



法 定 代 表 律 師 辦 事 處
OFFICIAL SOLICITOR'S OFFICE

本署檔號 Our Ref : ENQ/OS/00116/2022

來函檔號 Your Ref :

電 話 Telephone : 2594 7922 / 2594 7930 (Ms Yuen)

11 April 2022

By E-mail (foi+request-987-b414a01a@accessinfo.hk)

Mr. Preston Cheung

Dear Preston,

Thank you for your email dated 15 February 2022. Further to the reply to you from the Chief Secretary for Administration's Office dated 6 April 2022 relating to your access to information request, we write to respond to your other enquiries.

Duties of the Official Solicitor

The Official Solicitor is a public officer whose duties and powers are stipulated under and conferred by the Official Solicitor Ordinance (Cap. 416) ("the Ordinance"). The Official Solicitor acts in accordance with the provisions under the Ordinance.

The Official Solicitor will conduct a separate assessment of merits of the child claimant's case should the parents be unable to secure grant of legal aid and other means of representation. The Official Solicitor will assess whether the claim of the child is a "reasonably arguable claim which enjoys realistic prospects of success". If affirmative, the Official Solicitor will provide assistance. The Official Solicitor is aware of and recognizes the non-refoulement claimants' general lack of means.

In determining if this threshold is met, the Official Solicitor will take into

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account all the circumstances of the case including whether the high standard of fairness which is one of the issues mentioned in the CA judgment, is satisfied. Similarly, child-specific risks and child-appropriate threshold for harm (if any) which are relevant to the personal circumstances of children claimants will be considered too.

The Official Solicitor would act as the next friend of a child claimant where the claim is meritorious and there is no other person fit and willing to act OR where the Official Solicitor is appointed to act in such capacity by the Court. In performing this role, the Official Solicitor may apply for legal aid on behalf of the child claimant.

Under Section 5 of the Ordinance, the Official Solicitor may also, when performing his duties, appoint legal practitioners to act or conduct proceedings on his behalf. In general, the Official Solicitor will take into account all relevant circumstances including the nature of the case, the complexity and expertise involved, the procedural history of the case, the manpower in the Official Solicitor's Office ("the OSO"), the interest of the persons being represented etc. in considering whether to appoint legal practitioners to act or conduct proceedings.

Appeal Against the Decisions of the Official Solicitor

There is no provision in the Ordinance for a dedicated appeal channel against the refusal of the Official Solicitor to provide assistance. As with any other administrative decisions, the aggrieved party may apply for judicial review against the decision of the Official Solicitor.

Financial Provision and Establishment of the OSO

The financial provision and establishment of the OSO have all along been sufficient to provide quality services.

We again thank you for your email.

Yours faithfully,



(Mr. Jason Chan)
for Official Solicitor