

**Advisory Committee on
Legal Advice for Unrepresented Litigants**

Minutes of the 9th Meeting held on 8 December 2020

Date: 8 December 2020 (Tuesday)
Time: 5:00 – 5:40 p.m.
Venue: Conference Room 4, G/F, Central Government Office,
Tamar, Hong Kong

[Note: Owing to the latest situation of the COVID-19 outbreak, the meeting was held via video conferencing.]

Attendance

Chairman

Mr PANG Kin-kee, SBS

Members

Ms Maggie CHAN
Professor Anne CHEUNG
Mr Mark DALY
Mr Gary MAK
Mr Azan MARWAH
Mr WAN Wai-ming
Miss Catherine YEN
Ms Amarantha YIP

Mr Andy HO	Representative of the Judiciary
Ms Jennifer CHAN, JP	Representative of the Chief Secretary for Administration's Office (CSO)
Mr Chris CHONG, JP	Representative of the Legal Aid Department (LAD)

Secretary

Miss Irene CHEUNG	Assistant Secretary (Administration) 4, CSO
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In attendance

Mr Nicholas CHAN	Assistant Director of Administration 2, CSO
Ms Angel LI	Centre-in-charge, Legal Advice Scheme

Ms Mabel CHAN

for Unrepresented Litigants on Civil
Procedures Office (the Scheme Office)
Executive Officer (Procedural Advice
Scheme Office)

Absent with apologies
Miss Rebecca TSAI

Opening Remarks

The Chairman welcomed all to the 9th Meeting of the Advisory Committee on Legal Advice for Unrepresented Litigants (“Advisory Committee”), in particular Mr Mark DALY and Mr Azan MARWAH, who were newly appointed and joining the meeting for the first time.

2. The Chairman introduced to the Members the following new officers –

- (a) Ms Angel LI, who had succeeded Ms Alice CHUNG as the Centre-in-charge of the Scheme Office from 6 July 2020;
- (b) Miss Irene CHEUNG, who had succeeded Mr Gabriel PAK as the Secretary of the Advisory Committee from 2 March 2020;
and
- (c) Ms Mabel CHAN, who had succeeded Mr Lawrence CHUNG as the Executive Officer of the Scheme Office from 4 November 2020.

Agenda Item 1: Matters Arising

3. The Chairman invited the Centre-in-charge to report on matters arising from the previous meeting¹. Members noted that –

- (a) Recruitment of Legal Assistant: The Scheme Office had successfully recruited a Legal Assistant at the Admiralty office, who reported duty on 24 August 2020.
- (b) Special Operating Arrangement: To tally with the social distancing measures enforced by the Judiciary for its court buildings in view of the COVID-19 outbreak, the Scheme Office had adopted special operating arrangement in the following periods:

<u>Period</u>	<u>Special arrangement</u>
29 January to 15 March; and 23 March to 10 May 2020	Admiralty office was closed
29 January to 15 March; and 23 March to 17 May 2020	Wanchai office was closed
22 July to 15 September 2020 and 30 November 2020 to present	Both offices shortened the office hours and arranged staff working in shifts

[Post-meeting notes: both offices resumed full operation starting from 18 February 2021.]

¹ The minutes of the last (8th) meeting held on 9 December 2019 were earlier confirmed by Members via circulation without amendment.

4. The Centre-in-charge said the Scheme Office would keep in view of the situation and review the special operation arrangement when appropriate.

Agenda Item 2: – Operation of the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures (AC 02/2020)

5. The Chairman asked the Members if there were questions arising from the circulated information paper.

6. Miss Amarantha YIP would like to know if there was any observation from the utilization rates between the two offices. The Centre-in-charge replied that the number of cases handled by the Wanchai office had exceeded those handled by the Admiralty office. It was partly because of the increase in the civil jurisdictional limit of the District Court, where the Wanchai office was situated at. Moreover, there was a difference in the nature of cases handled by the two offices due to their respective locations. For example, the Wanchai office had been handling more matrimonial cases while the Admiralty office was more involved in High Court cases.

