

Chapter 1

Supply Study Report

1. Introduction

1.1 The consultancy on the demand for and supply of legal and related services encompasses three key components, viz:

- A review of the current status of the legal and related services sector in Hong Kong and the supply of these services to the community;
- A study on the demand for legal and related services from individuals and small and medium enterprises (SMEs) in Hong Kong; and
- On the basis of the supply and demand studies, an assessment on the likely gap in service availability and the potential unmet legal needs in the community.

1.2 In completing the supply side study, the work carried out by the consulting team included background research on existing local and overseas literature, preliminary discussions with selected legal services practitioners, legal professionals from the Judiciary, and other relevant parties such as the Bar Association, the Law Society, the Hong Kong International Arbitration Centre and the Hong Kong Mediation Centre, through a series of individual interviews and focus group discussions.

1.3 The preliminary work provided an initial overview of the local legal services sector and a basic understanding of the relevant access to justice issues. This was followed by a number of large scale questionnaire surveys covering different categories of legal services providers, including barristers and their chambers, solicitors and their firms, non-governmental organisations (NGOs), as well as legislative and district councillors. The fieldwork was thereafter followed by detailed analysis of findings, culminating in the issue of the present Report.

1.4 This Report details the findings of the supply side study which provides a broad overview of the local legal services sector, and establishes a reference for assessing potential gaps when the demand side picture is also brought into place. The Report is organised into the ensuing sections, followed by a conclusion:

- Overview of the legal services sector;
- Provision of legal services by barristers;
- Provision of legal services by solicitors;
- Provision of legal and related services by government and quasi-public organisations;
- Provision of legal and related services by Legislative Councillors and District Councillors; and
- Provision of legal and related services by non-governmental organisations.

- 1.5 The statistics included in the Report are based on the questionnaires received up to end August 2006 and the figures are weighted, taking into account the probabilities of selection and response rates. In addition, information obtained during in-depth interviews and focus group discussions with providers of legal and related services has also been incorporated into the Report under the relevant sections. Where appropriate, figures relating to criminal cases were also included for reference purposes, but the focus of the Study remains with civil cases. The sizes of the base data sets included for the detailed analysis are also shown in the charts by the respective figures in brackets.

2. Overview of the Legal Services Sector

- 2.1 With a system based on a common law jurisdiction, the legal services sector in Hong Kong is primarily comprised of barristers and solicitors in practice, judges serving at different levels of the court system, lawyers in some government and quasi-government organisations, and arbitrators and mediators providing alternative dispute resolution services. There are also a small number of foreign lawyers in Hong Kong, who practise according to the laws of foreign jurisdictions. Outside of these mainstream service providers, there are many NGOs which provide the public with some form of legal and related services, often focusing on particular segments of the local community. There are also in-house lawyers working in companies, but their services are not available to the public.
- 2.2 There are over 800 barristers in Hong Kong, who are legal practitioners expert in advocacy and specialising in litigation. Generally, only barristers have the right of audience in Hong Kong's High Court, Court of Appeal and the Court of Final Appeal. They operate as individual professionals, and many share common office facilities by forming into chambers. The largest chambers can have up to 70 barristers, which together offer a comprehensive range of services. The qualification and professional practices of barristers are regulated by the Hong Kong Bar Association.
- 2.3 As a rule, barristers do not market their services to the public, and access to barristers by the general public is normally through solicitors. The distancing of the barrister from the client helps to maintain impartiality. In some instances, barristers may also be directly instructed by other professionals, such as accountants, company secretaries, arbitrators, tax advisors and surveyors.
- 2.4 A practising barrister is usually bound to accept any instruction to appear before a Court in the field in which he professes to practise at his or her usual fee, having regard to the type, nature, length and complexity of the case. Barristers generally charge fee rates which are linked to their seniority or years of experience. For experienced barristers with a good track record, their fees can be quite high and the ones more sought after often have to turn down requests for service from time to time. Junior barristers on the other hand charge a lower fee, and some could be under-employed at times, thus depriving them of the opportunity to quickly build up an experience base. Given a relatively small market, local barristers do not necessarily provide sufficient coverage in some specialist areas. Where this is the case, experienced barristers from overseas are often brought into Hong Kong to help handle such cases, at fee rates comparable to barristers in Hong Kong.

- 2.5 There are over 4,517 solicitors practising in 667 solicitor firms, the largest of which has more than 20 partners or 160 solicitors. In comparison, about 44% of the firms are sole practitioners, with another 48% being 2-5 partner practices. The services of the solicitors are regulated by the Law Society, which also has an important role in providing continuing professional education. The solicitor firms offer a wide variety of legal services, ranging from land and property, personal and family, to commercial, and criminal matters. Until a decade ago, many of the smaller practices had relied on conveyancing as their main business, but today the range of services offered is more diversified and fees tend to be more competitive at this level. The larger firms generally have a wide service range and charge higher fee rates for their services. Many also provide services on a regional basis and often have a more international clientele. Many firms also offer People's Republic of China (PRC) related services as social and business interactions between Hong Kong and the mainland continue to grow.
- 2.6 The local market has become more competitive in the last decade, with more lawyers being trained up, and with a shift of business focus to a more diversified and more sophisticated range of services. Some business related to personal injuries is also said to have diverted from the solicitor firms to a growing number of claims agents. Historically, solicitors do not provide a lot of advocacy services, but many have now taken up these services as well as representation at the lower courts is progressively open to solicitors. A major issue that appears to have a bearing on the future development of the profession is professional liability, and the related issue of professional indemnity insurance.
- 2.7 According to government statistics, the total revenue of the legal services sector in 2004 was \$ 10.1 billion, with an employment of 13,610 persons. Roughly 43% of the establishments had an annual business receipt of less than \$1 million, another 41% between \$1-\$5 million, and the remainder above \$5 million. The largest 31 establishments had an average annual receipt in excess of nearly \$170 million. For the sector as a whole, about two-third of the revenue was accounted for by employee compensations and other operating expenses.
- 2.8 Legal expenses in Hong Kong are often considered high and arguably unaffordable to a large proportion of the community other than the larger businesses, wealthy individuals, or those subsidised by the government. Based on our preliminary interviews with practitioners, this may be due to the lower efficiency of the legal process, the relatively long waiting time for court hearings, the quality of services delivered by some practitioners, or the inadequate competition in the sector until relatively recently. Many of the more experienced legal professionals consider that while there is an apparent over-supply of legal services at the lower end, where quality of service can be improved, there is excess demand for quality service especially at the higher end. It is said that Hong Kong hourly rates for high quality legal professionals are generally as high as those in London, possibly higher.
- 2.9 In our interviews with senior practitioners it is often suggested that the quality of legal professionals has become an issue in more recent years, as some newly qualified practitioners are found less than able to cope with the increasingly demanding requirements of the profession, their clients and the courts. These discrepancies relate

to the practicality of their training, the mismatch in the range of their experience base, and in some situations, basic skill sets such as language competency. It is understood that the relevant professional bodies and the universities are moving to address these issues through continuing professional education programmes and realignment of academic curriculum. It was said by some that overseas trained lawyers are often better than locally trained ones, and that the programme of one local institution is more practically based, and therefore more suitable, than the other.

- 2.10 In view of the high legal cost in Hong Kong, there has been an increasing trend in the use of alternative modes of dispute resolution in recent years. These relate primarily to arbitration, but there is also increasing interest in mediation. The development of arbitration services is supported by the Hong Kong Arbitration Centre, where qualified arbitrators are able to handle commercial disputes more cost effectively than the formal legal process, for which settlement can be enforced more readily across national boundaries. The Centre carried out 281 arbitration cases in 2005, most of which involved construction, commercial and shipping cases. There are 263 qualified arbitrators on the Centre's panel at present, including 40 from Hong Kong.
- 2.11 Mediation is a less formal process of dispute resolution, which is promoted by the Hong Kong Mediation Council operating under the Hong Kong Arbitration Centre. This mode of alternative dispute resolution is not widely used at present, but has potential and is gaining popularity. The government has recently financed a scheme on family mediation in collaboration with some non-governmental organisations, with success in reducing the number of cases that eventually have to go to the courts. There are currently 226 accredited mediators on the Council's general panel and 133 mediators on the family panel, as well as 36 family supervisors.
- 2.12 The legal profession, via their professional bodies, provides a number of legal services to people in need of such services, partly on a pro bono basis. These include the Duty Lawyer Service, a joint organisation led by the Bar Association and the Law Society. The service is comprised of the Duty Lawyer Scheme which provides legal representation, the Free Legal Advice Scheme which provides preliminary legal advice, and the Tel-Law Scheme which is a telephone recorded information service. The Bar Association also operates a Bar Free Legal Service Scheme which provides assistance to people in need of legal services on worthy cases.
- 2.13 In addition to the above service providers, some of the non-governmental organisations, many of which under the Hong Kong Council of Social Service (HKCSS), also provide some form of legal and related services to the general public in the areas of family, employment, money and other related matters. These tend to complement the services offered by other government agencies or professional bodies, e.g. in case referrals and legal aid applications, but a number of these organisations also offer independent services of their own, using volunteer panels of legal professionals. Many of these services are well sought after by the public, but are constrained by the availability of funding and volunteer legal professional resources.
- 2.14 A number of the Legislative and District Councillors also provide some legal or related services to the public as part of their services to their constituencies. Some of these are provided in collaboration with legal professionals or rely on referral to other legal schemes, but those councillors who are lawyers themselves also often provide

their own services.

- 2.15 Several government departments and quasi-public organisations are involved in providing legal and related services to the public. They include the Legal Aid Department which provides legal aid to eligible applicants requiring the services of barristers or solicitors; the Home Affairs Department which provides referral services to the Free Legal Advice Service and free advice on building management matters; the Labour Department which helps to resolve disputes between employees and their employer; the Rating and Valuation Department which provides free advice on tenancy matters; the Trade and Industry Department which provides legal and other advice to SMEs through its free advisory service; and the Department of Justice which contributes to the development of a web based Community Legal Information Centre to provide information on a wide range of legal and related topics. Other agencies involved in delivering some form of legal and related services to the public include the Equal Opportunities Commission, the Privacy Commissioner's Office, and the Office of the Ombudsman.
- 2.16 The Judiciary in Hong Kong runs a highly respected court system, comprising the Court of Final Appeal and the High Court at the top, the latter including the Court of Appeal and Court of First Instance, followed by the District Court (including the Family Court), Magistrates' Courts, and a number of tribunals and a specialised court. As of September 2005, there were 154 judges and judicial officers. As one of its more important initiatives, the Judiciary has embarked on a project in recent years to reform the civil justice system in Hong Kong, with a view to enhancing its effectiveness and efficiency, and ultimately to improving the access to justice in the community. The Judiciary also operates a Resource Centre for Unrepresented Litigants to provide some support to this type of litigants, and a family mediation information service to assist couples seeking mediation to help resolve their problems in a non-adversarial way instead of through expensive litigation.

3. Provision of Legal Services by Barristers

Survey methodology

- 3.1 There were two categories of respondents included in the survey of barristers offering services to the general public, namely heads of chambers and barristers. In-house barristers of public and private sector organisations, including those working for government departments, were not covered.
- 3.2 There were 822 barristers working in 116 chambers at the time of the survey. The size of chambers ranged from 1 barrister to over 10 barristers. Representative samples of barrister chambers and of barristers were selected for the questionnaire survey. For the chambers, a stratified random sampling design was adopted, with the stratification factor being the size of the chambers. A sample of 69 chambers was selected and for these chambers, the barristers in charge were enumerated. The use of stratification was to ensure that chambers of different sizes were sampled.

- 3.3 For the barristers, a stratified random sampling design was also adopted, with the stratification factor being years of experience to ensure the inclusion of barristers of different seniority. A sample of 231 barristers was selected.
- 3.4 A multi-wave multi-mode data collection process was adopted for the survey work, with every effort made to minimise inconvenience caused to the respondents:
- a) The respondents were first contacted by mail, explaining the purpose of the survey and assuring them that the information supplied would be kept strictly confidential. A self-administered questionnaire was also enclosed;
 - b) For those respondents who returned the completed questionnaires by post or fax, they were contacted by telephone/ face-to-face interview if clarification was required on the answers they had given (e.g. to clarify missing items and inconsistent response);
 - c) For those who did not return the completed questionnaires within a specified period of time, they were contacted by telephone. The purpose of the telephone call was to remind them to return the completed questionnaire and make an appointment for a personal visit to collect the completed questionnaire. In case during the visit, the questionnaire had not yet been completed, a face-to-face interview was conducted to obtain the information;
 - d) If the respondents could not be contacted by telephone, a visit was made to conduct a face-to-face interview. Repeated visits were often required in order to increase the response rate of the survey.
- 3.5 The questionnaire for heads of chambers is contained in Appendix A and that for barristers in Appendix B. The following considerations were taken into account in designing the questionnaires:
- a) The main focus of the survey was to obtain factual information. Opinion-type questions were limited to a few areas like plans for future development and areas where shortages were experienced;
 - b) Efforts were made to keep the questionnaires as short as possible in order to obtain a high response rate in the survey. Information which could be gathered from other sources, e.g. number of barristers, was not included;
 - c) Many respondents were reluctant to answer sensitive questions (e.g. questions on income or levels of fees charged). Attempt was made in the survey to obtain such information in broad terms (e.g. asking for the range of hourly rate rather than the actual hourly rate charged);
 - d) Most respondents did not respond to open-ended questions. On the other hand, it was considered desirable to allow the respondents to air their views freely. Thus, a balanced and pragmatic approach was adopted by having most questions as closed-ended questions (where the respondents were merely required to “tick” the appropriate boxes) and a few open-ended questions;
 - e) To facilitate completion of the questionnaires or interviews, the questionnaire flow was kept as simple and straight-forward as possible, avoiding unnecessary branching and jumping between questions;

f) Following common practices in opinion survey, the questionnaires started with the less threatening and objective questions. This helped to "warm up" the interview and let the respondents feel at ease. The interview would then proceed to the more sensitive issues (e.g. hourly rate charged).

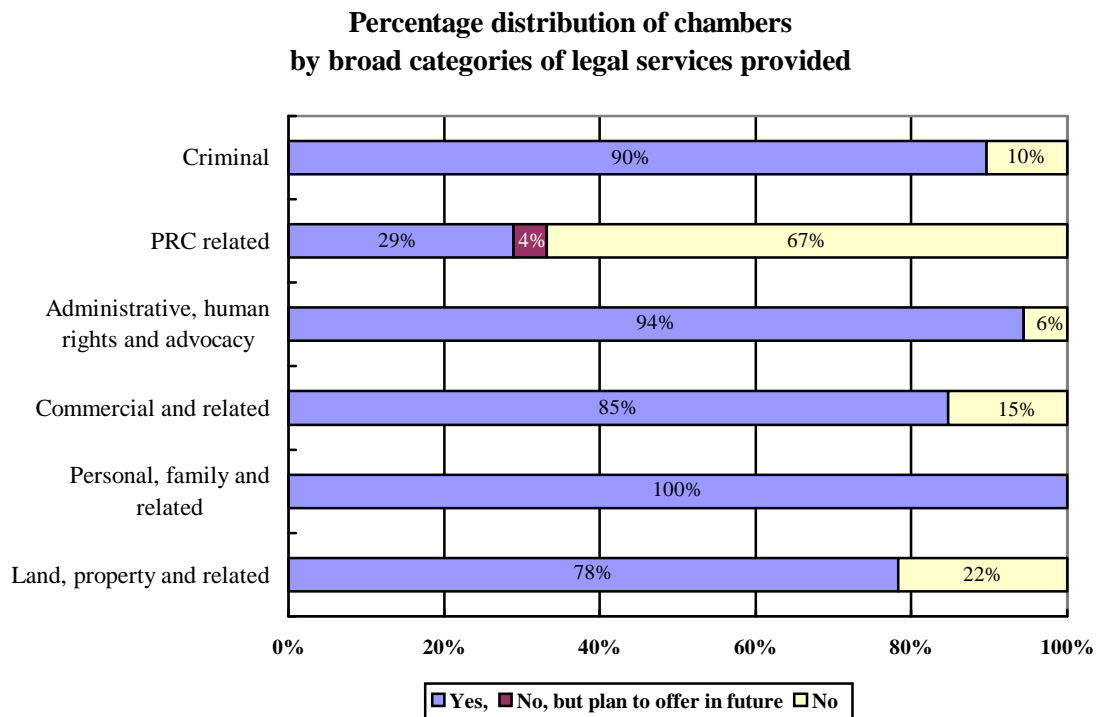
3.6 The enumeration results for the survey of barristers are shown in the table below.

Categories	Total number	Number sampled	Number enumerated	Response rate (%)
Heads of chambers	116	69	35	51%
Barristers	822	231	95	41%

Types of services

3.7 All chambers and 69% of the barristers indicated that they offered legal services for civil cases in 2005. In comparison, about 90% of the chambers and 64% of the barristers provided services for criminal cases.

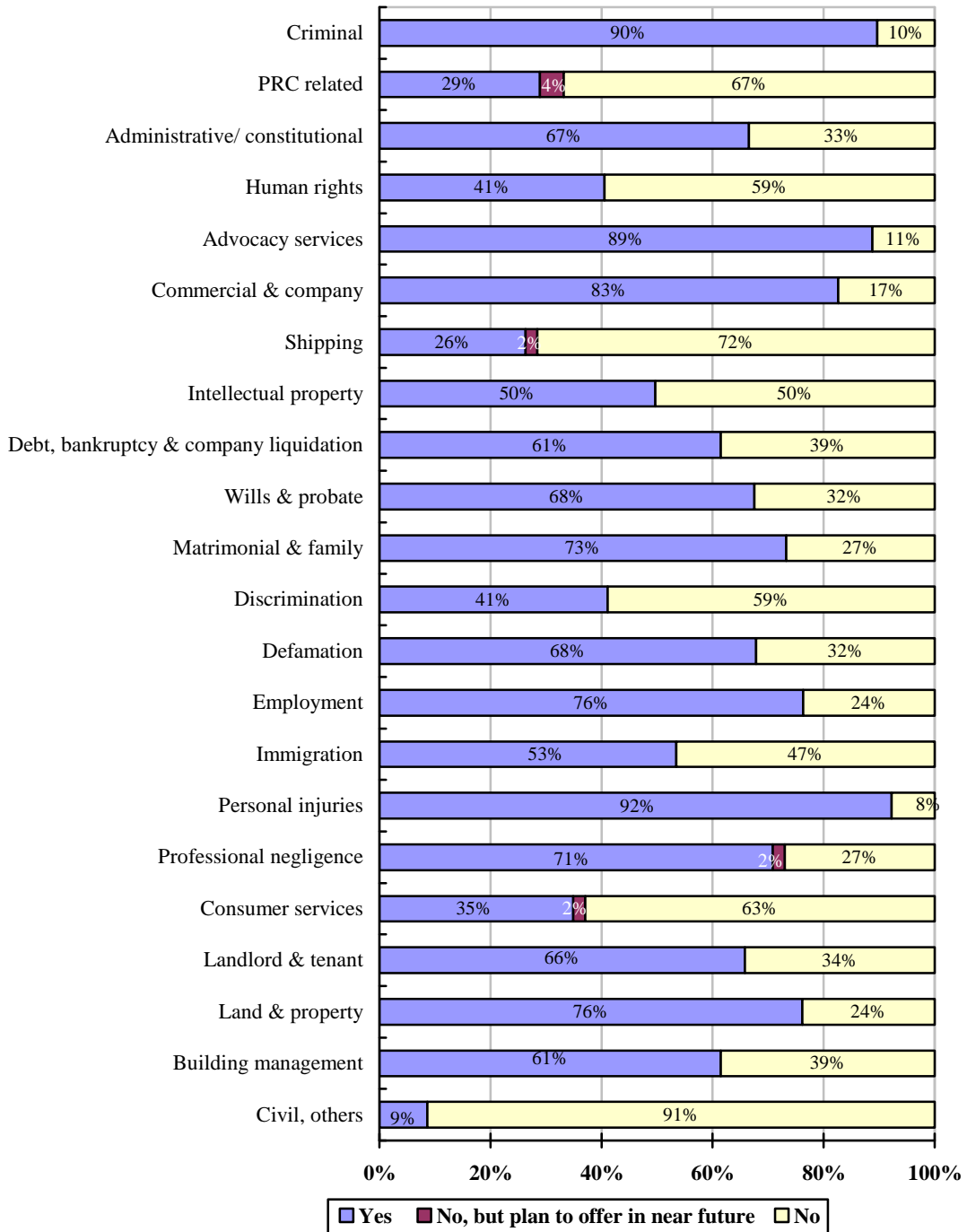
3.8 In terms of civil cases, all chambers offered services for personal or family matters, and about 94% for administrative, human rights and advocacy matters, 85% for commercial, and 78% for land and property matters. A smaller proportion (29%) was providing services for PRC related matters, as shown in the chart below.



(Multiple response; Base: 35)

3.9 In terms of detailed services, as shown in the chart below a larger proportion of chambers were providing services for civil cases related to personal injuries (accounting for 92% of all chambers), advocacy services (89%), commercial and company (83%), employment (76%) and land and property (76%). In comparison, relatively fewer chambers were providing services for shipping (26%), PRC (29%), consumer services (35%), discrimination (41%) and human rights matters (41%). Care should be taken in interpreting these detailed percentages as there may be variations in the categorisation of services by different respondents. Furthermore, some cases may involve more than one type of service or area of expertise and there may be a degree of overlap. The advocacy services in the charts refer to those related to civil cases. Those related to criminal cases are subsumed under the data for criminal cases. The non-advocacy services are classified under the different practice areas.

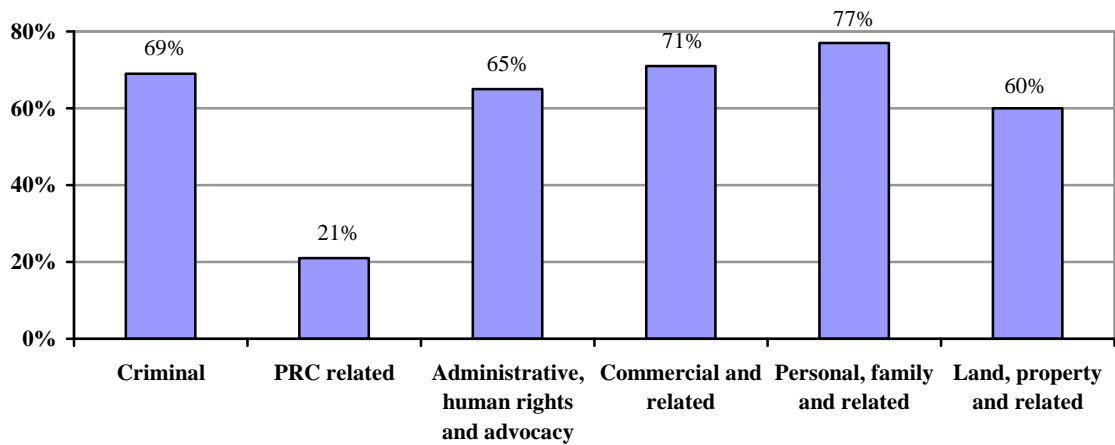
**Percentage distribution of chambers
by types of services provided**



(Multiple response; Base: 35)

3.10 The services provided by the barristers largely reflected the service pattern of the chambers in the different practice areas. When analysed by broad categories of services for civil cases, a larger proportion of barristers were providing services for personal or family (accounting for 77% of all barristers), and commercial and related matters (71%). Only about 21% of barristers were providing services for PRC matters.

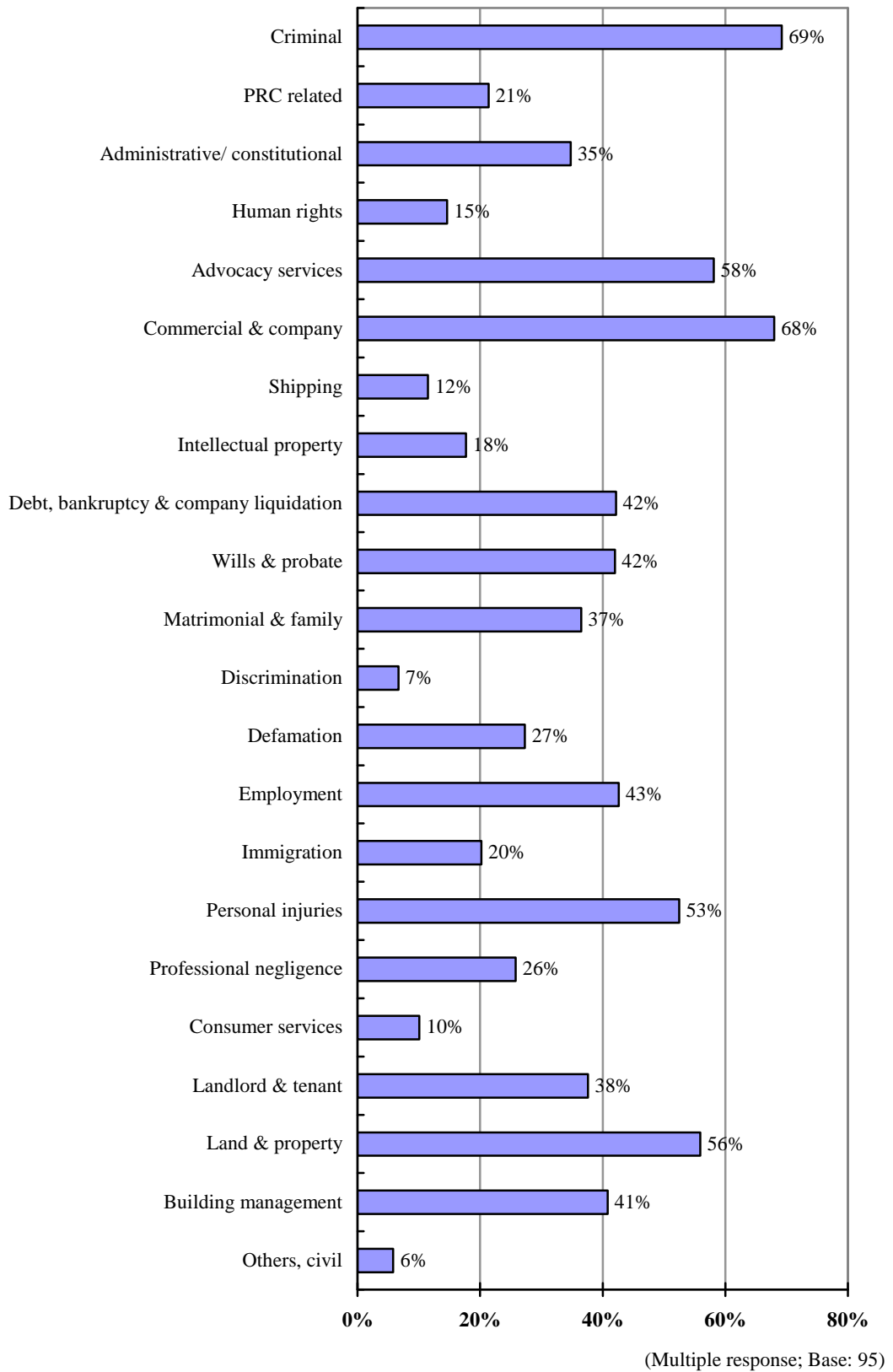
Percentage of barristers by broad categories of services provided



(Multiple response; Base: 95)

3.11 In terms of detailed types of services for civil cases, a larger proportion of barristers were providing services for commercial and company (68% of barristers), advocacy (58%), land and property (56%) and personal injuries matters (53%). A smaller proportion of barristers were providing services for PRC (21%), immigration (20%), intellectual property (18%), human rights (15%), shipping (12%), consumer services (10%) and discrimination matters (7%).

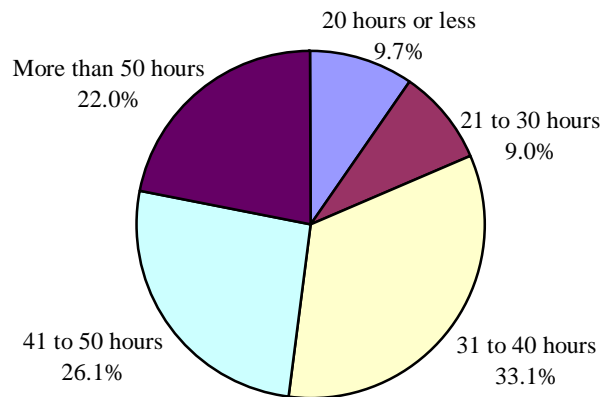
Percentage of barristers by types of services provided



Quantum of services provided

3.12 On average, barristers worked 43.2 hours a week during the six months prior to enumeration, out of which 34.8 hours were devoted to litigation related work, 7.7 hours to non-litigation work and 0.7 hour to arbitration or mediation work. About 10% of barristers worked 20 hours or less a week, 42% worked 21–40 hours a week, 26% worked 41–50 hours and the remaining 22% worked more than 50 hours a week.

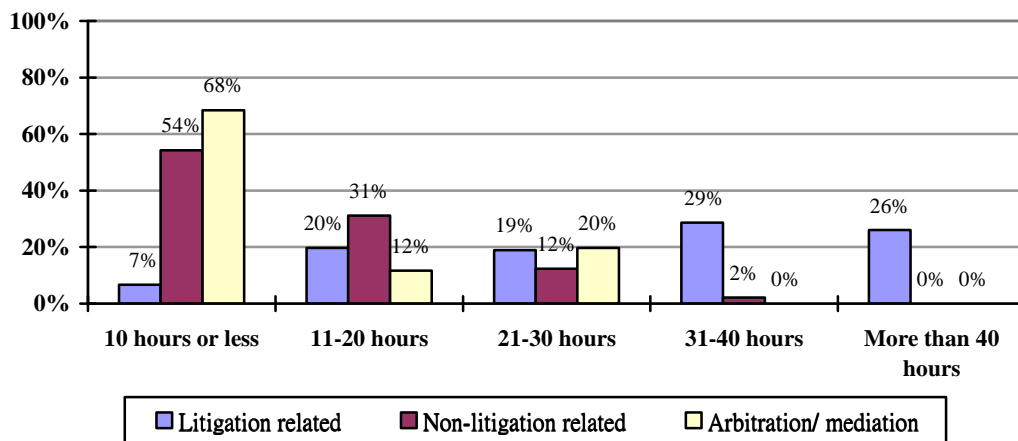
Percentage distribution of barristers by average hours worked per week



(Base: 95)

3.13 All barristers were involved in litigation related work. More than half of them (55%) spent more than 30 hours a week on litigation work. About 54% of the barristers were also involved in non-litigation work, the majority of whom worked 10 hours or less a week on such activities. Only about 6% of the barristers were involved in arbitration or mediation work, on which the great majority worked 10 hours or less a week.

