

**立法會**  
**Legislative Council**

LC Paper No. ESC47/18-19  
(These minutes have been  
seen by the Administration)

Ref : CB1/F/3/2

**Establishment Subcommittee of the Finance Committee**

**Minutes of the 5<sup>th</sup> meeting  
held in Conference Room 1 of Legislative Council Complex  
on Wednesday, 19 December 2018, at 8:30 am**

**Members present:**

Hon Mrs Regina IP LAU Suk-yee (Chairman)  
Hon Holden CHOW Ho-ding (Deputy Chairman)  
Hon WONG Ting-kwong, GBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon CHAN Chi-chuen  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon HO Kai-ming  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Hon YUNG Hoi-yan

Dr Hon Pierre CHAN  
Hon CHAN Chun-ying, JP  
Hon Jeremy TAM Man-ho  
Hon AU Nok-hin  
Hon Vincent CHENG Wing-shun, MH  
Hon Tony TSE Wai-chuen, BBS

**Members absent:**

Hon James TO Kun-sun  
Hon Martin LIAO Cheung-kong, SBS, JP

**Public Officers attending:**

|                           |  |
|---------------------------|--|
| Ms Carol YUEN Siu-wai, JP | Deputy Secretary for Financial Services<br>and the Treasury (Treasury) 1     |
| Mr Brian LO Sai-hung, JP  | Deputy Secretary for the Civil Service 1                                     |
| Mr Alan SIU Yu-bun, JP    | Director of Administration and<br>Development                                |
| Ms Theresa JOHNSON        | Department of Justice<br>Law Draftsman                                       |
| Mr Gilbert MO Sik-keung   | Department of Justice<br>Deputy Law Draftsman I                              |
| Mr Herbert LI Kam-yiu     | Department of Justice<br>Deputy Law Officer (Civil Law)(Civil<br>Litigation) |
| Ms Phyllis WONG Hwa-yih   | Department of Justice<br>Acting Deputy Law Officer (Civil<br>Law)(Advisory)  |
|                           | Department of Justice  |

**Clerk in attendance:**

|                 |                              |
|-----------------|------------------------------|
| Ms Connie SZETO | Chief Council Secretary (1)4 |
|-----------------|------------------------------|

**Staff in attendance:**

|                 |                                   |
|-----------------|-----------------------------------|
| Miss Sharon LO  | Senior Council Secretary (1)9     |
| Miss Judy YEE   | Council Secretary (1)1            |
| Ms Alice CHEUNG | Senior Legislative Assistant (1)1 |

Miss Yannes HO  
Ms Haley CHEUNG

Legislative Assistant (1)7  
Legislative Assistant (1)10

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The Chairman drew members' attention to the information paper ECI(2018-19)13, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the seven items on the agenda. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the item under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

**EC(2018-19)17      Proposed creation of two permanent posts of Principal Government Counsel (D3), one each in the Civil Division and the Law Drafting Division of the Department of Justice with immediate effect upon approval by the Finance Committee to better cope with the substantial increase in workload arising from the existing and new initiatives in the two Divisions**

2.      The Chairman remarked that the staffing proposal was to create two permanent posts of Principal Government Counsel ("PGC") (D3), one each in the Civil Division ("CD") and the Law Drafting Division ("LDD") of the Department of Justice ("DoJ") with immediate effect upon approval by the Finance Committee ("FC") to better cope with the substantial increase in workload arising from the existing and new initiatives in the two Divisions.

3.      The Chairman pointed out that the Administration had consulted the Panel on Administration of Justice and Legal Services on this staffing proposal on 28 May 2018. At the meeting of the Panel, members noted the increasing volume and complexity of the work of CD, and in general supported the staffing proposal. Some members urged the Administration to further review the manpower needs of CD and the briefing out of civil cases. Regarding the creation of the proposed post in LDD, members noted the increasing volume and complexity of the law drafting work, and in general supported the staffing proposal. Furthermore, some members suggested that the Hong Kong e-Legislation ("HKeL") should be made more user-friendly and urged LDD to improve law drafting with a view to making the Chinese and English texts lucid and readable. The Panel

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supported the Administration's submission of the staffing proposal to the Establishment Subcommittee for consideration.

