

NOTE FOR FINANCE COMMITTEE

Legal expenses for briefing out cases not covered by approved fee schedules (2018-19)

INTRODUCTION

At the Finance Committee meeting on 14 October 1981, Members delegated to the then Attorney General (now Secretary for Justice) and the Solicitor General the authority to negotiate and approve payment of higher fees for engaging barristers in private practice in cases of unusual complexity or length; and fees for professionals on matters briefed out which are not covered by the approved scale of fees. At the same meeting, the Government agreed to provide Members with periodic reports indicating the levels of fees so negotiated and approved. This note reports on the expenditure incurred by the Department of Justice (DoJ) during the financial year of 2018-19 on briefing out cases not covered by the approved fee schedules.

2. The DoJ has been briefing out certain criminal and civil cases, according to approved fee schedules¹, or at negotiated fees in specified circumstances. Briefing out is mainly to meet operational needs. In general, DoJ may resort to briefing out when –

- (a) there is a need for expert assistance where the requisite skill is not available in DoJ;
- (b) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (c) the size, complexity, quantum and length of a case so dictate;

/(d)

¹ Under the current arrangement, adjustments to prosecution fees and duty lawyer fees are made administratively by the Director of Administration with reference to the prevailing rates of criminal legal aid fees which are approved by the Legislative Council in accordance with the Criminal Procedure Ordinance (Cap. 221).

- (d) it is deemed appropriate to obtain independent outside counsel's advice or services so as to address possible perception of bias or issues of conflict of interests;
- (e) there is a need for continuity and economy; and
- (f) there is a need for advice or proceedings involving members of the DoJ.

In addition, where appropriate, some criminal cases are briefed out with the objective of promoting a strong and independent local Bar by providing work, particularly to the junior Bar, and of securing a pool of experienced prosecutors to supplement those within the DoJ.

Encl. 1 3. The approved schedule of fees for 2018-19 is at Enclosure 1.

LEGAL EXPENSES NOT COVERED BY APPROVED FEE SCHEDULES FOR THE YEAR ENDING 31 MARCH 2019

4. During the year ending 31 March 2019, DoJ paid out a total of \$345,528,340 as briefing out expenses. The breakdown of expenditure under *Subhead 000 Operational expenses* is as follows –

	\$
Payment for hire of legal services and related professional fees	
(a) Briefing out of cases according to approved fee schedule	113,289,994
(b) Briefing out of cases at fees not covered by the approved scales	141,524,981
	<u>254,814,975</u>
Payment for legal services for construction dispute resolution	
(c) Briefing out of construction dispute resolution cases at fees not covered by approved scales ²	90,713,365
Total expenditure for 2018-19	<u>345,528,340</u>

/5.

² There is no approved scale of fee for construction dispute resolution because it is not possible to fix scale fees for construction or other civil cases which vary by complexity and nature.

5. Regarding paragraph 4(b), DoJ briefed out various matters which were not covered by the approved scale of fees to lawyers, accountants, expert witnesses, consultants and appointed arbitrators. The amount of \$141,524,981 incurred in the financial year of 2018-19 involved 480 cases. Details are set out at Enclosure 2.

Encl. 2

6. As regards paragraph 4(c), DoJ briefed out various matters which were not covered by any approved scale of fees to private practitioners engaged to undertake specialised work relating to construction dispute resolution. The amount of \$90,713,365 incurred in the financial year of 2018-19 involved 13 cases. Details are set out at Enclosure 3.