7. Miss YIP also noted that the number of Advice Sessions with interpreter dropped in recent years. She would like to know how the Scheme Office dealt with applicants who spoke languages other than Cantonese, English and Putonghua. The Centre-in-charge replied that most of those non-Chinese applicants could communicate in English, or they were usually accompanied by friends or social workers. As it would take some time for the Scheme Office to arrange interpretation service with relevant service providers, most applicants would prefer having their friends to act as their interpreters so that they did not have to

make another visit.

8. Mr Azan MARWAH showed the Members a letter with heading “Statistics on Appeals/Trials/Substantive Hearings involving Unrepresented Litigants in the Court of Final Appeal, High Court and District Court (2007 to 2019)” issued by the Judiciary. He opined that although the data only showed the relative percentages of unrepresented litigants at different court levels, the increasing trend of these percentages in recent years might indicate that there were more unrepresented litigants who need the Scheme service. He recommended the Judiciary to provide more data so that the Scheme Office could have a better understanding of the demography of potential users.

9. The Chairman invited Master Andy HO to comment. Master HO replied that although the data did not show how many unrepresented litigants had used the Scheme service, from his and his colleagues’ experience, most documents prepared and submitted to the court by unrepresented litigants were in order. It was possible that they had sought assistance from the Scheme Office or received advice from other external sources.

10. Mr Mark DALY commented that the number of torture claim cases might have contributed to the surge of percentage of unrepresented litigants in civil appeal cases in 2019. Master HO advised that the Court of First Instance heard a large number of those cases in 2016 and 2017 and most claimants lodged their appeals starting from 2018. Mr DALY stated that from his experience, most unrepresented litigants on torture claim cases did not receive proper legal advice, although the issue was outside the scope of the Scheme which only offered procedural advice.

[Post-meeting notes: Mr MARWAH sent the above-mentioned letter to the Chairman and the Members by email after the meeting. The letter is attached at Annex.]

11. The Chairman remarked that the percentages were only indicative and asked if there were breakdown statistics on telephone enquiries received by the Wanchai office and the Admiralty office respectively. Mr Nicholas CHAN (“ADA2”) responded that there was one single hotline for general enquiries and all calls were handled by the Admiralty office. After discussion, the Members agreed that the Scheme Office could conduct a trial run in collecting information on the nature of telephone enquiries and target at reporting the position at the next meeting.

12. Ms Maggie CHAN asked if the telephone hotline was managed by computer system or answered by real person. The Centre-in-Charge confirmed the latter and advised that the telephone hotline was operated by the staff of the Scheme office.

Agenda Item 3: Any other business

13. Mr MARWAH introduced to the meeting a project he was personally involved in regarding offering legal assistance to unrepresented litigants in the Family Court. He shared at the meeting a book titled “Duxbury ETC, 2020 Practical Guide to Hong Kong Family Law and Courts”, he being one of the authors. He also suggested the Government to reach out to legal professionals to appeal for their assistance in providing free legal advice to unrepresented litigants. The Chairman appreciated the effort made by Mr MARWAH. Master HO suggested that it would be useful if some copies could be shared to the

District Court or High Court for distribution to court users.

[Post-meeting notes: Mr MARWAH sent a webpage link to the above mentioned book (<https://www.duxburyetc.hk/>) to the Chairman and the Members by email after the meeting.]

14. Mr DALY asked if the Secretariat could resend him the terms of reference of the Advisory Committee. The Secretariat would follow up after the meeting.

[Post-meeting notes: the terms of reference was sent to Members on 25 February 2021]

15. Mr MARWAH also mentioned that a committee of the Bar Association was considering a new project for barristers to provide free legal representation to unrepresented litigants, in particular for those in legal aid appeals. He appealed to the Government and stakeholders for support to render the project successful. The Chairman said that after the Bar Association has finalised its proposal, the Advisory Committee might consider how it could assist under the terms of reference of the Scheme.