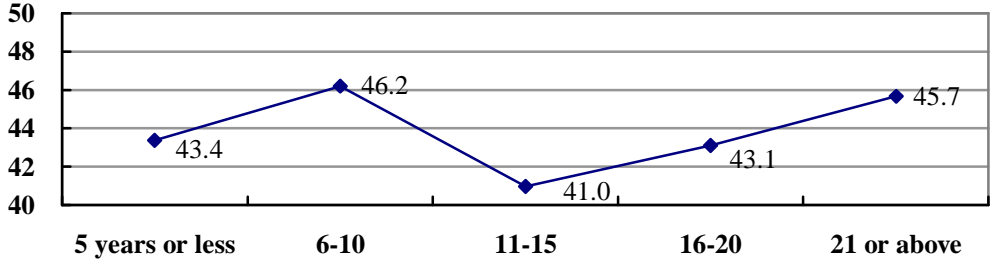
Percentage distribution of barrister by average hours worked per week by types of work



(Base: Litigation 95, Non-litigation 52, Arbitration/ mediation 7)

3.14 When analysed by years of experience, barristers with 6–11 years of experience and those with 21 or more years of experience worked on average 46 hours per week, which was slightly higher than those with 5 or less years of experience (43 hours), 11–15 years of experience (41 hours), and 16–20 years of experience (43 hours).

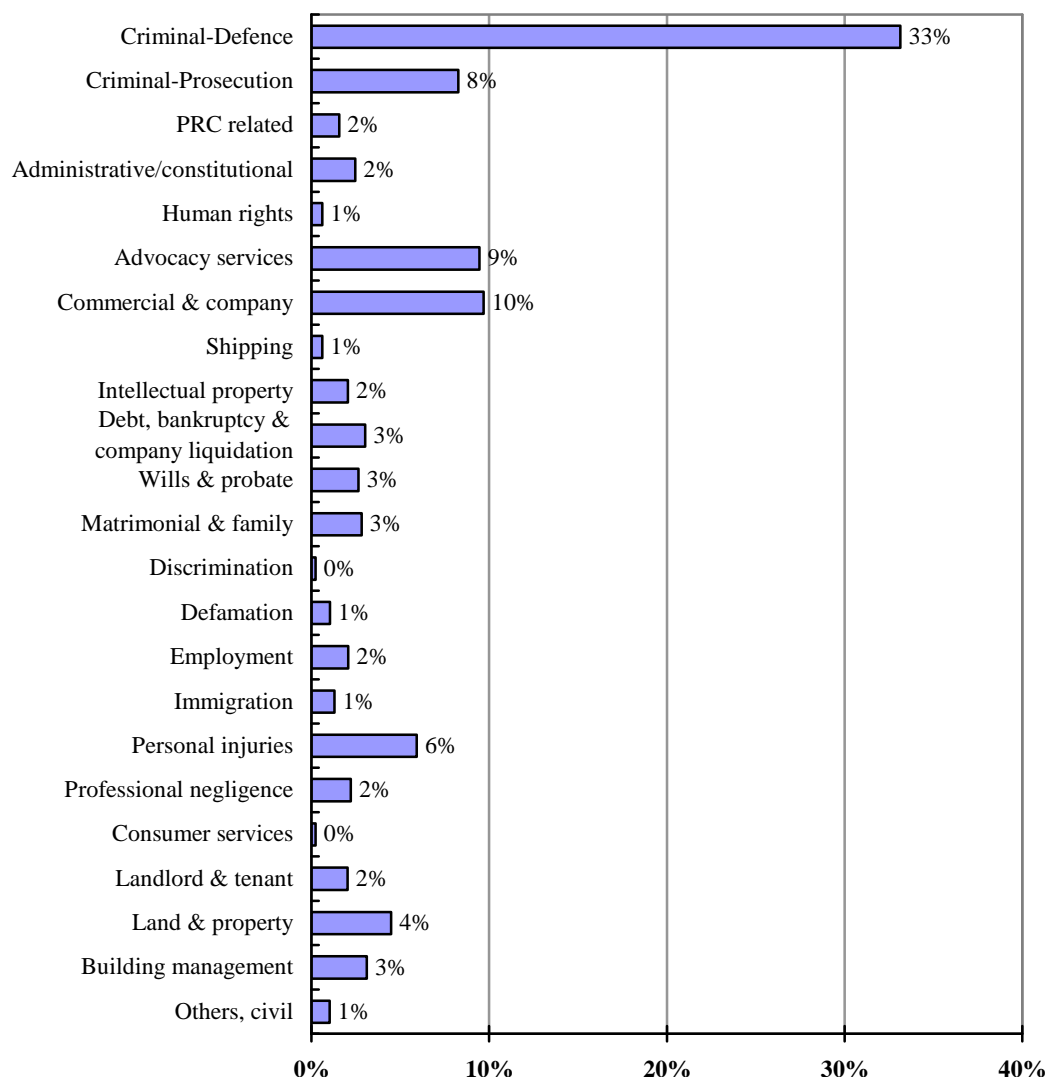
**Average hours per week of barristers
by years of experience**



(Base: 95)

3.15 Based on the information provided by respondents, it is estimated that in 2005, 59% of the barristers’ time was spent on civil cases, for which they devoted more time to commercial and company (10% of barristers’ time), advocacy (9%), personal injuries (6%) and land and property matters (4%). They spent less time on human rights (1%), shipping (1%), immigration (1%), defamation (1%), discrimination (less than 1%) and consumer matters (less than 1%). In comparison, the remaining average 41% of the barristers’ time was spent on criminal cases, acting mainly on the defence side.

**Average percentage of time spent
by barristers on different types of services**



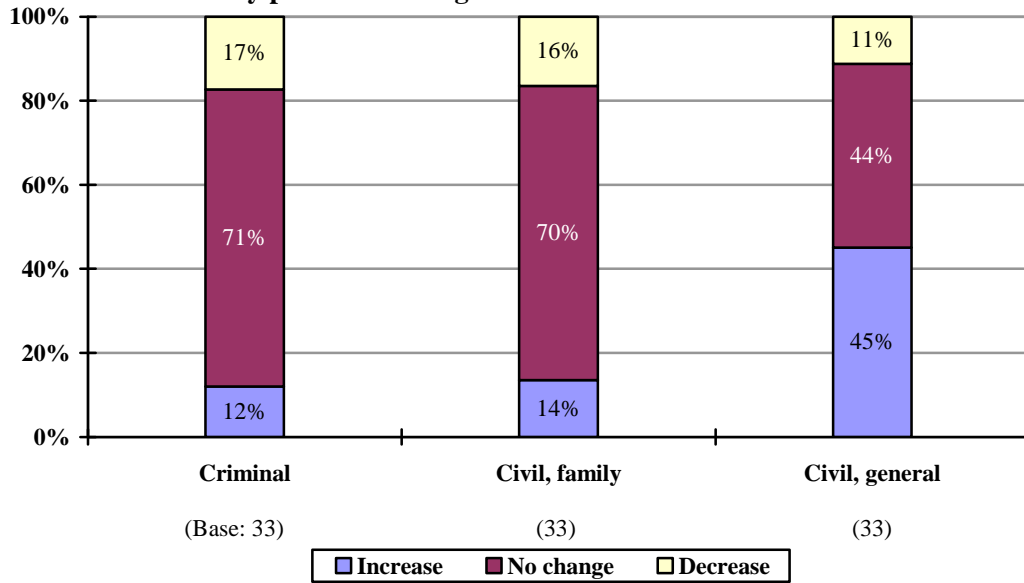
(Base: 95)

3.16 During discussions with a number of barristers, it was pointed out by some that many barristers started their careers working on criminal cases, and then later specialised in either criminal or civil cases. It was also pointed out that the supply of services for criminal cases was constrained to a certain extent by the number of criminal courts.

Anticipated changes in volume of work

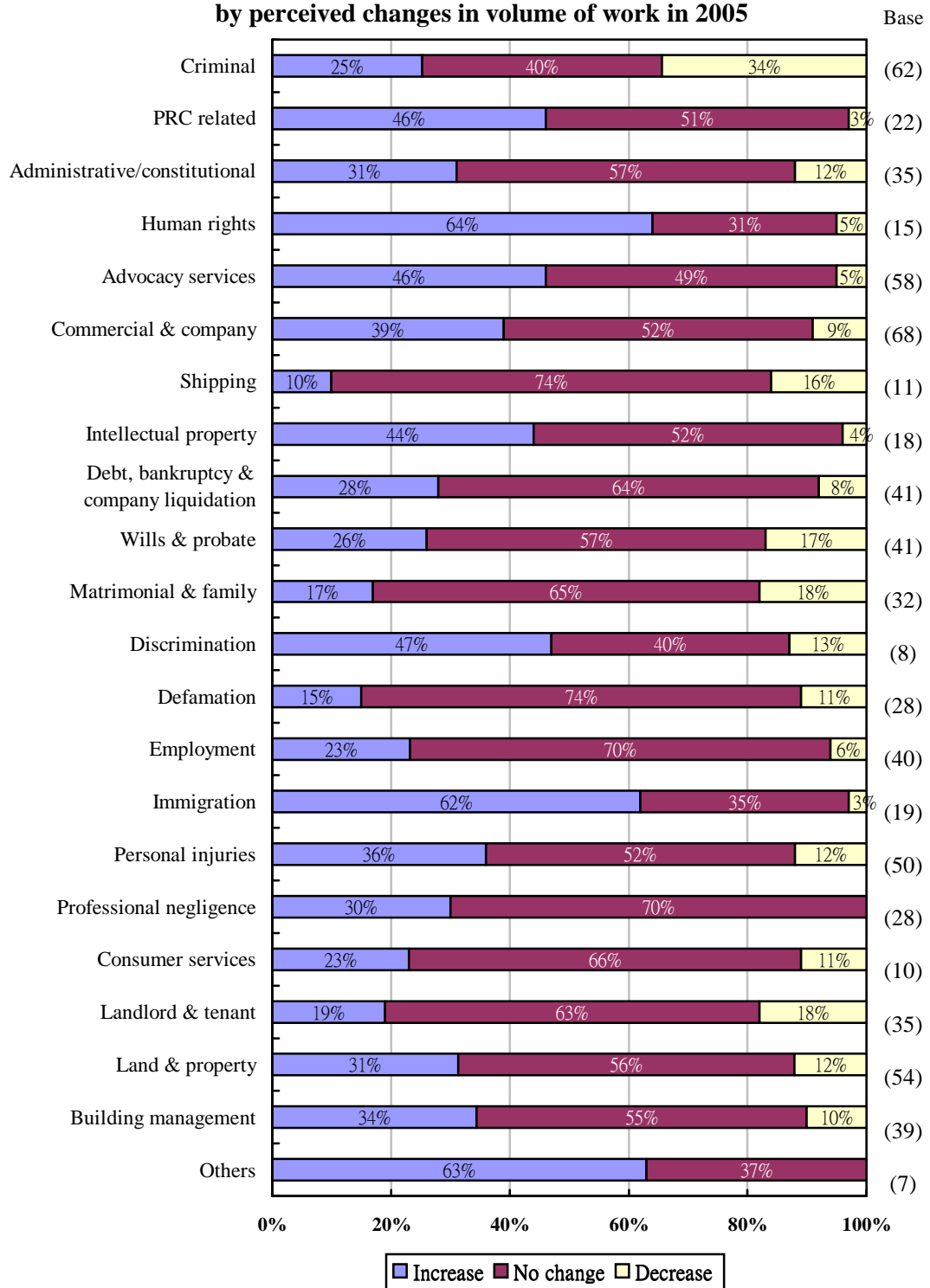
3.17 For those chambers that were providing services for civil cases, 70% considered that there was no change in the volume of work in 2005 in family related cases, as compared with 2004. For general civil cases, on the other hand, about 45% were of the view that the volume of work increased, and 44% considered that there was no change. In comparison, 71% of the chambers providing services for criminal cases considered that there was no change in the volume of work in 2005.

**Percentage distribution of chambers
by perceived changes in volume of work in 2005**



- 3.18 For the barristers providing services in civil cases, the proportion who considered there was an increase in the volume of work in 2005, as compared with 2004, was higher than the proportion who considered there was a decrease for the different types of services, with the exception of those relating to matrimonial, family and shipping. In particular, the proportion that considered there was an increase was 50% or more for cases related to immigration and human rights.
- 3.19 In comparison, about 40% of barristers providing services for criminal cases saw no change in the volume of work in 2005 as compared with 2004. About 25% said that there was an increase while a slightly larger proportion (34%) said that there was a decrease.

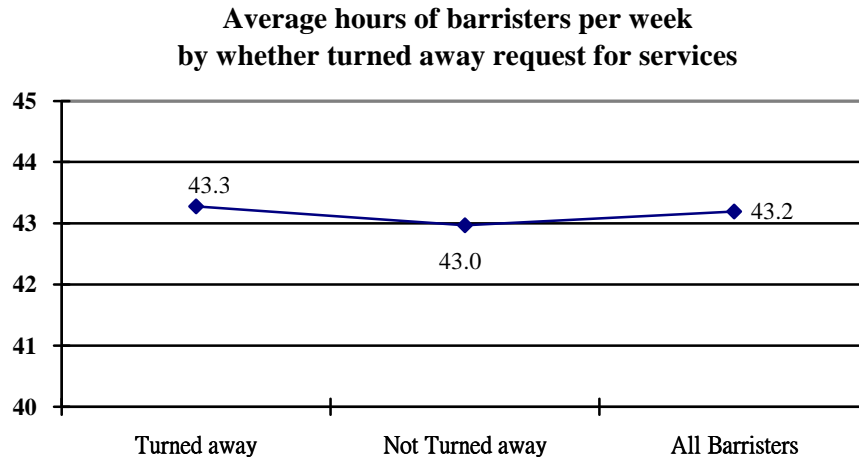
**Percentage distribution of barristers
by perceived changes in volume of work in 2005**



3.20 As high as 73% of the barristers indicated that they had turned away requests for services in the six months before enumeration. The main reasons for doing so were that they did not have time to entertain the requests (accounting for 74% of barristers concerned), that the requests were not in their areas of specialisation (45%), that the requests clashed with their other commitments (22%), or that the fees offered were too

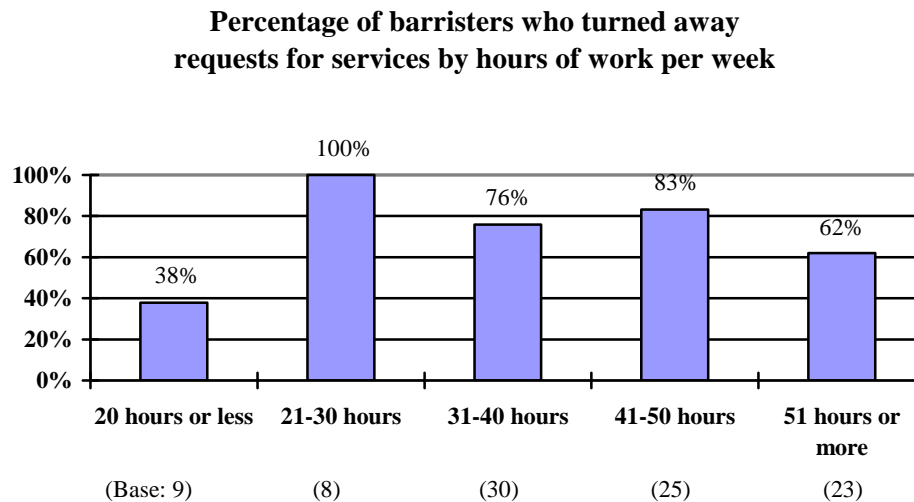
low (8%). For those barristers who had declined requests for services, the great majority (91%) said that they would refer the requests to other barristers.

3.21 In terms of average hours worked per week, the overall difference between barristers who turned away requests for services and those who did not was quite small, as shown in the chart below.



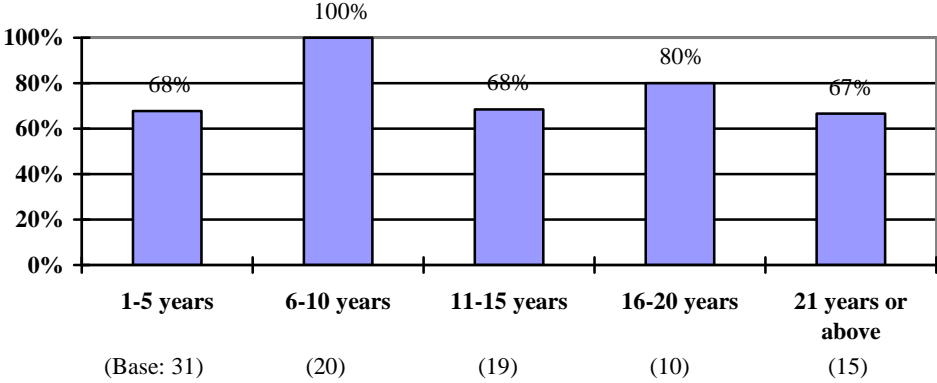
(Base: 95)

3.22 Nevertheless, by examining barristers working different hours a week, it is apparent from the chart below that a much smaller proportion of barristers who worked 20 hours or less a week had turned away requests for services. The percentage was higher for barristers who worked 21–50 hours a week.



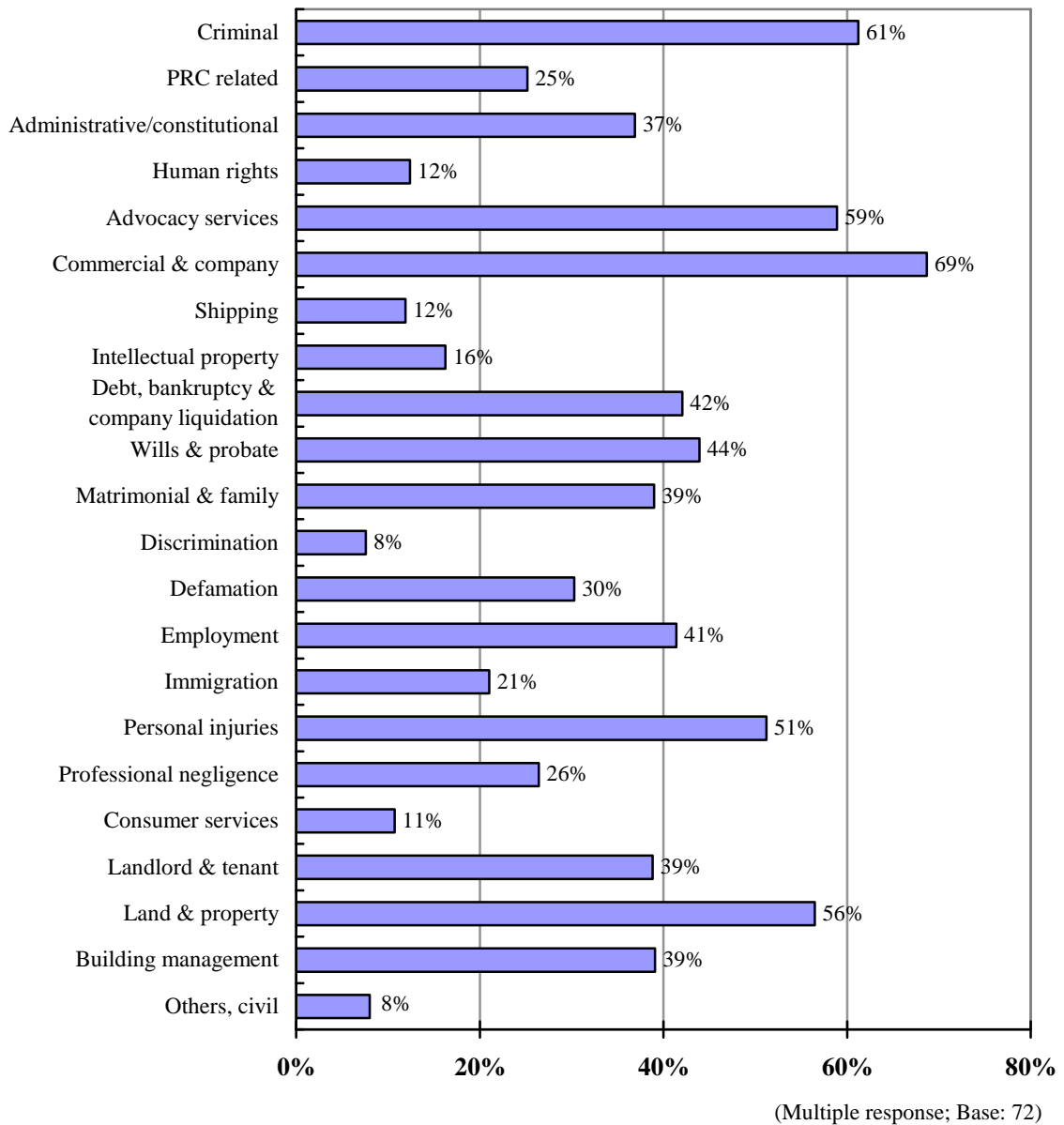
3.23 When analysed by years of experience, a larger proportion of barristers with 6–10 years and 16–20 years of experience had turned away requests for services.

Percentage of barristers who turned away requests for services by years of experience



3.24 When analysed by the types of services provided, it may be seen from the chart below that a larger proportion of barristers who were providing legal services for criminal cases (61%) and civil cases related to advocacy services (59%), commercial and company matters (69%), personal injuries (51%), and land and property matters (56%) had turned away requests for their services.

Percentage of barristers who turned away requests for services by types of services provided

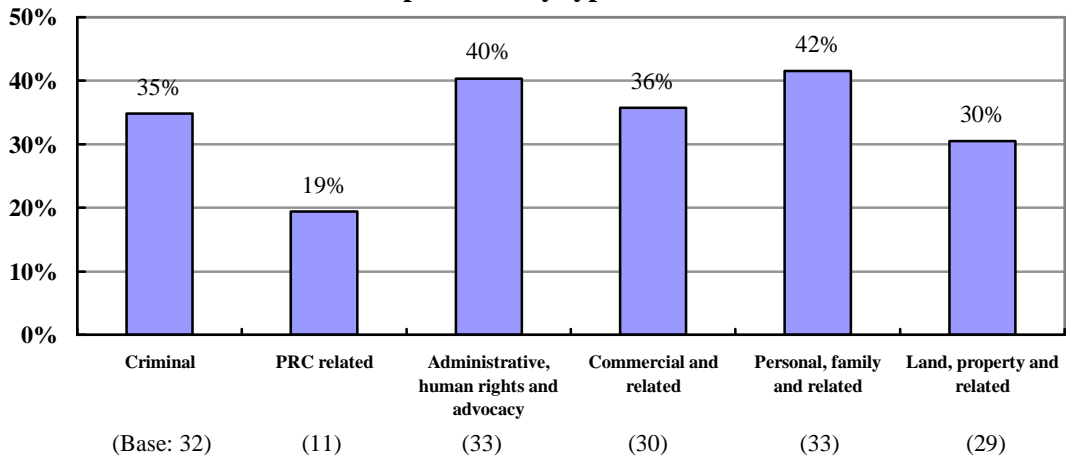


Service specialisation

3.25 About 41% of the chambers indicated that they had a policy of specialisation in service provision. The remaining 59% said that they had no such policy and the reasons were mainly that they had to undertake a wide variety of legal services (accounting for 24% of chambers concerned), that specialisation was considered not suitable to them (11%), or that there was no need to have specialisation (11%).

3.26 When analysed by types of services provided, a larger proportion of chambers that were providing services for civil cases related to personal and family (42%) and administrative, human rights and advocacy matters (40%) had a policy of service specialisation.

**Percentage of chambers with a policy of specialisation
in service provision by types of services**



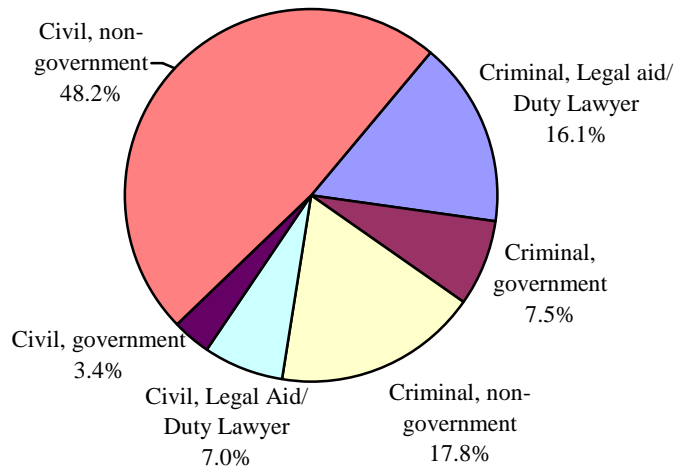
3.27 During discussions with a number of barristers, it was pointed out that there was a tendency for barristers working on civil cases to specialise in areas such as commercial (though litigation related to shipping was still conducted in places outside Hong Kong such as London), intellectual property, personal injuries and administrative law.

Types of clients

3.28 The majority (73%) of barristers had taken up cases funded by legal aid or the Duty Lawyer Scheme in the six months prior to enumeration. For those who had not taken up such cases, the main reasons were that they were not on the panel (accounting for 34% of barristers concerned); they had not received any assignment instructions (17%); they were not interested (5%); they did not have time to take up such cases (4%); or they considered the fee was too low (4%).

3.29 Based on information provided by barristers, it is estimated that about 23% of the time spent by barristers was devoted to cases funded by legal aid or the Duty Lawyer Scheme, about 11% to cases funded by government, and the balance 66% to cases funded by clients other than government.

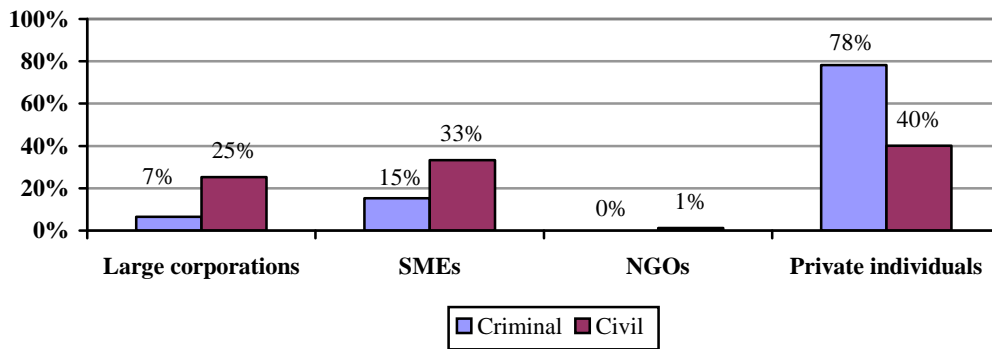
Percentage distribution of time spent by barristers by types of clients/ cases



(Base: 95)

3.30 For civil cases, about 40% of the time spent by barristers was on cases undertaken for private individuals. The corresponding percentage for large corporations was 25% and that for SMEs was 33%. For criminal cases undertaken by barristers for the non-government sector, most of the time spent (78%) was on cases undertaken for private individuals.

Percentage distribution of time spent by barristers on cases for the non-government sector

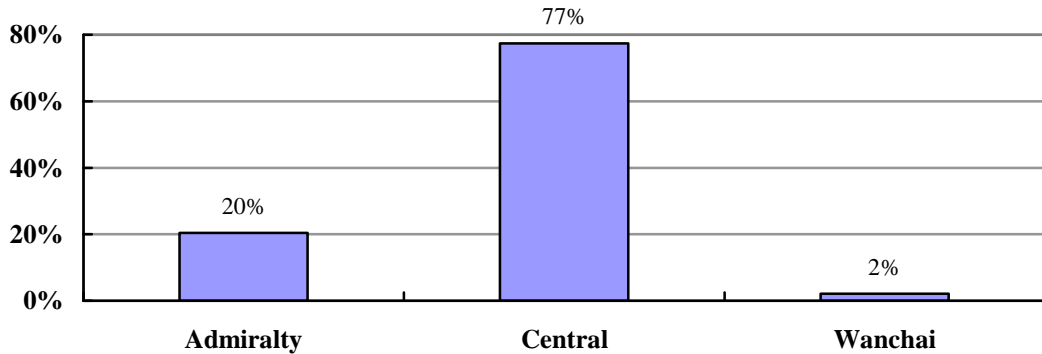


(Multiple response; Base: 95)

Location

3.31 77% of the chambers were located in Central, with another 20% in Admiralty. The great majority (91%) of chambers did not have any plan to relocate to other districts. The main reasons were that their present offices were convenient, that they were used to working in their present locations, or that it was a practice to maintain chambers offices in the Central District. For the remaining 9% that had plans to relocate, the districts in mind were Central District and Admiralty, and the reasons were that more office space was available, or that these locations were nearer to the High Court.

Percentage distribution of chambers by locations

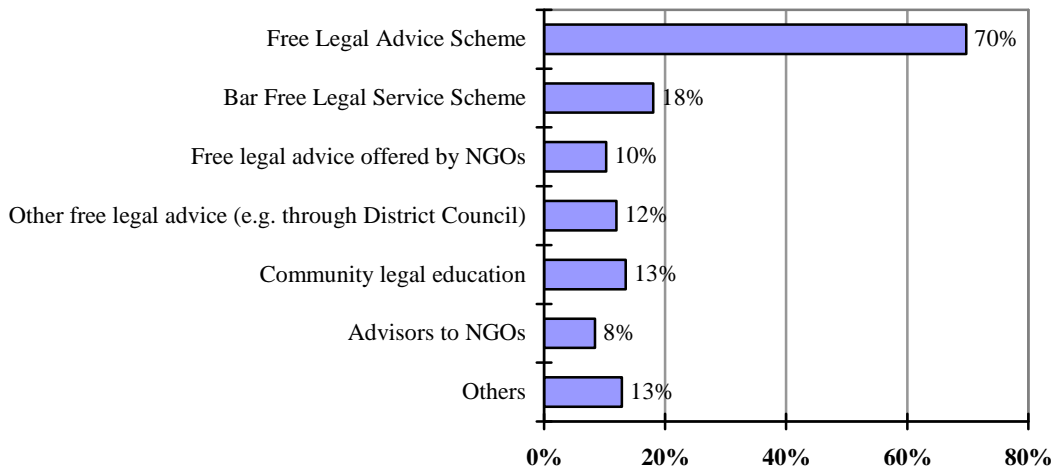


(Base: 35)

Pro bono services

3.32 Slightly more than half (52%) of the barristers had provided pro bono services to the public in the six months prior to enumeration. For these barristers, the kinds of pro bono activities undertaken were the Free Legal Advice Scheme (accounting for 70% of barristers who had undertaken pro bono work), the Bar Free Legal Service Scheme (18%), community legal education (13%), free legal advice services offered by non-governmental organisations (NGOs) (10%) and other organisations like the District Council (12%), or acting as legal advisors to NGOs (8%).