Encl. 3

Department of Justice
May 2020

Enclosure 1 to FCRI(2020-21)4

Approved scale of maximum fees for briefing out cases

		For cases briefed out up to 2 April 2018 (rate effective since 14 November 2016) \$	For cases briefed out from 3 April 2018 and onwards (rate effective since 3 April 2018) \$
(a) Court of Appeal			
(i)	brief fee	49,050	51,010
(ii)	refresher fee per day	24,530	25,510
(b) Court of First Instance			
(i)	brief fee	36,780	38,250
(ii)	refresher fee per day	18,390	19,120
(iii)	conference per hour	1,910	1,980
Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.			
(c) District Court			
(i)	brief fee	24,480	25,450
(ii)	refresher fee per day	12,240	12,720
(iii)	conference per hour	1,560	1,620
Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.			
(iv)	brief fee for attending sentencing hearings or procedural applications	4,860	5,050
(d) Magistrates' Court			
(i)	brief fee	14,700	15,280
(ii)	refresher fee per day	7,340	7,630
(iii)	brief fee on daily basis	7,020	7,300

**Hire of legal services and related professional fees
breakdown of cases briefed out
at fees not covered by the approved scales in 2018-19**

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
Civil		
1. Commission of Inquiry into the Construction Works at and near the Hung Hom Station Extension under the Shatin to Central Link (SCL) Project (formerly the Commission of Inquiry into the Diaphragm Wall and Platform Slab Constructions Works at the Hung Hom Station Extension under the SCL Project) (MIS 618/2018)	5	18,974,192

Fees and expenses incurred in relation to briefing a local Senior Counsel (SC) and three local junior counsel to act for the relevant government bureaux and departments (namely, Transport and Housing Bureau, Development Bureau, Highways Department and Buildings Department), and one local expert to render opinion to the Government in relation to the inquiry before the Commission. Broadly speaking, under its original terms of reference, the Commission was appointed by the Chief Executive in Council (CE in C) (a) to inquire into the facts and circumstances surrounding the steel reinforcement fixing works and any other works which had given rise to concerns about public safety in respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under the MTR Corporation Limited (MTRCL)'s Contract No. 1112 (Contract) of the SCL Project; (b) to ascertain whether the said works had been executed in accordance with the Contract; (c) to review the adequacy of the MTRCL's project management and other systems, processes and practices, etc. and the monitoring and control mechanisms of the Government; and (d) to make recommendations on

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>suitable improvement measures. On 19 February 2019, in the light of the irregularities that had come to light concerning the construction works at other locations under the Contract, the CE in C approved the expansion of the terms of reference of the Commission to cover these works. The Commission submitted its interim report to the Chief Executive (CE) on 25 February 2019 on its findings and recommendations on matters covered by its original terms of reference. The Commission held a preliminary hearing under the expanded terms of reference on 6 May 2019. The substantive hearing under the expanded terms of reference was held between 27 May 2019 and 17 June 2019, 23 September 2019 and 11 October 2019 and is adjourned to 2 January 2020.</p>		
<p>2. Kwok Cheuk Kin & Lui Chi Hang, Hendrick v Director of Lands (D of Lands) & Secretary for Justice (SJ), Heung Yee Kuk as the Interested Party (HCAL 260/2015)</p>	4	8,702,162
<p>Fees and expenses incurred in relation to briefing a local SC, a local senior junior counsel, a local junior counsel and an expert to act for D of Lands and SJ in resisting a judicial review (JR) application taken out by the Applicants against (i) the decision of D of Lands on and after 8 June 1991 to implement and his subsequent decisions to continue to implement the Small House Policy (SHP); and (ii) section 62 and Schedule 5, Part 2, paragraph 2 of the Sex Discrimination Ordinance (Cap. 480) (which renders SHP not unlawful under the Ordinance). Leave to apply for JR was granted by Court of First Instance (CFI) on 18 November 2016. Rounds of evidence had been filed by the parties. The substantive hearing was conducted from 3 to 7 December 2018. Judgment was handed down on 8 April 2019, allowing the application for JR in so far as it related to Private Treaty Grant and Land Exchange under the</p>		

