

2020

LAW FOR CHANGE STUDENT COMPETITION

TEAM 1	PROJECT TITLE Freelancer Matters
MEMBERS	Ho Sik Tung ¹ Hwang Man Hong, Michael ²
SCHOOL	¹ The University of Hong Kong ² The Chinese University of Hong Kong

OVERVIEW

Freelancer Matters is a project that aims to provide legal assistance and empowerment to the long neglected group of freelancers in Hong Kong. The ultimate end is to fill the current gap that freelancers are neither deemed to be needy (hence not served by NGOs) nor vulnerable (hence not protected by the legislation).

To achieve this goal, we will empower freelancers with real-life legal knowledge and potential abuse that they may face. We believe that it would prevent their clients from abusing these freelancers' ignorance of the law and making a benefit out at their expense.

We will try to empower the freelancer community both internally and externally. From the internal perspective, we believe that a united group of freelancers as a joint force is always more powerful in a bargain than individual freelancers alone as a scattered population. We will be the bridge between different freelancers with online (website forum) and offline (workshops) tools, in the hope that we are not the only one educating the freelancers - each of them is encouraged to educate their peers together with us. Externally speaking, professionals (like pro bono lawyers) will be invited to provide tailor-made legal information for freelancers, which will be practical and handy in their course of business to avoid unnecessary abuses.

PROBLEM ANALYSIS: THE SOCIAL JUSTICE ISSUE

The Neglected Legal Perspective within the Freelancers Community

We conducted a survey with 30 freelancers during October to December, 2020 as well as focus group interviews with 3 freelancers to investigate how educated they are relating to their legal rights and possible abuses by clients. It is found that nearly all respondents agree that legal protection is of essential importance to them - the majority of them agree that legal disputes are common in their course of business. However, while most of them hope to have their legal status improved, most respondents can only point out that the protection they can access so far is highly limited, but are unable to name the exact legal rights they enjoy now. Nevertheless, if they are faced with legal disputes, most of them do not wish to take legal actions, but would rather make concessions or negotiate by giving their clients "favour" in return for the clients not starting a legal action against them. As a result, when the freelancers encounter legal difficulties in their work (which is common), they are left to be helpless and unable to fight for their own benefits using normal, formal legal channels. Their lack of legal

knowledge makes them an easy target for potential abuse by their clients, especially big businesses who are well equipped with a professional legal department as freelancers have no resources nor motivation to seek professional, paid legal services. Such an unequal position in terms of legal knowledge of clients (especially businesses) and individual freelancers will lead to unfair bargaining processes, which is a social injustice.

The Lack of Protection Available to Freelancers

(a) Formal Protection: Lack of Special Attention by the Current Legislation

Under the Employment Ordinance ("EO"), an employee working for the same employer (a) for four weeks or more and (b) for 18 hours or more per week is legally in "employment under a continuous contract" and entitled to a range of statutory employment benefits available to employees (e.g. rest days, paid annual leave, paid statutory holidays, paid sick leave, paid maternity

leave, severance payment and long service payment), which are not available to self-employed persons. Despite the expansion of the self-employed population, the government currently has no intention to extend the coverage of the EO to include the self-employed. Freelancers fall under the category of self-employed persons, hence are not afforded any special status under the current legislation framework. As a result, while freelancers are in an extremely disadvantaged bargaining position versus big businesses (just like normal employees do), they are not afforded the same level of protection as employees have.

(b) Informal Protection: Gap in the Existing Services

After conducting research and interviews, it is found that no major NGOs in Hong Kong take freelancers as their major client. The underlying reason may be that freelancers usually operate in the mode of a one-man company as businesses, they are not deemed to be as needy as other general disadvantaged groups (e.g. elderly, children, women, etc.) This matches the result of our survey, in which nearly all respondents think that local social services have not provided adequate support for freelancers.