Proposed creation of a permanent Principal Government Counsel post in the Law Drafting Division

*Efficiency and transparency of legislative drafting work*

4. Mr WONG Ting-kwong, Dr CHIANG Lai-wan, Mr CHU Hoi-dick, Dr KWOK Ka-ki and Dr Fernando CHEUNG agreed that it was necessary to raise the efficiency law drafting work in response to the latest changes in society. Mr WONG and Dr CHIANG said that they and the Democratic Alliance for the Betterment and Progress of Hong Kong, which they were affiliated to, supported the staffing proposal. Mr WONG pointed out that some legislative exercises had been considered and supported by relevant Panels, yet some major law drafting work had been delayed or could not commence due to the heavy workload of LDD. He asked how the proposed post could enhance the efficiency of the law drafting work and whether consideration would be given to recruiting additional manpower at other ranks in order to expedite the law drafting work. Dr CHIANG suggested that LDD should enhance communication with Members in order to understand their views on prioritizing various law drafting work.

5. Law Draftsman of DoJ ("LD") and Director of Administration and Development of DoJ ("DAD") said that the creation of the proposed post would relieve the supervisory responsibilities of each Deputy Law Draftsman ("DLD") (i.e. the proposed post and the existing two DLD) by reducing the number of drafting teams under the supervision of each of the two existing DLD from six to four and so bring the supervision ratios of DLD and other counsel at Deputy Principal Government Counsel ("DPGC") level and below to a more reasonable level. Furthermore, more supervision and guidance could then be provided to drafting counsel to facilitate their daily work and develop their drafting skills, thereby further enhancing the efficiency of the law drafting work. LD added that in addition to creating the proposed post, LDD had recently completed an exercise for recruitment of Temporary Government Counsel ("GC") and Temporary Legislative Drafting Associate in order to cope with the increasing volume and complexity of law drafting work with increased resources.

6. Mr CHU Hoi-dick pointed out that both the Home Affairs Bureau ("HAB") and the relevant District Council had agreed to amend the Pleasure Grounds Regulation (Cap. 132BC) to alleviate the existing noise

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issues caused by users of Tuen Mun Park. Although the legislative amendment exercise was relatively straight-forward, HAB had subsequently said that the drafting work of the legislative amendments had yet to be completed due to the heavy workload of LDD. He enquired about the progress of the relevant law drafting work and how LDD prioritized different legislative amendment initiatives.

7. LD responded that law drafting or legislative amendment would usually commence after the Committee on Legislative Priorities had included a relevant bill in the Government's legislative programme. LDD would then proceed with the law drafting work in accordance with the priorities set out by the Committee. As whether the progress of any legislative initiatives would be disclosed was a decision to be made by the relevant bureau, she declined to comment on the progress of the legislative amendment initiative mentioned by Mr CHU Hoi-dick. DAD supplemented that the progress of law drafting work and whether such progress would be disclosed was up to the relevant bureau to decide. Members might refer to DoJ's Controlling Officers Report for detailed information on completed law drafting initiatives.

8. Dr KWOK Ka-ki remarked that as proposed by the Administration, the statutory maternity leave would be extended from 10 to 14 weeks. However, according to the Government, amendments in relation to the Employment Ordinance (Cap. 57) were complicated, and it was expected that the initiative would not be implemented until 2022. He questioned that excessively long time had been spent on the legislative amendment initiative, and expressed concern about whether LDD had sufficient resources to complete the task on time.

9. LD confirmed that LDD had recently been tasked to amend the legislation for extension of the statutory maternity leave. LDD had sufficient resources to complete the task within the legislative timetable. However, the timetable for implementing the extended statutory maternity leave would be decided by the Administration.

10. Dr Fernando CHEUNG pointed out that the Government had hardly addressed the aspirations of the society by legislation or legislative amendments in recent years. A case in point was the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613), which had not been amended for many years. Furthermore, he had suggested earlier on that permission should be given for the cremation of stillborn fetuses of less than 24 weeks' gestation, and had submitted to LDD a draft Member's Bill for its examination. Eventually, the Administration decided against

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the introduction of legislative amendments; instead permission was granted for cremation of stillborn fetuses through administrative means. Dr CHEUNG questioned if LDD really had such a heavy workload and whether there was a pressing need for the creation of the proposed post.

