

CHAPTER 6

LEGAL AID DEPARTMENT

APPLICATION FOR LEGAL AID

6.1 Victims of intimate partner violence who wish to seek an injunction and / or ouster order, or assistance for his / her matrimonial problems, may apply for legal aid in person. Guidelines and information on urgent applications are provided at **Appendix XXIV and Appendix XXV.**

GENERAL PRINCIPLES

6.2 Decisions on such application will be made as soon as practicable.

6.3 The offer of legal aid is subject to the applicant satisfying both the means and the merits tests as required by the Legal Aid Ordinance.

6.4 Where appropriate, information regarding facilities and services provided by other Government Departments / Organisations / Service Units as listed in **Appendix XIX** will be provided to the applicant.

PROCESSING PROCEDURES

6.5 Upon receipt of an application for legal aid, the handling officer will :

- (a) conduct a means test on the applicant; and
- (b) take a brief statement from the applicant.

6.6 A decision will be made as soon as practicable. Legal aid is available to cover the following court proceedings :

- (a) Divorce (including ancillary and other relief);
- (b) Injunction application;
- (c) Ouster order application;
- (d) Interim custody application.

6.7 The factors considered for offering legal aid for an injunction and / or ouster order application include the types of domestic violence (such as physical violence, verbal and mental abuse, bullying or harassment) and the remedies available to help secure the long term safety of the applicant and that of any children.

- 6.8 If the applicant has concerns for her / his safety upon returning home, the handling officer may refer the applicant for shelter service listed in **Appendix XIX**.
- 6.9 A solicitor will be assigned to represent the applicant once legal aid is granted and appropriate legal proceedings will be taken for the benefit of the applicant.

WITHDRAWAL OF APPLICATION OR DISCONTINUATION OF PROCEEDINGS BY VICTIMS OF INTIMATE PARTNER VIOLENCE

- 6.10 If an applicant wishes to withdraw the legal aid application or discontinue the legal proceedings, the reasons for this will normally be ascertained by the assigned solicitor and the handling officer to ensure that the decision is not made under undue influence.
- 6.11 If it is ascertained that an applicant has made an informed decision not to proceed, such decision will be respected.
- 6.12 For cases involving intimate partner violence suffering from sexual violence or with elder victims, reference should be made to the “Procedural Guidelines for Handling Sexual Violence Cases (Revised 2007)” and “Procedural Guidelines for Handling Elder Abuse Cases (Revised August 2006)” respectively.