Instead of NGOs, some similar informal protection available to freelancers in Hong Kong are trade unions and cooperatives. The Hong Kong Freelancer Service Union and the Hong Kong Freelancer Association are two biggest ones. However, the legal protection offered by these unions is far from sufficient. First, these unions are not specialists in the legal field and may not be as skilled as professional lawyers in offering relevant information to freelancers; secondly, their recognition is still low among freelancers in Hong Kong. From our survey, the majority of respondents have never heard of these unions, not to mention have not participated in their events or become their members. The effectiveness of education by these unions is hence lowered by their lower levels of recognition and lack of specialists.

In fact, most respondents agree that local freelancers lack cohesion. Nevertheless, most respondents are not reluctant towards the development of a mutual help network among freelancers (most welcome it). This prompts *Freelancer Matters'* idea of bridging freelancers using an online community, which can reach more potential community members (i.e. freelancers).

Freelancer Matters and Community Resilience

This year's theme is community resilience. Our project's core echoes the theme of "community" by bringing together scattered freelancers through the online community (internal), and bridging the entire group of freelancers to the external professionals for assistance and protection (external). We also hope to foster social justice on the issue by involving various stakeholders in the society (freelancers, legal professionals, students) to arouse the society's attention towards the neglected group, and build a sense of cohesion both among the freelancers themselves as well as for the whole society.

This project also aims to strengthen freelancers' and the whole community's resilience, i.e. the capability to respond, adapt and recover from challenges and adversities for a better environment and well-being. We see that the community is facing the challenge of COVID-19. While the pandemic has some negative impacts on the freelancers' businesses (as reflected by the survey), more potential clients cut the numbers of their employees (resulting in a high unemployment rate) and realize the benefit of hiring freelancers over employees (as freelancers are flexible and the payment can be one-off), so more people have chosen (or been forced) to work as a freelancer instead of a regular employee. The trend towards an enlarged gig economy in Hong Kong is obvious. Empowering this group before it grows is necessary to ensure that the freelancer working mode remains a good, available option for the working population and is not a group that is prone to abuse.

PROJECT DESCRIPTION

The goals and objectives of *Freelancer Matters* are as follows:

Goals	Objectives
<ol style="list-style-type: none">1. To protect freelancers against potential abuse by their clients;2. To create a cohesive community amongst freelancers; and3. To promote a more supportive and sustainable working environment for freelancers.	<ol style="list-style-type: none">1. To provide freelancers with legal knowledge through an online resource centre and offline workshops;2. To provide channels for freelancers to communicate and strengthen their sense of collective identity as a community by an online forum.

IMPLEMENTATION

Preliminary Phase: Recruitment

Before starting our project, we will recruit a group of law students from the 3 local law schools as the administrators of our website and forum as well as legal researchers. Applications will open from February to March 2021, and we expect to recruit at least 5 students after interview and selection. Students recruited will then receive training sessions to familiarize them with the situation of current freelancers in Hong Kong.

We will also contact potential pro bono lawyers during this period to see if they are willing to join the programme to give advice on the students' research and join the offline workshops to give pro bono legal advice.

Phase 1: Online Community

Target recipients:
All freelancers working in Hong Kong

Phase 1.1: Online Resource Centre

(a) Case base

Cases involving freelancers and the hiring party will be categorised by their areas of law, e.g. contractual dispute, copyright issue, etc. Freelancers finding themselves in legal disputes can preliminarily examine their own scenario and check if they have any claims by comparing with the precedents by using the online casebase. These precedents may also serve as alerts to freelancers, warning them to be aware of potential abuse or problematic contractual clauses.

(b) Useful templates

Templates of legal documents that are commonly seen in freelancers' businesses and tailor-made for their job nature (e.g. contracts, non-disclosure agreement) will also be provided on the website for freelancers' use, who wish to draft their own legal document but lack the required legal skills. This is supported by our survey, where half of the freelancers claim that they never had the experience of drafting legal documents.