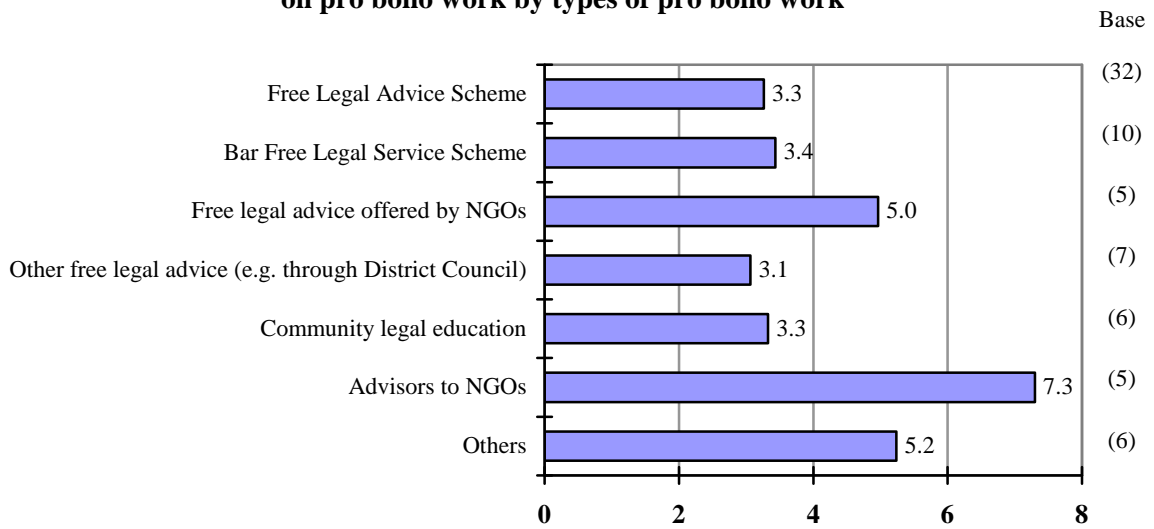
Percentage of barristers who had undertaken pro bono work by types of pro bono work



(Multiple response; Base: 95)

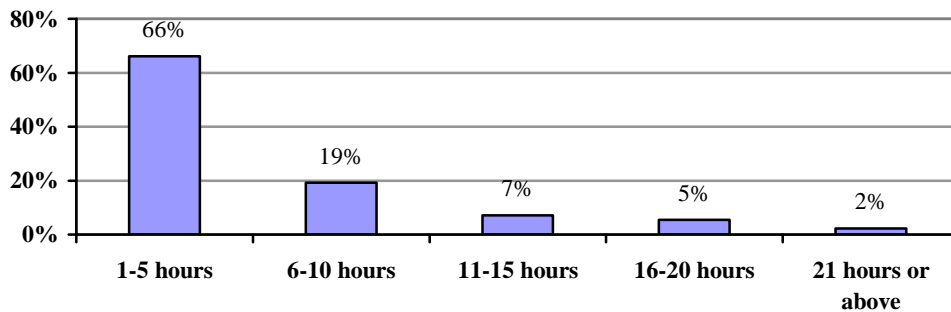
3.33 For barristers who had participated in the Free Legal Advice Scheme, they spent on average 3 hours a month in providing such services. The corresponding figures for other free legal advice services were in the range of 3 to 5 hours. For participation as legal advisors to NGOs, the barristers concerned spent on average about 7 hours per month.

Average number of hours per month spent by barristers on pro bono work by types of pro bono work



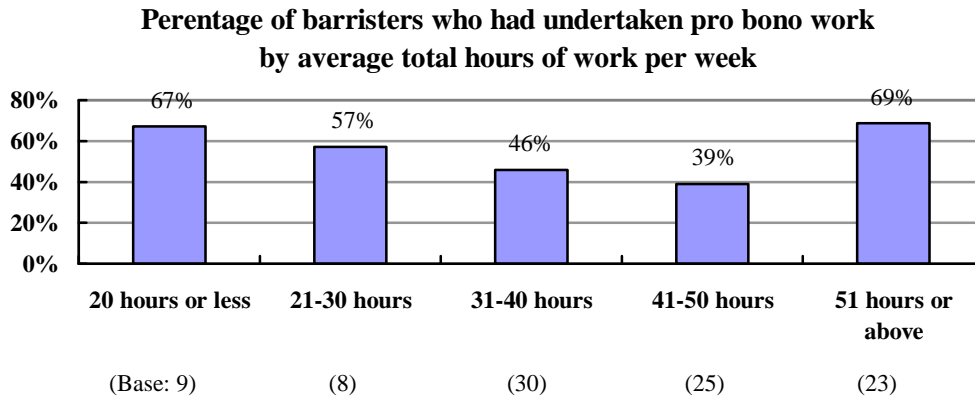
3.34 Taking all types of pro bono work together, 66% of the barristers who had undertaken pro bono work devoted less than 5 hours per month to such activities, and a further 19% devoted 6–10 hours.

Percentage distribution of barristers who had undertaken pro bono work by total pro bono hours worked per month

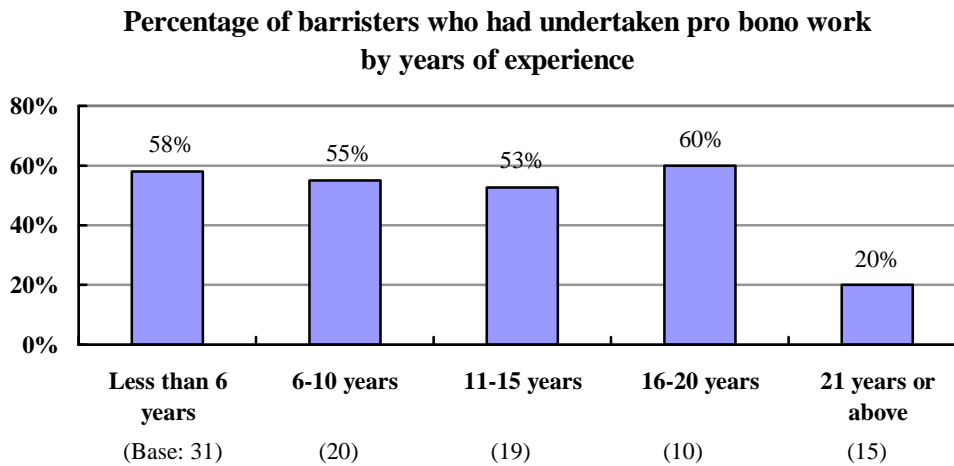


(Base: 48)

3.35 When analysed by average total hours of work, it may be of interest to note from the chart below that a larger proportion of barristers working 51 hours or more a week, and those who worked 20 hours or less a week had undertaken pro bono work.

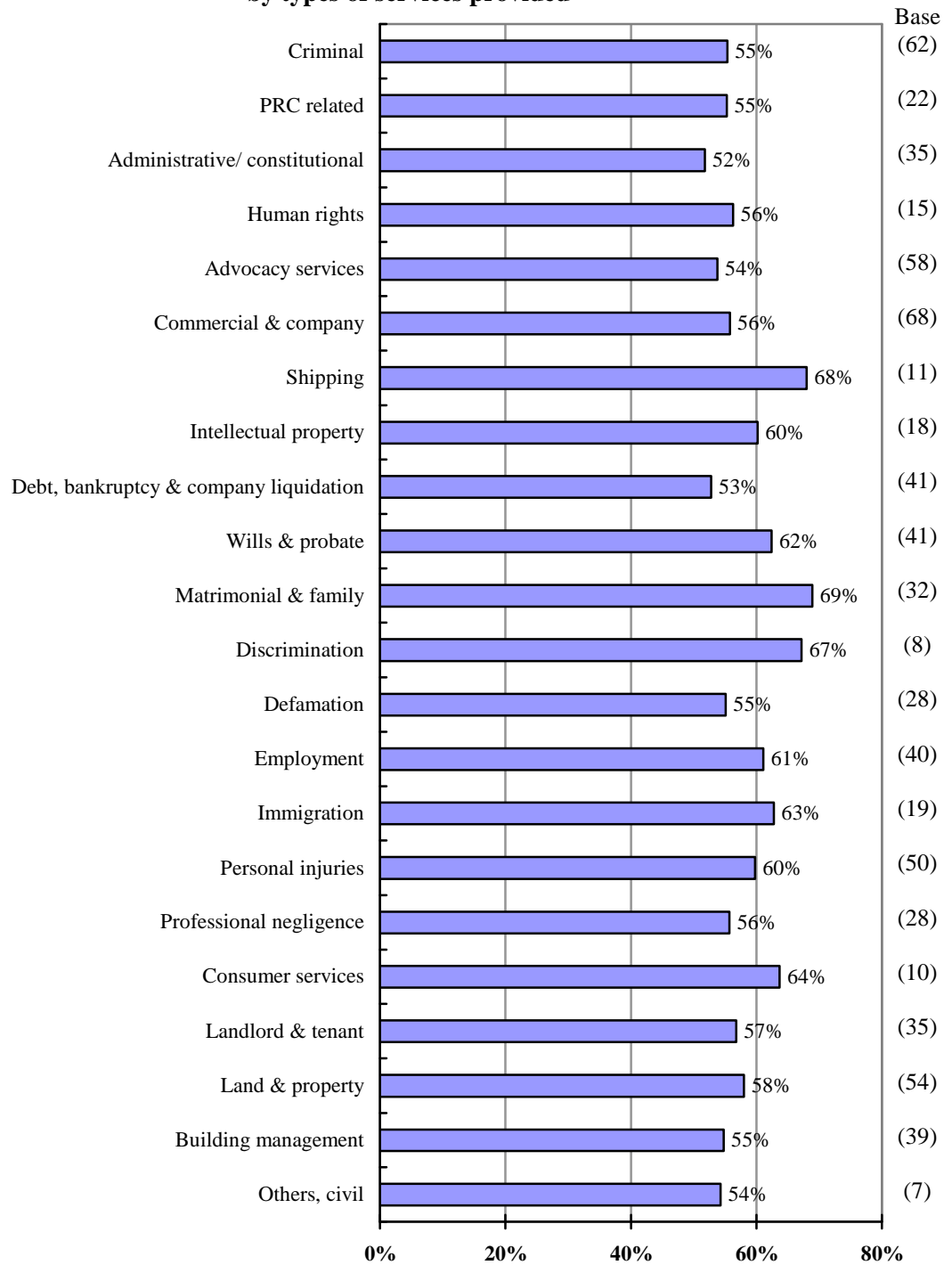


3.36 When analysed by years of experience, a much smaller proportion of barristers with 21 years of experience or more had undertaken pro bono work, as shown in the chart below.



3.37 When analysed by types of services, it may be seen from the chart below that a slightly larger proportion of barristers providing services for civil cases related to shipping, matrimonial and family, and discrimination matters had participated in pro bono work.

**Percentage of barristers who had undertaken pro bono work
by types of services provided**

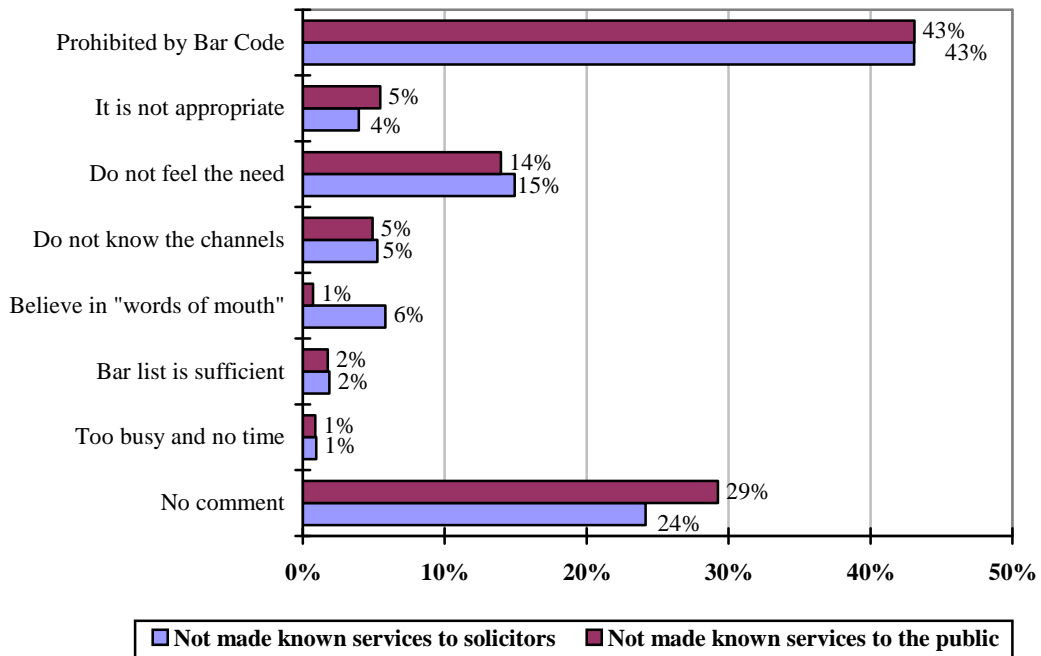


3.38 For the 48% of barristers who did not participate in any pro bono work, the main reasons were that they had no time (accounting for 60% of barristers concerned), no interest (24%), or that the location of service was not convenient (14%).

Promotion of services

- 3.39 Only about 11% of the barristers had taken measures to make known their services to solicitors, other than through the Bar List. And only about 5% had taken measures to make known their services to the public. Taking promotion to either solicitors or the public together, about 12% of barristers had done so. Measures taken by barristers were mainly attending conferences and seminars, giving talks and writing articles, or networking through friends.
- 3.40 For the majority who did not take any such measures, the main reasons were that they considered such measures were not allowed by the profession, or that they did not feel there was a need to do so.

Percentage distribution of barristers who had not taken measures to make known their services by reasons

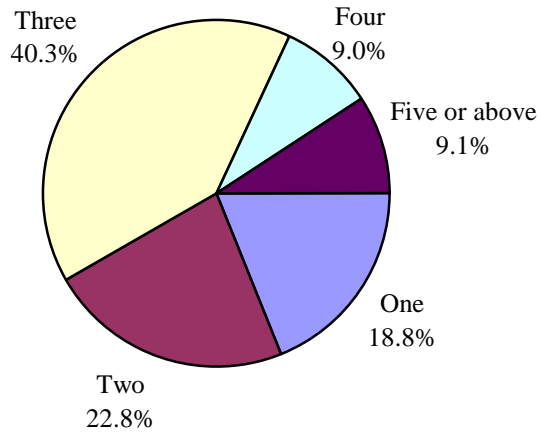


(Base: Solicitors 84, Public 90)

Pupil barristers

- 3.41 About 47% of the chambers had pupil barristers. On average, there were 3 pupils per chambers among those that had pupil barristers. About 23% of these chambers employed two pupil barristers. 40% had three and a further 18% had four or more.

**Percentage distribution of chambers with pupil barristers
by number of pupil barristers employed**



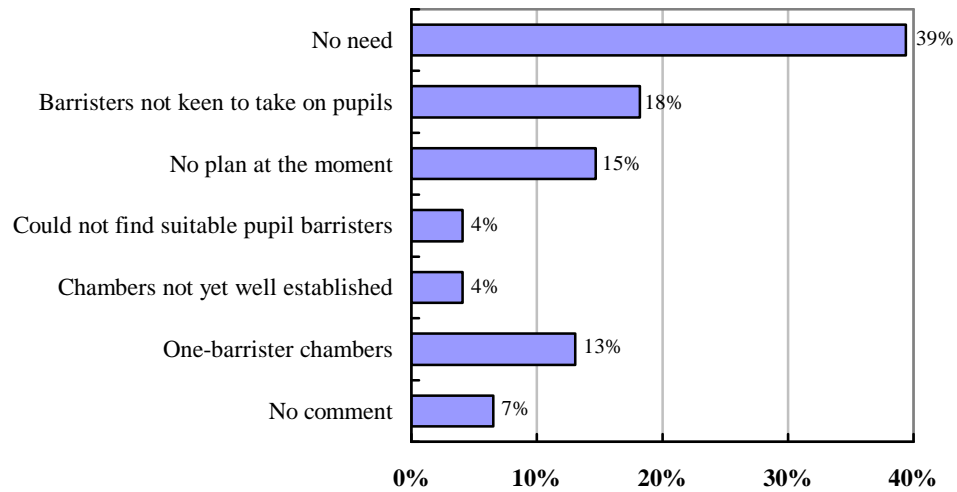
(Base: 17)

- 3.42 The great majority (91%) of chambers did not pay their pupil barristers. More than half (59%) did not have any preference for specialisation in the training of pupil barristers. For the remaining 41% that had preferences, their preferred areas of specialisation were mainly criminal law or personal injury.
- 3.43 When analysed by size of chambers, on average a larger proportion (90%) of the bigger chambers with 11 or more barristers had pupil barristers.

Chamber size (number of barristers)	Estimated % with pupil barristers	(Base)
1	0.0%	(8)
2-5	69.0%	(5)
6-10	41.7%	(12)
11 or above	90.0%	(10)
Total	47.1%	(35)

- 3.44 For the 53% of chambers that did not have pupil barristers, the main reasons were that there was no need, or that none of their barristers were keen to take on pupils.

**Percentage of chambers that had no pupil barristers
by reasons**



(Base: 18)

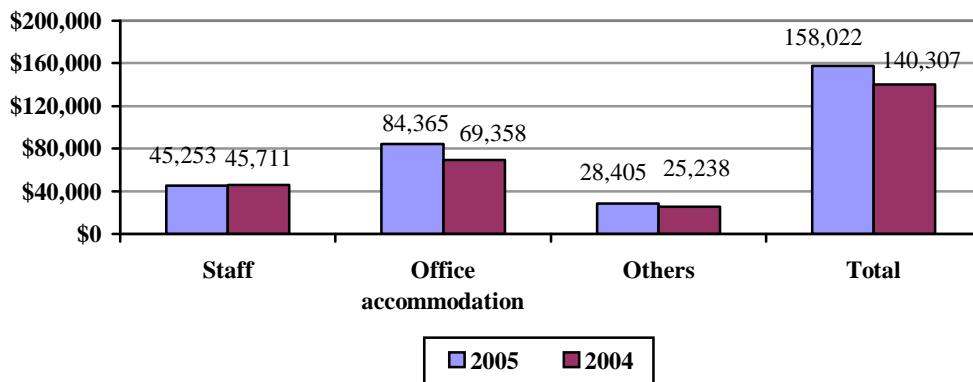
3.45 Only about 19% of the chambers had a chambers-wide policy on pupil barristers. Elements of such policy included personal qualities of pupils (e.g. good academic record and mature personality), recruitment and vetting by a pupillage committee, or requirement that all barristers in the chambers had to train pupils.

Finance

Running cost of chambers

3.46 The average monthly running cost of the chambers in 2005 was \$158,022, which was 13% higher than the average in 2004. Office accommodation accounted for 53% of total running cost in 2005, as compared with 49% a year earlier.

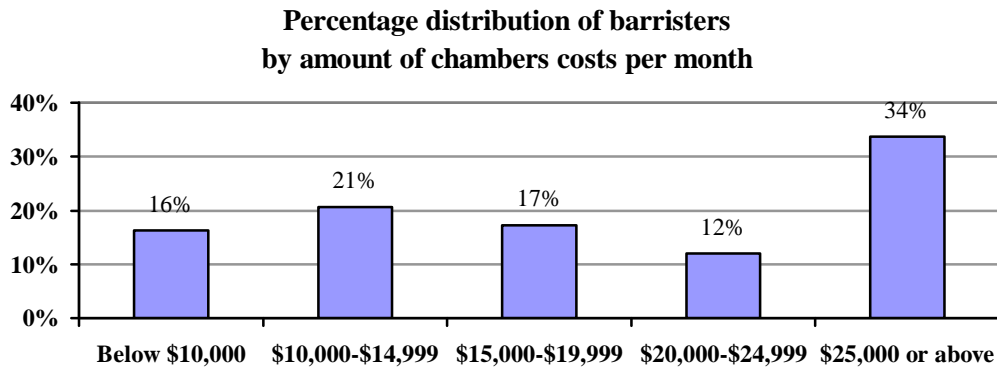
**Average monthly running costs of chambers
by categories of expenses**



(Base: 26)

3.47 The monthly costs paid by barristers for the operation of their chambers varied considerably. About 34% of barristers paid \$25,000 or more per month for the

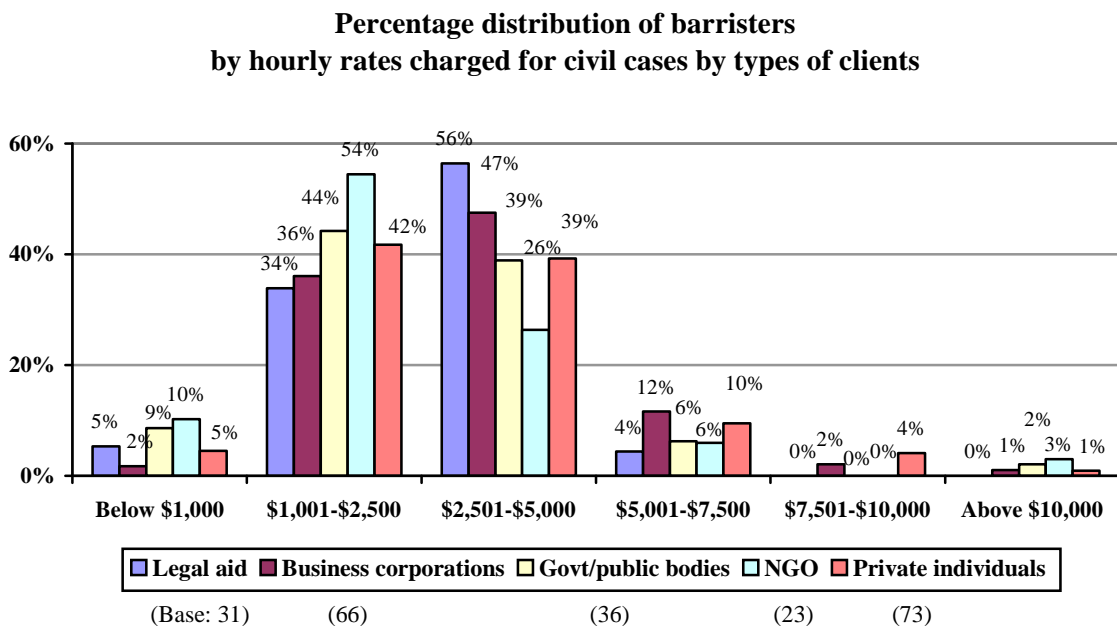
operating costs of their chambers, while about 37% paid less than \$15,000 per month. On average, a barrister paid \$21,800 per month.



(Base: 95)

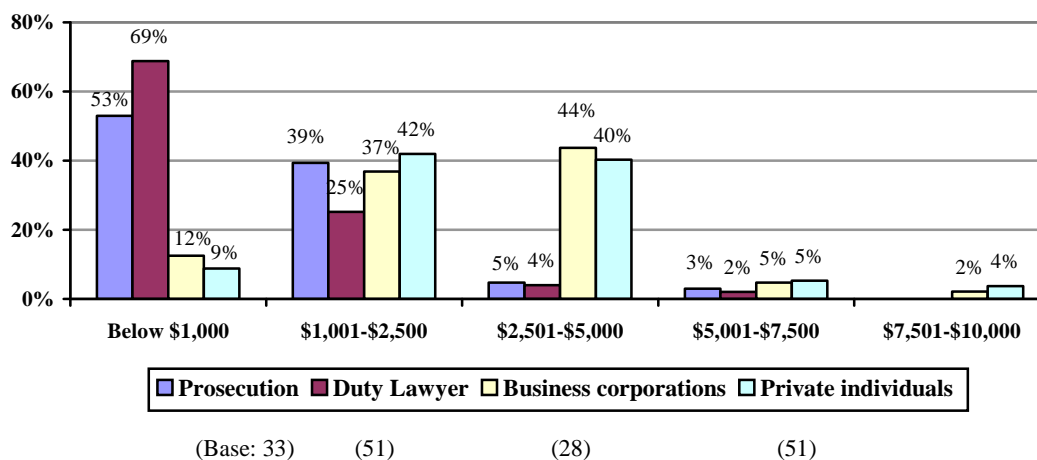
Fee charged

3.48 For civil cases, most barristers charged an hourly rate of \$1,001-\$5,000 for cases funded by legal aid (accounting for 90% of barristers involved), or undertaken for business corporations (83%), the government or public bodies (83%), NGOs (80%) and private individuals (82%).



3.49 In comparison, most barristers charged an hourly rate of \$2,500 or below for criminal prosecution cases (accounting for 92% of barristers involved) and for criminal defence cases funded by the Duty Lawyer Scheme (94%). For criminal cases undertaken for business corporations, the majority (81%) charged an hourly rate of \$1,001-\$5,000. The corresponding percentage for private individuals was slightly higher, at 82%.

**Percentage distribution of barristers
by hourly rates charged for criminal cases by types of clients**

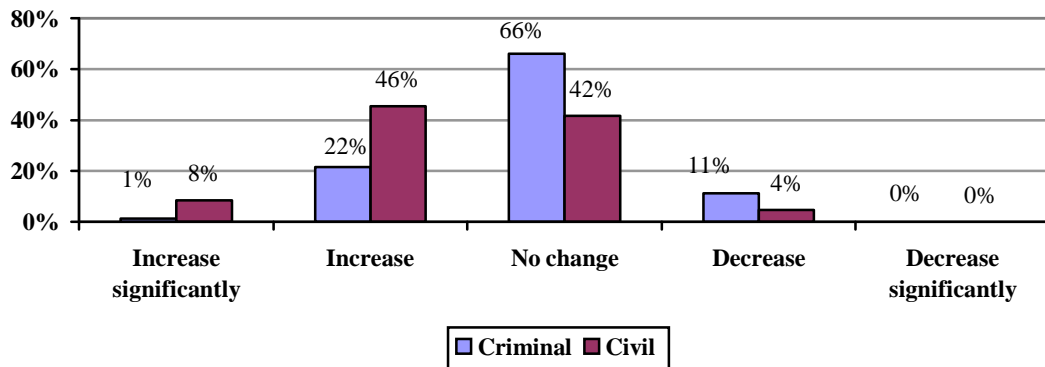


3.50 Based on the distribution of hourly rates barristers charged for the different types of work, the average rates were roughly as follows. In general, the rates for civil cases tended to be higher than those for criminal cases. The rates for businesses and private individuals also tended to be higher than those for legal aid, Duty Lawyer Scheme and government cases. The differences in rates might also be partly attributed to the complexity of the individual cases.

HK\$	Average hourly rates for different categories of work	
	Civil	Criminal
Legal aid/ Duty Lawyer	3,009	1,060
Government/ Public bodies	2,873	1,317
NGOs	2,664	-
Business corporations	3,431	2,832
Private individuals	3,269	2,942

3.51 For civil cases, just over half (54%) of the barristers considered that their hourly rates for private sector clients had increased in 2005, as compared with 2002, and 42% considered that there was no change. In comparison, about 23% indicated that their hourly rates for criminal cases for the private sector had increased, while about 66% considered that there was no change.

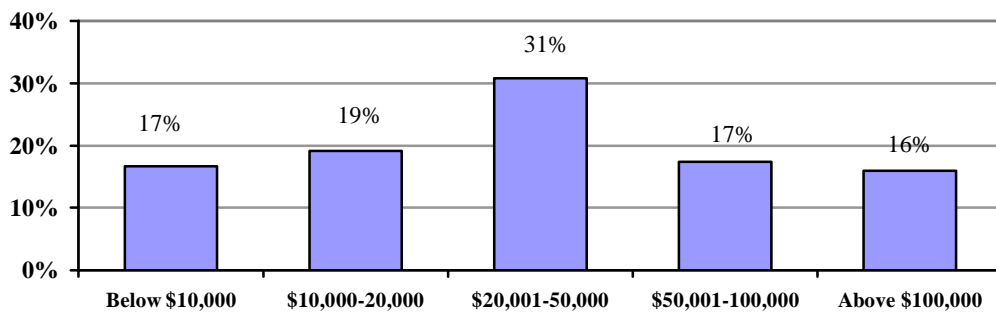
**Percentage distribution of barristers
by changes in hourly rates for private sector clients**



(Base: Criminal 62, Civil 81)

3.52 Only about 9% of barristers said that they did not have a definite fee structure. For the great majority (91%) who had a definite fee structure, their fee structure comprised a brief fee and a refresher fee. For brief fee, 67% of barristers charged on average a brief fee of \$50,000 or below. Only about 17% charged on average a brief fee in the range of \$50,001 to \$100,000, and 16% charged over \$100,000.

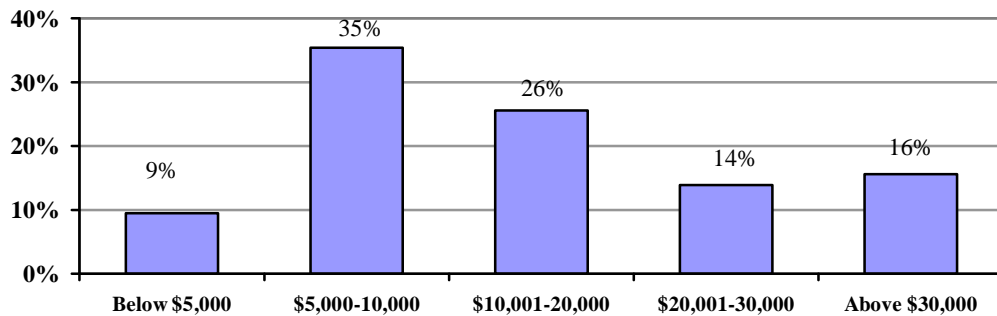
**Percentage distribution of barristers
by average brief fee charged**



(Base: 86)

3.53 Concerning refresher fees, 70% of the barristers charged on average a refresher fee of \$20,000 or below per day. Only about 14% had an average refresher fee in the range of \$20,001 to \$30,000 per day, and for 16%, over \$30,000.

**Percentage distribution of barristers
by average refresher fee charged per day**

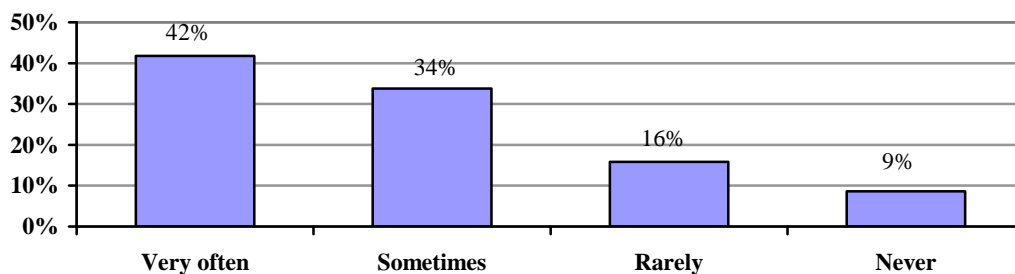


(Base: 85)

3.54 For all barristers, the average brief fee was \$49,940 and about 63% were charging a brief fee lower than the overall average. For refresher fees, the average was \$15,850 per day, and about 60% of barristers were charging below average.

3.55 About 42% of barristers indicated that they were very often able to give an estimate of the total cost of the case to their clients, and a further 34% said that sometimes they were able to do so. Only about 16% said that they seldom gave such an estimate, and about 9% never gave such an estimate.

**Percentage distribution of barristers by how often they were
able to give estimate of total cost to clients**

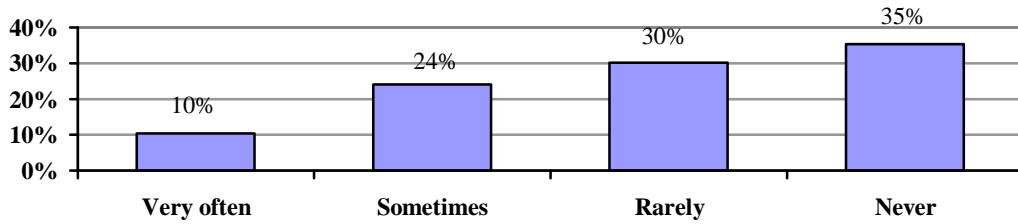


(Base: 95)

3.56 During discussions with a number of barristers, it was pointed out that it was difficult to estimate the amount of legal fees involved, as they had little control over the time required for court hearings and the amount of work involved. Usually barristers could give the solicitors a general idea of the cost involved. In many cases, solicitors would “shop” around to obtain a competitive quote from barristers.