16. There being no further business, the meeting ended at 5:40 p.m.

**Secretariat,
Advisory Committee on
Legal Advice for Unrepresented Litigants
February 2021**



司法機構政務處

Judiciary Administration

電話 Tel: 2582 6001

傳真 Fax: 2111 0635

本函檔號 Our Ref.:

來函檔號 Your Ref.:

6 July 2020

Mr. Nicholas Pirie,
Barrister-at-law,
101, Wilson House,
27 Wyndham Street,
Central, Hong Kong

Dear Mr. Nicholas Pirie,

**Statistics for Unrepresented Litigants in Civil and Criminal cases in the
Court of Final Appeal, High Court and District Court**

I refer to your letter of 16 June 2020.

----- 2. As requested, I now enclose for your reference the figures of 2019.

Yours sincerely,

(Prudence Chan)
for Judiciary Administrator

encl.

Statistics on Appeals/Trials/Substantive Hearings
involving Unrepresented Litigants*
in the Court of Final Appeal, High Court and District Court (2007-2019)

Year		2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Court of Final Appeal [#]	Civil Appeals	-	-	-	-	-	-	-	-	-	-	0%	8%	0%
	Criminal Appeals	-	-	-	-	-	-	-	-	-	-	0%	0%	0%
Court of Appeal, High Court	Civil Appeals	30%	35%	35%	37%	23%	24%	23%	20%	32%	25%	43%	70% [@]	77% [@]
	Criminal Appeals	50%	47%	51%	51%	50%	52%	49%	48%	52%	53%	50%	44%	46%
Court of First Instance, High Court	Civil Trials/ Substantive Hearings	30%	30%	35%	32%	29%	27%	33%	33%	33%	40%	32%	33%	37%
	Tribunal and Master Appeals	52%	65%	55%	63%	51%	67%	60%	61%	66%	57%	63%	62%	59%
	Criminal Trials	1%	0%	1%	1%	1%	3%	1%	7%	3%	1%	1%	4%	1%
	Appeals from Magistrates' Courts	57%	58%	61%	59%	58%	64%	60%	56%	61%	62%	64%	61%	60%
District Court	Civil Trials/ Substantive Hearings	47%	51%	55%	53%	51%	64%	51%	58%	53%	46%	61%	55%	65%
	Criminal Trials	3%	3%	2%	2%	2%	2%	4%	4%	3%	4%	3%	7%	7%

*Appeals/Trials/Substantive Hearings involving unrepresented litigants refer to those appeals/trials/substantive hearings in which at least one of the parties is unrepresented.

[#]No such data was maintained in Case Management System prior to 2017.

[@]The significant percentage increase was mainly due to an upsurge of non-refoulement claim cases, the majority of which involve unrepresented litigants.



Motor Insurers' Bureau of Hong Kong
香港汽車保險局

Date: 29 June 2020

Our Ref: JC/bc

Mr. Nicholas Pirie
Barrister at Law
Wyndham Chambers
Room 101 Wilson House
27 Wyndham Street
Central
Hong Kong

Dear Mr. Pirie,

**Re: Statistics for Claims against Uninsured Drivers and Others for 2019
under the MIB First Fund Scheme**

I refer to your letter dated 16 June 2020.

Our Statistics on First Fund Scheme on our web www.mibhk.com.hk has now been updated to end of 2019 and as requested, I am pleased to enclose a copy of the Statistics for the reference of the Hong Kong Bar Association PI & Insurance Committee.

For your Committee's future reference, the total claims paid for the Anglo Starlite Liquidation as at 31 December 2019 was HK\$864.760 million.

Thank you for your interest in our Statistics.

