute in the court proceedings or
- where the information provided does not discredit what the aided person has already told us or
- where the aided person has a reasonable explanation in response to the allegations made about his/her means



## How long does it take to deal with representations?

We will proceed with the investigation and come to a decision as quickly as possible since it is in the best interest of all concerned that there should be an early determination of the aided person's continued eligibility for legal aid. Normally, we aim to complete an investigation within 12 weeks. However, it can take longer in some cases for a thorough investigation to be carried out. This is because we often rely on third parties, such as an assigned lawyer or the Land Registry or a bank, to provide us with information.

## Will you be notified of the outcome of our investigation?

Once we have completed the investigation, we will advise you in writing of the completion of our investigation and if you are the opposite party, whether legal aid will be continued. However, we cannot reveal details of our investigation or its outcome or explain in detail the reasons for our decision because of the law on personal data privacy and the restriction on the disclosure of information concerning an aided person as laid down in the Legal Aid Ordinance.

## Are there safeguards against abuse of legal aid?

You may wish to know that we have safeguards to prevent weak cases from proceeding and to prevent abuse of legal aid.

Safeguards include the monitoring of assigned out cases to ensure continued merits, re-assessments of the financial resources of aided persons, for example, when information comes to light in the course of the proceedings that an aided person has assets or income which have not been disclosed to us and the referral of cases to police for prosecution where aided persons have made false statements about their financial resources.

## How to contact us?

You may send your representation to us either by fax: **2537 5948** or by letter to **24-27 floors, Queensway Government Offices, 66 Queensway, Hong Kong** or through our e-mail at **ladinfo@lad.gov.hk**