3.57 About 35% of barristers had never charged an “all-in” fee during the six months prior to enumeration. About 10% often charged an “all-in” fee, while a further 24% sometimes and 30% rarely did so.

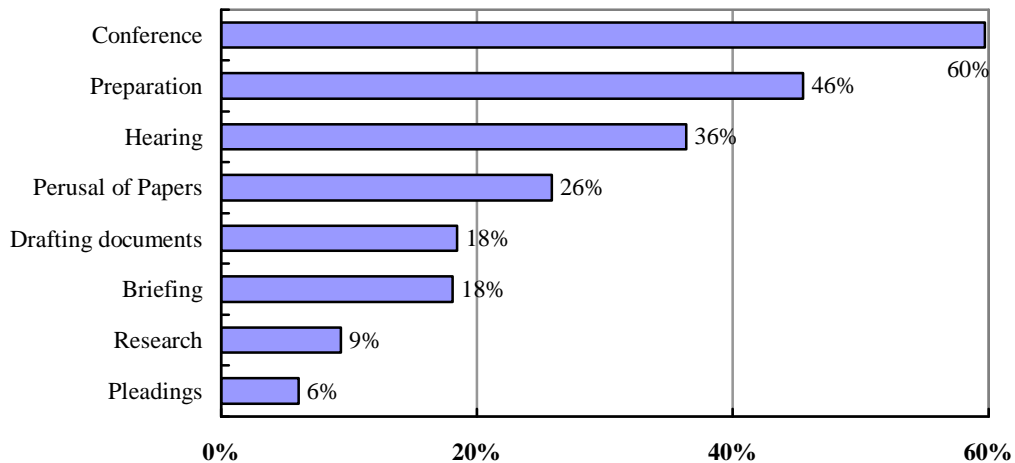
Percentage distribution of barristers by how often charging an "all-in" fee



(Base: 95)

3.58 Among barristers who had charged an “all-in” fee during the six months prior to enumeration, 69% indicated that they had specified items for inclusion in the “all-in” fees. The more common items were conference (accounting for 60% of barristers concerned), preparations (46%), hearing (36%) and perusal of papers (26%).

Percentage of barristers by items included in the all-in fee



(Multiple response; Base: 43)

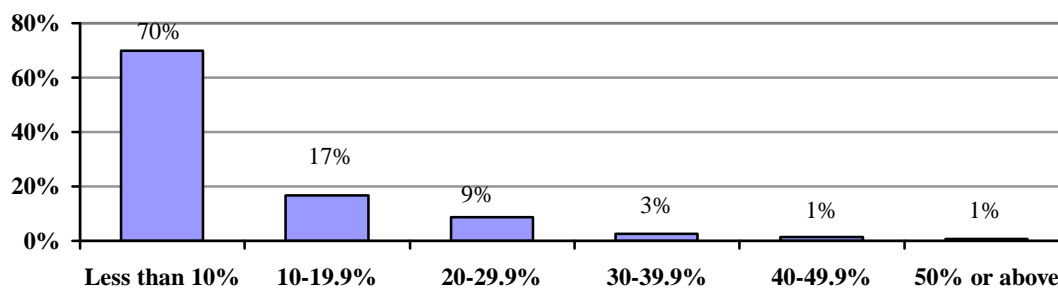
3.59 During discussions with a number of barristers, it was pointed out that the fees they charged were largely determined by market forces. Fees were usually related to the experience of barristers and increased rapidly with their years of experience. For criminal cases, fees charged by barristers were to a certain extent also influenced by the rates set by government for cases funded by legal aid.

3.60 For civil cases, most barristers were inclined to disclose their hourly rates. It was considered that the rates used by the courts were reasonable, but barristers did not normally compete on the basis of their hourly rates. For criminal cases, it was sometimes difficult to set an hourly rate, as much depended on the complexity of the case and the defenders involved.

Unpaid bills

- 3.61 70% of the barristers indicated that, based on experience in the past 3 years, less than 10% of their bills remained unpaid after one year, and a further 17% had 10-20% similarly unpaid. On the other hand, 9% of barristers said that 20-30% of their bills remained unpaid after one year, and the remaining 5% had 30% or more.

**Percentage distribution of barristers
by proportion of bills unpaid after one year**

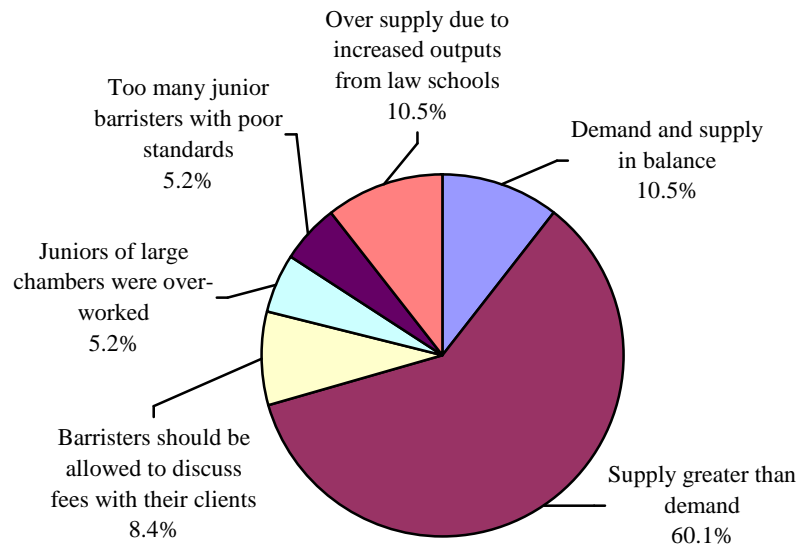


(Base: 95)

Views on balance of demand and supply and others

- 3.62 About 41% of heads of chambers expressed views on the balance of demand for and supply of legal services in Hong Kong, and more than half of them expressed concern about the over-supply of services. It is noted that a few comments made by heads of chambers were not directly related to the balance of demand and supply. Nevertheless, these views are still presented below to reflect other concerns raised by the respondents. It was of interest to note that junior professionals in large chambers were said to be overworked, an indication that there was considerable demand for quality work even if at higher fees or there was a shortage of people for quality work. The reference to flexibility in fees probably meant that there was an insufficient demand for some barristers at the fee levels charged.

**Percentage distribution of chambers that had views
on balance of demand and supply by main categories of opinions**



(Base: 17)

4. Provision of Legal Services by Solicitors

Survey methodology

- 4.1 There are two categories of respondents included in the survey of solicitors, namely managing partners of solicitor firms and their solicitors. In-house lawyers of public and private sector organisations, including those working for government departments, were not covered in the survey.
- 4.2 At the time of the survey, there were 4,517 solicitors working in 667 solicitor firms. The size of firms ranged from 1 to over 160 solicitors. In addition, there were 367 foreign lawyers working in these firms. 103 solicitor firms have set up branch offices in other parts of Hong Kong or outside Hong Kong. Representative samples of solicitor firms and their solicitors were selected for the questionnaire survey. Foreign lawyers were not covered. A stratified systematic random sampling design was adopted for the selection of solicitor firms, with the stratification factor being the geographical districts to ensure that firms in different districts were sampled. Within each district, the firms were sorted in ascending order of size and systematic sampling was used so that firms of different sizes were selected. A sample of 190 solicitor firms was selected, and their managing partners enumerated.
- 4.3 For individual solicitors, a random sample of solicitors working in the firms sampled was selected. A two-stage stratified random sampling design was adopted, with the stratification factor at the second stage being the positions of the solicitors. A total of 582 solicitors were sampled, including 87 proprietors, 199 partners, 91 consultants and 205 assistant solicitors/ associates.

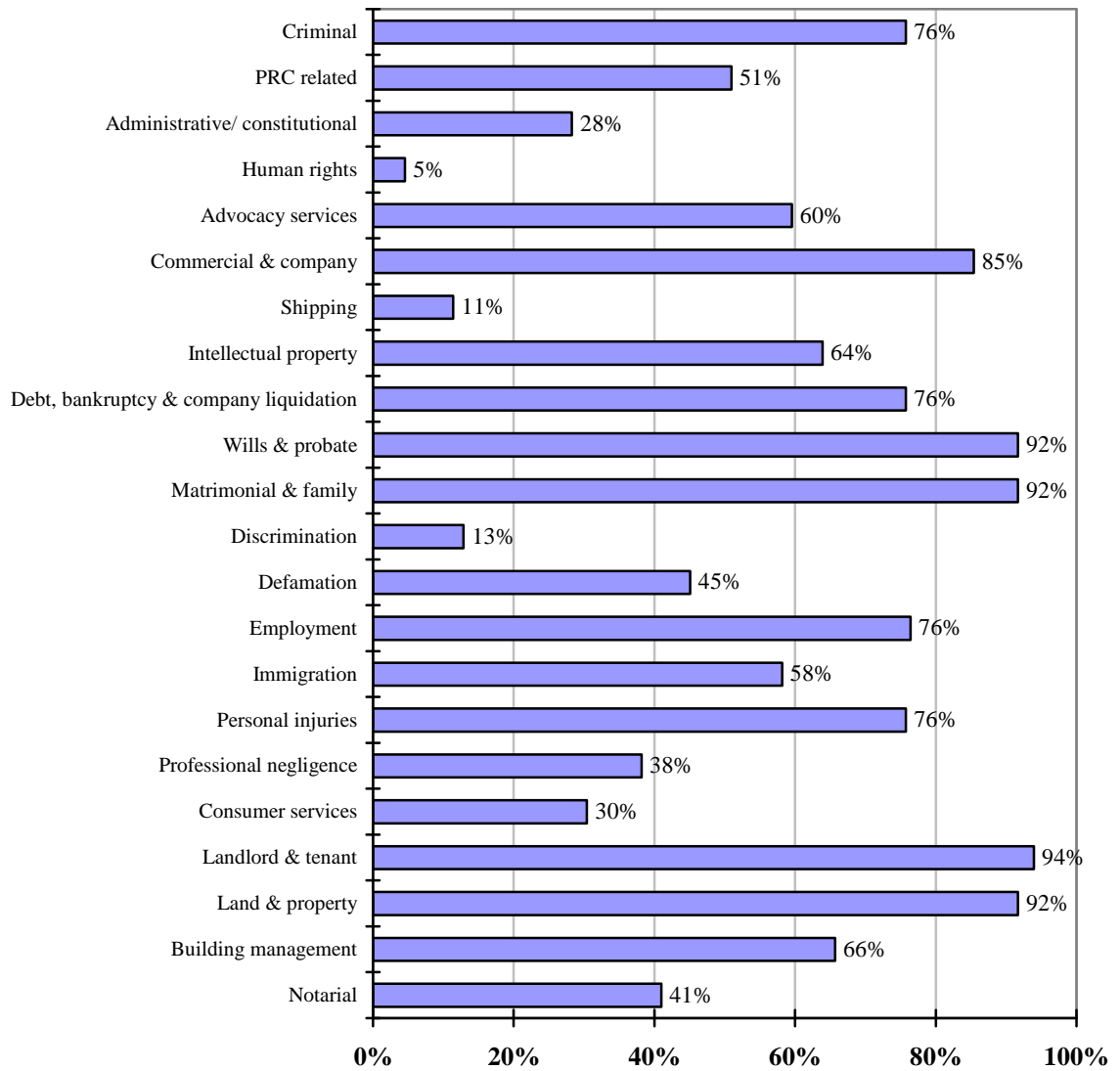
4.4 The questionnaire for managing partners of the solicitor firms is given in Appendix C and C-1, and that for solicitors in Appendix D. The questionnaire design and data collection procedures are similar to that for the barristers. The enumeration results for the survey of solicitors are shown below.

Categories	Total number	Number sampled	Number enumerated	Response rate (%)
Solicitor firms	667	190	48	25%
Solicitors	4,517	582	181	31%

Types of services provided

4.5 All solicitor firms offered services for civil cases. A larger proportion of firms were providing services for landlord and tenant (accounting for 94% of all firms), land and property (92%), wills and probate (92%) matrimonial and family (92%), and commercial and company matters (85%). A smaller proportion of firms were providing services for human rights (5%), shipping (11%), discrimination (13%), administrative and constitutional (28%) and consumer services matters (30%). In comparison, about 76% of firms also offered services for criminal cases. There may be variations in the categorisation of services by different respondents, and any one case may involve more than one type of services.

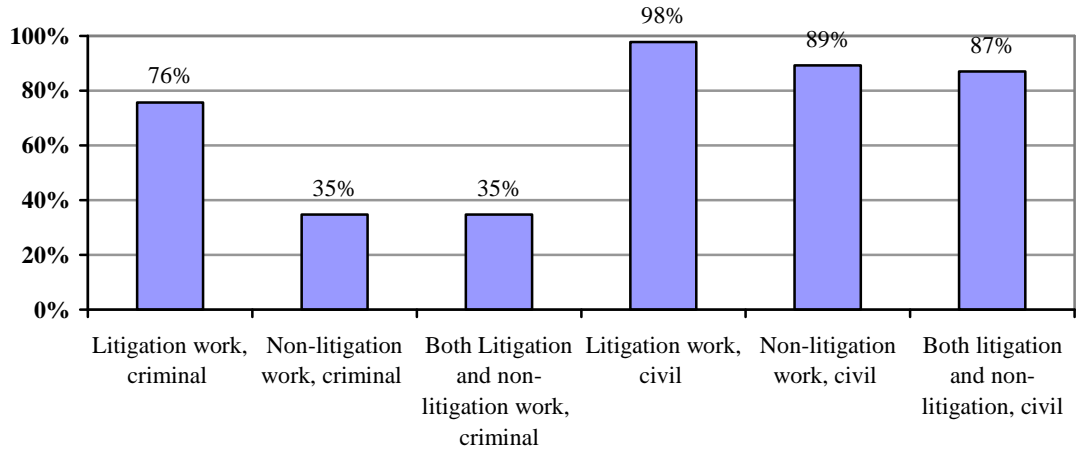
Percentage of solicitor firms providing services by types



(Multiple response; Base: 48)

4.6 For civil cases, about 98% of solicitor firms provided litigation services, and 89% provided non-litigation services, while 87% provided both categories. In comparison, about 76% of the firms offered litigation services and about 35% non-litigation services for criminal cases, with 35% providing both categories.

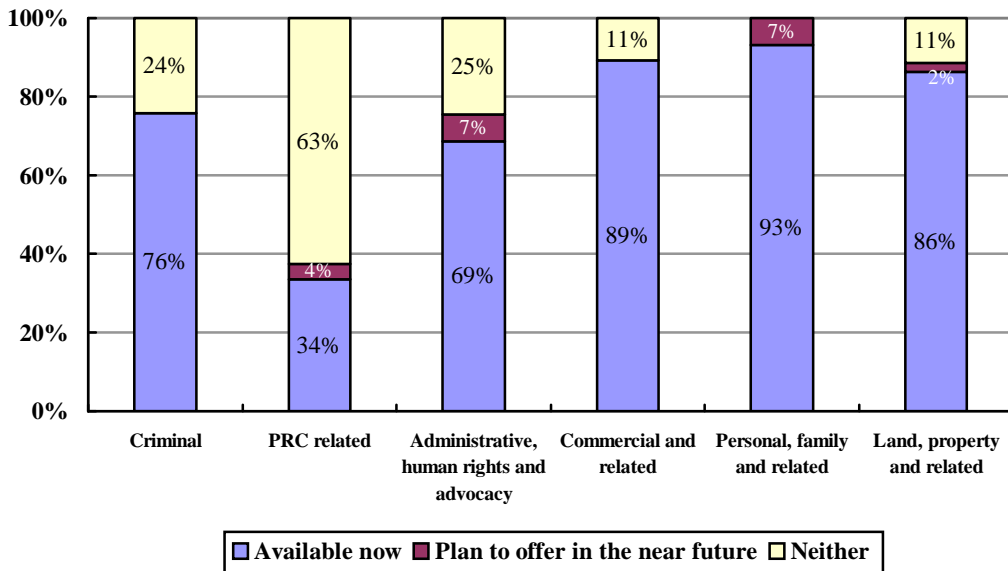
Percentage of solicitor firms providing services by categories



(Multiple response; Base: 48)

4.7 When analysed by broad categories of services for civil cases, a larger proportion of firms were providing litigation services related to personal or family matters (accounting for 93% of all solicitor firms), commercial and related matters (89%) and land and property (86%). A smaller proportion of firms were offering services for PRC related matters (34%).

Percentage distribution of solicitor firms providing services related to litigation work by broad categories

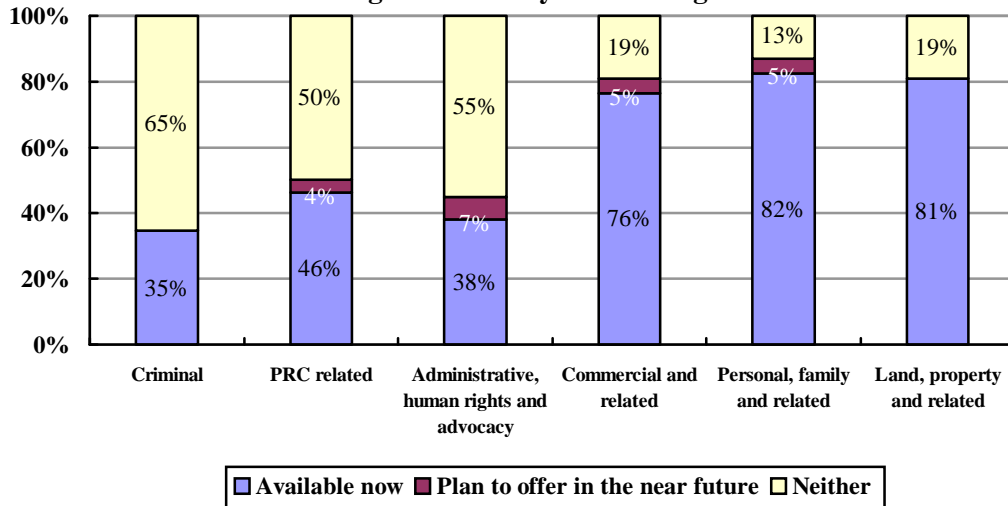


(Multiple response; Base: 48)

4.8 For non-litigation work relating to civil cases, a larger proportion of solicitors firms were providing services related to personal or family (82%), land and property (81%), and commercial and related matters (76%). A smaller proportion of firms provided

non-litigation services related to administrative, human rights and advocacy matters (38%).

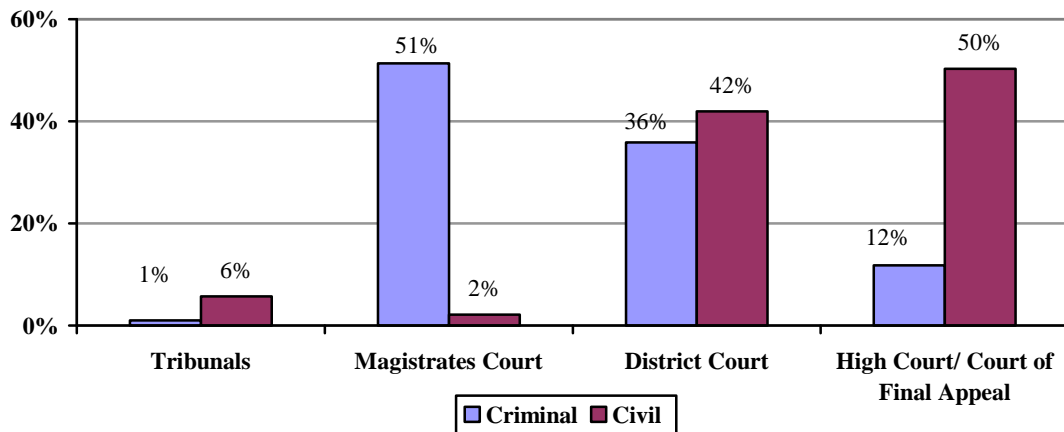
Percentage distribution of solicitor firms providing services related to non-litigation work by broad categories



(Multiple response; Base: 48)

4.9 For litigation work, about half of the time (50%) spent by solicitors on civil cases was on cases heard at the High Court or the Court of Final Appeal, and another 42% at the District Court. In comparison, slightly more than half of the time (51%) spent by solicitors on criminal cases was on those heard at the Magistrates Court, a further 36% at the District Court and 12% at the High Court or the Court of Final Appeal.

Percentage distribution of time spent by solicitors on litigation work by levels of courts



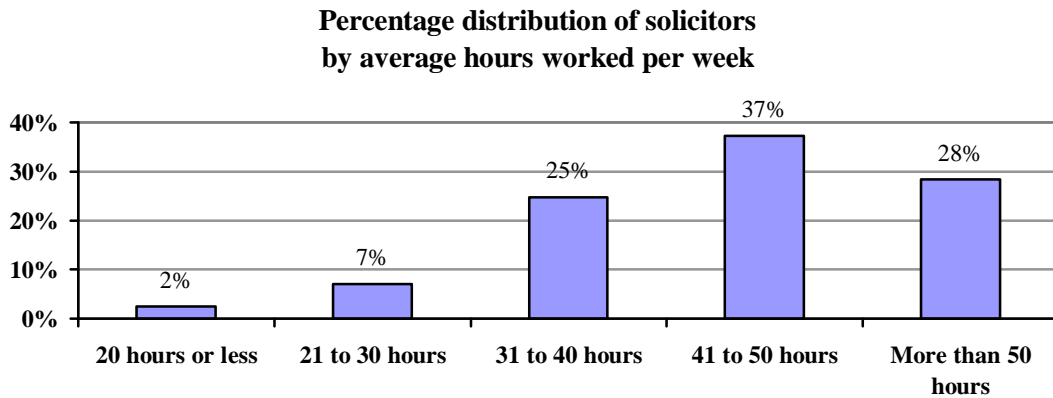
(Base: 172)

Quantum of services provided

4.10 On average, solicitors worked 47 hours a week during the six months prior to enumeration. Not all solicitors worked on litigation work, and for those who did, they spent on average 21 hours per week on the related services. The corresponding

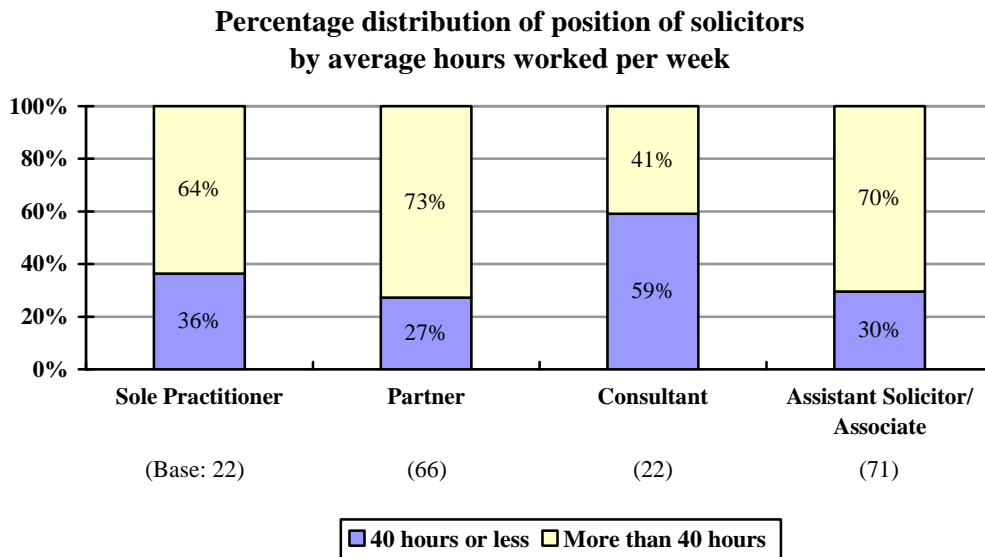
average for those who worked on non-litigation related work was 22 hours a week. About 14% of solicitors worked on arbitration or mediation work, spending on average 7 hours a week. For those involved in non-chargeable work, they spent on average 8 hours on these activities.

- 4.11 About 9% of solicitors worked 30 hours or less a week, while 25% worked 31–40 hours a week. On the other hand, 37% of them worked 41–50 hours and the balance 28% worked more than 50 hours a week.



(Base: 181)

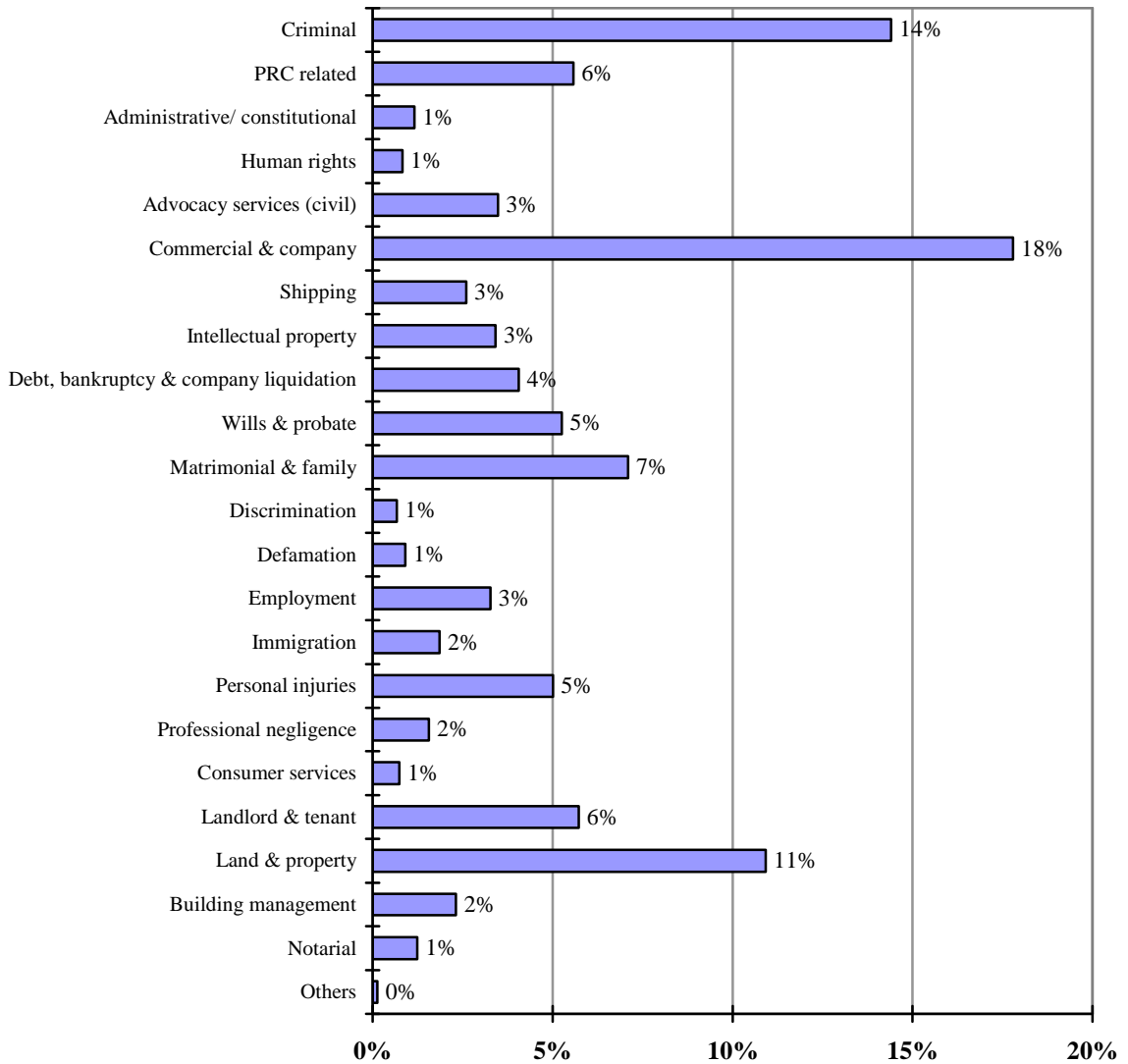
- 4.12 When analysed by positions of solicitors, a large proportion of sole practitioners, partners, associates and assistant solicitors worked more than 40 hours a week, while the majority of consultants worked 40 hours or less a week.



- 4.13 Based on information provided by respondents about the different types of services, it is estimated that in 2005 solicitors spent on average 86% of their time on civil cases and the balance 14% on criminal cases. For civil cases, solicitors devoted more time on cases related to commercial and company (accounting for 18% of solicitors' time), land and property (11%), matrimonial and family (7%), landlord and tenant (6%), PRC related (6%), personal injuries (5%), and wills and probate (5%). They devoted

on average less time to cases on administrative and constitutional (1%), human rights (1%), discrimination (less than 1%), defamation (1%), consumer services (1%) and notarial services.