Yours sincerely
For and on behalf of
Motor Insurers' Bureau of Hong Kong

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Jackie Chun
General Manager

Encl
JC/bc

FIRST FUND SCHEME - STATISTICS

(1) Claims Incurred (Amount in Thousands)

Reporting Year Accident Year	Prior Years & 2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total	
Prior Years	108,312	21,041	286	0	0	0	0	0	0	0	0	0	0	0	0	0	0	120	0	0	129,759	
2000	1,941	4,315	1,102	2,193	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9,551
2001		1,271	9,329	5,626	9,317	108	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25,651
2002			3,420	23,261	20,524	15,728	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	62,933
2003				2,384	10,814	8,227	3,777	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25,202
2004					2,239	7,407	19,772	674	481	0	0	0	0	0	0	0	0	0	0	0	0	30,573
2005						8,166	9,029	3,186	572	1,787	0	0	0	0	0	0	0	0	0	0	0	22,740
2006							1,478	4,788	734	171	3,447	0	0	0	0	0	0	0	0	0	0	10,618
2007								854	11,993	4,274	2,951	1,276	0	0	0	0	0	0	0	0	0	21,348
2008									60	2,897	1,663	3,220	84	0	0	0	0	0	0	0	0	7,924
2009										37	53,978	3,549	905	49	0	18	0	0	0	0	0	58,536
2010											24	1,870	5,395	9,690	53	0	0	0	0	0	0	17,032
2011												117	10,741	2,504	2,377	20	40	0	0	0	0	15,799
2012													238	4,042	2,649	272	255	0	0	0	0	7,456
2013														73	4,948	19,338	2,324	0	0	0	0	26,683
2014															0	4,493	8,520	3,832	821	0	0	17,666
2015																966	4,143	13,814	9,826	600	0	29,349
2016																	1,834	19,611	15,443	26,317	0	63,205
2017																		2,160	36,192	47,588	0	85,940
2018																			3,525	73,962	0	77,487
2019																					16,040	16,040
Total	110,253	26,627	14,137	33,464	42,894	39,636	34,056	9,502	13,840	9,166	62,063	10,032	17,363	16,358	10,027	25,107	17,116	39,537	65,807	164,507	761,492	

FIRST FUND SCHEME - STATISTICS

(2) Types of Claims Incurred (Amount in Thousands)

Reporting Year	Prior Years & 2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total	
Insurer Concerned	Amount	6,482	249	425	1,037	704	833	1,416	803	373	391	737	737	997	759	608	1,244	6,668	22,824	48,552	124,134	219,973
	Cases	240	29	27	42	57	71	104	108	99	117	128	316	610	580	757	767	742	882	927	1237	7,840
Hit and Run	Amount	22,388	13,164	9,589	4,117	29,522	19,640	4,743	3,406	5,845	4,404	16,531	4,632	3,993	10,277	2,335	6,677	7,936	7,295	6,765	15,492	198,751
	Cases	43	8	12	7	26	21	22	15	21	13	16	12	11	10	5	10	7	7	9	12	287
No Insurance	Amount	79,566	13,182	4,124	28,311	12,418	19,072	27,850	5,258	7,621	4,371	44,751	2,719	3,719	3,621	4,531	13,753	1,347	4,096	6,477	17,506	304,293
	Cases	53	13	10	22	13	17	22	11	20	8	15	10	17	15	17	12	5	15	12	21	328
Insurer Concerned or Hit & Run	Amount	0	0	0	0	0	0	47	0	0	0	0	548	11	1,224	0	3,229	446	1,121	2,079	3,255	11,960
	Cases	1	1	0	0	0	0	1	0	0	0	0	2	1	2	1	2	4	2	2	3	22
Insurer Concerned or No Insurance	Amount	948	0	0	0	0	0	0	0	0	0	1,276	8,575	46	2,265	76	109	3,525	882	3,419	21,121	
	Cases	1	0	0	0	0	0	0	0	0	0	1	1	1	3	1	2	1	1	5	17	
Miscellaneous	Amount	869	31	0	0	252	90	0	36	0	0	43	121	68	431	288	127	611	677	1,050	700	5,394
	Cases	40	1	1	5	4	4	0	3	5	0	2	5	9	15	22	24	20	21	20	16	217
Total	Amount	110,253	26,626	14,138	33,465	42,896	39,635	34,056	9,503	13,839	9,166	62,062	10,033	17,363	16,358	10,027	25,106	17,117	39,538	65,805	164,506	761,492
	Cases	378	52	50	76	100	113	149	137	145	138	161	346	649	623	805	816	780	928	971	1294	8,711

