



ENHANCED ACCESS TO JUSTICE THROUGH ENHANCED CLAS

A note from Indranee Rajah S.C., Senior Minister of State for Law

The enhanced Criminal Legal Aid Scheme (“CLAS”) was launched by Minister for Law, Mr Shanmugam on 18 May 2015. The Pro Bono Services Office (“PBSO”) of the Law Society of Singapore (“LawSoc”) will continue to run CLAS and the legal services will still be done by volunteer lawyers. However the Government will now provide the bulk of funding, comprising \$800,000 for start-up costs and an annual commitment of \$3.5m to cover operational costs, honoraria and disbursements.

WHY ENHANCED CLAS?

This is a significant shift in Government philosophy. Why are we doing it? In short, to provide greater access to justice for genuine cases of need.

The number of CLAS applicants has been increasing over the years but only a fraction could be helped due to limited resources. In 2014, there were 1,780 applications out of which only 431 were granted.

The Government is playing a bigger role so that accused who merit legal assistance but cannot afford it won't have to navigate the criminal justice process alone.

The State Courts estimate that there are about 12,000 litigants-in-person per year, of which half could benefit from some form of legal representation. Enhanced CLAS aims to help up to 6,000 accused persons per year, a tenfold increase from the number previously helped.

MADE POSSIBLE BY CLOSE COLLABORATION

This enhanced scheme has been made possible only because of the strong support of key stakeholders – LawSoc, the Criminal Bar, the law firms, volunteer lawyers, the Courts and MinLaw. I would like to say a big thank you to the legal community.

ENHANCED CLAS

The enhanced scheme contemplates 4 tiers of assistance ranging from basic awareness to full representation, as summarised below:

	Litigants-in-person	Services to be Provided
Tier 1	Potential applicants	Information on CLAS
Tier 2	6,000	Basic legal advice to applicants facing criminal charges, e.g. advice on taking a plea, bail applications, overview of defences, criminal justice process and avenues of assistance
Tier 3	2,000	Limited assistance or ' unbundled services ' not involving Court attendance by a lawyer, e.g. representations to AGC, written mitigation pleas, and drafting of defence case
Tier 4	1,000	Full representation

HOW IT WORKS

For a quick guide to how it works, see Annex A.

- PBSO will continue to run CLAS.
- *Means Testing* – There will be means testing to ensure that criminal legal aid is given to those with genuine financial need. Accused persons helped at Tiers 3 and 4 have to pass both a means and merits test. They will be required to submit their pay slips or CPF statements, and the following application form, before turning up to apply for assistance. You may download the form [here](#)¹. Co-payment is required.
- *Screening by Lead Lawyers* – The starting point is to distinguish cases which merit assistance from those which do not. Under enhanced CLAS, senior criminal lawyers will interview applicants, make an initial assessment of the case and provide basic legal advice under Tier 2. They will decide if it should be channelled to Tier 3 for unbundled services or Tier 4 for full representation or rejected outright.
- *Assigned Counsel* – Once cleared by the Lead Lawyers, cases will be assigned to volunteer lawyers for Tier 3 and Tier 4 services.
- *Honoraria* – It's called pro bono but in fairness, it would not be right to ask volunteers lawyers to do this regularly on a long term basis all for free. Hence, volunteer lawyers will be paid an honoraria for Tier 3 and Tier 4 services. While not the same as market rate, the honoraria will go some way towards defraying their legal fees. Disbursements will continue to be covered so volunteer lawyers need not incur out-of-pocket expenses. Lawyers who prefer not to receive honoraria can donate the sum back to PBSO.

¹ http://probono.lawsociety.org.sg/Documents/Help%20public_hyperlinked%20files/CLAS%20Application%20Form.pdf

- *Structured Mentoring Programme* – One of the drawbacks of the original CLAS programme was that young lawyers who wanted to volunteer did not have sufficient experience in criminal law matters. This discouraged them from volunteering. It also does not serve the client's interest.