(c) Regular blogs

Articles regarding the latest legal development and policies of freelancers' rights (e.g. government's subsidies under COVID-19) written by pro bono lawyers and/or law students will be posted (in English and Chinese) onto the blog session on a monthly basis. A disclaimer of "no formal legal advice is provided" will be stated under every legal article or critics to avoid legal responsibility.

Phase 1.2: Online Forum ("3 Talk")

We will subscribe to *Website Toolbox*, a safe and effective application for interactive forums, as our forum base.

The forum will contain 2 main communities: "Legal Disputes" and "Insider News". Users can share anything freely with anonymity retained. A community guideline will be displayed in a prominent position in the forum. Administrators will delete posts violating the community guidelines after consulting the committee.

(a) Legal disputes

Users can start a new topic and/or comment on an existing discussion thread. Administrators will conduct legal research on the popularly discussed topic once raised. The research report will be further refined and discussed by the committee. A number of articles relating to legal topics concerning freelancer's commonly faced legal issues will then be uploaded to the website (as mentioned in *Phase 1.1*).

(b) Insider news

Users can share any information regarding the industry. The community guidelines will specifically state that users are not allowed to disclose any personal information of the related parties to avoid legal responsibility.

Intended Outcomes

1. Self-empowerment

Through our interview with Hong Kong Freelancer Server Union (HKFU), we learnt that local freelancers seldom help each other out due to the lack of networking within the industry. The "3 Talk" online forum is designed to encourage mutual assistance between freelancers.

2. Encourage freelancers to use legal documents in their businesses

A majority of our respondents agree that they will consider using more legal documents if there is a website that provides templates for relevant legal documents. Although providing templates will not help prevent all potential legal disputes, using them is definitely more beneficial to freelancers as a proof to avoid refusal of payment by denying the transactions.

We fully understand that templates of legal documents are not always accessible, and even accessible, their accuracy and reliability is doubted and not tailor-made to freelancers' job nature, hence causing the reluctance among freelancers to use legal documents to protect themselves.

We expect that our template section can encourage freelancers to use contracts or other kinds of documents during work, which adds a layer of protection in case any disputes arise.

Phase 2: Legal Education and Support Programme

Phase 2.1: Legal Education Workshop

Target recipients:

Primarily freelancers working in the art and design industry

Format: It may be conducted online via Zoom/Facebook page of existing trade unions/YouTube or offline at venues provided by sponsors, depending on the pandemic condition. The workshops will be recorded and a summary will be uploaded onto our website. Lawyers, senior freelancers from different sectors and representatives from trade unions will be invited to host regular workshops, which will be 1.5 to 2 hours long each. We will conduct the workshop once per 2 months (4 workshops a year). To recruit participants, we will post the workshop details on our online community and social media page, and also ask for trade unions' help to promote the activity on their social media.

Venue: Live houses or café are our targeted venue providers as we expect that freelancers are more interested in these venues (that may be relevant to their job task, e.g. musicians, artists, etc.) instead of formal occasions.

Suggested themes: We will suggest the guest speakers to talk on certain themes, including basic labour rights and good practices at work (e.g. keeping correspondences in record), available resources and help for legal disputes, factors to consider before deciding whether to initiate any action or not (i.e. reputation, confidentiality, affordability), points to note when drafting legal documents, etc.

There will be Q&A sessions online so freelancers who are not available to attend the live session can have immediate interaction with legal practitioners. A legal consultation session will also be held after the workshop for freelancers who have specific and confidential legal questions.

Phase 2.2: Legal Support Programme

Target recipients:
Freelancers mainly working in the art and design industry

We propose to form strategic partnerships with labour unions, pro bono lawyers and volunteer law students. When freelancer unions encounter freelancers engaged in legal disputes, they can refer the client to pro bono lawyers for further professional advice, which can help to achieve early identification of freelancers in need and give them timely advice.

