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Replies to supplementary questions raised by Legislative Council Members in examining the Estimates of Expenditure 2023-24

Secretary for Justice
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Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
S-SJ001	S003	KAN Wai-mun, Carmen	92	(1) Prosecutions

CONTROLLING OFFICER'S REPLY

S-SJ001

(Question Serial No. S003)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Jessie WONG)

Director of Bureau: Secretary for Justice

Question:

The fees of briefing out are about \$200 to \$300 million annually, involving mainly criminal cases. It is, however, noted that no breakdown is maintained by the Government. Does it mean that the Government does not have a good grasp of the management of briefed out cases (including civil, criminal and judicial review cases)?

Will the Government maintain these statistics in the future? Would the Government provide information about the appraisal system for briefed out lawyers? Further, is there any mechanism in place to avoid concentration?

Asked by: Hon KAN Wai-mun, Carmen

Reply:

The Department of Justice (DoJ) briefs out certain criminal and civil cases under its established mechanism to meet operational needs. It takes a prudent approach in managing all briefed out cases, including following up their progress, monitoring the expenditure incurred and the performance of the briefed out lawyers. Each briefed out case, including the expenditure, is approved by Government Counsel at Directorate level to ensure its necessity and reasonableness. In addition, the DoJ continues to monitor the expenditure incurred by each briefed out case as it proceeds, including any requests for adjustment of briefing out fees or additional expenditure. The DoJ annually submits to the Finance Committee of the Legislative Council an information note on "Legal expenses for briefing out cases not covered by approved fee schedules" providing details of cases involving relatively high briefing out fees. The note for 2021-22 is available at <https://www.legco.gov.hk/yr2022/english/fc/fc/papers/fi22-16e.pdf>.

The DoJ thoroughly considers and handles the selection of briefed out lawyers for each case based on established criteria, and their selection is subject to the approval of Government Counsel at Directorate level. The selection criteria include the briefed out lawyer's years of practice, suitability in terms of areas of expertise and availability for the case concerned. The level of fees charged by the briefed out lawyers is also one of the factors to be taken into account as public money is involved. Some of the simpler cases are usually assigned to

briefed out lawyers on a rotation basis. For more complex cases or those cases where the outcome of the trial may have far-reaching implications, priority would be accorded to selecting the most suitable briefed out lawyer to safeguard the interests of the Government. Notable cases are hence mostly briefed out to lawyers of higher seniority or with relevant expertise and experience. This notwithstanding, the DoJ will, where appropriate and practicable, continue to brief out cases to different lawyers.

The DoJ has established mechanisms in place to monitor and assess the performance of all briefed out lawyers, including reviewing documents which they drafted, such as skeleton submissions, and observing their performance during case preparation and appearance in court, etc.

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