To address this, the enhanced CLAS scheme has introduced a structured programme. Volunteers with limited or no criminal law experience will be guided through their initial cases by experienced senior criminal law practitioners. Volunteers will be designated as Assistant Counsel for at least their first 3 cases and assist the Lead Counsel in running their cases. Thereafter they may progress to handle 'plead guilty' ("PG") cases and 'claim trial' ("CT") cases with low maximum sentences. After gaining the necessary experience, they can handle the more complex cases.

- *CLAS Fellows* – LawSoc has introduced the CLAS Fellowship Programme. CLAS Fellows are lawyers who work full-time in PBSO exclusively on CLAS cases. The CLAS Fellows are directly mentored by a Senior Counsel and a senior criminal practitioner. Their salaries are paid or sponsored by law firms. I would like to thank Allen & Gledhill LLP, Drew & Napier LLC, Rajah & Tann Singapore LLP, Rodyk & Davidson LLP and Wong Partnership for their generous support of the first cohort of CLAS Fellows.
- *PBSO Support & Training* – PBSO will also provide support and training for volunteer lawyers. (See Annex B)

WHAT DOES THIS MEAN FOR LAWYERS?

When the scheme was first mooted there were some initial reservations. In particular, some wondered whether this would cannibalise the existing work of criminal lawyers, especially those from small firms.

The answer is no. In fact the intention was quite the opposite – which is to give criminal lawyers opportunities for more work, while simultaneously creating greater access to justice for the individual:

- As mentioned above, State Courts estimated that there are about 12,000 cases of litigants-in-person, of which approximately 6,000 would benefit from some form of legal advice or representation. Out of this, it is estimated that 3,000 will need Tier 3 or Tier 4 services. This means there are potentially 3,000 pieces of new work available to criminal lawyers for which an honorarium will be paid. The effect of enhanced CLAS is that it will expand the work opportunities of criminal lawyers.
- Applicants will be means tested to safeguard against abuse of the system. Those who can afford to pay should continue to pay.

For young lawyers, enhanced CLAS is a great way to get court exposure and advocacy experience, with the benefit of good mentorship.

For firms, this is – as Michael Chia said at the dialogue with the Criminal Bar last week - a good way to get paid training for your young lawyers. Everyone benefits all round.

HOW TO VOLUNTEER OR SUPPORT CLAS?

CLAS' success depends on volunteer lawyers, I urge those not yet on board to participate in the scheme. It is open to lawyers of all levels of experience, whether you are new to criminal practice or an experienced practitioner. Participation is needed at both individual and firm level.

At individual level, there is need for Lead Lawyers and Assigned Counsel. In particular, there is an urgent need for lawyers with at least 4 years of criminal practice experience to take on the more complex CT cases. You can register as a CLAS Volunteer by clicking [here](#).

To be a CLAS Lead Lawyer, you need to have at least 7 years PQE including criminal experience, OR have done at least 25 CLAS assignments, including at least three as Lead Counsel. Eligible volunteers are invited to apply by sending a detailed resume to clas@lawsoc.org.sg.

Firms can support CLAS by:

- Sponsoring or seconding CLAS Fellows for one year;
- Signing MOU pledges to take on a certain number of CLAS cases each year. So far PBSO has signed 22 MOUs with law firms, who have pledged to take on in total more than 300 CLAS cases per year.

Interested firms can contact CLAS at clas@lawsoc.org.sg.

CONCLUSION

CLAS has always represented the commitment of the legal fraternity in Singapore to uphold access to justice. Enhanced CLAS is a uniquely Singaporean model with everyone pitching in to do their bit. With the strong participation of the legal profession, and strong Government support, more accused persons without means will have access to justice, and receive the help, guidance and assurance they need to face the criminal justice system.

*– Indranee Rajah S.C., Senior Minister of State for Law
26 May 2015*