



Information Pamphlet on Consumer Legal Action Fund

The Consumer Legal Action Fund (hereinafter referred to as the "Fund") is a trust fund established by the Government in 1994 to provide financial support and legal assistance to consumers with meritorious claims for compensation and relief against unscrupulous traders in disputes involving significant public interests and injustice.

The Consumer Council is the trustee of the Fund and is responsible for the day-to-day operation of the Fund. The "Board of Administrators" and "Management Committee" are responsible for making administrative decisions and approving applications. Members of the Board and the Management Committee are appointed by the Government, comprising mainly professionals from the legal profession and different sectors of the community.

Types of Legal Assistance

Legal assistance provided by the Fund may include legal advice to the assisted consumer and/or assistance in pursuing civil claims. The Fund may engage a solicitor and (if the trustee considers necessary) a barrister to provide assistance for the assisted consumer.

Eligibility for Application

Individual consumer or a group of consumers who have failed to resolve their "consumer dispute" with the trader through non-litigation means (such as mediation, conciliation, etc.) and wish to file a civil claim can apply to the Fund. "Consumer dispute" refers to a dispute between the consumer and the trader arising from the latter's goods, services or immovable properties, for example:

▪ Unmerchable goods, including food and drugs	▪ Sharp or unscrupulous trade practices
▪ Unfair and unconscionable contract terms	▪ Exemption clauses in consumer contracts
▪ False or misleading advertising claims	▪ False trade descriptions
▪ Misdescription or misrepresentation of goods, services or immovable properties	▪ Any other case involving significant consumer interest or injustice

There is no means test for eligibility. However, the applicant's financial status will be one of the considerations in assessing an application. The Fund may ask the applicant to provide details of their financial status.

Application Method

Applicants are required to complete and submit the prescribed application form, together with a cheque for payment of the application fee or a copy of the remittance advice, and the case materials and information, to the Consumer Council (22/F., K. Wah Centre, 191 Java Road, North Point) by post. The envelope should state "Application for Consumer Legal Action Fund".

Application fees are as follows:

- Cases falling within the jurisdiction of the Small Claims Tribunal (for instance, monetary claims not exceeding HK\$75,000): **HK\$100**
- Other cases: **HK\$1,000**

Payment may be made by:

- Cheque payable to "Consumer Council – CLAF Trust Account"; or
- Bank transfer to 808-695282-001 (HSBC) ("Consumer Council – CLAF Trust Account")



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Please visit <https://www.consumer.org.hk/en/complaints-and-services/consumer-legal-action-fund> to download the application form. **Please note that the application fee is non-refundable whether the application is approved or declined.**

Tips

Irrespective of legal assistance provided by the Fund, litigation is time-consuming and entails risk. As such, consumers may wish to file a complaint with the Council first and attempt to amicably settle their dispute with the trader through the Council's conciliation services. Please visit <https://www.consumer.org.hk/en/complaints-and-services/complaint-and-enquiry-channels> to learn more about the Council's complaint handling and conciliation services.

Assessment and Approval

The applicant is required to disclose full, true and accurate case materials and information and fully cooperate with the Fund, including the provision of supplementary documents and information requested by the trustee. Staff will contact the applicant as necessary to review the information and/or arrange an interview to gain a full understanding of the case and seek further information.

The Fund's Board and Management Committee will assess and determine the application, taking into account information provided by the applicant in the application and (if the applicant has made a complaint) information obtained by the Consumer Council in handling the complaint. A number of factors will be taken into account in assessing an application and exercising discretion whether to grant assistance, including:

Merits	The likelihood of success of the case
Consumer interest	If the matter is successful, whether it would contribute to educating consumer in advancing their rights and/or deter unscrupulous trade practices
The chance of successful enforcement	- Cost-effectiveness of litigation, such as the likelihood of effective or successful enforcement of the judgment - Whether the opponent is financially sound
Consumer group	- Whether the incident has affected or may affect a group of consumers adversely - Common facts or legal issues applicable to each consumer - The number of affected consumers
Other factors	- Bargaining power of the applicant - Whether litigation is the most effective means of resolution - Whether the case will impose an undue financial burden on the Fund - The practicality of the Fund in providing timely assistance - The attitude and behaviour of the parties in conciliation or mediation, such as whether the consumer has rejected a reasonable settlement offer



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Result of the Application and Follow-up

If the application is approved, the applicant will receive an agreement in duplicate setting out the scope, conditions and terms of the legal assistance to be provided by the Fund, as well as their responsibilities and obligations as an assisted consumer. The applicant should review the agreement and its terms before confirming acceptance of assistance from the Fund.

After execution of the agreement by both parties, the trustee may engage a solicitor for the assisted consumer to further evaluate and handle the case. Such may include providing legal advice to the assisted consumer, making a claim against the trader and commencing civil proceedings.

If the application is declined, the applicant will be informed by letter. The applicant can still consider taking legal action or seeking legal advice.

Outcome of the Assisted Matter and Contribution

The assisted consumer is required to pay a contribution to the Fund if the assisted matter is successful (e.g. judgment is entered in favour of and/or conferring a benefit on the assisted consumer, the trader's claim is dismissed or withdrawn, or a settlement is reached between the parties). The amount of contribution payable is 10% of the "benefit value" that the assisted consumer has received under a judgment, order or settlement, as well as litigation costs, legal fees and expenses incurred by the Fund on the case but not recovered from the counterparty. However, the contribution payable is capped at 25% (for cases in the Small Claims Tribunal) or 50% (for other cases) of the "benefit value".

"Benefit value" refers to the aggregate of:

- The total amount of money received for the account of the assisted consumer (except for legal fees and expenses recovered from the other party);
- The value of properties and/or services recovered or retained;
- The amount by which the assisted consumer's alleged liability is reduced or discharged; and
- The value of all benefits received in relation to the assisted matter.

The trustee may, where appropriate, reduce or waive the contribution payable.

All moneys received will be paid to the trustee first and, after deducting the contribution payable therefrom, the balance will be released to the assisted consumer. If the moneys received is insufficient to cover the full amount of contribution payable (or the relief obtained does not involve monetary damages), the recipient shall pay the contribution according to the trustee's request.

If the assisted matter is unsuccessful (e.g. the consumer's claim is dismissed or the parties are unable to reach a settlement), the Fund will be responsible for the litigation costs and expenses unless the outcome is due to or attributable to the assisted consumer's fault, neglect, unreasonable conduct, breach of the terms of the assisted consumer agreement or other reasons such as failure to provide full, true and accurate information to the trustee when applying for legal assistance or in the course of receiving assistance. In such event, the assisted consumer shall be liable for all losses, litigation and legal costs, expenses, claims, damages and liabilities arising from the assisted matter and the provision of assistance.



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Termination of Assistance

The Trustee will continue to assess the assisted matter from time to time and may terminate the agreement by notice and the legal assistance at any time.

Generally, the trustee will be responsible for the legal fees and expenses incurred up to termination of assistance. However, if the termination is due to or attributable to the assisted consumer's fault, neglect, unreasonable conduct, breach of the terms of the assisted consumer agreement or other reasons such as failure to provide full, true and accurate information to the trustee when applying for legal assistance or in the course of receiving assistance, the assisted consumer shall be liable for all losses, litigation and legal costs, expenses, claims, damages and liabilities arising from the assisted matter, the provision of assistance and its termination.

Enquiries

For enquiries, please contact the Consumer Council at 2856 3113.



Information on this pamphlet is for reference only.

Applicants should review the provisions set out in the application form carefully. If legal assistance is granted, the rights and obligations between the assisted consumer and the trustee will be subject to the agreement signed by the parties.