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>SHP. It was also directed that the judgment shall not take effect until 8 October 2019, with liberty to the Government and Heung Yee Kuk to apply for a longer stay pending any possible appeals. On 30 April 2019, the Court ruled on relief and costs, ordering, amongst others, that the unconstitutionality ruling in respect of Land Exchange only applies to those involving government land, and that the Respondents shall bear 50% of the Applicants' costs (subject to other specific costs orders). The Interested Party lodged an appeal (CACV 234/19) on 28 May 2019. The Applicants and the Government also lodged their respective appeals on 9 July 2019 (CACV 319/19 & CACV 317/19). Hearing of the appeals will take place from 11 to 14 August 2020.</p>		
<p>3. SJ v Cheng Kam Mun, Siew Yun Long, Man For On, Lai Yu Sing, Law Wai Yan, Chan Jeffrey, Chan Wai Fung, Au Yuk Kwan, Chu Sui Ying, Yung Yiu Sing, Wong Ka Yee, Kong Kam To, Chan Ao Tien, Chan Pak Tao, Chan Wing Wah, Lou Tit Man and Leung Hon Lam (HCMP 2916-2932/2015)</p>	4	6,557,496
<p>Fees and expenses incurred in relation to engaging one local SC and three local junior counsel to act for SJ in bringing committal proceedings in CFI against 17 persons arrested on 25 November 2014 in Mongkok for interference with the due administration of justice by not complying with the injunction order made by CFI in HCA 2086/2014. Trial of these proceedings took place in May and June 2018. Out of the 17 respondents, 12 of them had admitted liability before the trial commenced. By the judgment of 31 August 2018, the remaining 5 respondents were found liable for criminal contempt of court. All of the respondents were subsequently sentenced by CFI. One respondent appealed against sentence which was reduced by the Court of Appeal (CA) in December 2018.</p>		

	Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
4.	Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL-HK section) and Phase I of the SCL Projects	1	4,802,975
	Fees and expenses incurred in relation to engaging a solicitors' firm to advise on matters relating to the XRL-HK section and SCL Projects.		
5.	Appeals to Board of Review (Inland Revenue Ordinance) (the Board) by Two Companies (the Taxpayers) (MIS 213-215/2017)	5	4,654,596
	Fees and expenses incurred in relation to briefing a London Queen's Counsel (QC), a local SC, a local junior counsel, an intellectual property valuation expert, and an expert on foreign law in defending a tax appeal before the Board.		
6.	Leung Chung Hang, Sixtus v President of Legislative Council & SJ (HCAL 1160/2018) Leung Kwok Hung (LKH) v Secretary for Transport and Housing (STH) (HCAL 1164/2018) Kwok Cheuk Kin v CE of the Hong Kong Special Administrative Region (HKSAR) (HCAL 1165/2018) Ku Chun Hin Zlato v SJ & STH (HCAL 1171/2018) Lui Chi hang, Hendrick v SJ & CE (HCAL 1178/2018)	4	4,310,850
	Fees and expenses incurred in relation to briefing two local SC, one local junior counsel and one PRC law expert in resisting the JR applications against the constitutionality of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Ordinance (Cap. 632) (the Ordinance) which provides for, inter alia, the co-location		

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>arrangement of customs, immigration and quarantine at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. There was a “rolled-up” hearing of the JR applications which were heard together on 30 and 31 October 2018 with judgment handed down on 13 December 2018 dismissing the applications.</p>		
<p>7. Comilang Milagros Tecson and another v Director of Immigration (D of Imm) Luis, Desiree Rante and others v D of Imm (FACV 9 -10/2018)</p>	5	3,124,908
<p>Fees and expenses incurred in relation to briefing a London QC, a local SC and a local junior counsel to act for the D of Imm in resisting appeals against the dismissal by CFI of two JR applications, and two overseas counsel for legal opinions. The JR applications were against the D of Imm’s refusal to give permission to the Applicants to remain in Hong Kong as primary carers of their minor children who are Hong Kong permanent residents based on their asserted rights under the Basic Law, international conventions and the common law (including customary international law). The Applicants applied to CA for leave to appeal to Court of Final Appeal (CFA) and their applications were refused on 24 July 2018. They further applied to CFA for leave to appeal (FAMV 39-40/2018). Leave to appeal was granted by the Appeal Committee on 7 November 2018. The appeals were heard by CFA on 28 February 2019 and 1 March 2019. Judgment was handed down by CFA on 4 April 2019 dismissing the appeals, and judgment on costs was given on 11 June 2019.</p>		

	Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
8.	ZN v SJ, D of Imm, Commissioner of Police and Commissioner for Labour (collectively, Respondents) (CACV 14/2017)	3	2,745,039

Fees and expenses incurred in relation to briefing a London QC, one local SC and one local junior counsel to act for the Respondents in the Respondents' appeal before CA against CFI's judgment of 23 December 2016 which allowed the Applicant's JR and held that the Applicant was denied protection under Article 4 of the Hong Kong Bill of Rights (regarding relevantly protection against forced labour), which in turn was due to the failure of the HKSAR to fulfill its obligations to enact specific criminal offence to combat forced labour or human trafficking for forced labour. Hearing of the appeal was held on 8 and 9 May 2018 with judgment handed down on 2 August 2018 which allowed the Respondents' appeal in part. On 11 October 2018, the Applicant sought leave from CA to appeal to CFA against that part of CA's judgment adverse to him with oral hearing before CA held on 21 May 2019. Leave was granted at the oral hearing and the hearing before CFA was heard on 3 and 4 December 2019. CFA dismissed the Applicant's appeal on 20 January 2020.

9.	SJ v LKH (CACV 200-201/2017)	4	1,843,000
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Fees and expenses incurred in relation to briefing two local SC and two local junior counsel to act for CE and SJ in resisting LKH's appeal against CFI's judgment of 14 July 2017 which allowed the applications in favour of CE and SJ and held amongst others that the LegCo Oath purportedly taken by LKH was invalid, that he had been disqualified from assuming and entering on his office as a Legislative Councillor, and that his office was vacated. Hearing of the appeals was held before CA on

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>28 and 29 November 2018 with judgment handed down on 15 February 2019 which dismissed LKH's appeals and upheld CFI's judgment. On 15 March 2019, LKH sought leave from CA to appeal to CFA and leave was refused on 13 June 2019. On 11 July 2019, LKH further sought leave from the Appeal Committee of CFA to appeal to CFA. On 22 July 2019, the Registrar of CFA directed LKH to file submissions to justify why his appeals should not be dismissed under Rule 7(1) of the Hong Kong Court of Final Appeal Rules. On 16 August 2019, CFA granted an extension of time of 28 days from the final determination of the legal aid appeal for the Applicant to lodge submissions in response to the Rule 7(1) Summons.</p>		
<p>10. Building Authority (BA) v ENM Holdings Limited (FACV 15/2017)</p>	3	1,660,760
<p>Fees and expenses incurred in relation to briefing one local SC, one local senior junior counsel and one local junior counsel to act for BA in conducting its final appeal to CFA against CA's judgment dated 11 August 2017 on the proper construction of a government lease condition on the slope maintenance obligation of the lot owner based upon which dangerous hillside orders were issued by BA. By judgment dated 9 May 2018, CFA dismissed BA's appeal with a costs order <i>nisi</i> to ENM.</p>		
<p>11. QT v D of Imm (FACV 1/2018)</p>	3	1,457,428
<p>Fees and expenses incurred in relation to briefing a London QC, a local SC and a local junior counsel to act for D of Imm in an appeal to CFA against CA's judgment of 25 September 2017. The JR application challenged D of Imm's dependant visa policy excluding same-sex couples from being eligible to apply for a dependant visa as "spouse" on the ground</p>		

