

LegCo Panel on Administration of Justice and Legal Services

Staff Wastage in the Prosecutions Division, Department of Justice

Purpose

This paper sets out the staff wastage situation in the Prosecutions Division (PD), Department of Justice.

Background

2. At the meeting on 22 October 2007, the Panel requested the Department of Justice to provide supplementary information on the staff wastage of PD. The required information is set out in the ensuing paragraphs.

Staff Wastage in PD

3. As at 1 November 2007, PD had a total strength of 429 staff, including 107 Government Counsel (GC) grade officers, 322 para-legal grades and other supporting services staff. Staff wastage includes leaving the Department because of retirement, resignation from service or appointment to another grade in the civil service. This paper focuses on the wastage of GC grade officers in the PD. The GC grade officers comprise Government Counsel, Senior Government Counsel (SGC), Deputy Principal Government Counsel (DPGC), Principal Government Counsel (PGC) and Law Officer (LO).

4. In the PD, the wastage rates of the GC grade since 2002 are as follows –

Year	Overall Wastage of GC grade in PD (rate¹)	Wastage in PD arising from resignation (rate)	Overall Wastage rate¹ of GC Grade in DoJ	Overall wastage rate in civil service after discounting Voluntary Retirement
2002/03	4 (3.8%)	3 (1.8%) (1 at SGC and 2 DPGC level)	2.7%	1.9%
2003/04	1 (1.8%)	0	1.0%	2.1%
2004/05	3 (2.8%)	2 (1.8%) (both at GC level)	3.0%	2.4%
2005/06	3 (2.8%)	2 (1.8%) (1 at GC, 1 at SGC level)	3.4%	2.3%
2006/07	11 (10.8%)	8 (7.8%) (2 at GC, 5 at SGC, 1 at PGC level)	5.6%	2.7%
2007	2 (2.1 %)	2 (2%) (1 at SGC and 1 at DPGC level)	2.5%	1.57% (up to Sept 2007)
Total	24	17	-	-

¹ Rate means the number of wastage as compared against the total number of staff in the GC grade in the Division or the Department. The figures include officers leaving on retirement, completion of agreement and resignation.

A total of 24 GC grade officers left PD in the past 5 years; 17 of whom resigned from office and the remaining 7 retired. These 24 officers were replaced by promotion (where appropriate) and intake of officers at the basic GC rank through recruitment. Of the 25 newly recruited GC who joined PD in the past 5 years, eight were experienced legal professionals with post qualification experience in the private practice.

5. As indicated in paragraph 4 above, except for 2006/07, the wastage rates (arising from resignation) of counsel in PD generally have remained fairly steady in the past few years and are comparable to the overall wastage rates of the GC grade, although it is noted that the wastage rate of the GC grade has, in most years, been higher than the civil service wide figures. The unusually high wastage rate of the PD counsel in 2006/07 could be partly attributable to the buoyant job market in the legal profession. Of the 11 counsel who left PD in 2006/07, three left on retirement, four took up judicial appointments, three joined other public organisations (e.g. the LegCo Secretariat) and one took up private practice. Since the Judiciary had undergone a period of recruitment freeze and had not made judicial appointments for a few years before 2006/07, the offer of judicial appointments to four counsel in PD in 2006-07 was rather exceptional and has, to a certain extent, brought about a higher wastage rate in that year. The wastage rate of counsel in PD has returned to normal this year.

Measures adopted to minimise the impact of Staff Wastage

6. Some degree of staff wastage, in particular natural wastage, is inherent in any organization. Nonetheless, the Department has adopted various measures to minimize the impact of such wastage on PD's capacity to provide an efficient and professional prosecution service.

Continuous Efforts to Attract and Retain Talents

7. There is keen competition for legal talent in the job market and the remuneration offered to GC candidates must remain attractive. Pursuant to the implementation of the 2007 starting salaries adjustment, the starting salary of GC has been raised from Master Pay Scale (MPS) Point 27 (\$34 895 per month) to MPS Point 32 (\$43 905 per month) with effect from 1 August 2007. It is expected that this revised starting salary will help attract talent of suitable calibre to join the GC grade in the 2007 recruitment exercise. Furthermore, we are mindful that the wastage rates of the GC grade have, in most years, been higher than the civil service wide figures. We have therefore proposed to the Civil Service Bureau to include GC grade in the coming grade structure reviews to be conducted by the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) for selected non-directorate,

civilian grades which are facing serious recruitment and retention difficulties. If the Standing Commission's recommendations were to include any proposed change in the rank or pay structure of civil service grades and ranks, then subject to the decision of the Chief Executive-in-Council, the Administration would seek the approval of the Establishment Subcommittee and the Finance Committee of this Council in accordance with the established practice.

Enhancing career prospects

8. Offering attractive career prospects and opportunities for the development of expertise to help retain quality counsel. The landscape within which the Department of Justice operates has changed in recent years with legal issues becoming more complicated and branching into new areas. In the light of such developments, the Department reviews from time to time the need for creating or upgrading posts, including the need for SGC posts. This can enhance the promotion prospects of PD counsel. For example, in 2007/08, two additional SGC posts have been created and five GC posts upgraded to SGC posts to cope with the increasing workload and complexity of work in PD. With improved promotion prospects, the number of GC promoted to SGC in PD has increased from 3 in 2002/03 and 2003/04 and nil in 2004/05 to 15 in 2007/08.

Briefing Out

9. PD has a policy of briefing out cases to private practitioners. A higher portion of cases has been briefed out to private practitioners to relieve the work pressure of in-house counsel. The number of cases and court days undertaken by fiat counsel in place of GC in the past five years is annexed. The percentage of cases and number of court days briefed out has been on the rise in recent years.

Training and Continuing Legal Education

10. To alleviate the impact of the loss of experienced counsel, a comprehensive training programme is in place to build up the knowledge and expertise of prosecutors at all levels. A Criminal Advocacy Course, which includes classroom lectures and court work, is organised at least once a year for new counsel. In-house lectures/seminars are organised for prosecutors to enhance their legal knowledge as well as practical skills. Other arrangements include participation in courses/seminars organised by other organisations, and attachment of junior counsel to senior prosecutors in trials and appeals as working juniors.

Specialisation

11. To ensure a high standard of prosecution service, it is important that PD counsel have ample opportunities to develop expertise in different areas of criminal law, both in terms of advisory and advocacy skills. In recent years, PD has established specialised units and appointed policy co-ordinators. These units/counsel not only ensure that timely and appropriate legal advice is given to law enforcement agencies, but also helps to enhance expertise and professionalism.

Conclusion

12. While PD has experienced a loss of talent in the past few years, with the dedication and professionalism of its staff and the implementation of the measures indicated, its efficient and effective discharge of legal functions has not been adversely affected. It continues to meet its various performance targets. The Department will continue to monitor the staffing situation and workload of PD and the Department in general to ensure the quality of the services we provide

Department of Justice
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Statistics for Briefing Out since 2002

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u> <i>(up to Oct)</i>
Number of cases conducted by fiat counsel in place of GC	980 (18.5%)	726 (14.1%)	849 (15.9%)	950 (17.6%)	891 (18.6%)	910 (21.2%)
Number of court days undertaken by fiat counsel in place of GC	4 543 (46.3%)	3 293 (37.6%)	3 437 (41.1%)	3 912 (41.8%)	4 397 (52.4%)	3 747 (54.3%)

() denotes percentage of briefing out as against the total number of cases/court days