11. The Chairman remarked that LDD was only responsible for reviewing the format of the draft of Member's Bill, and had no further substantive duties. She asked how the creation of the proposed post could improve the work of examining the draft of Member's Bill and whether such examination work had to be completed within a specific time.

12. In response, LD and Deputy Law Draftsman I of DoJ remarked that LDD's responsibility was to examine the draft bills (including the Chinese and English texts) proposed by Members to ensure that they conformed to both the form of bills according to the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region ("RoP") and the general form of Hong Kong Legislation, and LD would issue a certificate for that purpose. LDD had always accorded priority to examining the format of draft Member's Bill. Generally, LDD would be able to advise Members on the format within a pledged timeframe (i.e. within 28 days upon receipt of Members' draft bills). More time would be needed for such examination if Members introduced further amendments to their drafts bills, or if the bill was complex in nature. LDD anticipated that the proposed post could help share out the workload within LDD, and would continue to give priority to the examination of draft Member's Bill.

13. In response to the enquiry of Dr Fernando CHEUNG on LDD's workload in recent years, LD said that the LDD had a heavy workload in 2018 and had completed a number of law drafting initiatives. So far, 28 bills (involving 2 391 pages) and 263 pieces of subsidiary legislation (involving 7 025 pages) had been gazetted. Among the bills gazetted, the numbers of bills with 100 or more pages (including two bills and eight pieces of subsidiary legislation) and bills with 200 or more pages (including one bill and one piece of subsidiary legislation) had increased, which were higher than the average numbers over the past 10 years. DAD emphasized that submission of legislative proposals was the decision of the relevant bureaux.

14. Mr CHUNG Kwok-pan expressed support for this staffing proposal. He asked if priority would be accorded to two major legislative initiatives, namely the establishment of a Trade Single Window ("SW") and the introduction of a statutory corporate rescue procedure after the creation of the proposed post. He also enquired about the current progress of these

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two legislative initiatives.

15. In response, LD said that the proposed post was created to cope with the overall increasing volume and complexity of the legislative work of LDD. The proposed post would share out the workload of the existing two DLD, in addition to handling individual legislative initiatives. Furthermore, LDD had to carry out its law drafting work according to the priority set out by the Administration. She advised that the law drafting work for "SW" and statutory corporate rescue procedure had commenced. For "SW", LDD had to draft a new bill, amend some 40 pieces of existing legislation as well as review and customize any local and overseas legislation that may be of referential value. "SW" would be implemented in phases; given the progress of the current legislative work, it was expected that Phase 3 (the final phase) could be rolled out in 2023 the earliest. Regarding the introduction of a new statutory corporate rescue procedure, the relevant bill would provide for relevant procedural details and deal with complex issues. That was an enormous drafting exercise of high complexity, and LDD would need to devote substantial resources to it in order to deal with relevant work properly.

16. Mr CHU Hoi-dick said that he would support the creation of the proposed post if LDD undertook to increase the transparency of the law drafting work (including the disclosure of ongoing law drafting exercises) to better inform Members on the progress of the relevant work. Mr CHU also requested that, in response to members' concerns about increasing the transparency of the law drafting work, arrangement should be made for relevant officials to attend the meeting when FC examined the staffing proposal.

17. LD said that, DoJ, being a legal adviser to the Government, could only confirm the legislative exercises or law drafting work that had been promulgated by the Government.

*Manpower position of the Law Drafting Division*

18. Dr CHIANG Lai-wan enquired about the increase in workload in LDD in recent years and whether the Division had strengthened its manpower accordingly. Mr Holden CHOW raised similar questions. DAD responded that over the past 10 years, the number of pages of legislation gazetted had increased by 63% from 5 252 in 2016 to 8 570 in 2017. LDD had made corresponding adjustment to its manpower. The establishment of counsel posts increased from 19 in 1982 to 48 in 2018, but the establishment of PGC rank had not been expanded since 1982.

