

Guidance Notes to Lawyers Assigned by Legal Aid Services Council

In accordance with section 26A of the Legal Aid Ordinance, a person who has been refused legal aid in respect of his/her appeal to the Court of Final Appeal (CFA) may seek a review of the Director of Legal Aid's refusal within 28 days of the decision. In view of the relatively short period of time allowed, the counsel and solicitor assigned by the Legal Aid Services Council to provide a certificate by counsel should respond promptly to the correspondences from the Council.

The assigned solicitor should provide necessary assistance to the assigned counsel in preparing the certificate and exercise his/her professional judgment to assess whether it is in order to release the certificate. If the assigned solicitor considers that the certificate is not in order, he/she should seek clarification from the assigned counsel and consider the need to invite the assigned counsel to issue an amended certificate at no extra costs.

For the assigned counsel, he/she should set out clearly the grounds for his/her opinion in the certificate to enable the review committee to make an informed decision upon a review whether to grant legal aid to the applicant to pursue an appeal to CFA. The sample certificate is shown at *Appendix*.

If unsatisfactory performance is identified, the Council may draw the attention of the lawyer concerned to the deficiency, suspend or remove the lawyer from the panel and/or refer the matter to the respective professional body for investigation.

To make sure that the applicants' interests are looked after, the Council retains the ultimate authority to assign lawyers.

The fee for providing a certificate by counsel under the scheme administered by the Council is fixed as follows:

	<u>Solicitor</u>
Criminal Case	\$13,000
Civil Case	\$29,000

CERTIFICATE BY COUNSEL

In the Matter of an Application for Legal Aid

by Mr./Ms.

(name of applicant)

And

In the Matter of a Request for Review under section 26A of the Legal Aid Ordinance.

Pursuant to the instructions given by Messrs.
to provide a certificate by counsel in compliance with section 26A(3), Legal Aid Ordinance for a review of the refusal by the Director of Legal Aid to offer legal aid to the applicant in respect of his or her appeal to the Court of Final Appeal (“the intended appeal”) from the judgment, order or decision of the High Court given or made on _____, and having thoroughly considered the merits of the intended appeal, I am of the opinion that ⁽¹⁾:

- the Applicant has a reasonable prospect of success in the intended appeal to the Court of Final Appeal
- the Applicant does not have a reasonable prospect of success in the intended appeal to the Court of Final Appeal

The grounds for my opinion are ⁽²⁾: -

Dated

Signature

(1) Tick whichever is appropriate

(2) Please continue on additional sheet(s)