FIRST FUND SCHEME - STATISTICS

(3) Sizes of Claims Incurred. (Amount in Thousands)

Reporting Year	Prior Years & 2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total	
Below 2M	Amount	57,161	10,566	10,801	19,058	16,726	20,676	19,534	9,503	7,788	6,620	7,524	7,562	6,762	9,801	10,027	13,198	12,434	33,456	65,806	146,891	491,894
	Cases	365	48	49	72	96	109	148	137	143	137	157	345	647	622	805	814	779	926	971	1288	8,658
2-3M	Amount	16,536	2,023	0	6,786	2,850	0	0	0	2,140	2,546	2,597	2,470	2,025	0	0	2,004	0	2,556	0	9,049	53,582
	Cases	7	1	0	3	1	0	0	0	1	1	1	1	1	0	0	1	0	1	0	4	23
3-4M	Amount	3,095	6,516	3,337	0	0	10,581	0	0	3,911	0	3,447	0	0	0	0	0	0	3,525	0	3,530	37,942
	Cases	1	2	1	0	0	3	0	0	1	0	1	0	0	0	0	0	0	0	1	0	11
4-5M	Amount	8,934	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4,682	0	0	0	13,616
	Cases	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	3
5-6M	Amount	11,757	0	0	0	5,487	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5,037	22,281
	Cases	2	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	4
6-8M	Amount	0	7,522	0	7,620	0	0	0	0	0	0	0	0	0	6,557	0	0	0	0	0	0	21,699
	Cases	0	1	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	3
8-9M	Amount	0	0	0	0	17,832	8,379	0	0	0	0	0	0	8,576	0	0	0	0	0	0	0	34,787
	Cases	0	0	0	0	2	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	4
9-13M	Amount	12,770	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9,904	0	0	0	0	22,674
	Cases	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	2
13M & above	Amount	0	0	0	0	0	14,522	0	0	0	48,495	0	0	0	0	0	0	0	0	0	0	63,017
	Cases	0	0	0	0	0	1	0	0	0	2	0	0	0	0	0	0	0	0	0	0	3
Total	Amount	110,253	26,627	14,138	33,464	42,895	39,636	34,056	9,503	13,839	9,166	62,063	10,032	17,363	16,358	10,027	25,106	17,116	39,537	65,806	164,507	761,492
	Cases	378	52	50	76	100	113	149	137	145	138	161	346	649	623	805	816	780	928	971	1294	8,711

FIRST FUND SCHEME - STATISTICS

(4) Frequency of Claims Incurred (Number of Cases)

Reporting Year Accident Year	Prior Years & 2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
Prior Years	375	36	13	4	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	429
2000	3	15	10	19	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	48
2001		1	22	19	21	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	66
2002			5	32	27	22	1	0	0	0	0	0	0	0	0	0	0	0	0	0	87
2003				2	46	46	52	1	2	0	0	0	0	0	0	0	0	0	0	0	149
2004					6	30	34	36	9	0	0	0	0	0	0	0	0	0	0	0	115
2005						11	53	44	26	4	0	0	0	0	0	0	0	0	0	0	138
2006							9	53	36	24	1	0	0	0	0	0	0	0	0	0	123
2007								3	67	56	27	2	0	0	0	0	0	0	0	0	155
2008									5	49	53	44	3	0	0	0	0	0	0	0	154
2009										5	72	96	72	2	0	2	0	0	0	0	249
2010											8	162	186	93	2	1	0	0	0	0	452
2011												42	333	165	80	3	2	2	0	0	627
2012													55	327	214	90	6	1	0	0	693
2013														36	468	254	94	4	0	0	856
2014															41	428	188	87	5	0	749
2015																38	433	223	106	5	805
2016																	57	547	216	117	937
2017																		63	592	322	977
2018																			52	734	786
2019																				116	116
Total	378	52	50	76	100	113	149	137	145	138	161	346	649	623	805	816	780	928	971	1294	8711