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*On-the-job training for the Law Drafting Division officers*

19. Mr CHAN Chun-ying noted that provision of on-the-job training to legislative counsels by more experienced government counsels was the primary means of professional development for law drafting professionals. He enquired whether such on-the-job training had been affected as a result of the increasing workload of LDD.

20. LD reiterated that the proposed post could reduce the supervisory responsibilities of the existing two DLD to bring the supervision ratios of DLD and other counsels at DPGC level and below to a more reasonable level, and provide more supervision and guidance to drafting counsels to facilitate their daily work and develop their drafting skills.

*Quality of the Chinese text of legislation*

21. Mr CHAN Chun-ying remarked that, while scrutinizing bills, LegCo's Bills Committees often had readability issues with the Chinese text. He asked how LDD would improve the quality of the Chinese text when drafting the Chinese version of legislation.

22. LD pointed out that DLD received a large number of draft copies, which they had to work on in a practical manner. First and foremost, priority would be given to ensuring that the draft copies effectively reflected the policy intent, and that there were no ambiguities in both the Chinese and the English text. Only then would efforts be made to ensure, as far as possible, the drafts were clear and readable. She emphasized that LDD would continue to perfect the law drafting work and review the structure and content of draft legislation with a view to refining the text for improved clarity and comprehensibility. She expected that the proposed post could share out the workload on refining draft legislation, particularly on the Chinese text.

*Briefing out legislative drafting work*

23. In response to the enquiry made by Mr WONG Ting-kwong on whether LDD had briefed out any legislative drafting work, LD and DAD said that the Division had an annual budget of around \$3.5 million for briefing out legal work. However, legislative drafting was highly specialized and most of the professionals in the field were already working for LDD. Therefore, the budget was only for backup purposes. The Division endeavoured to take up all legislative drafting work without



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briefing it out as far as possible.

Creation of a proposed Principal Government Counsel post in the Civil Division

*Manpower for handling non-refoulement claim cases*

24. Mr CHUNG Kwok-pan noted that additional posts of SGC and GC created in CD over the past decade mainly dealt with the rapid growth of immigration-related cases, in particular right of abode litigation and more recently non-refoulement claims. He asked how the creation of the proposed post could expedite the handling of non-refoulement claim cases and relevant judicial review ("JR") cases and the estimated timeframe for dealing with all such cases. Dr CHIANG Lai-wan expressed support for the creation of the proposed post to expedite the handling of non-refoulement claim cases and relevant JR cases.

25. In response, Deputy Law Officer of DoJ ("DLO") (Civil Litigation) said that since the implementation of the Unified Screening Mechanism ("USM") by Security Bureau in March 2014, the number of non-refoulement claim applicants had increased substantially. The Security Bureau commenced a comprehensive review of the strategy of handling non-refoulement claims ("comprehensive review") in 2016 and launched a series of measures covering four major areas including pre-arrival control, screening procedures, detention and enforcement to address the USM issues. Currently, Team 4 under Civil Litigation Unit ("CLU") was responsible for handling USM-related immigration cases, most of which were non-refoulement claim cases and relevant JR cases. Subsequent to the creation of the proposed post, the existing PGC in CLU would head CLU 2 comprising Team 2 (public law and statutory tribunals) and Team 4, supervising GC Grade officers responsible for handling cases, as well as undertaking overall management duties in CLU. The proposed post would be heading and supervising the newly-established CLU 1 which comprised three teams, namely Team 1 (personal injuries and professional disciplinary proceedings), Team 3 (commercial litigation) and Team 5 (the miscellaneous claims and costs). Under the new structure of CLU, Team 4 could focus on handling non-refoulement claim cases. He said that as of October 2018, there were more than 1 000 outstanding non-refoulement claim cases in the Immigration Department ("ImmD"); while the number of cases had significantly dropped when compared with that at peak season, at present there were still over 6 000 outstanding relevant JR cases.

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26. Mr YIU Si-wing noted a decreasing number of non-refoulement claim cases in the past two years subsequent to the comprehensive review launched by the Security Bureau. Mr YIU asked, in considering the creation of the proposed post, whether possible changes in the workload in the future had been taken into account.

