

提供大律師證明書計劃 Scheme of Provision of Certificate by Counsel

根據《法律援助條例》第 26A 條的規定，凡向終審法院提出上訴而不獲法律援助署署長批出法援的人士，可以在其作出拒絕批出法援的決定後28天內申請覆核。尋求覆核的申請必須附有由香港執業大律師發出的證明書，述明該申請人有合理機會向終審法院上訴得直，以及提出該項意見的理由。

為協助向終審法院提出上訴而缺乏經濟能力的人士就不獲批法援尋求覆核，法援局推行了一項輔助計劃，讓通過法援經濟審查的人士可申請免費提供一張大律師證明書。為防止計劃被濫用，每名申請人只能就同一案件申請一張證明書。在民事案件方面，本局只會考慮為已在上訴法庭進行聆訊，並有意就實質裁決所頒布的判決、判定或命令向終審法院提出上訴的案件，安排簽發大律師證明書。至於非正審的判決、判定和命令，本局將不會安排簽發大律師證明書。

在2024年4月1日至2025年3月31日期間，本局共接獲20宗要求提供大律師證明書的申請。其中最多申請人涉及的刑事案件類別是「販賣危險藥物」，佔刑事案件的總申請數目三分之一以上；至於民事案件則沒有顯著的主要類別。在20宗申請中，有10宗獲批，另有10宗因未能符合所有批核準則而被拒。

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宗獲批的申請已全部轉介予名冊律師，以評估案件勝訴的機會。經評估後，所有案件均被認為勝算較低，各申請人亦未有進一步就法援被拒提出覆核。

在2023-2024年度及2024-2025年度接獲申請的相關統計列表如下：

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.

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

	1.4.2023 至 to 31.3.2024			1.4.2024 至 to 31.3.2025		
	刑事案件 Criminal Case	民事案件 Civil Case	總計 Total	刑事案件 Criminal Case	民事案件 Civil Case	總計 Total
申請 Applications						
獲批 Approved	22	2	24	8	2	10
被拒 Refused	1	8	9	6	4	10
被終止 Aborted	0	1	1	0	0	0
被撤回 Withdrawn	0	0	0	0	0	0
總計 Total	23	11	34	14	6	20
已發出的大律師證明書 Certificates by counsel issued						
有合理機會上訴得直案件 Cases certified to have reasonable prospects of success	6	1	7	0	0	0
無合理機會上訴得直案件 Cases certified not to have reasonable prospects of success	16	1	17	8	2	10
總計 Total	22	2	24	8	2	10
有合理機會上訴得直案件 Cases certified to have reasonable prospects of success						
經法援署覆核後獲提供法律援助 Legal aid granted after review by LAD	2	0	2	0	0	0
經法援署覆核後仍不獲提供法律援助 Legal aid not granted after review by LAD	4	1	5	0	0	0
總計 Total	6	1	7	0	0	0

提供大律師證明書計劃

Scheme of Provision of Certificate by Counsel

以上統計數據顯示：

- (a) 2024-2025年度總申請數目下降41% (由2023-2024年度的34宗下降至2024-2025年度的20宗)；與刑事案件有關的申請下降39% (由2023-2024年度的23宗下降至2024-2025年度的14宗)，而與民事案件有關的申請下降45% (由2023-2024年度的11宗下降至2024-2025年度的6宗)；及
- (b) 10宗獲批並轉介予名冊律師作評估的申請均被視為無合理機會上訴得直，因此申請人並未有進一步就法援被拒提出覆核。

根據現行慣例，每位成功的申請人將獲本局從律師名冊中委派一名大律師和一名律師。支付大律師和律師擬備證明書的費用為定額費用。

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.



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在2024-2025年度，就10宗成功獲批的申請，合共撥出462,000元作為支付大律師及律師提供證明書的費用，詳情如下：

	獲批申請數目 Number of Applications Approved	大律師費用 Counsel Fees	律師費用 Solicitor Fees	總費用 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
總計 Total	10	\$300,000	\$162,000	\$462,000

要加入法援局所備存的執業律師名冊，大律師須具備最少十年執業經驗，而律師則須具備七年執業經驗。此外，大律師和律師均須於過去三年內，曾處理最少三宗上訴法庭或終審法院的案件。資深大律師則獲豁免最低工作經驗的要求。

作為計劃的管理人，本局有責任確保所有名冊內的大律師和律師均熟悉有關向終審法院提出上訴的程序和要求，以及具備相關的工作經驗。本局會定期進行名冊更新工作。截至2025年3月31日，本局名冊內共有62名大律師和35名律師。

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.

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.