Average percentages of time spent by solicitors on different types of services

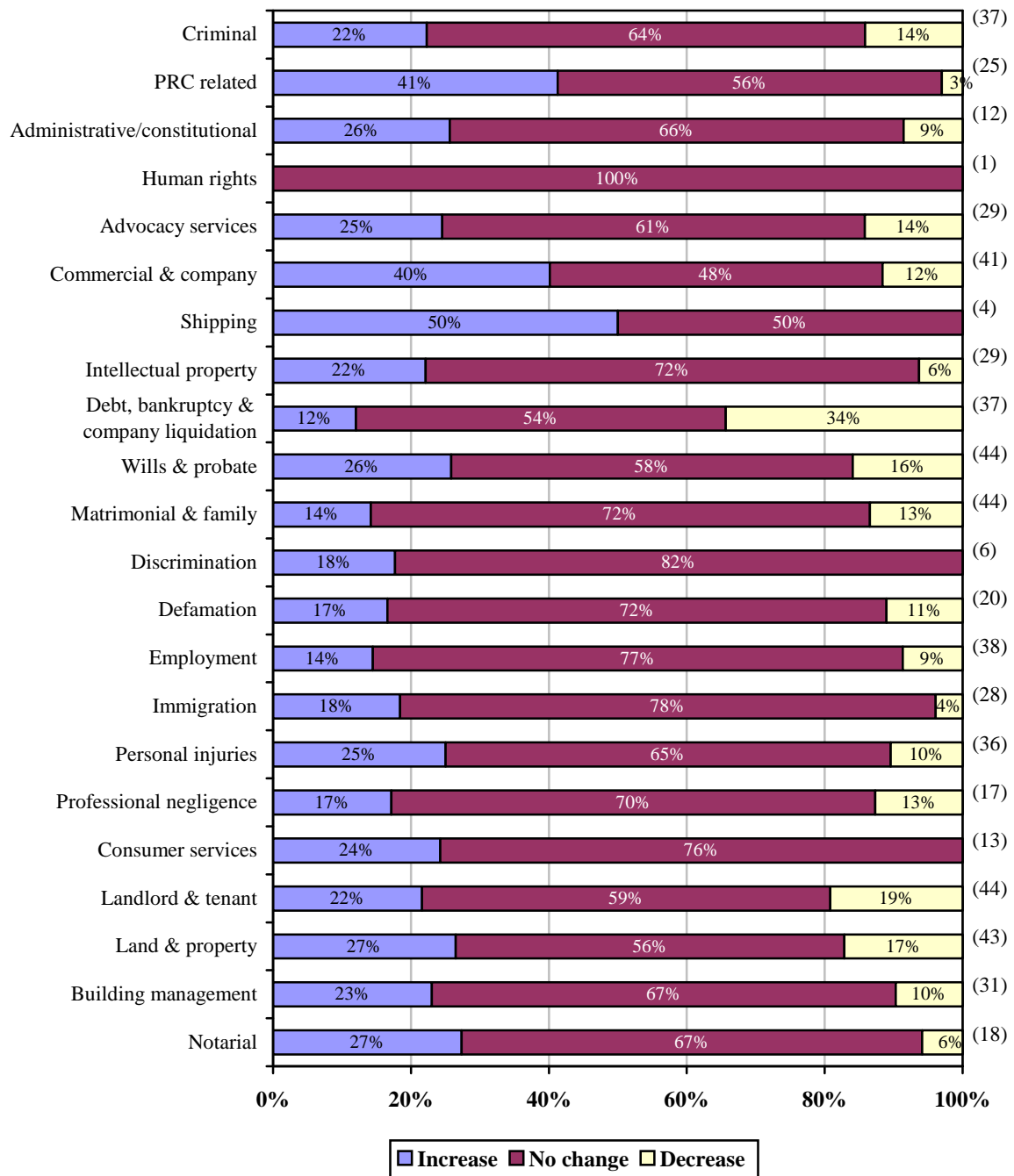


(Multiple response; Base: 181)

Anticipated changes in volume of work

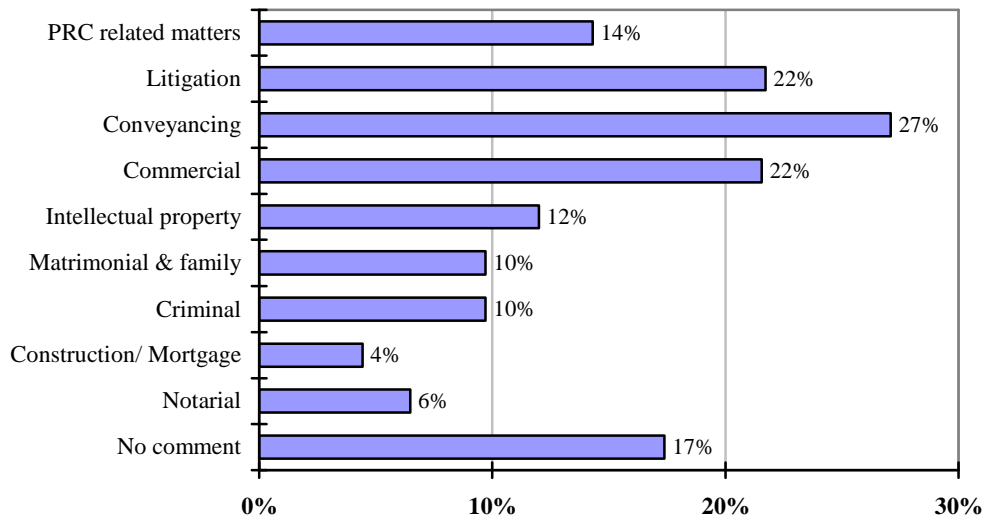
4.14 For solicitor firms providing services in civil cases in 2004, the percentage that considered there was a decrease in 2005 was quite small (less than 20%) for all types of civil cases, with the exception of debt, insolvency and bankruptcy (34%). A higher percentage considered that there was increase in the areas of shipping, commercial and PRC related work. In comparison, 64% of the firms providing services for criminal cases considered that there was no change in the volume of work in 2005, while 14% considered there was a decrease.

**Percentage distribution of solicitor firms
by perceived changes in volume of work for 2005 compared to 2004**



4.15 As high as 70% of solicitor firms indicated that they had turned away requests for services in 2005. The main reasons for doing so were that the requests were not in their areas of specialisation (accounting for 76% of the firms concerned), that they did not have sufficient staff resources (31%), or that the fees offered were too low (25%). For those solicitor firms that had declined requests for services, 59% said that they would refer the requests to other firms. The major types of services turned away were conveyancing (27%), commercial (22%) and litigation work (22%).

Percentage distribution of solicitor firms that had turned away request for services by main types of services turned away

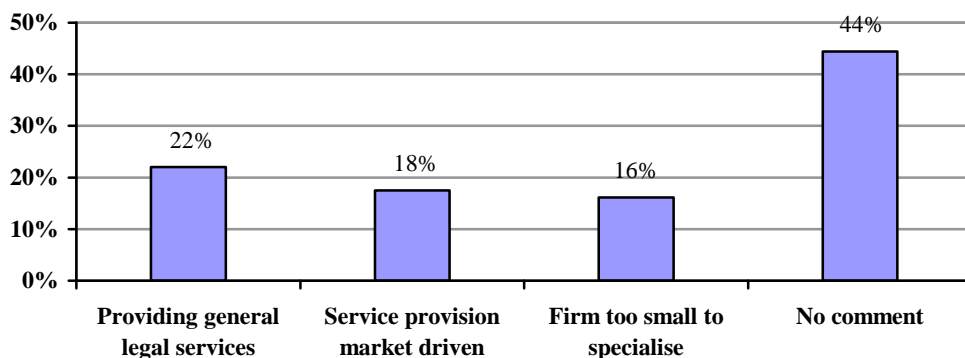


(Multiple response; Base: 34)

Service specialisation

4.16 About 52% of solicitor firms indicated that they had a policy of specialisation in service provision. The remaining 48% had no such policy and the reasons were mainly that they considered that their services were market driven depending on demand (accounting for 18% of solicitor firms), that they were providing a general legal service (22%), or that their firms were too small to specialise (16%).

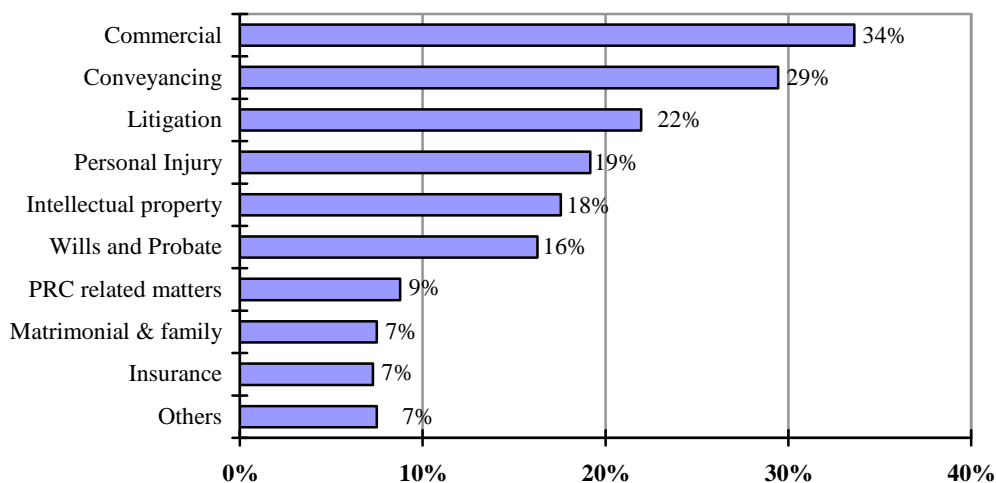
Percentage distribution of solicitor firms by main reasons for not having a policy of specialisation in service provision



(Base: 24)

4.17 For solicitor firms that had a policy of specialisation, the main areas of specialisation were commercial (accounting for 34% of solicitor firms), conveyancing (29%), litigation (22%) and personal injuries (19%), intellectual property (18%), and wills and probate (16%).

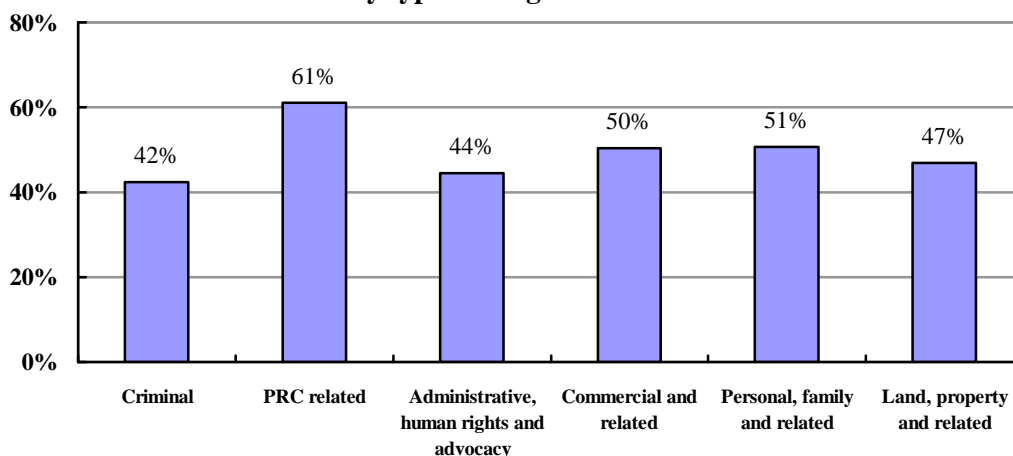
Percentage of solicitor firms that had a policy of specialisation by areas of specialisation



(Multiple response; Base: 24)

4.18 When analysed by major categories of litigation work, it may be noted from the chart below that a larger proportion of solicitor firms providing services for PRC related matters (accounting for 61% of all solicitor firms) and personal, family and related matters (51%) had a policy of specialisation in service provision.

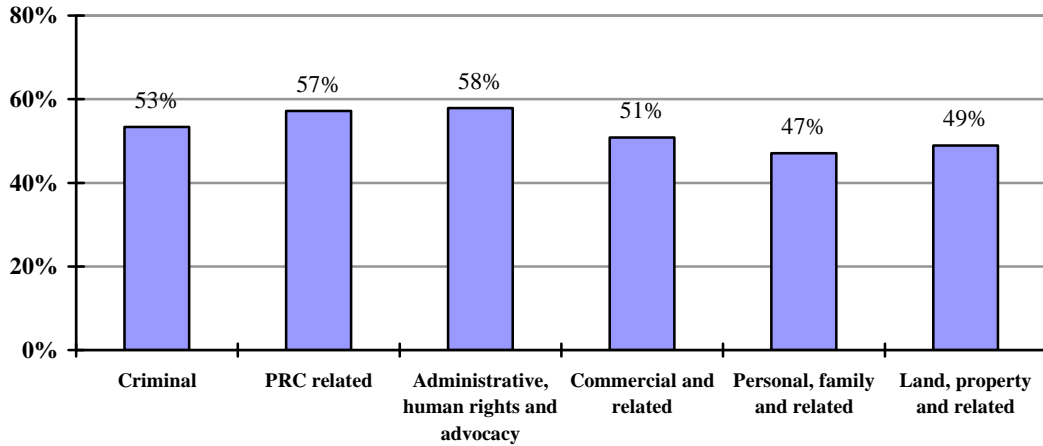
Percentage of solicitor firms with a policy of specialisation by types of litigation work



(Multiple response; Base: 24)

4.19 When analysed by major categories of non-litigation work, a larger proportion of solicitor firms providing services for administrative, human rights and advocacy matters (58%), PRC related matters (57%) and criminal cases (53%) had a policy of specialisation.

**Percentage of solicitor firms with a policy of specialisation
by types of non-litigation work**

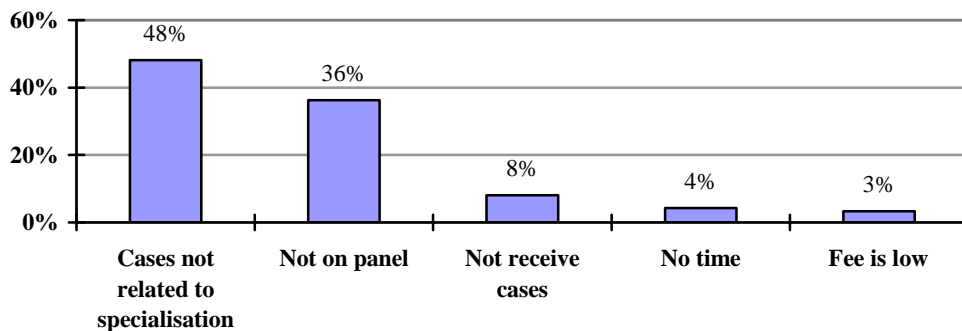


(Multiple response; Base: 24)

Types of clients

- 4.20 The majority (87%) of solicitor firms had taken up cases funded by legal aid or the Duty Lawyer Scheme in 2005. The remaining 13% said that they had not taken up any such cases. The reasons were mainly that they were not on the panels, that they did not receive cases, or that they did not handle criminal cases.
- 4.21 Expressed in terms of the proportion of solicitors, slightly less than half (49%) of solicitors had taken up cases funded by legal aid or the Duty Lawyer Scheme in the six months prior to enumeration. For those solicitors who had not taken up such cases, the main reasons were that the services required by the Scheme did not fall within the scope of services of their firms, or that they were not on the relevant panels.

**Percentage distribution of solicitors who had not taken up
legal aid or Duty Lawyer Scheme cases by reasons**

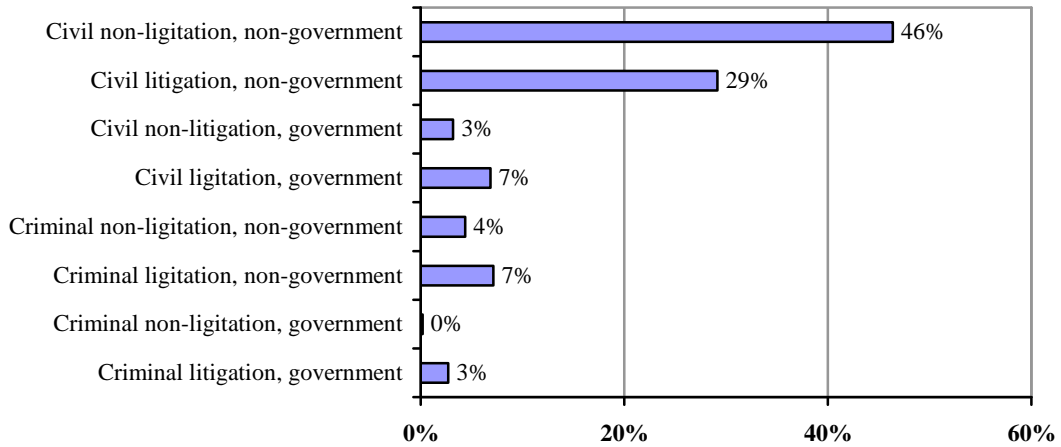


(Base: 56)

- 4.22 Based on information provided by solicitors, it is estimated that about 86% of solicitors' time was devoted to non-government work, including 46% for civil non-litigation work, 29% for civil litigation work, 7% for criminal litigation work, and 4% for criminal non-litigation work. The remainder was devoted to government work,

including about 7% for civil litigation work, 3% for civil non-litigation work and 3% for criminal litigation work.

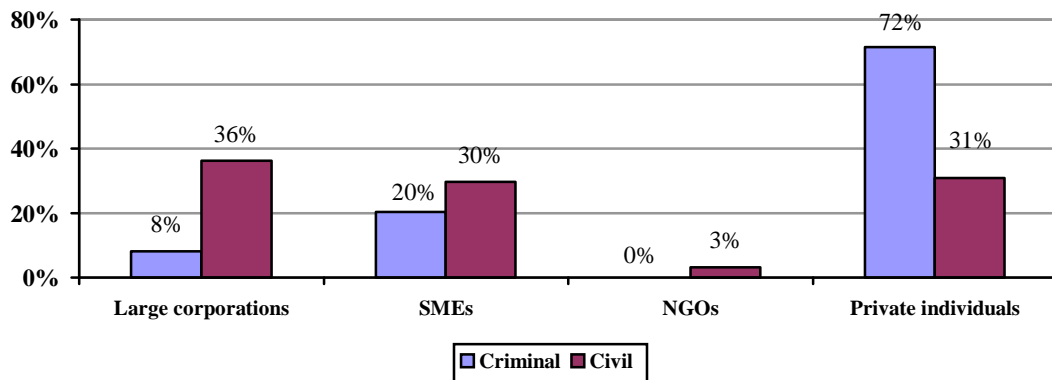
Percentage distribution of time spent by solicitors by types of clients/ cases



(Base: 181)

4.23 For civil cases undertaken for non-government clients, 31% of the time spent by solicitors was for private individuals. The corresponding percentage for large corporations was 36% and that for SMEs was 30%. These compared with the 72%, 8% and 20% respectively for criminal cases.

Percentage distribution of time spent by solicitors on non-government sector cases

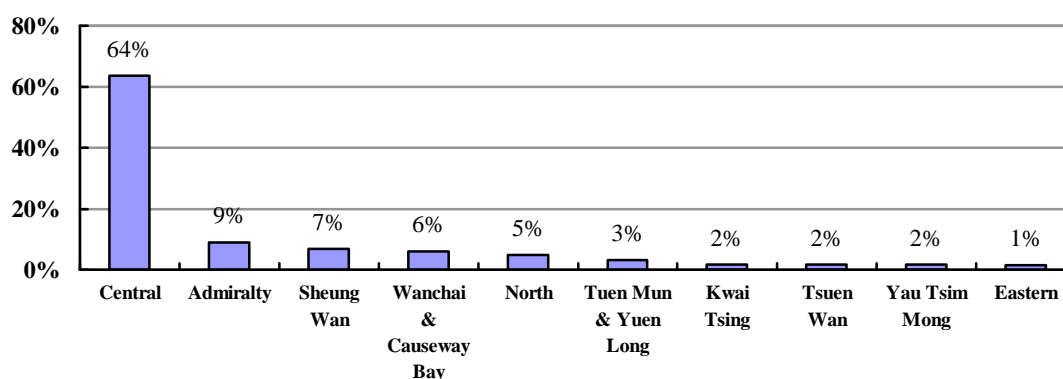


(Base: 181)

Location

4.24 64% of the solicitor firms were located in Central, 9% in Admiralty, 14% elsewhere on Hong Kong Island and the remaining 14% across Kowloon and the New Territories.

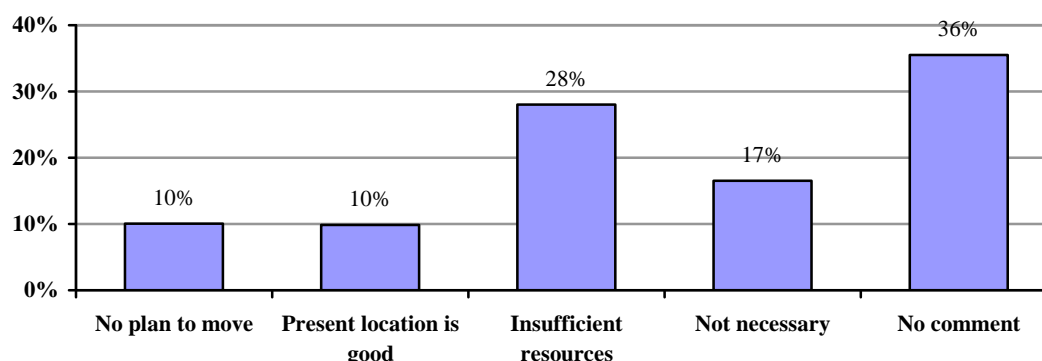
Percentage distribution of solicitor firms by locations



(Base: 48)

- 4.25 The great majority (92%) of the solicitor firms did not have any plan to relocate to or set up branches in other districts in Hong Kong. The main reasons were that they did not have sufficient resources to do so (accounting for 28% of firms concerned), or that there was no need to do so (17%).

Percentage distribution of solicitor firms that did not plan to relocate or set up branches in other districts by reasons



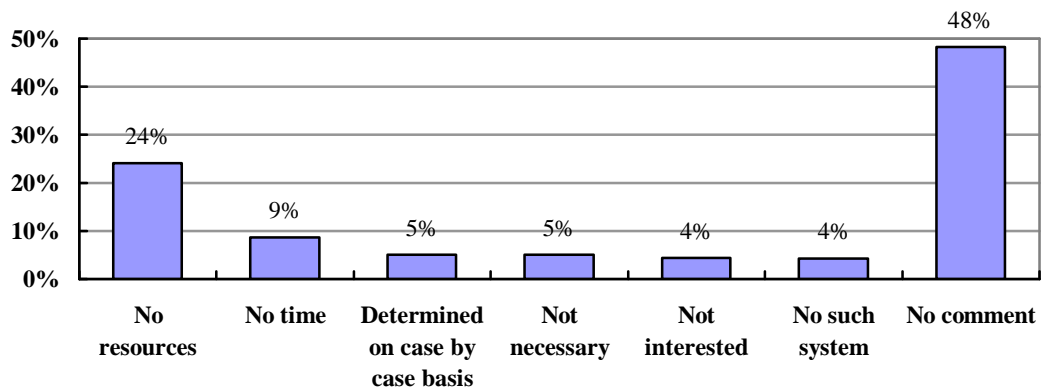
(Base: 44)

- 4.26 About 2% of the firms indicated that they had plans to relocate their operations mainly because of rent increase, and another 6% said that they had plans to set up branches. The main criterion for setting up branches was the availability of sufficient market demand to meet the additional overhead expenses. For those that had plans to relocate or set up branches, their preferred locations were Central, Mongkok and the New Territories.

Pro bono services

- 4.27 Only about 11% of solicitor firms had a company-wide policy on pro bono work. For the great majority (89%) that did not have such a policy, the main reason was that they did not have sufficient resources to do it.

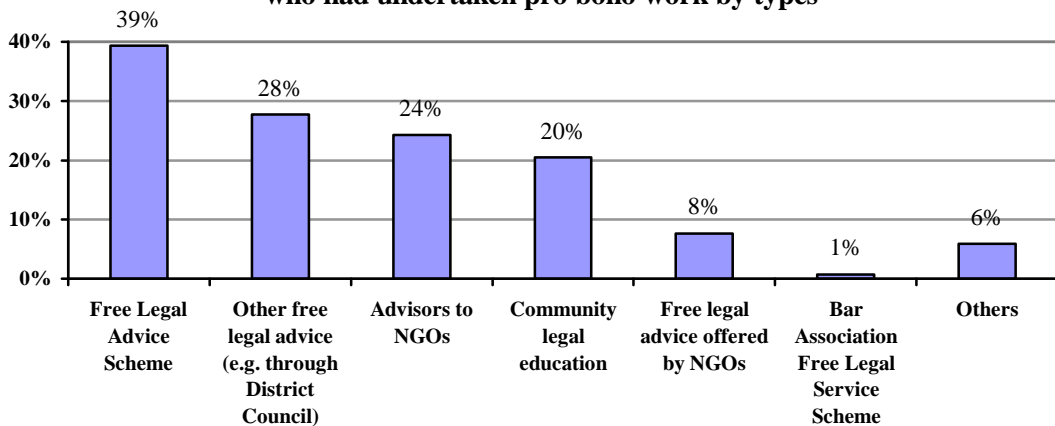
**Percentage distribution of solicitor firms
without company-wide policy on pro bono work by reasons**



(Base: 43)

4.28 About 37% of solicitors had provided pro bono services to the public in the six months prior to enumeration. For these solicitors, the pro bono activities undertaken were the Free Legal Advice Scheme, community legal education, free legal advice services offered by NGOs and other organisations like the District Council, or acting as legal advisors to NGOs.

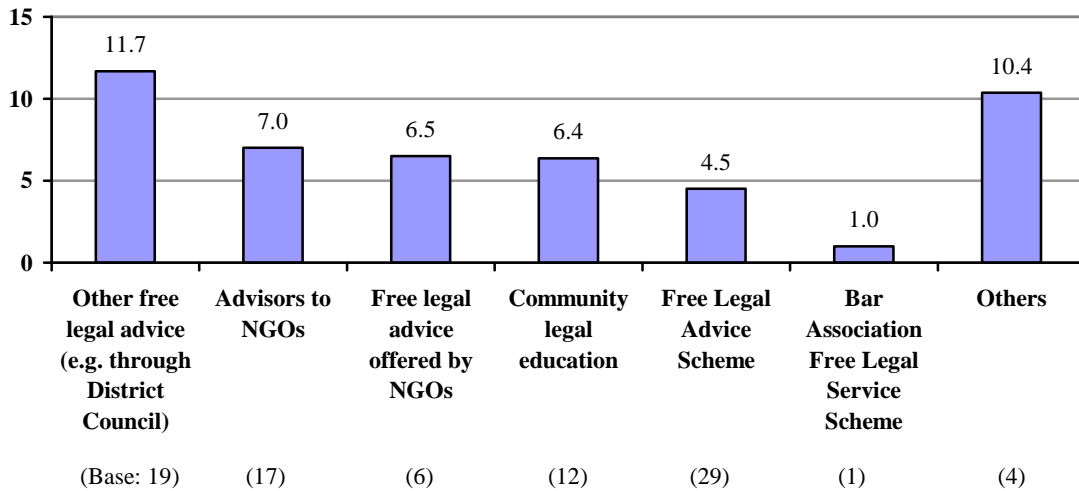
**Percentage distribution of solicitors
who had undertaken pro bono work by types**



(Multiple response; Base: 68)

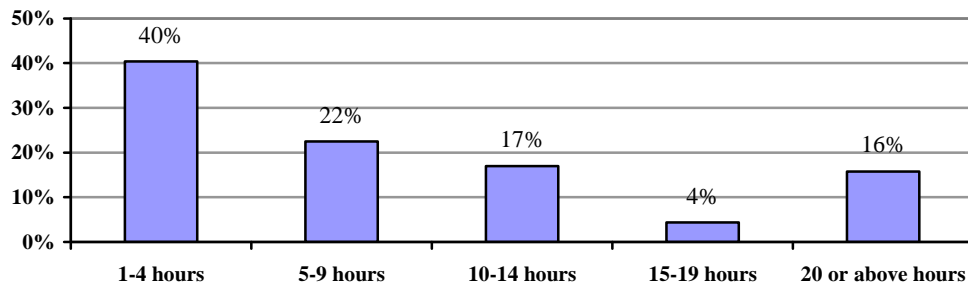
4.29 For solicitors who had participated in the Free Legal Advice Scheme, they spent on average 4.5 hours a month in providing such services. The corresponding figures for free legal advice services provided through NGOs and other channels such as District Councils, were 6.5 and 11.7 hours respectively.

Average number of hours per month spent by solicitors on pro bono work by types



4.30 Taking all types of pro bono work together, about 40% of solicitors who had undertaken such work contributed less than 5 hours a month to such activities and a further 22% devoted 5-9 hours. Another 21% contributed 10-19 hours and as high as 16% devoted 20 hours or more a month.

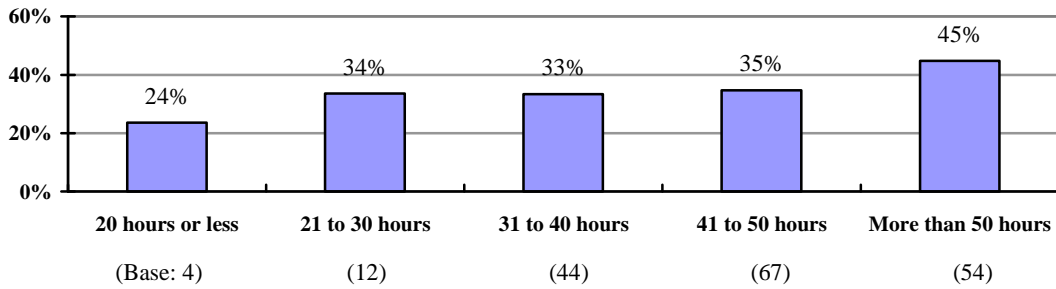
Percentage distribution of solicitors by number of hours of pro bono work per month



(Base: 68)

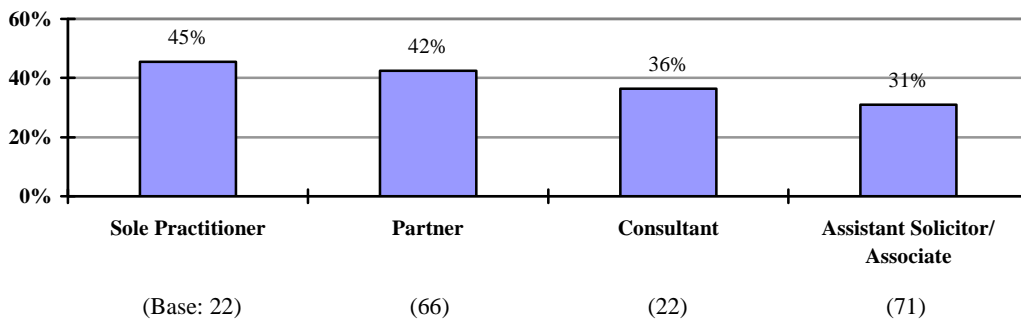
4.31 When analysed by the average number of hours of work undertaken by solicitors per week, it may be seen from the chart below that a larger proportion of solicitors who were busier had taken up pro bono work. The percentage was 45% for those who worked on average more than 50 hours a week, which was much higher than the percentage for those who worked 20 hours or less a week (24%). The corresponding percentages for those who worked 21-30 hours, 31-40 hours and 41-50 hours a week were more or less the same.

**Percentage of solicitors who had taken up pro bono services
by their average hours of work per week**



4.32 When analysed by the positions of solicitors, a larger proportion of solicitors who were sole proprietors or partners had taken up pro bono work. The percentage was 45% for sole proprietors and 42% for partners, which was much higher than the 31% for assistant solicitors or associates.

**Percentage of solicitors who had taken up
pro bono work by positions**

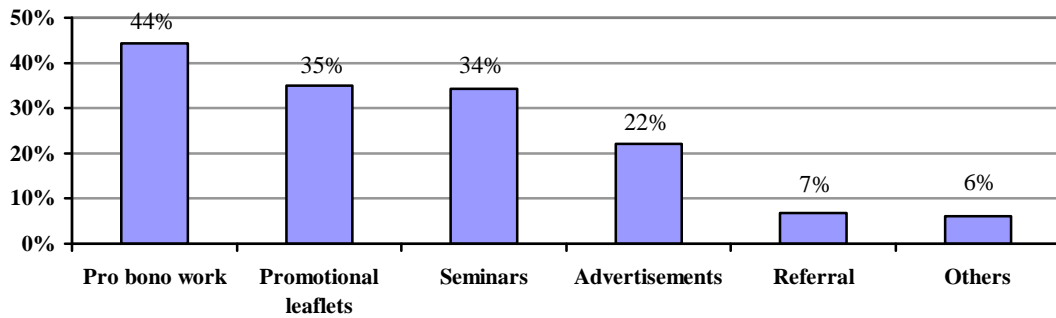


4.33 For the 63% of solicitors who did not participate in any pro bono work, the main reasons were that they had no time (accounting for 69% of solicitors concerned), no interest (30%), or that the location of service was not convenient (11%).

Promotion of services

4.34 While only 11% of solicitor firms had a company-wide policy on pro bono work, 44% used pro bono work as a means of promoting their services. Other measures taken by solicitor firms to promote their services were promotional leaflets (accounting for 35% of solicitor firms), seminars (34%) and advertisements (22%).