27. Given the decreasing number of non-refoulement claim cases, Dr Fernando CHEUNG queried whether the proposal for creation of the post for handling such cases was appropriate. Dr CHEUNG remained unconvinced of DoJ's justification that the creation of the proposed post was necessary due to a significant increase in leave applications for JR filed with the Court in 2017, among them 88% was related to non-refoulement claims. Dr KWOK Ka-ki enquired whether CLU would follow the Government's practice of addressing temporary manpower needs by creating a supernumerary PGC post on a non-permanent basis.

28. DLO (Civil Litigation) remarked that CLU would assess the internal workload every year to identify areas where additional manpower were required and deploy manpower correspondingly to cope with operational needs. He and Acting Deputy Law Officer (Civil Law) (Advisory) of DoJ pointed out that while the advance work relating to non-refoulement claim cases had been simplified subsequent to the comprehensive review, CLU remained responsible for litigations at the later stage, including JRs arising from those cases. On the other hand, CLU also had to handle JRs of different levels of complexity on bureaux/departments or policies initiated by members of the public. From 2012 to 2017, the number of ongoing JR cases undertaken by CD each year had substantially gone up by 62% from 557 cases in 2012 to 903 cases in 2017. In 2018, the number of ongoing JR cases being undertaken rose to over 1 300, many of which were unrelated to non-refoulement claims. Furthermore, CLU had to work with ImmD to handle more than 6 000 JR cases relating to non-refoulement claims. Therefore, it was anticipated that the overall volume of work, including workload arising from non-refoulement claims and other immigration-related cases, would remain high in the future, which called for creation of the proposed post on a permanent basis.

*Manpower needs for handling other civil litigations*

29. Mr Tony TSE noted that the overall workload of CD had increased significantly over the past 20 years, and expressed support for creating the proposed post to handle relevant work. He asked whether any benchmark was in place for CD to review its manpower needs, and the average time

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needed for processing a civil litigation case at present.

30. In response, DLO (Civil Litigation) pointed out that, as JR cases involved courts of different levels (e.g. Court of First Instance and Court of Appeal of the High Court and the Court of Final Appeal), it could take two to three years from listing to completing an appeal case. As the time required to process such cases depended on the nature and complexity of the case, it was difficult for CD to estimate the time required to process individual civil litigation cases. DAD said that DoJ would set out its service pledge in the Controlling Officers Report on Estimates of Expenditure every year against which manpower arrangements would be made.

31. In response to an enquiry made by Dr KWOK Ka-ki on the impact on the workload of Team 1 (personal injuries and medical disciplinary cases) under CLU upon passage of the amended Medical Registration Ordinance (Cap. 161), DLO (Civil Litigation) said that the relevant amendments had been passed and came into effect in April 2018 to improve the complaint investigation and disciplinary inquiry mechanism of the Medical Council of Hong Kong ("MCHK"). He pointed out that in order to cope with the anticipated growing number of cases, legal support for MCHK had been enhanced so that MCHK could appoint more than one legal advisor. On the other hand, MCHK had increased manpower and the number of council members to handle medical-related disciplinary cases.

32. Dr Fernando CHEUNG opined that the increased volume of work in CLU was mainly undertaken by officers at the GC Grade. As such, increased manpower should be provided at junior GC Grades for CLU instead of creating the proposed GC post at the directorate grade.

33. DAD pointed out that the establishment of GC Grade at DPGC rank and below in CLU had increased by 93% over the past 10 years from 42 in 2008 to 81 in 2018. Given that SGC and GC posts were not directorate posts, approval from the Establishment Committee was not required for creation of such posts. However, the establishment of having one PGC had remained unchanged since 1988. Considering the increase in the number of GC Grade officers at DPGC rank and below under the supervision of PGC, as well as the substantial volume and complexity of the cases that needed to be handled, it was necessary to create the proposed post to take up corresponding supervisory duties.