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>that the policy constituted indirect discrimination based on sexual orientation. The Applicant being aggrieved by the CFI's judgment lodged an appeal. CA allowed the Applicant's appeal in its judgment. D of Imm applied for leave to appeal to CFA and leave was granted by CA on 4 December 2017. CFA heard the appeal on 4 June 2018 and handed down judgment on 4 July 2018 dismissing D of Imm's appeal.</p>		
<p>12. Television Broadcasts Limited (TVB) v Communications Authority (HCAL 151/2016 & 47/2017)</p>	2	1,457,000
<p>Fees and expenses incurred in relation to engaging a local SC and a local junior counsel to act for the CE in C in resisting the JR applications (heard together) against, amongst others, two decisions of the Communications Authority by which TVB was found in violation of certain Codes of Practice on TV programme and advertising standards in two of its television programmes. Substantive hearing was held from 16 to 18 May 2018 with judgment reserved.</p>		
<p>13. Nam Sang Wai Development Co Limited and Other Companies of the Henderson Group v Town Planning Board (TPB) (MIS 301/2014 & MIS 272/2017)</p>	4	1,394,827
<p>Fees and expenses incurred in relation to briefing two local senior junior counsel and one local junior counsel to act for TPB in conducting two town planning appeals and one UK ecologist as expert witness for TPB to give expert evidence on the concerned ecological issues and matters under the Ramsar Convention. The two town planning appeals were lodged by the developers against the decisions of TPB refusing to grant planning permissions for the proposed comprehensive development comprising residential development and wetland enhancing area</p>		

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>at Nam Sang Wai and Lut Chau within the Deep Bay Area (with the development layout and parameters differing in each of the two planning applications) mainly on the ground, inter alia, that the proposed development is not in line with the planning intention. Hearing dates (with 18 days reserved) had been fixed from 4 to 19 May and from 15 to 22 June 2020 (excluding the intervening Saturdays and Sundays).</p>		
<p>14. An Arbitration between the Government of the HKSAR (the Government) and a Company (MIS 38/2010)</p>	4	1,069,530
<p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a local SC, a local junior counsel and a marine expert to act for the Government in an arbitration arising from a contractual dispute between the Marine Department (for and on behalf of the Government) and a foreign-based company for construction of 26 divisional fast patrol crafts for the use of the Marine Police. Settlement was reached between the parties in June 2018 before commencement of the five-day arbitration hearing.</p>		
<p>15. Designing Hong Kong Limited (DHKL) v TPB (FACV 4/2018)</p>	2	1,003,050
<p>Fees and expenses incurred in relation to briefing a local SC and a local senior junior counsel to act for SJ as the Intervener in resisting the application by DHKL for leave to appeal to CFA and DHKL's appeal before CFA in respect of a Protective Costs Order (PCO). The application for JR challenged TPB's decision to uphold the amendments to the zoning of the "Central Military Dock" site under the draft Central District (Extension) Outline Zoning Plan from "Open Space" to "Other Specified Uses" annotated "Military Use (1)". Leave to apply for JR was granted on 21 July 2014 and interim stay of CFI</p>		

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>proceedings was granted on 23 July 2014. On 30 April 2015, CFI refused the PCO application. On 28 July 2015, CFI granted leave for the Applicant to appeal to CA against the PCO's decision. Substantive hearing of the appeal was held before CA from 29 November to 1 December 2016. CA dismissed DHKL's appeal on 16 February 2017. DHKL's application for leave to appeal to CFA was dismissed by CA on 7 June 2017. On 5 July 2017, DHKL further applied for leave to appeal to CFA from the Appeal Committee. On 30 October 2017, the Appeal Committee granted leave for DHKL to pursue the substantive appeal. CFA dismissed DHKL's appeal on 15 May 2018.</p>		
<p>16. The Trustees of the Church of England in the Diocese of Victoria, Hong Kong v TPB and the Incorporated Owners of 6 & 10 Mount Davis Road (HCAL 26/2012 and HCAL 27/2012)</p>	2	1,002,375
<p>Fees and expenses incurred in relation to briefing one local SC and one local junior counsel to act for TPB in resisting two JR applications against the decision of TPB not to meet the representations of the Applicants against the imposition of building restrictions in the amendment to the Draft Kennedy Town & Mount Davis Outline Zoning Plan No. S/H1/18 under section 6B(8) of the Town Planning Ordinance. The two JR applications were heard from 2 to 4 May 2018. By CFI decision of 19 March 2020, the two JR applications were allowed.</p>		
<p>17. Fees and expenses incurred in 433 other civil cases under \$1 million each</p>	-	50,323,534
<p>Sub-total : 449 cases</p>		115,083,722