The procedures are proposed as follows: (1) freelancers having serious legal questions may contact the union or us via the website directly; (2) the trade union may have online discussion with the freelancer to see whether it is necessary to refer his case to the legal practitioners; (3) if it is suitable for referral, the committee will contact pro bono lawyers for further advice. Proposed services include but not limited to: form-filling assistance, legal documents preparation, lawyer referral services, connecting labour unions from different sectors for more specific assistance, and follow-up service after meeting with lawyers.

Phase 3: Freelancer Support Booklet

Target recipients:
The whole society (mainly freelancers from the arts and design industry)

Last but not least, we will publish a Freelancer Support Booklet of around 20-30 pages as an annual review at the last 2 months of each one-year cycle. We will further invite pro bono lawyers for comments and other freelancers to share their gains through *Freelancer Matters*. We will cooperate with freelancers from different sectors e.g. graphic designers, photographers, editors, and translators, etc. 11 freelancers from these sectors have already agreed to cooperate with us. The booklet will comprise: (1) common legal disputes for all freelancers and relevant laws; (2) specific legal disputes faced by art and design freelancers; (3) case sharing by freelancers and pro bono lawyers; (4) contact of partnering law firms or NGOs; (5) available resources for freelancers (e.g. freelancer websites, platform etc.).

Intended Outcomes

By concentrating all accessible resources in our Freelancer Support Booklet, we aim to support local freelancers by providing a comprehensive and organised guideline that allows freelancers to seek assistance comfortably. Moreover, the booklet can serve as a reference for the freelancer community and the professional team (NGOs, law firms, and law students) to promote *Freelancer Matters*. They can also take our experience as a reference to update and improve the current support services for freelancers. We propose to issue a Booklet on a yearly basis. The Booklet will be in both Chinese and English to maximize coverage. More languages will be available in the future if translators are recruited. It will mainly be published and distributed online through our website and social media.

SUMMARY OF THE IMPLEMENTATION

Relevant Stakeholders

Freelancers	<p>Phases 1, 2 and 3</p> <ul style="list-style-type: none"> Recipients <p>Phase 2: Legal Education and Support Programme</p> <ul style="list-style-type: none"> Senior freelancers: share experience as guest speakers <p>Phase 3: Freelancer Support Booklet</p> <ul style="list-style-type: none"> Share their gains from <i>Freelancer Matters</i> Give advice on graphic design, translation, editing, etc.
Student volunteers	<p>Phase 1: Online Community</p> <ul style="list-style-type: none"> Assist in drafting legal document templates Write and upload legal articles Administer the website <ul style="list-style-type: none"> Monitor the forum regularly Select popular issues <p>Phase 2: Legal Education and Support Programme</p> <ul style="list-style-type: none"> Draft summary of speakers' sharing after each workshop and upload them onto the website Assist in drafting correspondences if needed (e.g. inquiry letters, follow-up communication) <p>Phase 3: Freelancer Support Booklet</p> <ul style="list-style-type: none"> Editing, designing and typesetting Translate written articles into Chinese/English Write about their experience at <i>Freelancer Matters</i>
Pro bono lawyers	<p>Phase 1: Online Community</p> <ul style="list-style-type: none"> Provide comments on the selected issues and drafted articles <p>Phase 2: Legal Education and Support Programme</p> <ul style="list-style-type: none"> Share legal knowledge as guest speakers (Phase 2.1) Provide legal services upon referral (Phase 2.2) <p>Phase 3: Freelancer Support Booklet</p> <ul style="list-style-type: none"> Write articles relating to his/her experience in the one-year cycle with <i>Freelancer Matters</i>
Trade unions or associations	<p>Phase 2: Legal Education and Support Programme</p> <ul style="list-style-type: none"> Share knowledge (Phase 2.1) Connect freelancers with pro bono lawyers (Phase 2.2) <p>Phase 3: Freelancer Support Booklet</p> <ul style="list-style-type: none"> Promote the Booklet on their social media
Live houses/cafe	<p>Phase 2: Legal Education and Support Programme</p> <ul style="list-style-type: none"> Venue providers (Phase 2.1)