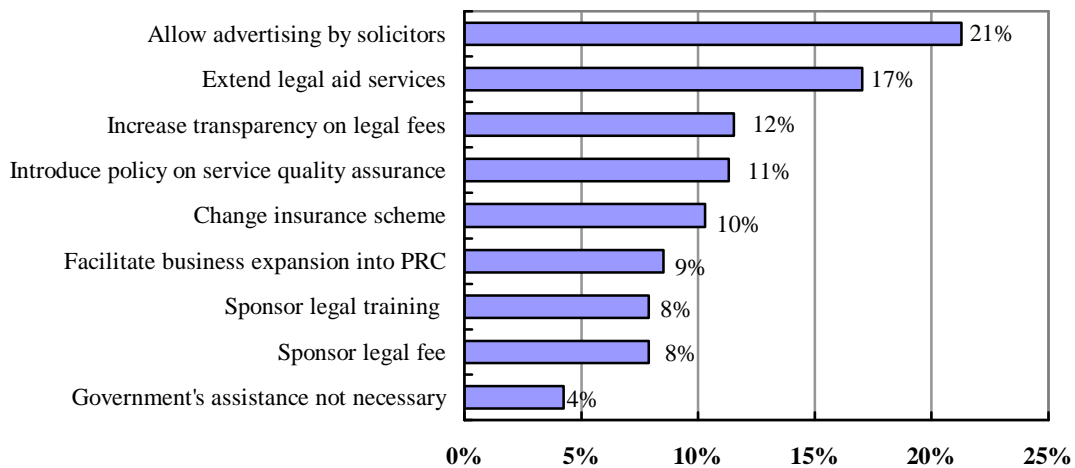
**Percentage of solicitor firms
by measures taken to promote services**



(Multiple response; Base: 48)

4.35 Slightly more than half of the solicitor firms (53%) put forward suggestions on measures to be taken by the firms themselves or the government to help promote their services. Measures suggested included changing the existing insurance system (e.g. allowing good solicitor firms to pay less or allowing solicitor firms to become limited companies), allowing advertising by solicitors, extending legal aid services, sponsoring legal fee or legal training, increasing transparency in fees charged by the solicitor firms, and assisting or facilitating them in expanding their business operations to PRC.

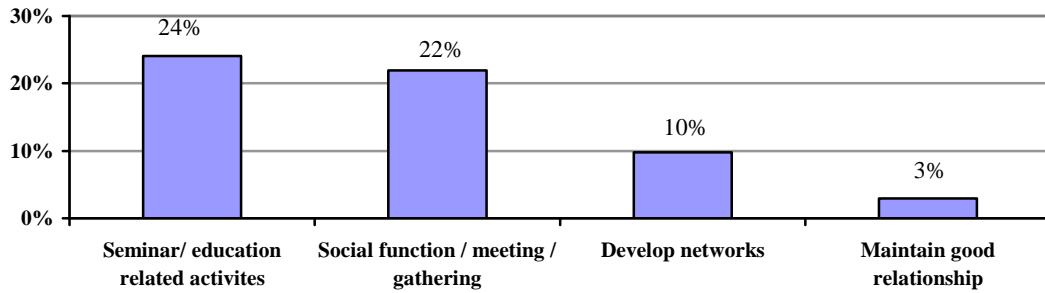
**Percentage of solicitor firms' suggestions
on measures to help promote their services**



(Base: 25)

4.36 For solicitors, about 42% indicated that they had taken measures personally to promote the services of their firms. Measures taken included attending seminars or education related activities, participating in social functions, developing personal networks, and maintaining good relationship with others.

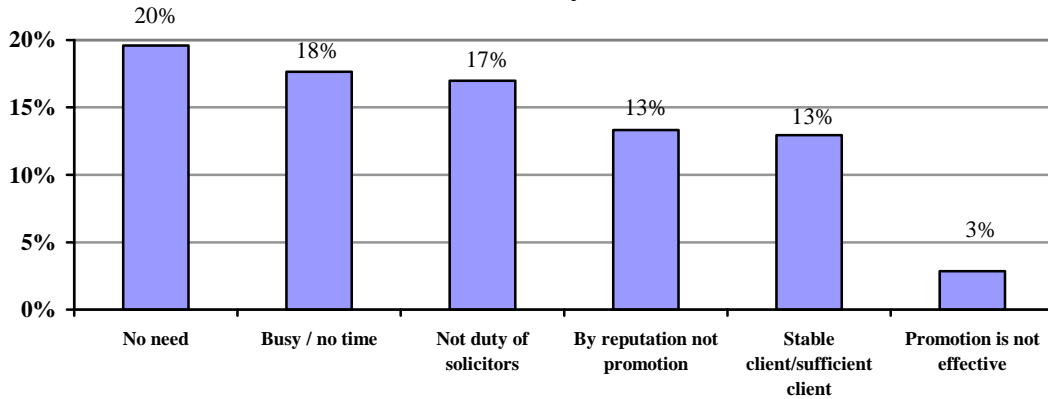
Percentage of solicitors who had promoted services of their firms by measures taken



(Base: 68)

4.37 For solicitors who had not taken measures personally to promote legal services of their firms, the reasons were mainly that they did not see the need for promotion, that they considered reputation more important than promotion, that they did not have time for promotion, or that they considered that service promotion was not part of their duties.

Percentage of solicitors who had not promoted services of their firms by reasons

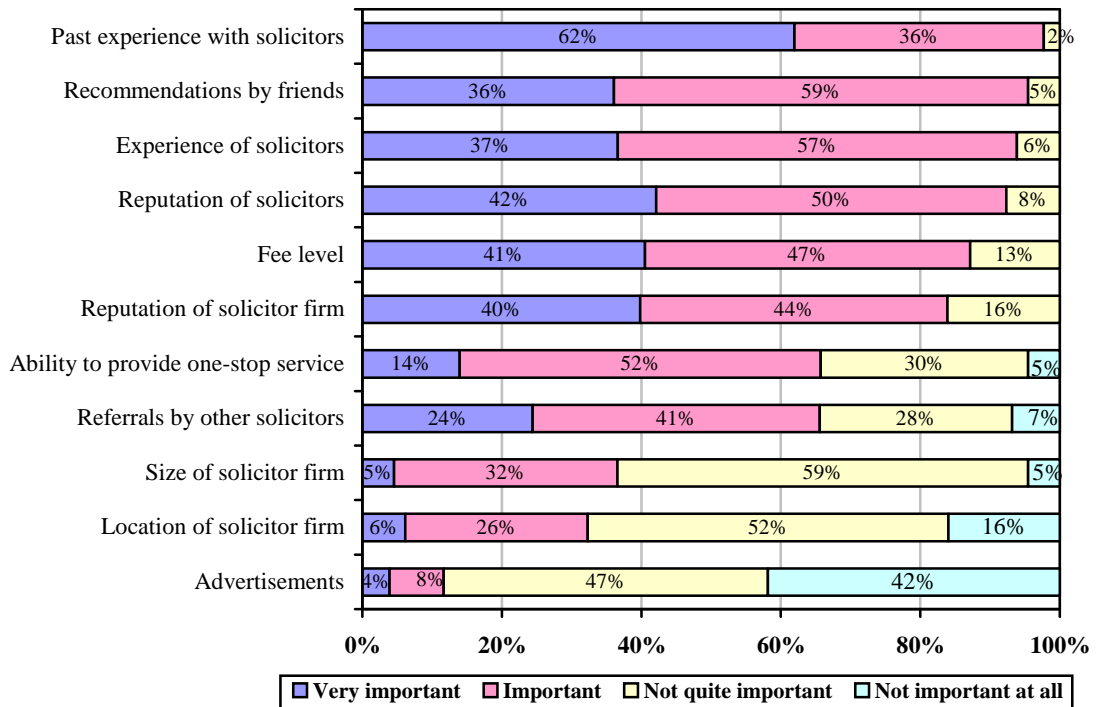


(Base: 68)

Choice of solicitors by clients

4.38 Most solicitor firms considered that the factors which were important or very important in affecting the choice of solicitors by their clients were past experience of clients with the solicitors, recommendations by friends, experience of solicitors, reputation of solicitors, fee levels charged by solicitors, and reputation of firms. Factors that were less important were advertisements, location and size of firms, recommendations by other solicitors, and ability to provide one-stop service.

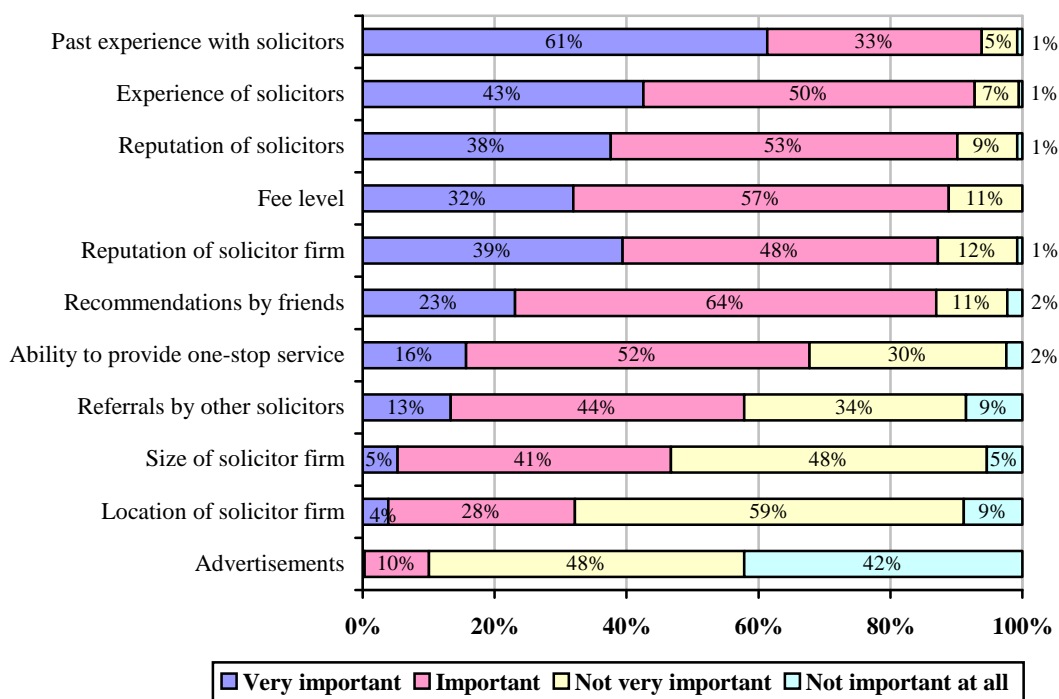
**Percentage distribution of solicitor firms
by factors affecting choice of solicitors**



(Multiple response; Base: 48)

4.39 The views of solicitors were quite similar. Most of them considered factors like past experience of clients with the solicitors, experience of solicitors, reputation of solicitors, fee levels charged by solicitors, reputation of firms and recommendations by friends were important or very important. Factors that were relatively less important were advertisements of firms, location and size of firms, recommendations by other solicitors, and ability to provide one-stop service.

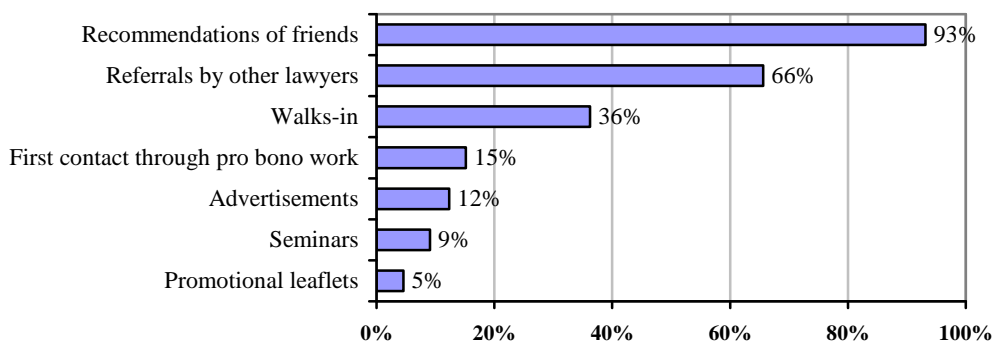
**Percentage distribution of solicitors
by factors affecting choice of solicitor firms**



(Multiple response; Base: 181)

4.40 93% of solicitor firms indicated that their clients came to the firms for service through recommendations by friends. Other more common channels were referrals by other lawyers (accounting for 66% of solicitor firms) and walk-in's (36%). Only a small proportion of firms said that their clients came to them after having used their services offered in the form of pro bono work (15%), after reading advertisements of the firms (12%) or promotional leaflets (5%), or attending seminars given by solicitors of the firms (9%).

**Percentage of solicitor firms
by channels through which clients came to the firms for service**

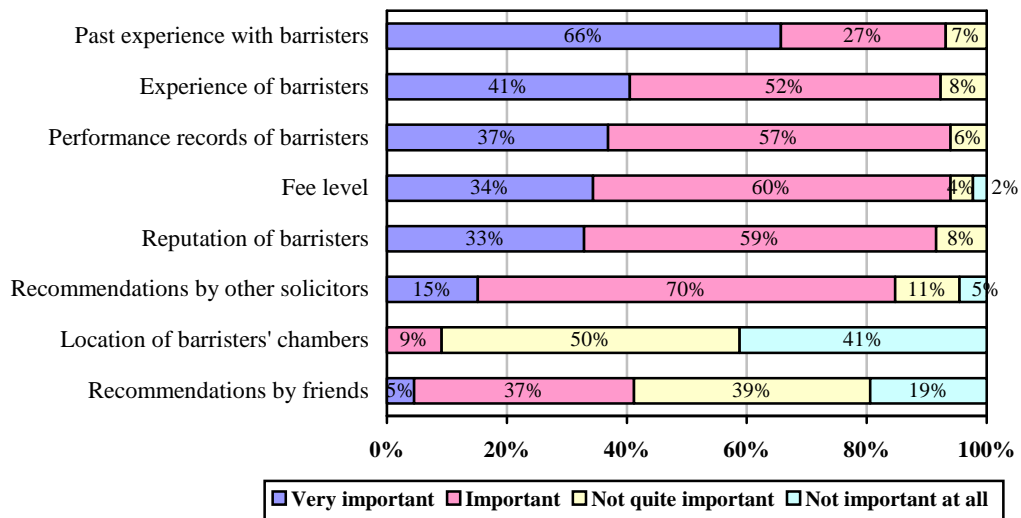


(Multiple response; Base: 48)

Choice of barristers by solicitors

- 4.41 Most solicitor firms considered that factors which were important or very important in affecting their choice of barristers were past experience of working with the barristers, the performance records of barristers, and their experience, reputation and fee levels. Factors that were relatively less important were recommendations by other solicitors or friends and location of chambers.

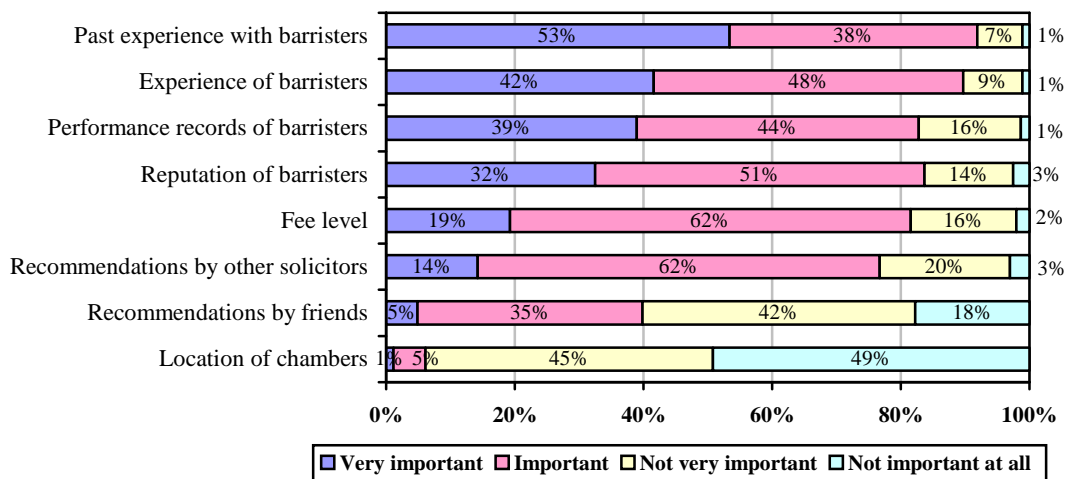
Percentage distribution of solicitor firms by factors affecting choice of barristers



(Multiple response; Base: 48)

- 4.42 The views of solicitors were similar. Most considered factors like performance records, professional experience, reputation, fee levels, and their experience with the barristers important or very important in their choice of barristers.

Percentage distribution of solicitors by factors affecting their choice of barristers

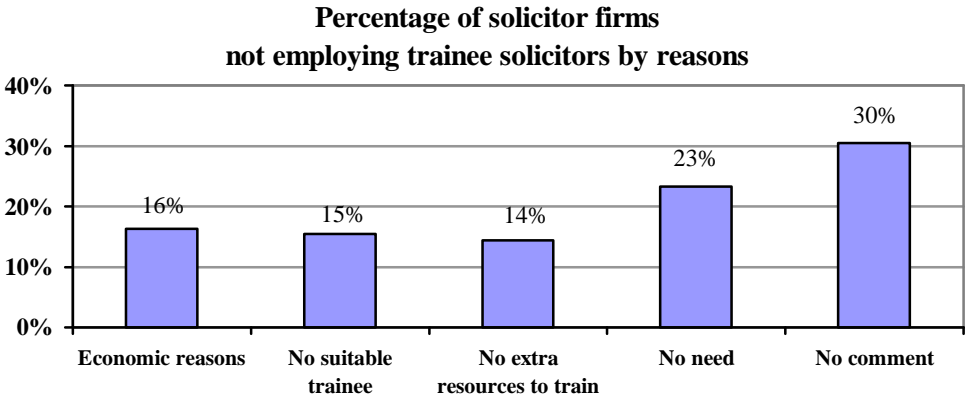


(Multiple response; Base: 181)

4.43 For the great majority of cases (88%) handled by solicitor firms in 2005, the choice of barristers was made by the solicitors of the firms concerned. Only for about 12% of cases the choice of barristers was made on the recommendations of clients.

Trainee solicitors

4.44 About 30% of solicitor firms planned to recruit trainees in the following 12 months, and about 24% of the firms already had trainee solicitors. On average there were 2.2 trainee solicitors in each firm with trainee solicitors. For the 76% of firms that did not have trainee solicitors, the main reasons were economic considerations, that there was no need, or that it was difficult to recruit suitable candidates.



(Base: 34)

4.45 Only about 16% of solicitor firms had a company-wide policy on trainee solicitors. Elements of such policy included the provision of training through such measures as job rotation. For those that did not have such a policy, the main reasons were that the firms were too small, that they did not employ trainee solicitors, or that there was no need to do so.



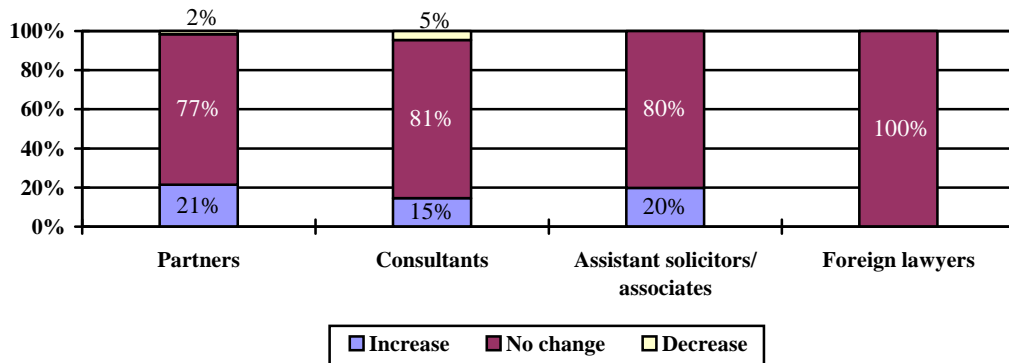
(Base: 40)

Staffing

Legal professionals

- 4.46 For solicitor firms enumerated in the survey, there were on average 2.4 partners working in the firms at the end of June 2005. 56% of the firms had consultants and there were on average 2 consultants working in the firms concerned. 52% of the firms had assistant solicitors or associates and on average they had 3.3 assistant solicitors or associates. Only 11% of the firms had foreign lawyers and there were on average 1.2 foreign lawyers in each firm.
- 4.47 41% of solicitor firms indicated that they had Notaries Public, and on average there were 1.4 Notaries Public working in these firms. 29% of firms had China Appointed Attesting Officers and had on average 1.7 of these officers.
- 4.48 More than half of the solicitor firms (64%) said that there would be no change in the number of solicitors working in their firms in the following 12 months. About 34% anticipated an increase in number and for the remaining 2%, a decrease.

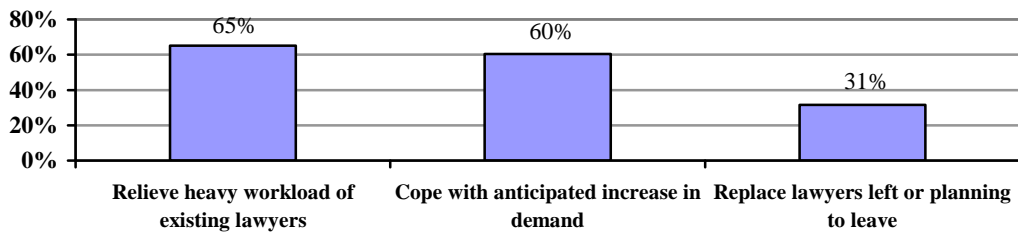
Percentage distribution of solicitor firms by anticipated changes in the number of solicitors in the coming 12 months



(Base: 48)

- 4.49 Nearly half (48%) of the solicitor firms indicated that they would recruit solicitors or trainee solicitors in the coming 12 months. The reasons for doing so were to relieve the heavy workload of existing lawyers in the firms, to cope with anticipated increase in demand for services, or to replace lawyers who had left or were planning to leave the firms.

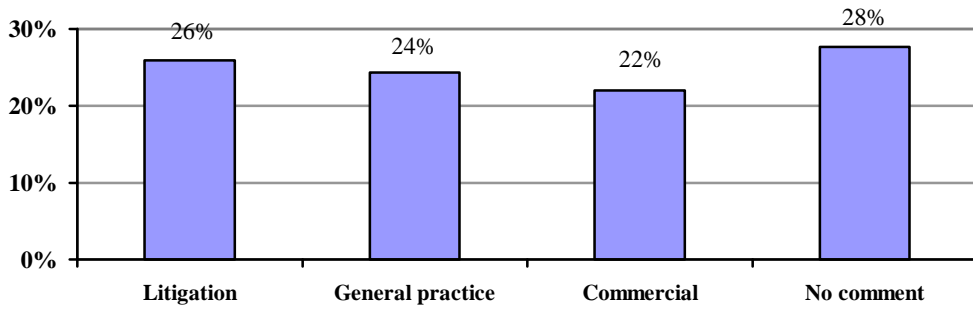
Percentage of solicitor firms planning to recruit solicitors/ trainee solicitors by reasons



(Multiple response; Base: 23)

4.50 The areas of specialisation of solicitors the solicitor firms were planning to recruit were mainly litigation (26% of firms concerned), general practice (24%), and commercial (22%).

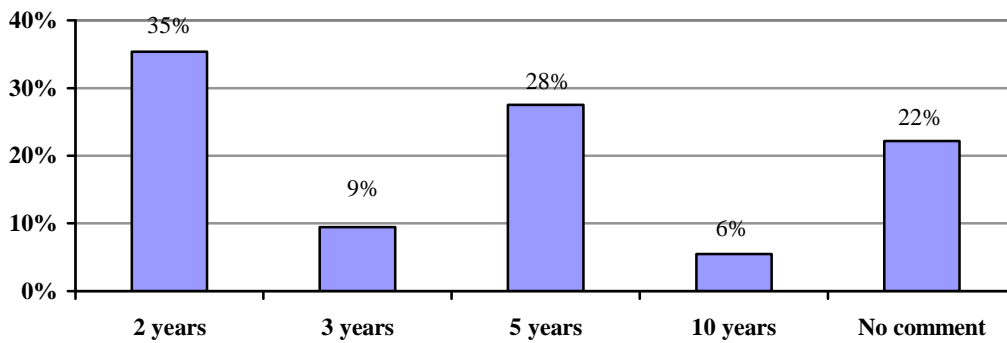
Percentage distribution of solicitor firms planning to recruit solicitors by areas of specialisation of solicitors



(Base: 20)

4.51 As regards years of experience of solicitors, the majority of the firms were planning to recruit solicitors with 2-5 years experience.

Percentage distribution of solicitor firms planning to recruit solicitors by years of experience of solicitors

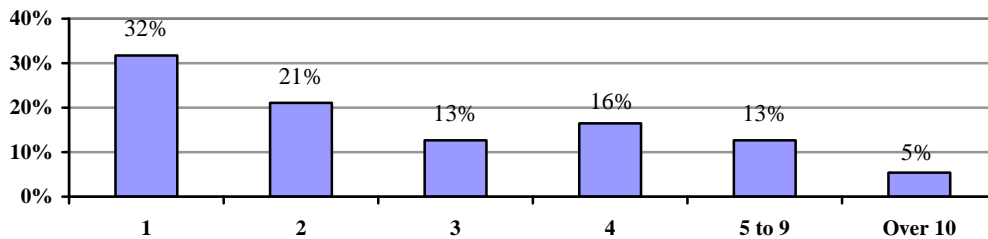


(Base: 20)

Paralegal and supporting staff

4.52 About 84% of the solicitor firms employed legal clerks or paralegal staff, and on average employed 3.4 such staff. 53% of these firms had 1 to 2 legal clerks or paralegal staff and a further 29% had 3 to 4.

Percentage distribution of solicitor firms with legal clerks or paralegal staff by number of such staff



(Base: 40)

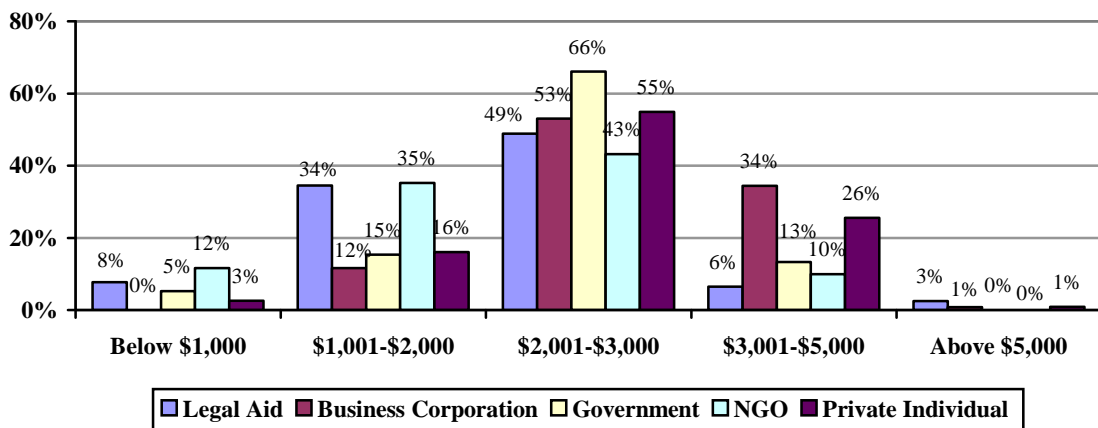
4.53 About 92% of the firms employed secretarial and 89% employed clerical staff. On average these firms employed 3.2 secretarial and 3.5 clerical staff. About 58% of firms had other supporting staff (e.g. account clerks, messengers, office assistants and receptionists) and on average employed 2.6 these other supporting staff.

Finance

Fee charged

4.54 For litigation work related to civil cases, solicitors generally charged an hourly rate of \$1,001-\$5,000, but mostly within the \$2,001-\$3,000 range. For legal aid and NGO cases, the rates tended to be lower, and for cases undertaken for private individuals and business corporations, higher.

Percentage distribution of solicitors by hourly rate charged for litigation work related to civil cases by types of clients



(Base: 85)

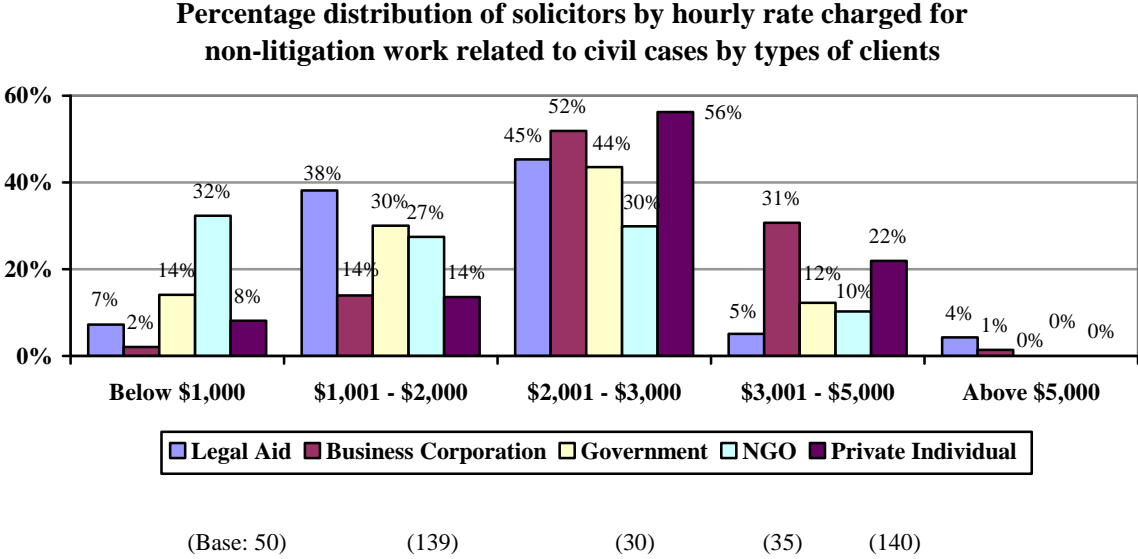
(117)

(31)

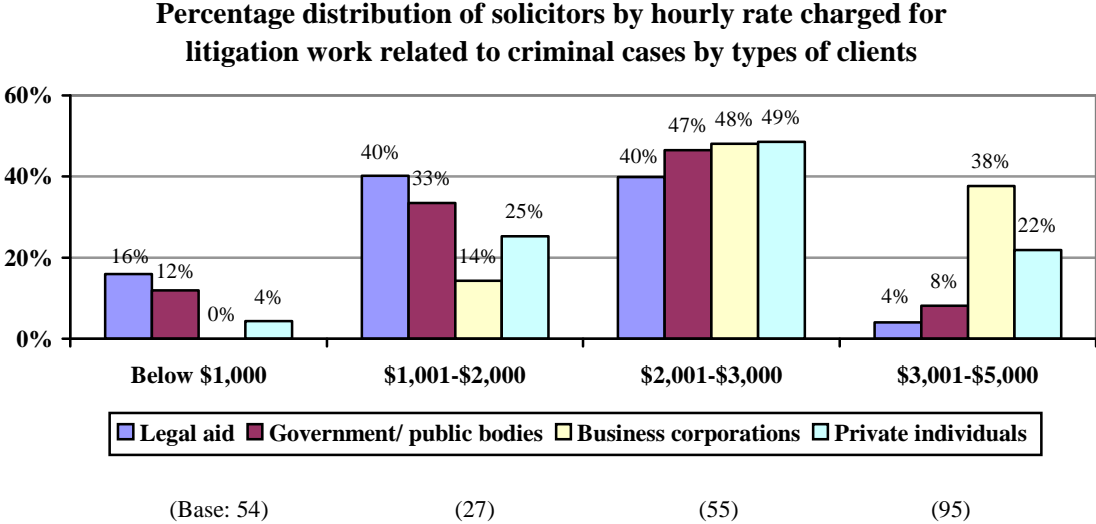
(32)

(124)

4.55 For non-litigation work related to civil cases, the pattern was similar to that of litigation work.

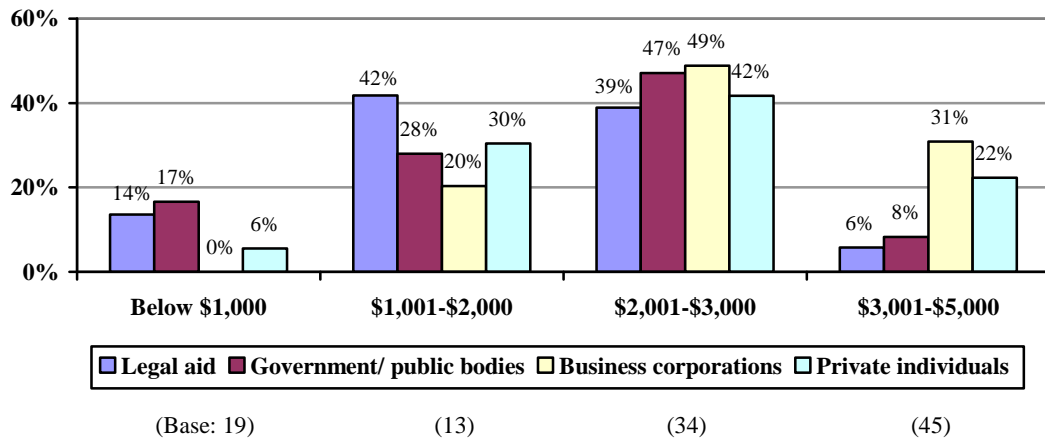


4.56 In comparison, the distribution of hourly rates for criminal litigation work was broadly similar to that for civil cases, with just under half of the solicitors charging an hourly rate of \$2,001-\$3,000.