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*Internal division of work in Civil Litigation Unit*

34. Mr CHAN Chun-ying said that the number of cases handled by CD had increased significantly by three times over the past 20 years and the accumulated number of ongoing litigation cases was high. Therefore, he expressed support for the creation of the proposed post. Given that CD had to advise on civil law issues for Government's bureaux and departments which involved a wide array of policy areas, Mr CHAN enquired about the division of work among the four units under the Division, namely the Advisory Unit ("AU"); Commercial Unit; CLU and Planning, Environment, Lands & Housing Unit.

35. DLO (Civil Litigation) said that if advice had been given on an ongoing case by one Unit in the Division in the past, the Unit currently responsible for the case would consult the legal advice previously given to ensure the consistency of legal advice offered by CD.

36. Mr CHU Hoi-dick enquired about the division of work among the five teams under CLU and the relevant manpower deployment for handling the ongoing 36 778 civil litigation cases in 2017 as set out in Annex 1 subsequent to the creation of the proposed post. Mr AU Nok-hin raised a similar question.

37. Acting DLO (Advisory) said that as the degree of complexity of individual civil litigation cases varied, work distribution among the five teams in CLU was unrelated to the number of outstanding cases. As such, a breakdown on the workload of the CLU by team was not available. Currently, there were over 30 000 ongoing civil litigation cases, which fell within the portfolio of all five teams. She added that subsequent to the creation of the proposed post, about 35 of the 81 GC Grade officers in CLU would be deployed to CLU 1 under the supervision of the proposed post, taking up the work of Teams 1, 3 and 5. The remaining 46 officers would be working in CLU 2 and undertaking the work of Teams 2 and 4.

38. Mr CHU Hoi-dick and Mr AU Nok-hin requested the Administration to provide the following supplementary information before the staffing proposal was considered by FC: (1) the respective numbers of new cases among the ongoing civil litigation cases handled by CD each year from 1998 to 2017; and (2) subsequent to the creation of the proposed post, how it could ensure even and fair distribution of work between the two CLUs (comprising a total of five teams) under CD, the estimated workload for each of the five teams (including the number of cases handled by each team) and the nature of their work.

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(*Post-meeting note:* The Chinese and the English version of the supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC42/18-19(01) on 2 January 2019.)

*Briefing out of cases by Civil Litigation Unit*

39. Mr CHU Hoi-dick asked, among the 1 146 applications filed with the Court of First Instance of the High Court for leave to apply for JR in 2017, how many were handled by CLU and briefed out respectively. Mr AU Nok-hin asked a similar question, and pointed out that information on the number of cases briefed out would help Members to judge whether the practice of briefing out cases was fair and whether it could relieve the workload of CLU.

40. Acting DLO (Advisory) responded that the majority of the JR cases were handled by DoJ. As briefing out cases involved the use of public monies, DoJ would adhere to the principle that unless processing the cases would involve conflicts of interests, a high degree of complexity, or external barristers with relevant experience were available, all cases should be handled by DoJ. Even for civil litigation cases which had been briefed out, preparatory work in the early stage such as preparation of court documents and seeking instructions remained the responsibility of officers of the relevant units in CD.

41. In response to the request of Mr CHU Hoi-dick, DAD undertook to provide supplementary information regarding the briefing out of cases by CLU, i.e. setting out the respective numbers of new applications filed with the Court of First Instance of the High Court for leave to apply for JR handled by CD and those involving briefed out counsel from 2012 to 2017.

(*Post-meeting note:* The Chinese and the English version of the supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC42/18-19(01) on 2 January 2019.)

*Ambit of Civil Litigation Unit*

42. Mr CHAN Chun-ying noted that CLU was responsible for taking up the ad hoc work arising from Commissions of Inquiry ("COI") appointed by the Chief Executive in Council pursuant to the Commissions of Inquiry Ordinance (Cap. 86) and providing legal support to

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bureaux/departments in proceedings before COIs. He asked whether the proposed post would be responsible for the legal issues arising from the investigation report by the COI in relation to the construction works at Hung Hom Station Extension under the Shatin to Central Link project after the report was released.

43. DLO (Civil Litigation) remarked that the proposed post would provide legal advice to the Administration after the CIO on the Shatin to Central Link project announced its investigation results. However, the post was created to cope with the increasing workload of CLU rather than dealing with individual tasks.

