

## DoJ response on fiat counsel system

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In response to an article in a Chinese newspaper on the fiat counsel system, a spokesman for the Department of Justice (DoJ) said today (September 14) that fiat counsel assigned to prosecute complex commercial crime cases were briefed from a pool of counsel with the experience to prosecute such cases.

The spokesman said: "We are satisfied that most of our fiat counsel perform up to standard, and we are reassured by the fact that in 2004 the overall conviction rate in the District Court was 90.1%, up from 87.5% in 2003," the spokesman said.

"We are committed to providing the community with fiat prosecutors of the highest quality, while we believe it is also in the public interest to brief out a proportion of our cases to private lawyers in order to help develop the experience and standing of the legal profession.

"In the event of an adverse report, or below standard performance, fiat counsel may be advised to improve their performance, or, depending on the seriousness of the conduct, restricted to prosecuting only simple cases, or removed from the lists of fiat counsel altogether," the spokesman said.

He added that prior to the allocation of trial counsel, complex commercial crime cases were vetted by experienced counsel in the Commercial Crime Unit of the Prosecutions Division of the DoJ.

The spokesman said that cases were assigned to prosecuting fiat counsel as soon as a hearing date was fixed so that the counsel would have ample time to prepare the case for trial.

In late 2004, revised arrangements were implemented by the DoJ for the preparation of complex crime cases to ensure that fiat counsel received adequate guidance in the interests of higher standards. This had already proved beneficial, the spokesman said.

A document called "Notes to Counsel Prosecuting Complex Fraud Cases" was also supplied in the Brief to Counsel, and this provided valuable guidance, he added.

The spokesman noted that the performance of fiat counsel was monitored, and the

overall performance of counsel was considered on an annual basis.

"In any performance review, the DoJ is greatly assisted by reports on them, including those from judges.

"It is only if the Director of Public Prosecutions (DPP) is made aware of poor performances by particular fiat counsel that he will be in a position to take appropriate action.

"If a judge has specific criticisms to make about the performance of a particular counsel, these can be made known to the DPP, or even to the Bar Association, and they can then be considered," the spokesman said.

Ends/Wednesday, September 14, 2005

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