4.57 The distribution of hourly rates for non-litigation work related to criminal cases was also similar, as follows.

Percentage distribution of solicitors by hourly rate charged for non-litigation work related to criminal cases by types of clients

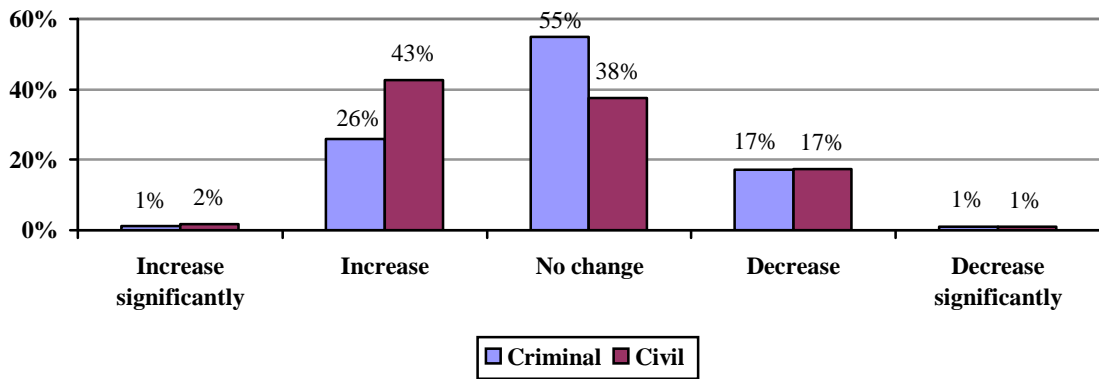


4.58 Based on the distributions, the average rates charged for the different categories of work were roughly as follows. Generally, work on civil cases tended to be more costly than for criminal cases, and litigation work tended to be about as costly as non-litigation work. Private sector assignments, especially those related to business corporations, also appeared to attract higher rates than public sector assignments. It is possible that part of the variations could be attributed to differences in the complexity of the cases involved.

HK\$	Average hourly rates for different categories of work				
	Legal Aid	Government/ Public	NGOs	Business	Private Individuals
Civil Litigation	2,208	2,442	2,065	2,932	2,703
Civil Non- litigation	2,237	2,102	1,733	2,833	2,529
Criminal Litigation	1,839	2,049	-	2,922	2,488
Criminal Non- litigation	1,898	2,013	-	2,759	2,419

About 45% of solicitors considered that their hourly rates for civil cases for private sector clients had increased in 2005 as compared with 2002, and 38% reported no change. In comparison, about 27% of solicitors indicated that their hourly rates for criminal cases for the private sector had increased, while about 55% considered that there was no change.

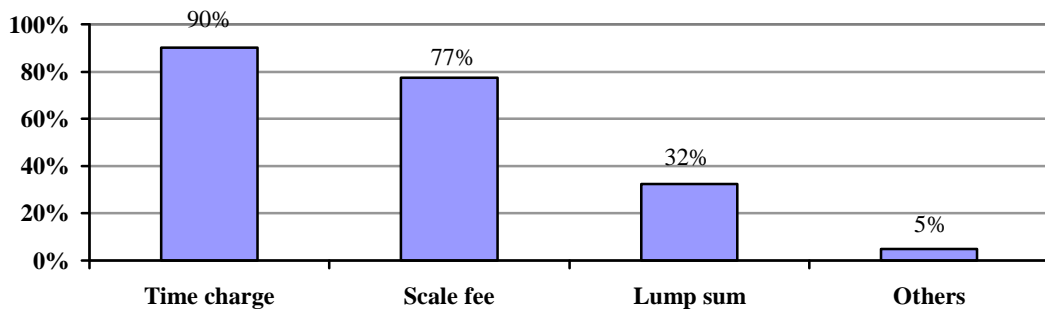
Percentage distribution of solicitors by charges in the hourly rates for private sector clients in 2005 as compared with 2002



(Base: Criminal 102, Civil 181)

4.59 Only about 18% of solicitors said that they did not have a definite fee structure. Among the remaining 82% of solicitors that had a definite fee structure, about 90% of them had a fee structure based on time charge. 77% had a fee structure based on scale fee and 32% had a lump-sum fee structure.

Percentage of solicitors with a definite fee structure by methods of charging

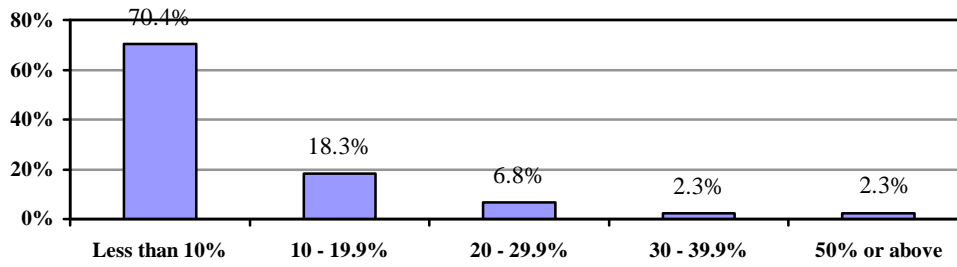


(Multiple response; Base: 147)

Unpaid bills

4.60 The majority of solicitor firms (70%) indicated that, based on experience in the past 3 years, less than 10% of their bills remained unpaid after one year, and a further 18% had 10-20% of their bills similarly unpaid. Only 2% of firms said that 50% or more of their bills remained unpaid after one year.

Percentage distribution of solicitor firms by percentage of bills unpaid after one year

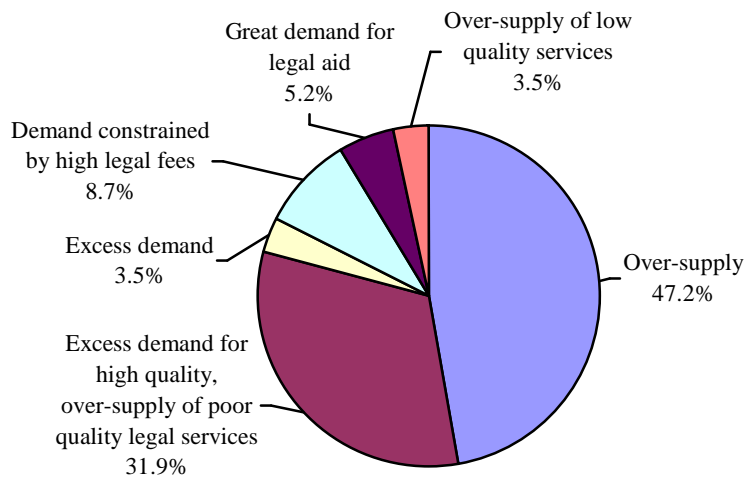


(Base: 48)

Views on balance of demand and supply and other issues

4.61 About 43% of solicitor firms expressed concern about the balance of demand for and supply of legal services in Hong Kong. Among them, nearly half (47%) expressed concern about the over-supply situation in Hong Kong. About 32% opined that there was excess demand for high quality services but over-supply of poor quality services.

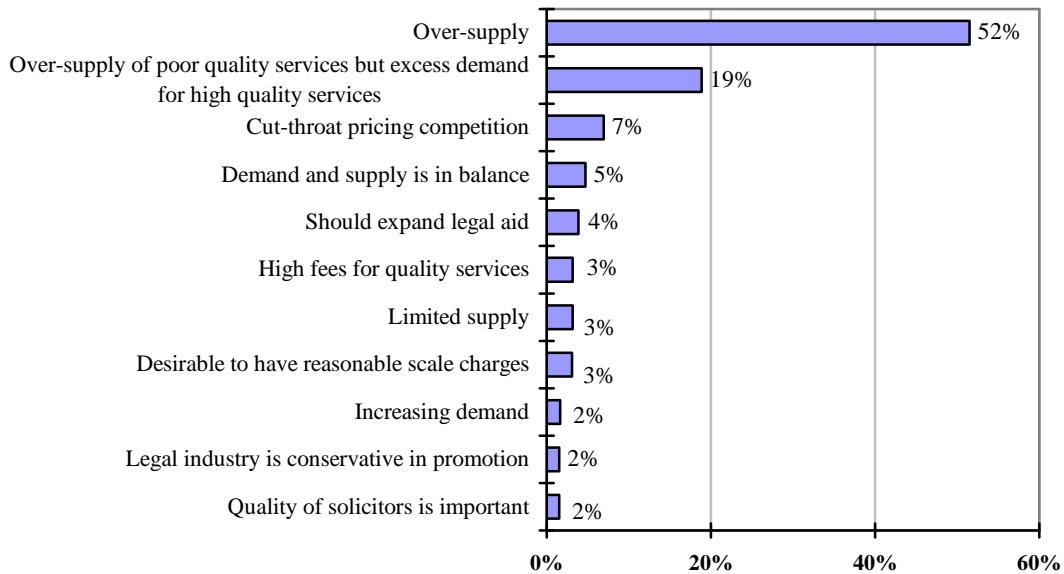
Percentage distribution of solicitor firms by views on balance of demand and supply



(Base: 21)

4.62 About 35% of solicitors expressed views on the balance of demand for and supply of legal services and other issues. Among them, slightly more than half (52%) expressed concern about the over-supply in Hong Kong. About 19% opined that there was excess demand for high quality but over-supply of poor quality legal services. It should be noted that these views were expressed by respondents who very often did not elaborate further their justifications for holding such views, or their definitions for “poor quality” or “high quality” services.

Percentage of solicitors who had views on balance of demand and supply and other issues by views expressed



(Base: 64)

5. Provision of Legal and Related Services by Government and Quasi-public Organisations

5.1 A number of government departments and quasi-public organisations are involved in providing legal and related services to the public and SMEs. In the current Study, these organisations were not separately covered by one of the questionnaire surveys and information on the services provided by them was gathered through individual interviews with the relevant senior officers responsible, supported where appropriate by additional information from their websites or in-house documents.

Government departments and agencies

5.2 The *Legal Aid Department* provides legal aid to eligible applicants to help them obtain the services of solicitors and barristers. Legal aid is available for proceedings in the District Court, the Court of First Instance and the Court of Appeal, the Court of Final Appeal, Magistrate’s Court (for committal proceedings only), Lands Tribunal, Mental Health Review Tribunal and Coroner’s Court.

5.3 For civil cases, there are two legal aid schemes, namely an ordinary legal aid scheme for those whose financial resources are below \$162,300 and a supplementary scheme for those who are relatively well off (with financial resources exceeding \$162,300 but below \$450,800). Legal aid is granted if the applicants pass the means and merits tests. The scope of the Ordinary Legal Aid Scheme covers:

- matrimonial cases
- traffic accident claims
- landlord and tenant disputes
- claims in respect of industrial accidents
- employees' compensation
- immigration matters
- breach of contract
- professional negligence
- seamen's wage claims
- employees' wages and severance pay
- Mental Health Review Tribunal cases
- Coroner's inquests involving interests of public justice

Under the Supplementary Legal Aid Scheme, legal aid is available to claims involving personal injury and death, or medical, dental and legal professional negligence, where the claim amount exceeds or is likely to exceed \$60,000. It also covers claims under Employees' Compensation Ordinance irrespective of the amount claimed.

- 5.4 In 2005, the department received 21,126 applications for legal aid, of which just over half were granted a legal aid certificate. About 77% of the cases granted legal aid were civil cases. In terms of expenditure for civil cases by types, in 2005/06, 29% was spent on matrimonial cases, 26% on personal injuries cases, 12% on employees' compensation and wages claims, and the remaining 33% on miscellaneous cases.
- 5.5 For applicants granted legal aid, legal services are provided either by in-house lawyers of the department or lawyers in private practice, with the latter taking up about 70% of all cases. Of the barristers who received legal aid assignments in 2005, about 80% were those with experience of over 10 years of call. The distribution was more even for solicitors, with those with 10 years or more experience accounting for around 60%.
- 5.6 In the year 2005/06, total legal aid expenses amounted to \$395.3 million. 74% of this related to civil cases and 50% of the cost was eventually recovered. Overall damages recovered for legally aided persons on such cases amounted to \$641 million, or just over double the legal aid cost involved.
- 5.7 In light of the recommendation from the Working Party on Civil Justice Reform, the Department launched a 12-month pilot scheme on legal aid for mediation in matrimonial cases in March 2005, to assess the cost-effectiveness and the implications of extending legal aid to such cases. Under the pilot scheme, legally aided persons in matrimonial cases who were willing to attempt mediation to resolve any relevant dispute with the other party would be referred to the Judiciary which would assist the parties concerned to choose a mediator from a panel of accredited mediators. Participation in the pilot scheme was voluntary and the Legal Aid Department paid for the mediators' fees for both the legally aided person and the other party.

- 5.8 The *Home Affairs Department*, as one of the referring agencies of the Free Legal Advice Service under the Duty Lawyer Scheme, conducts initial screening of applicants through the District Offices and arranges interviews by duty lawyers at the Department's premises. Law students from The University of Hong Kong assist in the preparation of case summaries at two District Offices for one session per week. About 500 cases are processed each month, which account for over 90% of the cases handled by the duty lawyers.
- 5.9 In addition, the four Building Management Resource Centres of the Department provide free professional consultation to the public. Through these Centres, private property owners can obtain free advice on various aspects of building management, including legal, accounting, surveying, engineering and management advice. These services are provided by volunteer experts on duty at these Centres, which include members of the Law Society of Hong Kong, the Hong Kong Institute of Certified Public Accountants, the Hong Kong Institute of Surveyors, the Hong Kong Association of Property Management Companies, the Hong Kong Institute of Engineers, the Hong Kong Institute of Housing, the Hong Kong Institute of Architects and the Hong Kong Institute of Real Estate Administration. The Centres have handled 1,762 applications for free professional services since 1998, 91% of which were for legal-related advice.
- 5.10 The Small and Medium Enterprises Office of the *Trade and Industry Department* coordinates efforts to assist local SMEs through its Support and Consultation Centre for SMEs. It also offers free advisory services to SMEs through its "Meet-the-Advisors" advisory programme, collaborating with over 70 industrial and trade organisations, professional bodies, private enterprises and other government departments to provide SMEs with a comprehensive range of business information, advice and facilities. The Bar Association is a supporting organisation in this programme.
- 5.11 The *Rating and Valuation Department* provides the public with free enquiry, assistance and mediatory services for tenancy matters. The services are provided at the Department, the Lands Tribunal and at specified time in various District Offices. In 2005/06, some 195,000 enquires were handled, with 46,000 and 16,500 of these dealt with by officers during their daily and weekly visits to the Lands Tribunal and District Offices.
- 5.12 The Labour Relations Division of the *Labour Department*, through its 11 branches, provides consultation services to employers and employees for matters relating to conditions of employment and their rights and obligations under the Employment Ordinance. It also offers free conciliation service to help employers and employees in resolving their disputes. Most labour disputes can be settled through conciliation. For those which could not be settled, they were referred to the Minor Employment Claims Adjudication Board for claims involving not more than 10 claimants for a sum not exceeding \$8,000 each, or the Labour Tribunal for adjudication for claims outside the above limits. The Adjudication Board handles minor employment claims in a quick, simple and inexpensive manner and no legal representation is allowed.
- 5.13 As one of its initiatives to enhance access to justice in Hong Kong, the *Department of Justice* contributed to the development of a bilingual community legal information website, known as the Community Legal Information Centre (CLIC) by the University

of Hong Kong. CLIC provides a user-friendly guide to legal information on a wide range of topics affecting people's daily lives, as well as information on legal services available in Hong Kong. By May 2007, CLIC comprised information on 21 topics, including anti-discrimination, bankruptcy & winding up, bringing or defending a civil case, business & commerce, consumer complaints, defamation, employment disputes, Hong Kong legal system, immigration, insurance, intellectual property, landlord & tenant, legal aid, matrimonial matters, medical negligence, personal data privacy, personal injuries, police & crime, probate, sale & purchase of property and taxation.

- 5.14 In response to the growing trend of unrepresented litigants in Hong Kong, the *Judiciary* also provides a support service to these litigants through a Resource Centre for Unrepresented Litigants. The Centre offers assistance to unrepresented litigants who are parties to or about to commence civil proceedings in the High Court or the District Court except those relating to matrimonial, lands, employees' compensation and probate matters.
- 5.15 The assistance provided at the Centre is confined to procedural matters only and the staff will not give legal advice or make any comments on the merits of the case. The Centre provides oaths and declaration services as well as guidance on filling in court forms and submission of court bundles. Computer access to the Judiciary website, interlinked with the websites of the Legal Aid Department and of other agencies offering free legal advice, is provided at the Centre. A database on the frequently asked questions raised by unrepresented litigants is provided for users' reference. Apart from the above, the Centre also provides brochures introducing the broad outline of civil proceedings, sample court forms, videos on court procedures, daily cause lists, as well as writing area and self-service photo-copying machines.
- 5.16 The Judiciary operates a family mediation information service through the Mediation Co-ordinator's Office. The Office holds free information sessions on family mediation and generally assists couples seeking mediation to help resolve their problems in a non-adversarial way. For parties interested in seeking mediation, arrangements will be made to attend an information session on mediation conducted by the Mediation Co-ordinator who will also conduct an initial assessment on the suitability of these cases having regard to the nature of the disputes. The parties will then be referred to a list of accredited mediators from which the parties may choose their mediator, who will conduct mediation sessions for the parties at his/ her office. Some mediation services operated by non-governmental agencies charge a fee according to a sliding scale based on the user's income, while a few of them provide their services free.
- 5.17 The *Equal Opportunities Commission*, in implementing the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance, provides a service to parties concerned through administering a complaints system aiming at resolving disputes through conciliation. When a person lodges a complaint with the Commission, it conducts an investigation and tries to settle it by conciliation. This is done by bringing the parties together to look for ways to resolve the dispute to the satisfaction of both parties. Should the parties reach a settlement, the agreement signed by the parties is legally binding. Conciliation settlement can be in the form of apology, changes of policies and practices, review of work procedures, re-instatement, monetary settlement, etc.

- 5.18 The Commission can discontinue an investigation at its discretion but this is exercised with great care, balancing the rights of the complainant and the respondent. The Commission maintains an independent and impartial role during both the investigation and the conciliation process and does not act for either party of the complaint. It is also not its role to adjudicate a complaint. If conciliation is not successful, the complainants can apply to the Commission for legal assistance, which it does through its 4 in-house and additional out-sourced lawyers.
- 5.19 A total of 26,679 enquiries were received by the Commission in 2005, including 16,326 on matters outside its jurisdiction. The number of complaints handled during the year amounted to 932 cases, 33% of which related to sex discrimination, 64% to disability discrimination, and the remainder to family status discrimination. Overall, about 80% of the complaints were employment related.
- 5.20 The *Privacy Commissioner's Office*, an independent statutory body set up to oversee the enforcement of the Personal Data (Privacy) Ordinance, employs in-house lawyers to provide legal support required in handling complaints from the public, conducting investigations and follow-up actions. No legal support is however provided to complainants to bring civil actions against offenders.
- 5.21 The Office secures the protection of privacy of the individual with respect to personal data through promotion, monitoring and supervision of compliance with the Ordinance. It ensures that public and private organisations are aware of their rights and obligations as data subjects and data users, and that relevant enquiries are responded to and complaints investigated and resolved efficiently in a manner that is fair to all parties concerned. In 2004/05, the Office received 14,862 enquiry cases and handled 953 complaint cases, of which 69% were against private organisations, 18% against individuals, and 13% against government and public organisations.
- 5.22 The *Office of the Ombudsman* investigates complaints on maladministration of government departments and public bodies under the purview of the Ombudsman Ordinance. The Office operates to seek out the facts for justice and remedy and to improve the quality and efficiency of public administration. It may initiate direct investigation into significant issues and areas of maladministration in the absence of complaints. With a panel of advisors comprising legal, engineering and medical professionals, the Office processes complaints from the public or actions initiated by the Office itself. No legal service is provided to the public.
- 5.23 As a statutory body, the Office has its own separate procedures and practices. Although appointed by the Chief Executive of the Hong Kong Special Administrative Region Government, the Ombudsman is not a servant or agent of the government. She is empowered to act in accordance with her own discretion and her decision is final, although her decisions are subject to scrutiny by the Courts. The Hong Kong Police Force, the Independent Commission Against Corruption and a few other organisations are not subject to the Office's investigation, except for those on any actions by them not in compliance with the Code on Access to Information.

Professional and other public organisations

- 5.24 The legal profession offers a variety of services through the **Duty Lawyer Service** and other pro bono services through many non-governmental organisations. The Duty Lawyer Service is an organisation fully subvented by the government, and is managed by the Bar Association and the Law Society through a governing council. It offers three legal assistance schemes to complement the legal aid services provided by the government, viz. the Duty Lawyer Scheme, the Free Legal Advice Scheme, and the Tel-Law Scheme.
- 5.25 The *Duty Lawyer Scheme* provides legal representation by qualified lawyers in private practice to eligible defendants in Magistrate's Courts, Juvenile Courts and Coroner's Courts. To be eligible for Duty Lawyer representation, one has to pass the merits test and means test and pay a fixed handling charge of \$400. The Scheme also assigns lawyers to advise defendants facing extradition and undertake representation of hawkers upon their appeals to the Municipal Services Appeals Board. In 2005, the Scheme handled 35,792 cases, involving 42,577 defendants.
- 5.26 The *Free Legal Advice Scheme* provides free preliminary legal advice to members of the public as to their legal position in genuine cases. There is no means test and the Scheme does not offer any follow up service nor representation to the clients. The services are provided in the evenings through nine Legal Advice Centre located in various District Offices:
- Shatin District Office,
 - Central and Western District Office,
 - Wan Chai District Office,
 - Tsuen Wan District Office,
 - Kwun Tong District Office,
 - Yau Tsim Mong District Office,
 - Island District Office,
 - Eastern District Office and
 - Wong Tai Sin District Office.

In 2005, the Scheme handled 6,407 cases, including 19% matrimonial cases, 20% commercial and property dispute, 12% employment, 8% criminal, 6% personal injuries, 5% landlord and tenant, and the rest miscellaneous cases.

- 5.27 A person wishing to seek free legal advice from the Scheme has to attend one of the 29 referral agencies (with 153 branches), including all district offices and Caritas centres, to make an appointment to meet the volunteer lawyer at a Centre within two weeks. At the time of making the appointment, staff of the District Office will take down the detailed background of the case, which will be vetted by the Duty Lawyer Service before suitable cases are sent to the volunteer lawyers for preparation.
- 5.28 All of the 700 lawyers giving advice through the Free Legal Advice Scheme are qualified lawyers who join the Scheme on a volunteer basis. Each lawyer interviews 5 cases each evening, allocating 20 to 30 minutes to each interview. Most of the advice sought is civil in nature. The Free Legal Advice Scheme also assists other voluntary

organisations by making arrangements for volunteer lawyers to provide legal advice in similar schemes independently run e.g. by the Federation of Women's Centre, Hong Kong Federation of Women, Hong Kong Federation of Women Lawyers and Action for Reach Out.

- 5.29 The **Tel-Law Scheme** provides members of the public with free recorded legal information through a 24 hours automatic telephone answering service in Cantonese, Putonghua and English. The Scheme provides brief information on 78 topics grouped under family law, land law, landlord and tenant, criminal law, employment law, commercial, banking, and sales of goods, administration and constitutional law, environmental law and tort, and general legal information. In 2005, the Scheme received a total of 36,551 calls, of which 23,417 accessed different categories of recorded information. The main types of information sought included family law (50%), land, landlord and tenant (13%), criminal (10%), commercial, banking and sales of goods (4%), employment (3%), and the rest general and miscellaneous topics (20%).
- 5.30 The **Hong Kong Bar Association** is the professional organisation of barristers in Hong Kong. Through its Bar Free Legal Service Scheme, the Association provides free legal advice and representation in cases where legal aid is not available or where the applicant is unable to afford legal assistance and the case is thought to be one where assistance should be given. The Scheme is designed to help those who cannot reasonably afford the legal assistance which they need and who are not eligible for legal aid or other forms of help with legal expenses e.g. under an insurance policy. The Scheme will not normally provide assistance if it appears that a person may be eligible for legal aid. During discussions with a number of barristers, it was pointed out that although there were many applications for free legal advice, the number of applications worth supporting were not many. In 2005, the Service received 287 applications, of which representation was granted to 21 cases, and advice given to 34 cases.
- 5.31 Barristers who have volunteered on the Scheme comprise barristers with a range of experience and specialisations. The Scheme puts members of the public in touch with the barristers, who can give advice or represent them in any court or tribunal where legal representation is permitted. The barristers participating in the Scheme offer services free of charge for 3 days or 20 hours each year. No barrister is obliged to take on a particular case. Where representation is involved, sometimes it would not be possible for a barrister to act without the support of a solicitor. In some cases, it may be possible to find a solicitor who is also prepared to offer free service.
- 5.32 **The Law Society of Hong Kong** is the professional body for solicitors in Hong Kong. Members of the Society participate in the Free Legal Advice Scheme provided by the Duty Lawyer Service, and provide pro bono services through other non-governmental organisations. Members of the Society and representatives from the Legal Aid Department offer free advice to members of the public during the Law Week event organised annually.
- 5.33 A range of law firms also provide free legal services through the Society's Free Legal Consultation Service which is publicised on the Society's website. The firms volunteer to provide not exceeding 45 minutes initial free consultation to the public in one or

more of 12 areas of practice. These include bankruptcy, building management, civil claims, conveyancing, criminal, employment, family, immigration, intellectual property, landlord and tenant, personal injuries, and wills and probate.

- 5.34 Due to the excessive time and cost involved using litigation as the means of dispute resolution, there has been increasing emphasis on other simpler and more economical modes of dispute resolution in recent years. In Hong Kong, the promotion of these alternative modes of dispute resolution is spearheaded by the **Hong Kong International Arbitration Centre** and the **Hong Kong Mediation Council**.
- 5.35 Arbitration is a legal process which results in an award being issued by an arbitrator or arbitrators, which is final and binding on the parties. Awards made in Hong Kong are enforceable through most of the courts around the world. For an arbitration to take place, the parties must have a prior agreement to take their dispute to arbitration, possibly included as a clause in their contract. The Hong Kong International Arbitration Centre, supported by a start-up capital of \$19.1 million from the government, offers members of the public alternative means of dispute resolution other than litigation. The Centre has 263 arbitrators on its panel, 60% of which are lawyers. The Centre handled 281 cases in 2005, mainly relating to construction, commercial and shipping.
- 5.36 The other common form of alternative dispute resolution is mediation, where the assistance of one or more neutral third parties is sought to facilitate a solution. The function of the mediator is to encourage the parties to reach a settlement. Mediation is a useful tool for resolving difficult disputes and is often used when negotiations fail before proceeding to arbitration or litigation. In 1994, the Hong Kong Mediation Council was set up within the Hong Kong International Arbitration Centre to promote the development and use of mediation as a method of resolving disputes. The Council has 226 mediators on its general panel and 133 mediators on its family panel.
- 5.37 In addition to the legal professionals, other public organisations also provide advisory services for some legal related matters. A number of **Legislative and District Councillors' Offices** provide free legal advice and related services as part of their services to the public. Many of the 303 member agencies of the **HKCSS**, in the course of providing services to members of the public, are also involved in the provision of legal services, particularly in connection with matters related to marriage, domestic violence, debt and bankruptcy, anti-discrimination, school attendance and employment injuries. Most of the legal services are provided in the form of pro bono services offered by legal professionals. A number of these organisations have experimented with providing community legal services, with funding provided by government, Community Chest and other funding agencies. According to the HKCSS, there are over 40 accredited mediators in 11 agencies providing family mediation services.
- 5.38 Among the various HKCSS member agencies, the following are quite active in providing free legal services to members of the public.
- The **Hong Kong Federation of Women** offers a free advice service through its Legal Advice Hotline mainly to women on legal issues related to family, marriage and bankruptcy. The telephone hotline is operated by a volunteer

worker handling about 20 cases per week, and initial advice is provided over the telephone by 23 volunteer lawyers.

- The *Hong Kong Federation of Women’s Centre* also offers free legal advice mainly to women on legal issues related to family, marriage and bankruptcy. Initial legal advice is offered through an interview session with one of the 70 volunteer lawyers for about 35 minutes, with follow-up assistance and counselling services provided by social workers and “peer counsellors”.
- The *Association for the Advancement of Feminism* offers free advice to women on legal issues related to sex discrimination and family status discrimination, through its legal advice hotline operated by a part-time volunteer worker. There are 5 volunteer lawyers handling about 20 cases a year.
- Other agencies like the *Hong Kong Family Welfare Society*, *Caritas Family Crisis Support Centre* and *Po Leung Kuk* also offer free legal advice service to members of the public.

5.39 More detailed discussions of the services provided by the Legislative and District Councillors, and the non-governmental organisations are contained in Sections 6 and 7 below.

