

提供大律师证明书计划

Scheme of Provision of Certificate by Counsel

根据《法律援助条例》第 26A 条的规定，凡向终审法院提出上诉而不获法律援助署署长批出法援的人士，可以在其作出拒绝批出法援的决定后28天内申请复核。寻求复核的申请必须附有由香港执业大律师发出的证明书，述明该申请人有合理机会向终审法院上诉得直，以及提出该项意见的理由。

为协助向终审法院提出上诉而缺乏经济能力的人士就不获批法援寻求复核，法援局推行了一项辅助计划，让通过法援经济审查的人士可申请免费提供一张大律师证明书。为防止计划被滥用，每名申请人只能就同一案件申请一张证明书。在民事案件方面，本局只会考虑为已在上诉法庭进行聆讯，并有意就实质裁决所颁布的判决、判定或命令向终审法院提出上诉的案件，安排签发大律师证明书。至于非正审的判决、判定和命令，本局将不会安排签发大律师证明书。

在2024年4月1日至2025年3月31日期间，本局共接获20宗要求提供大律师证明书的申请。其中最多申请人涉及的刑事案件类别是「贩卖危险药物」，佔刑事案件的总申请数目三分之一以上；至于民事案件则没有显着的主要类别。在20宗申请中，有10宗获批，另有10宗因未能符合所有批核准则而被拒。

Under section 26A of the Legal Aid Ordinance, a person who has been refused legal aid by the Director of Legal Aid in respect of his/her appeal to the Court of Final Appeal (CFA) may seek a review of the refusal within 28 days of the decision. The application for review must be accompanied by a certificate by counsel practising in Hong Kong to state that the person has a reasonable prospect of success in the appeal to the CFA and the grounds for that opinion.

To assist persons who lack means to seek a review of legal aid refusal, the Council has in place an assistance scheme in which the person who has passed the means test for legal aid may apply for the provision of a certificate by counsel free of charge. In order to prevent abuse of the scheme, each applicant can only apply once for a certificate in respect of the same case. For civil cases, the Council will only consider to provide a certificate by counsel if the case has been heard by the Court of Appeal (CA) and the intended appeal to the CFA is related to a judgment or decision or order on the substantive merits of the case as opposed to an interlocutory decision or order by the CA.

From 1 April 2024 to 31 March 2025, the Council received 20 applications for the provision of a certificate by counsel. The most common type of criminal case involved was “trafficking in dangerous drugs” accounting for more than one-third of the total number of applications in respect of criminal cases. As for civil cases, there was no prevalent majority type of case. Of the 20 applications, 10 were approved and 10 were refused on grounds of their failure to meet all the approving criteria.

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10宗获批的申请已全部转介予名册律师，以评估案件胜诉的机会。经评估后，所有案件均被认为胜算较低，各申请人亦未有进一步就法援被拒提出复核。

All the 10 approved applications were referred to panel lawyers for assessment of the winning prospects of the court cases. After assessments, all of their winning prospects were deemed negative and the applicants did not further pursue their reviews on legal aid refusal.

在2023-2024年度及2024-2025年度接获申请的相关统计列表如下：

The relevant statistics on the applications received in 2023-2024 and 2024-2025 are set out in the table below –

	1.4.2023 至 31.3.2024			1.4.2024 至 31.3.2025		
	刑事案件 Criminal Case	民事案件 Civil Case	总计 Total	刑事案件 Criminal Case	民事案件 Civil Case	总计 Total
申请 Applications						
获批 Approved	22	2	24	8	2	10
被拒 Refused	1	8	9	6	4	10
被终止 Aborted	0	1	1	0	0	0
被撤回 Withdrawn	0	0	0	0	0	0
总计 Total	23	11	34	14	6	20
已发出的大律师证明书 Certificates by counsel issued						
有合理机会上诉得直案件 Cases certified to have reasonable prospects of success	6	1	7	0	0	0
无合理机会上诉得直案件 Cases certified not to have reasonable prospects of success	16	1	17	8	2	10
总计 Total	22	2	24	8	2	10
有合理机会上诉得直案件 Cases certified to have reasonable prospects of success						
经法援署复核后获提供法律援助 Legal aid granted after review by LAD	2	0	2	0	0	0
经法援署复核后仍不获提供法律援助 Legal aid not granted after review by LAD	4	1	5	0	0	0
总计 Total	6	1	7	0	0	0

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以上统计数据显示：

- (a) 2024-2025年度总申请数目下降41% (由2023-2024年度的34宗下降至2024-2025年度的20宗)；与刑事案件有关的申请下降39% (由2023-2024年度的23宗下降至2024-2025年度的14宗)，而与民事案件有关的申请下降45% (由2023-2024年度的11宗下降至2024-2025年度的6宗)；及
- (b) 10宗获批并转介予名册律师作评估的申请均被视为无合理机会上诉得直，因此申请人并未有进一步就法援被拒提出复核。

根据现行惯例，每位成功的申请人将获本局从律师名册中委派一名大律师和一名律师。支付大律师和律师拟备证明书的费用为定额费用。

The above statistics reveal that –

- (a) the total number of applications in 2024-2025 decreased by 41% (from 34 in 2023-2024 to 20 in 2024-2025), with a decrease of 39% in the number of applications for criminal cases (from 23 in 2023-2024 to 14 in 2024-2025) and a decrease of 45% for civil cases (from 11 in 2023-2024 to 6 in 2024-2025); and
- (b) all the 10 approved applications referred to panel lawyers for assessment were deemed not having reasonable prospects of success and as a result, the applicants did not further pursue their reviews on legal aid refusal.

In line with the normal legal practices, each successful applicant will be assigned with a counsel and a solicitor under the panel of lawyers maintained by the Council. The service fees paid to each assigned counsel and solicitor for preparation of a counsel certificate are fixed.



在2024-2025年度，就10宗成功获批的申请，合共拨出462,000元作为支付大律师及律师提供证明书的费用，详情如下：

In 2024-2025, a total of \$462,000 was committed as fees for counsel and solicitors to provide certificates for the 10 approved applications. Details are as follows –

	获批申请数目 Number of Applications Approved	大律师费用 Counsel Fees	律师费用 Solicitor Fees	总费用 Total Fees
刑事案件 Criminal Case	8	\$184,000	\$104,000	\$288,000
民事案件 Civil Case	2	\$116,000	\$58,000	\$174,000
总计 Total	10	\$300,000	\$162,000	\$462,000

要加入法援局所备存的执业律师名册，大律师须具备最少十年执业经验，而律师则须具备七年执业经验。此外，大律师和律师均须于过去三年内，曾处理最少三宗上诉法庭或终审法院的案件。资深大律师则获豁免最低工作经验的要求。

To join the panel maintained by the Council, counsel must have at least ten years’ practicing experience and for solicitors, seven years. In addition, both counsel and solicitors must have handled at least three CA or CFA cases in the past three years. Senior counsel are exempted from the minimum experience requirements.

作为计划的管理人，本局有责任确保所有名册内的大律师和律师均熟悉有关向终审法院提出上诉的程序和要求，以及具备相关的工作经验。本局会定期进行名册更新工作。截至2025年3月31日，本局名册内共有62名大律师和35名律师。

As the administrator of the scheme, the Council is responsible for ensuring that counsel and solicitors on the panel possess both relevant experience and sound knowledge of the laws and practices relating to appeal procedures and requirements for appeal to the CFA. Regular panel updating exercise is conducted by the Council and the number of counsel and solicitors on the panel were 62 and 35 respectively as at 31 March 2025.