Brief description of case / matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
Criminal		
18. HKSAR v Chin Kam Chiu & five others (DCCC 919/2015)	1	7,699,154

A cross-border syndicate allegedly smuggled a variety of high valued goods (e.g., metals for industrial use, frozen foodstuffs and electronic goods) into the Mainland from Hong Kong by using river trade vessels owned or controlled by the syndicate in the form of unmanifested cargoes between 1 January 2010 and 12 January 2012, both dates inclusive.

Billions of money, representing in whole or in part the proceeds of the smuggling, were deposited and transferred into 12 bank accounts held by two local companies which were controlled by the syndicate.

In consideration of the nature of the case, the complexity brought by the Letter of Request (LOR) proceedings and the background of the Defendants, a local SC has been briefed as the leading prosecuting counsel.

Between January and June 2017, LOR proceedings were conducted at the Guangzhou Intermediate People's Court during which evidence of 17 Mainland witnesses were obtained. The LOR proceedings concluded on 21 June 2017.

At a mention hearing on 16 October 2017, the case was fixed for trial in Hong Kong between 8 October and 17 December 2018 (with 50 days reserved).

On 29 March 2018, D1 served a notice of application for permanent stay of proceedings, which was subsequently joined by the other five Defendants. The court heard the stay application on 19 June 2018. On 31 July 2018, the court dismissed the application for permanent stay of proceedings made by all Defendants.

Brief description of case / matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>The trial commenced on 8 October 2018 with a voir dire to determine the admissibility of various pieces of evidence to which the defendants had raised objections. The trial was concluded on 3 April 2019. D4 pleaded guilty to Charge 1 on the first day of trial but later applied for reversal of plea.</p> <p>On 26 June 2019, D1, D3, D5 and D6 were formally acquitted of the charge of “Conspiracy to export unmanifested cargo” (Charge 1, against which the prosecution had previously offered no evidence). D1, D2, D3 and D6 were also acquitted of the charge of “Conspiracy to money laundering” (Charge 2, for which they were tried), with costs awarded to the same against the prosecution.</p> <p>On 28 June 2019, the Court refused D4’s application for reversal of plea on Charge 1. D4 was sentenced to imprisonment for 21 months.</p>		
<p>19. HKSAR v Wong Toi Yeung & nine others (HCCC 408 & 408A/2016)</p>	2	5,297,000
<p>This is the case of riot which took place on 8 and 9 February 2016. There were originally ten Defendants on the indictment. Two Defendants have since failed to surrender to custody as appointed. Of the remaining Defendants, the trial of six Defendants took place from January to May 2018 (HCCC 408/2016), and the trial of two Defendants was originally fixed to take place from November to December 2018 (HCCC 408A/2016). In HCCC 408/2016, the jury could not reach a majority verdict in relation to one count of riot against three Defendants. The Court ordered the retrial of that count to take place together with the trial of the two Defendants of HCCC 408A/2016. Therefore, the trials on HCCC 408/2016 and HCCC 408A/2016 took place with five Defendants in total.</p>		