PROJECT TIMELINE AND DURATION OF ACTIVITIES

	2021												2022
	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	
Phase 1: Website and Forum													
Recruit student helpers	█	█											
Contact pro bono lawyers	█	█											
Student helpers training		█	█										
Website development		█	█										
Social media creation		█	█										
Legal research		█	█	█	█	█	█	█	█	█	█	█	
Run the website				█	█	█	█	█	█	█	█	█	
Phase 2: Legal Education and Support Programme													
Approach potential speakers	█	█											
Secure workshops venue or platform	█	█											
Promotion			█	█	█	█	█	█	█	█			
Conduct workshops (Phase 2.1)			█		█		█		█				
Legal support programme (Phase 2.2)			█	█	█	█	█	█	█				
Phase 3: Freelancer Support Booklet													
Summarize the one-year cycle								█	█				
Publish and distribute										█	█		

*2021 January: Evaluation

PROPOSED BUDGET

Item	Quantity	Cost per unit (HK\$)	Estimated expense (HK\$)
Phase 1: Online Community			
Website development	/	/	3,000
Website management	/	/	500
Promotion fees (advertising on social media) (per day)	/	/	1,000
Phase 2: Legal Education and Support Programme			
Workshop materials and stationery	250 (per workshop)	4	1,000
Allowance for speakers	/	/	5,000
Venue booking (per hour) *free if online at last	3*4 = 12 (hours)	300	3,600
Social media promotion (Facebook, Instagram, MeWe, etc.)	/	/	1,000
Phase 3: Freelancer Support Booklet			
Design and editing (per hour) (for collaborating freelancers)	50	100	5,000
Online publication	/	/	0
Promotion (Facebook, Instagram, MeWe, etc.)	/	/	1,000
Evaluation			
Online evaluation survey	/	/	0
Total:			21,100

PROJECT MONITORING AND EVALUATION

Phase	Quantitative Evaluation
1	Number and types of legal document templates provided
	Number of blog articles posted on the website per month
	Number and variety of cases recorded in the case base
	Number of users (both active and non-active) of the online forum per month
	Click rate of the website (in general)
2	Number of participants of each workshop
	Number of successful matches of freelancers and pro bono lawyers
3	Number of unique downloads of the Booklet
General: user evaluation survey (throughout the one-year cycle) for all 3 phases	

SUSTAINABILITY PLAN

Low Costs

If the pandemic continues, it is likely that most of our activities will be conducted online, which saves costs as we can use our own online platform resources that are free of charge, e.g. Zoom. We will also cooperate with other freelancer-oriented websites, unions or associations and if possible, ask for their favour to promote for us to save our promotion costs, with higher reachout rate and potential coverage.

Pilot Scheme

Some of our phases are covering all general freelancers working in Hong Kong, while some specifically targets certain sectors (art and design). This serves as a “pilot test”: if successful in our 1st year (for the art and design industry), we can expand the programme coverage gradually after each successful cycle, e.g. the 2nd year may be aimed at the transport sector, the

3rd year accounting sector, etc. This ensures that our programme features can be improved and processes smoothened before introducing it to a large group of recipients, hence for each one-year cycle there can be a larger room for errors or fault. This also ensures that resources are not wasted as each year we will review the whole programme and ensure that it has positive feedback from freelancers served, i.e. it really makes an impact, before proceeding to the next year.

Student Committee

We expect the project to be self-sustainable by setting up a student committee that is in charge of the programme in general. Student volunteers working for 2 or more than 2 years at *Freelancer Matters* will be invited to join the committee to brief new student volunteers and ensure smooth and continuous running of the programme by passing on skills and knowledge required to the next round of volunteers.