6. Provision of Legal and Related Services by Legislative and District Councillors

Survey methodology

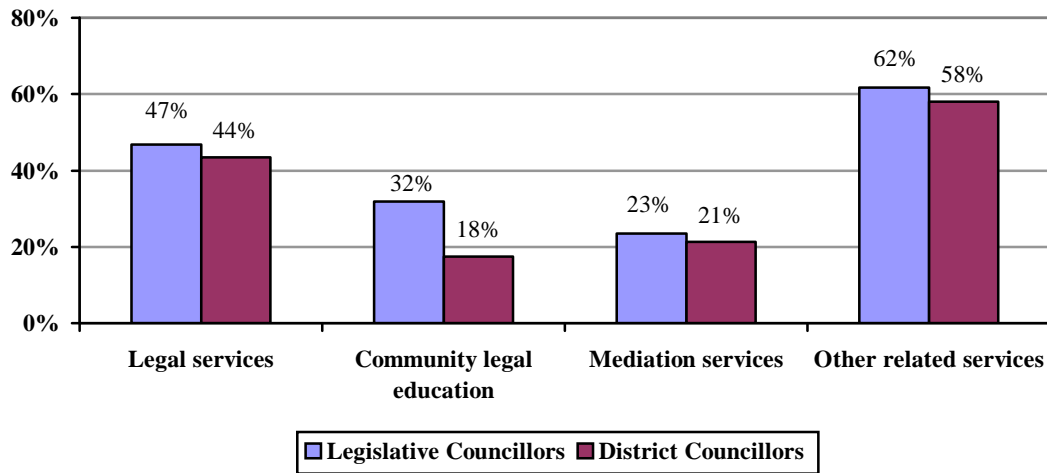
6.1 All of the Legislative and District Councillors were covered in the questionnaire survey as respondents. The questionnaire used is contained in Appendix E. The questionnaire design and data collection procedures adopted were similar to those for the barristers. The enumeration results for the survey are shown in the table below.

Categories	Total number	Number sampled	Number enumerated	Response rate (%)
Legislative Councillors	60	60	47	78%
District Councillors	529	529	446	84%

Types of services provided

6.2 About 75 % of Legislative Councillors and 81% of District Councillors were providing legal or related services to members of the public. The more common services provided were legal services (provided by 47% of Legislative Councillors and 44% of District Councillors), community legal education (32% and 18% respectively), mediation services (23% and 21%) and other related services like referrals to lawyers and assistance in applying legal aid (62% and 58%).

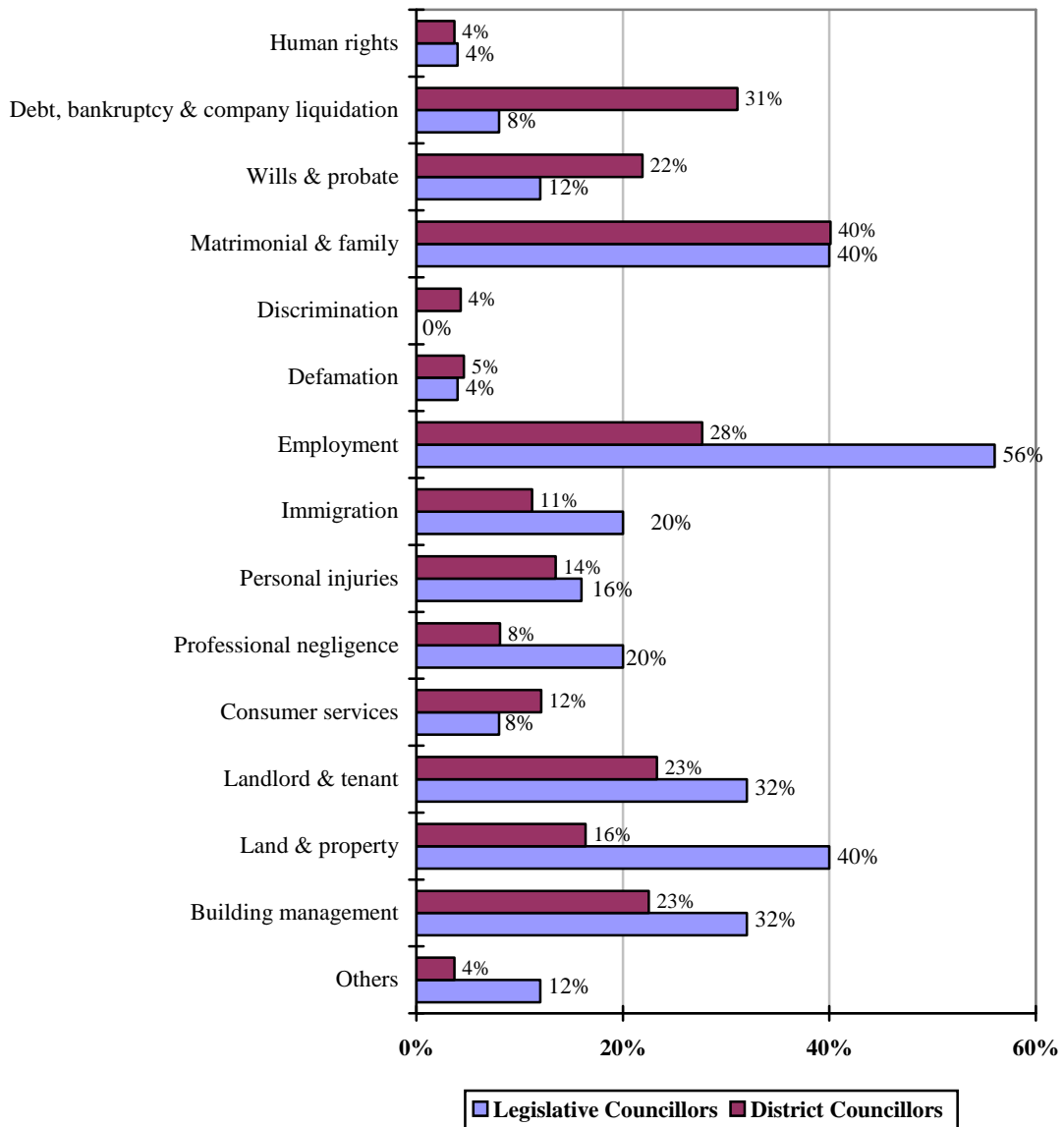
**Percentage of Legislative and District Councillors
by types of legal and related services provided**



(Multiple response; Base: District Councillors 446, Legislative Councillors 47)

6.3 About 53% of Legislative Councillors and 78% of District Councillors had kept records on their provision of legal services to members of the public, which were mainly for matters related to family and livelihood. For those who had kept such records, the more common types of legal services provided were debts and bankruptcy (provided by 8% of Legislative Councillors and 31% of District Councillors), wills and probate (12% and 22% respectively), matrimonial and family (40% and 40%), employment (56% and 28%), landlord and tenant (32% and 23%), land and property (40% and 16%), and building management (32% and 23%). It is noted that there may be slight variations in the categorisation of types of services by different respondents. Furthermore, any one case dealt with the respondent may involve more than one aspect of services.

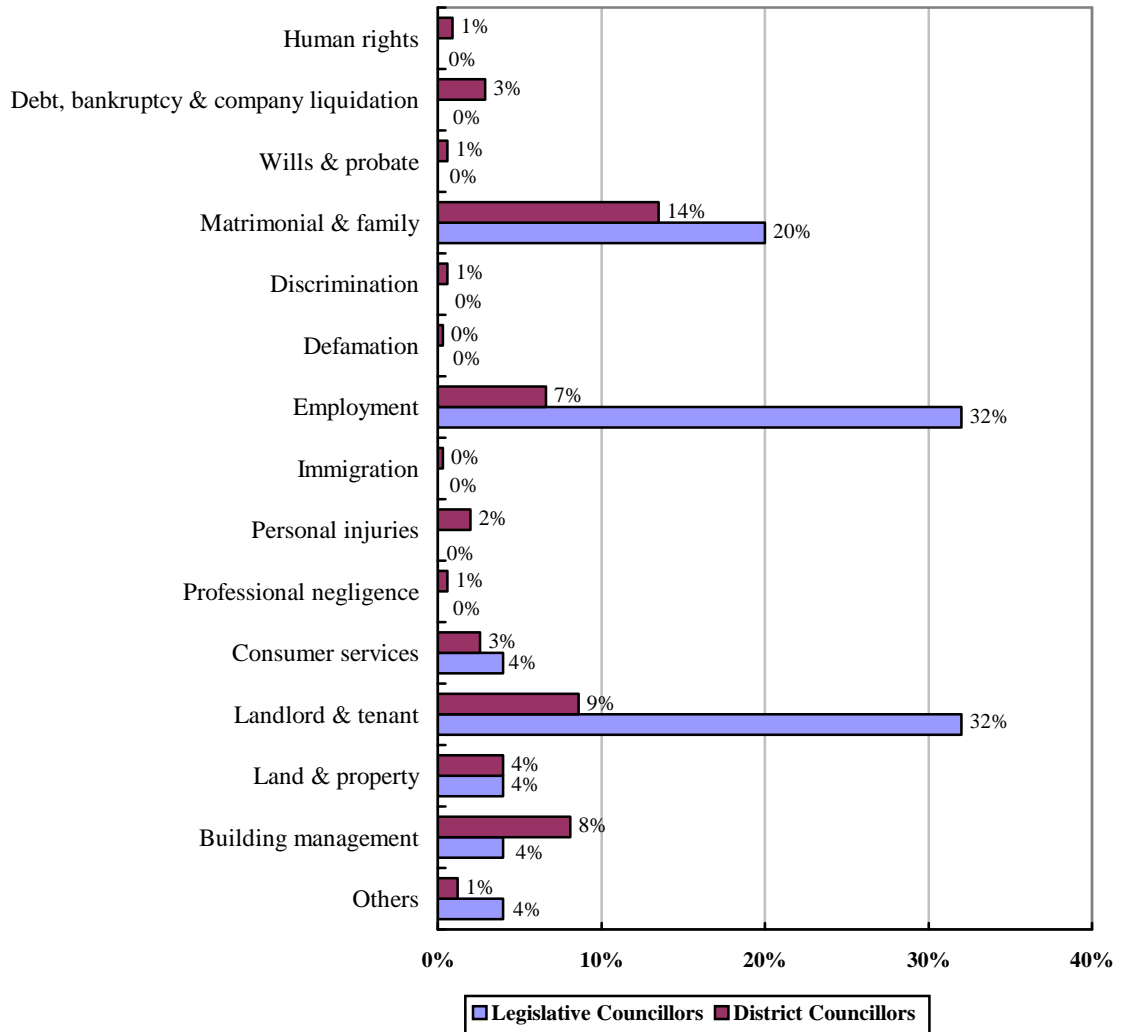
**Percentage of Legislative and District Councillors
providing legal services by types**



(Multiple response; Base: District Councillors 347, Legislative Councillors 25)

6.4 For mediation services, Legislative and District Councillors were providing these services to the public mainly for family and livelihood matters, similar to the pattern above on legal services. The more common types of services provided were matrimonial and family (provided by 20% of Legislative Councillors and 14% of District Councillors), employment (32% and 7% respectively), landlord and tenant (32% and 9%), land and property (4% and 4%), and building management (4% and 8%). It is believed that in providing answers to this question, the respondents were interpreting “mediation” in a general sense of the word and did not confine to mediation services provided by qualified mediators.

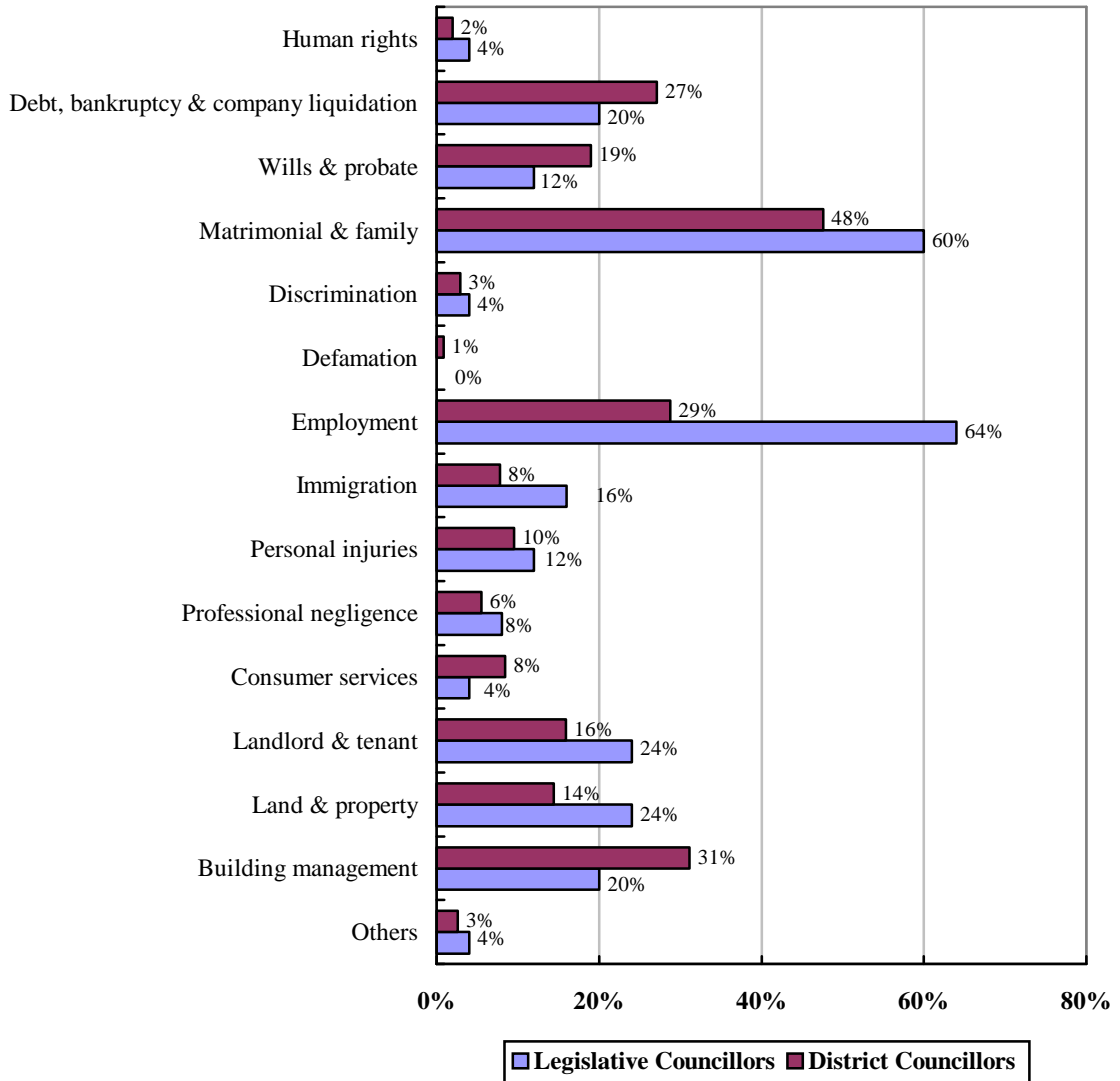
Percentage of Legislative and District Councillors providing mediation services by types



(Multiple response; Base: District Councillors 347, Legislative Councillors 25)

6.5 For other legal related services such as referrals to lawyers and assistance in applying for legal aid, the pattern was also quite similar to that for legal services and the services mainly involved family and livelihood matters. The more common types of services provided were matrimonial and family (60% of Legislative Councillors and 48% of District Councillors), employment (64% and 29% respectively), landlord and tenant (24% and 16%), land and property (24% and 14%), and building management (20% and 31%).

Percentage of Legislative and District Councillors providing other related legal services by types



(Multiple response; Base: District Councillors 347, Legislative Councillors 25)

Manpower

6.6 About 80% of Legislative Councillors who were providing legal or related services to members of the public employed paid staff for the provision of such services. On average the Legislative Councillors concerned employed 4.1 paid staff, including full-time and part-time staff. About 66% also recruited volunteers, and on average they deployed 5.3 volunteers to the provision of such services.

6.7 For District Councillors who were providing legal or related services to members of the public, about 78% of them employed paid staff for the provision of such services. The District Councillors concerned employed on average 1.5 paid full-time or part-time staff. About 55% also recruited volunteers, deploying on average 2.3 volunteers.

7. Provision of Legal and Related Services by Non-governmental Organisations

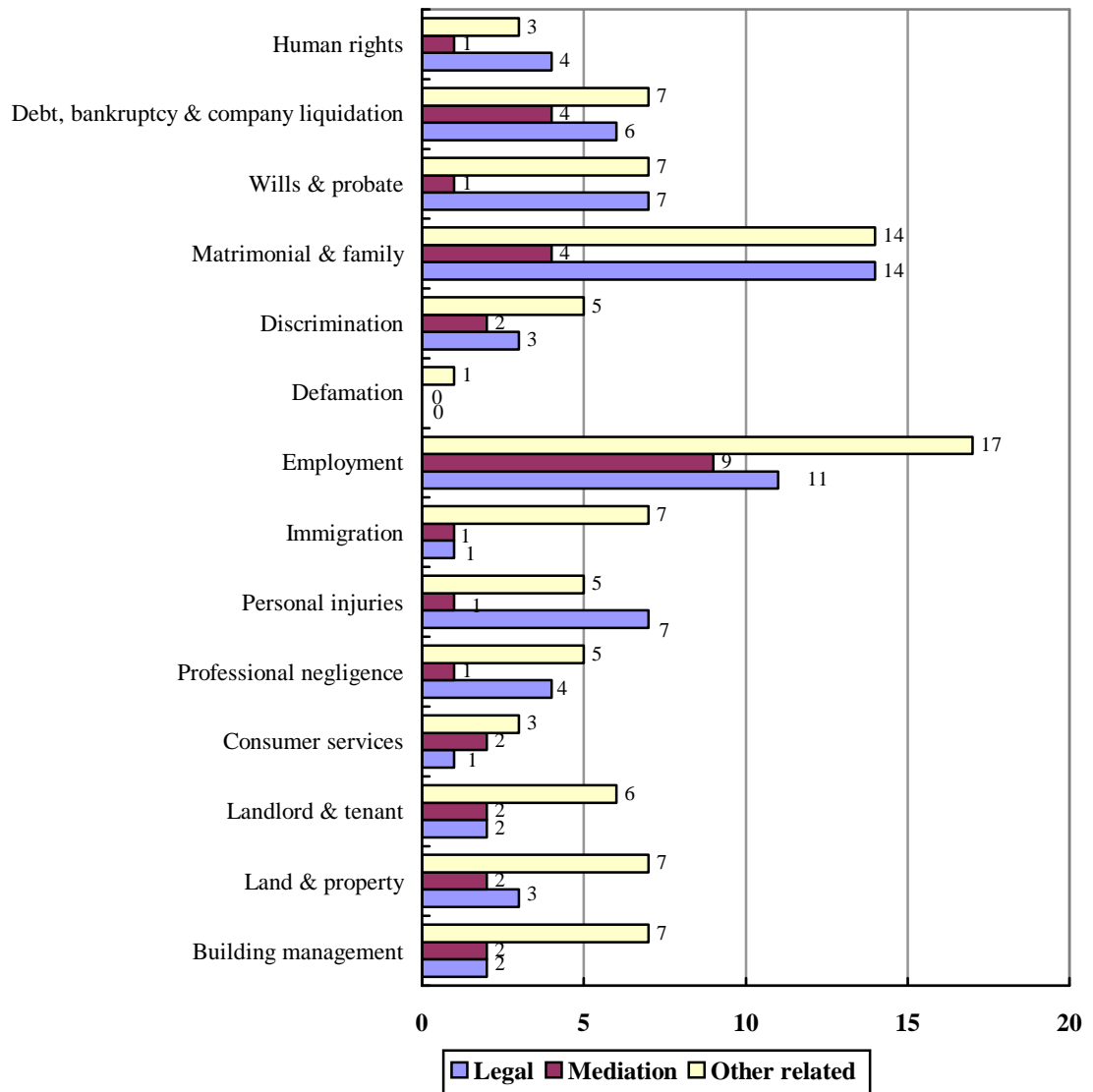
Survey methodology

- 7.1 These organisations include mainly voluntary or not-for-profit organisations, many of which subvented by government or supported by various funding agencies. A number of the 303 member agencies of the HKCSS offer legal or related services to members of the public. Apart from these organisations, some of the other non-governmental organisations also provide similar services to the general public. Before the start of the questionnaire survey, a list of such organisations was drawn up based on the information available from HKCSS and telephone directories. A total of 827 organisations were identified and they were all covered in the survey.
- 7.2 The questionnaire used in the survey is contained in Appendix F. The relevant questionnaire design and data collection procedures were similar to those adopted in the survey on barristers. 683 out of the 827 non-governmental organisations had responded, representing a response rate of 83%.

Organisations providing legal and related services

- 7.3 Of the organisations that had responded to the survey, only 11% or 73 organisations were providing legal or related services to members of the public. 23 of these organisations were providing legal services, including those delivered as part of the Free Legal Advice Scheme or through legal advice programmes of the organisations concerned. 16 organisations were providing free mediation services and 3 of which were also providing such services at a fee. In total 36 organisations were providing legal or mediation services, including 3 providing both types of services. A list containing some of the NGOs providing legal and related services, which had participated in the survey, is contained in Appendix G.
- 7.4 29 organisations were providing community legal education, mainly in the form of seminars and talks. 41 organisations were providing other related legal services, including assistance in applying for legal aid, and referral services.
- 7.5 It may be seen from the chart below that relatively more of the organisations were providing services related to matrimonial and family, and employment matters.

**Number of organisations
providing legal or related services by types**



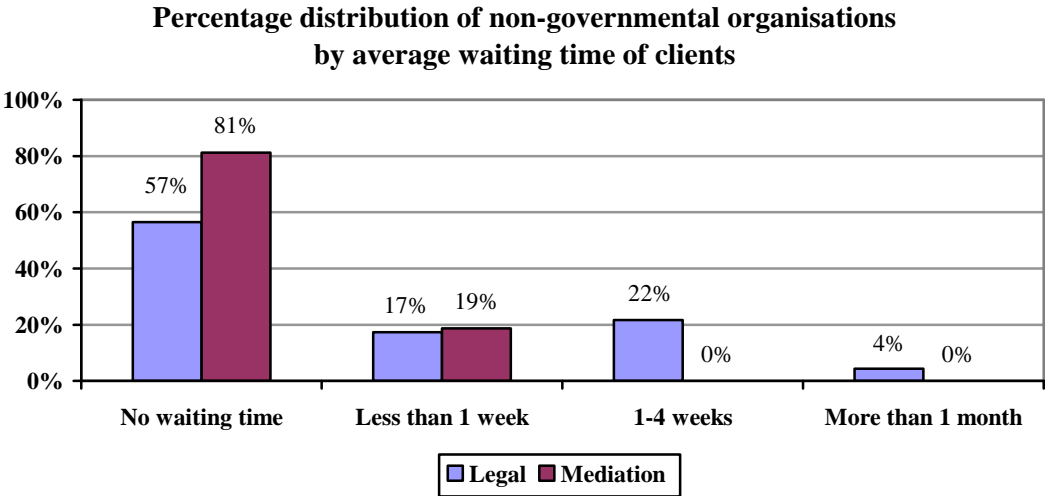
(Multiple response; Base: Legal 23, Mediation 16, Other related 41)

Service availability

7.6 The majority of organisations (78% of organisations providing legal services and 88% of organisations providing mediation services) indicated that they were serving clients from all over Hong Kong. For the remaining 22% providing legal services (5 organisations), they were providing their services in Central and Western, Kwai Chung, North Point, Kwun Tong, Tsuen Kwan O, Sham Shui Po, Kwai Fong, Tuen Mun and Tsuen Wan. For the remaining 12% of those providing mediation services (2 organisations), one was providing services in Central and Western, while the other was providing services in North Point, Kwun Tong, Tsuen Kwan O, Sham Shui Po, Kwai Fong and Tuen Mun.

7.7 Using the median as the summary statistic, it took 50 minutes to provide face-to-face legal service to one client and about 15 minutes if the service was provided over the phone. For mediation services, it took about 120 minutes for one client.

7.8 More than half (57%) of the organisations providing legal services indicated that there was no waiting time for their clients. This compared with the 81% for mediation services. For 17% of the organisations providing legal services, the average waiting time was less than 1 week and for a further 22%, 1 to 4 weeks. The corresponding percentages for mediation services were 19% and 0% respectively. From discussions with clients of some of these organisations, it was pointed out that they approached these organisations because the waiting time for the Free Legal Advice Scheme was too long.



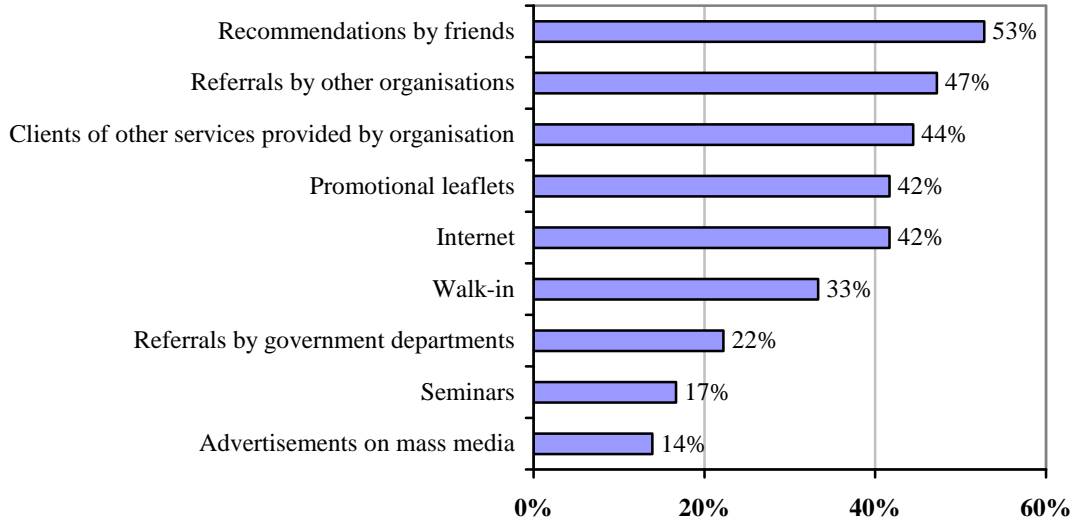
(Base: Legal 23, Mediation 16)

7.9 About 33% of the organisations said that they had turned away requests for legal or mediation services. The main reasons for doing so were that they did not have sufficient staff resources to handle the requests (accounting for 33% of those that turned away requests for services), or that the requests were not within their range of service provision (58%).

Publicity channels and expansion plans

7.10 Just over half of the organisations (53%) providing legal or mediation services indicated that their clients came to them for service on recommendation of the clients’ friends. About half indicated that their clients were referred to them by other non-governmental organisations. Advertisement in the mass media was the lowest reported channel with only 14% of the organisations indicating that this was the channel through which their clients came to them.

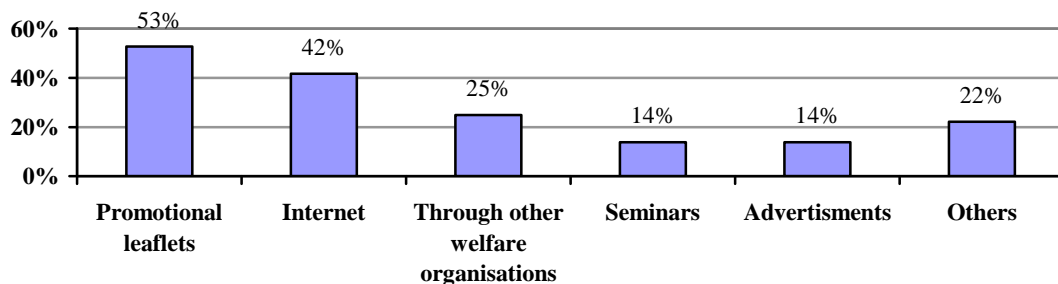
Percentage of non-governmental organisations providing legal/ mediation services by channels through which clients came for service



(Multiple response; Base: 36)

7.11 Slightly more than half (53%) of the organisations providing legal or mediation services publicised their services through promotional leaflets, though such arrangement was not the most common channel through which their clients came to them for service. Other more popular publicity measures adopted by these organisations were Internet website, publicity through other welfare organisations and seminars.

Percentage of non-governmental organisations that were providing legal/ mediation services by measures taken to promote their services



(Multiple response; Base: 36)

7.12 According to these organisations, the main reasons why their clients came to them were that their services were free (accounting for 61% of organisations concerned), that their services were able to meet client needs (53%), that the waiting time was

short (44%), or that the organisations were able to provide other related services such as counselling (39%).

- 7.13 11 of the organisations providing legal or mediation services to members of the public had plans to expand their service provision. Their plans included undertaking more publicity work, strengthening cooperation with lawyers, establishing a community law centre, or consolidating the family services centres.

8. Conclusion

- 8.1 This Report details the findings of the supply side surveys that were carried out as part of the Study. These principally included the detailed surveys on the barristers and their chambers, and solicitors and their firms. The focus of these main surveys were generally on the range of services provided, the workload of the service providers, their specialisation, clientele, location of operation, involvements in pro bono and service promotion activities, and their operational economics including fee and cost structures, fee collection, as well as the balance between supply and demand in the sector. The main surveys were supplemented by smaller surveys or reviews on other service providers, which in the main focused on the range and scale of services provided, and on availability.

- 8.2 Some of the key findings emerging from the Study include:

- A full range of legal and related services was available in Hong Kong. Some practitioners had to turn away work from time to time.
- Most of the legal professionals were probably fully engaged in their professional work, although there appeared to be concerns about quality at the lower end where an over-supply situation was said to exist.
- About 41% of chambers had a policy of specialisation in service provision. The areas of specialisation were mainly civil cases related to personal and family, administrative, human rights and advocacy, commercial, land and property, and PRC matters, as well as criminal cases.
- A higher proportion of solicitor firms (52%) had a policy of specialisation in service provision. The areas of specialisation were mainly conveyancing, commercial, litigation, personal injury, intellectual property, and wills and probate.
- Just under 60% of barristers' time was spent on civil cases, compared with 86% for solicitors.
- Barristers on average devoted more time to criminal cases and civil cases related to commercial and company. For solicitors, apart from criminal cases and civil cases related to commercial and company, they also devoted more time to land and property.
- About one third of the time spent by barristers was on cases funded by government, with the remaining two-third undertaken for non-government clients. For solicitors, on the other hand, the majority of their time (86%) was devoted to non-government work.

- As a profession, the barristers and solicitors did a significant amount of pro bono work, possibly sometimes as part of service promotion activities.
- As a whole, the legal profession was relatively conservative in making their services known to the public, and clients usually came from referrals through personal networks.
- Factors affecting the choice of solicitors by clients were mainly past experience with the solicitors, experience of solicitors, reputation of solicitor firms and solicitors, fee level and recommendation by friends. Factors like ability to offer one-stop service, size and location of firm and advertisement were less important.
- Factors affecting the choice of barristers by solicitors were similar. The more important factors were past experience with the barristers, experience of barristers, performance records of barristers, fee level, reputation of barristers and recommendation by other solicitors.
- Nearly half of the chambers had pupil barristers, though the great majority of them did not pay pupil barristers. For solicitor firms, on the other hand, about 24% of them had trainee solicitors.
- The hourly fee rates charged for legal work were generally within the \$1,001- \$5,000 range, but were mostly between \$2,001 and \$3,000. The rates for civil cases tended to be higher than those for criminal cases. And the rates for businesses and private individuals tended to be higher than for government or legal aid or Duty Lawyer Scheme work.
- Alternative dispute resolution was developing in Hong Kong, particularly for arbitration, but the mediation sector remained small.
- The NGOs and the voluntary sector were engaged in a range of legal or related services, especially on employment and family related matters, but appeared to need resources to grow.