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**DEPARTMENT OF JUSTICE**  
**Secretary for Justice's Office**

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26 February 2018

Mr Lemuel Woo  
Clerk to Panel on Administration of  
Justice and Legal Services  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

**By E-mail**  
([yfwoo@legco.gov.hk](mailto:yfwoo@legco.gov.hk))

Dear Mr Woo,

**Panel on Administration of Justice and Legal Services**  
**Special meeting on 29 January 2018**

At the captioned special meeting, the Department of Justice (DoJ) was requested to provide information on the ratio between the number of in-house cases and brief out cases; and the limitation on the above ratio, if any. Our reply is set out in the ensuing paragraphs for Members' reference -

Briefing out is mainly to meet operational needs, and there is no pre-set ratio as to the number of cases handled in-house and those to be briefed out. In general, the DoJ may resort to briefing out when -

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

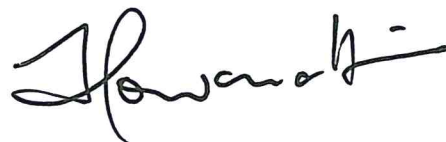
counsel's advice or services so as to address possible perception of bias or issues of conflict of interests;

(e) there is a need for continuity and economy, e.g. where a former member of the DoJ who is uniquely familiar with the subject matter is in private practice at the time when legal services are required, or where it will be economical and in the interest of justice to engage the fiat trial counsel to conduct the relevant appeal; and

(f) there is a need for advice or proceedings involving members of the DoJ.

The Prosecutions Division and the Civil Division keep their respective statistics regarding cases handled in-house and those briefed out. As far as the Prosecutions Division is concerned, in 2016, cases conducted by government counsel and fiat counsel in place of government counsel were 3,719 and 1,811 cases respectively (involving 3,441 and 5,418 court days respectively), while the number of court days undertaken by court prosecutor and fiat counsel in place of court prosecutor were 8,939 and 5,636 respectively<sup>1</sup>. As for the Civil Division, in 2016, the number of days of court (including tribunal) attendance was 2,220. These involved a total of 2,248 cases out of which 862 cases were conducted by Civil Division's in-house counsel as advocates and 259 cases with briefed out counsel instructed to appear in court or tribunals. In all these civil cases, Civil Division's in-house counsel retain the role either as advocates (for cases not briefed out) or as solicitors/cum junior counsel (for cases briefed out).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Howard Lee", with a stylized flourish at the end.

( Howard Lee )  
Administrative Assistant  
to Secretary for Justice

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<sup>1</sup> Fiat counsel engaged to prosecute in the Magistrates' Courts in place of Court Prosecutors are required to attend to all cases before a particular magistrate on each day or half day basis, hence their engagement is on a court-day basis rather than case-based.