Brief description of case / matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>Given the complexity and sensitivity of the case, one local SC and one local junior counsel had been briefed as prosecuting counsel for HCCC 408/2016.</p> <p>As the trials on HCCC 408/2016 and HCCC 408A/2016 related to the same factual background and were also of complexity and sensitivity, the same local SC and junior counsel continued to be briefed as prosecuting counsel to ensure consistency. The trials on HCCC 408/2016 and HCCC 408A/2016 commenced on 8 November 2018 and lasted for 91 days. One Defendant pleaded guilty before trial. As against the remaining four Defendants, the verdict of the jury was given on 22 March 2019. One Defendant was convicted of some of the charges against him. Other Defendants were acquitted of some of the charges. The jury could not reach a majority verdict in relation to the same count which the previous jury could not reach majority verdict in HCCC 408/2016. Upon consideration, the prosecution applied to leave that count on court file and not to proceed with that count without the leave of the Court. The two Defendants who were convicted on their plea and after trial respectively were sentenced on 9 May 2019.</p>		
<p>20. HKSAR v Tsang Yam Kuen Donald (CACC 55/2017 on appeal from HCCC 484/2015)</p>	3	2,978,713
<p>This case involves one count of CE accepting an advantage, contrary to sections 4(2B)(a) and 12 of the Prevention of Bribery Ordinance (Cap. 201) (Count 1) and two counts of misconduct in public office (MIPO), contrary to Common Law and punishable under section 101I(1) of the Criminal Procedure Ordinance (Cap. 221) (Counts 2 and 3), against a former CE.</p> <p>The prosecution has engaged one overseas QC, one local SC and one local senior junior counsel to prosecute the trial.</p>		

Brief description of case / matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>On 17 February 2017, following a trial in CFI, the Defendant was convicted of Count 2 and acquitted of Count 3. The jury was unable to reach a verdict on Count 1.</p>		
<p>On 22 February 2017, the Defendant was sentenced to 20 months' imprisonment. On 9 March 2017, he filed to court the Notice of Application for leave to appeal against conviction and sentence.</p>		
<p>Retrial on Count 1 commenced on 26 September 2017. On 3 November 2017, the jury was unable to reach a verdict. On 6 November 2017, the charge was ordered to be left on the court's file, not to be proceeded with without the leave of the court or without the leave of CA. On 6 March 2018, the court granted the prosecution's application for an order for the Defendant to pay one-third of the original trial costs. The Defendant lodged an appeal in relation to the costs order.</p>		
<p>On 25 and 26 April 2018, CA heard the Defendant's appeal against conviction, sentence and costs order. By a judgment dated 20 July 2018, CA refused his application for leave to appeal against conviction but allowed his appeal against sentence and Costs Order. The Defendant subsequently applied for leave to appeal to the CFA against the CA's judgment. Leave to appeal to CFA was granted on 20 December 2018. The appeal was allowed by CFA on 26 June 2019.</p>		
<p>The prosecution has engaged one overseas QC and one local SC who handled the trial and appeal in the lower courts to prosecute the appeal to CFA together with two in-house counsel.</p>		

Brief description of case / matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
21. HKSAR v Luan Gang & Luan Hong (DCCC 788 & 790/2015)	2	1,835,772

This is a cross-border money laundering case against D1 and his younger sister D2. D1 and D2 were originally charged with two joint offences of conspiracy to launder crime proceeds for conspiring to procure the remittance to Hong Kong proceeds of multiple customs tax offences committed by D1 and others in the Mainland, and further conspired to divert part of such proceeds to accounts in the United States.

D2 was arrested in Germany in late 2014, and D1, in the United States a few months later. Both were escorted back to Hong Kong. After obtaining further evidence, the prosecution decided that while Charge 1 (Conspiracy to launder crime proceeds) against D2 be discontinued for lack of evidence, the case would continue to be proceeded with, and for this a LOR application was made to the court which was subsequently granted.

The prosecution then opened its case on 10 August, 2017, as ordered by the court. LOR proceedings were conducted in the Mainland between 21 and 24 August 2017, which the Defendants and their representatives chose not to attend. The second stage LOR proceedings commenced at the Shenzhen Court on 10 January 2018 and concluded on 21 March 2018. D1 and D2 did not attend the hearing, but their legal representatives did.

The trial proceedings in Hong Kong resumed on 22 March 2018. On 11 April 2018, the court found a case to answer on both charges. After the court dismissed their stay application, both D1 and D2 elected not to give evidence or call any defence witnesses. The closing submissions concluded on 30 April 2018. By verdict handed down on 10 July 2018, the judge found the Defendants not guilty.

Brief description of case / matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
Given the complexity of the case and the length of the proceedings, one local SC and one local junior were briefed as the prosecuting counsel.		
22. Fees and expenses incurred in 27 other criminal cases under \$1 million each	-	8,630,620
Sub-total: 31 cases		26,441,259
Total expenditure	(480 cases)	141,524,981

Enclosure 3 to FCRI(2020-21)4

Legal services for construction dispute resolution breakdown of cases briefed out at fees not covered by the approved scales in 2018-19

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
1. Sludge Treatment Facilities - Contract No. EP/SP/58/08 Arbitration between VW-VES(HK) Limited and Hong Kong Special Administrative Region (HKSAR)	8	55,006,455
<p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London Queen's Counsel (QC), a local junior counsel, a quantum and programming expert, a statistical/sampling expert, an electrical engineering expert and a fire engineering expert in an arbitration in respect of claims brought by the Contractor against the Government for extension of time and additional payments and a dispute as to levy of liquidated damages.</p>		
2. Formation and Associated Infrastructure Works for Development at Choi Wan Road and Jordan Valley - Contract No. CV/2000/06 Arbitration between China State Construction Engineering (HK) Limited and HKSAR	6	15,332,165

Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London QC, a local junior counsel, a quantity surveying expert and a site formation engineering expert in an arbitration in respect of claims brought by the Contractor against the Government for additional costs, measurement and valuation of various claims.

	Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
3.	Extension of Footbridge Network in Tsuen Wan Footbridge A along Tai Ho Road - Contract No. HY/2007/03 Arbitration between Sun Fook Kong (Civil) Limited and HKSAR	3	6,529,444
Fees and expenses incurred in relation to engaging a solicitors' firm, a local junior counsel and a programming and quantum expert in an arbitration in respect of claims brought by the Contractor against the Government for variations, missing items and re-measurement.			
4.	Salt Water Supply System for Pok Fu Lam Area – Construction of Services Reservoirs, Pumping Stations and Associated Mains - Contract No. 10/WSD/09 Arbitration between Law Chi Yip Construction Company Limited and HKSAR	5	4,856,610
Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London QC, a local junior counsel and a quantum and programming expert in an arbitration in respect of claims brought by the Contractor against the Government for valuation, variations, missing items, prolongation costs, Mandatory Provident Fund reimbursements and extension of time.			
5.	Enhancement of Footbridges in Tsim Sha Tsui East - Contract No. HY/2007/15 Arbitration between Yee Hop Engineering Company Limited and HKSAR	5	4,391,537
Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a local junior counsel, a quantum and programming expert, and a stainless steel procurement expert in an arbitration in respect of claims brought by the			

Contractor against the Government for extension of time, refund of liquidated damages, additional costs, prolongation/disruption costs and the final account.

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| 6. | Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL-HK section) | 6 | 3,158,606 |
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Fees and expenses incurred in relation to engaging a solicitors' firm, a London QC, a local Senior Counsel, a London junior counsel, a structural steel expert and a project management/programming expert to provide legal and expert advice on matters relating to the XRL-HK section Project.

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| 7. | Fees and expenses incurred in seven other construction dispute resolution cases under \$1 million each | | 1,438,548 |
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Total expenditure	(13 cases)	90,713,365
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