44. Dr KWOK Ka-ki opined that in recent years, when handling cases relating to human rights and civil rights, DoJ had failed to protect the human rights and civil rights which members of the public were entitled to under the Basic Law. For example, the High Court had held earlier on that it was unlawful and unconstitutional for the Administration Wing to restrict public access to the East Wing Forecourt of the Central Government Offices (i.e. the Civic Square) in 2014. DoJ, nevertheless, continued to lodge an appeal against the Judgment. Dr KWOK asked if CLU had any political consideration when advising the Government on legal issues.

45. Acting DLO (Advisory) responded that CLU was responsible for giving legal advice to the Administration and representing the Government (including bureaux/departments) before courts and statutory boards/tribunals as well as in arbitration and mediation. When discharging the aforesaid duties, CLU would comply with the code of conduct for the legal profession and provide legal support and advices based on legal principles, facts of the case, evidence, economic effectiveness, public interests and instructions of relevant bureaux/departments. DoJ would lodge an appeal if clarification on points of law regarding the court's decisions was needed. On the other hand, taking into consideration principles of law and facts of the case, DoJ might also advise the Administration to go for a settlement. DAD supplemented that the duties of DoJ included ensuring that any proposals made by the Government would comply with the Basic Law, the Hong Kong Bill of Rights and relevant Hong Kong Legislation.

46. Mr CHU Hoi-dick asked whether the ambit of AU under CD included providing legal advices to Returning Officers on electoral matters.

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47. Acting DLO (Advisory) remarked that AU under CD would advise government bureaux and departments on civil law issues of a general nature in relation to their discharge of duties and exercising discretionary power and other powers, while CLU would represent the Government in various litigations. The Legal Policy Division of DoJ would give advice on electoral matters, and actions relating to electoral matters would be dealt with by CLU under CD.

A motion proposed by a member under paragraph 31A of the Establishment Subcommittee Procedure

48. At 10:23 am, the Chairman advised that she had received a proposed **motion** to be moved by Mr CHU Hoi-dick under paragraph 31A of the Establishment Subcommittee Procedure. She advised that, after examining the proposed motion, she was of the view that it was directly related to the agenda item under discussion. The Chairman put to vote the question that Mr CHU's proposed motion be proceeded. At the request of Dr LO Wai-kwok, the Chairman ordered a division, and the division bell rang for five minutes. Eight members voted for and 16 voted against the question. The Chairman declared that the question was negatived. The votes of individual members were as follows:

*For*

|                    |                 |
|--------------------|-----------------|
| Mr CHAN Chi-chuen  | Dr KWOK Ka-ki   |
| Dr Fernando CHEUNG | Mr Alvin YEUNG  |
| Mr CHU Hoi-dick    | Mr SHIU Ka-chun |
| Mr Jeremy TAM      | Mr AU Nok-hin   |
| (8 members)        |                 |

*Against*

|                       |                   |
|-----------------------|-------------------|
| Mr WONG Ting-kwong    | Mr WONG Kwok-kin  |
| Mr Steven HO          | Mr YIU Si-wing    |
| Mr Christopher CHEUNG | Dr Elizabeth QUAT |
| Mr POON Siu-ping      | Dr CHIANG Lai-wan |
| Dr LO Wai-kwok        | Mr CHUNG Kwok-pan |
| Mr HO Kai-ming        | Mr Holden CHOW    |
| Mr SHIU Ka-fai        | Ms YUNG Hoi-yan   |
| Mr CHAN Chun-ying     | Mr Tony TSE       |
| (16 members)          |                   |

*(At 10:25 am, the Chairman asked if members agreed to extend the meeting by 15 minutes to complete the voting on Mr CHU Hoi-dick's proposed motion and to put the item to vote. No members raised any objection.)*

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Voting on the item

49. The Chairman put the item EC(2018-19)17 to vote. At the request of Mr CHU Hoi-dick, the Chairman ordered a division, and the division bell rang for five minutes. Twenty one members voted for the item and six against the item. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. The votes of individual members were as follows:

*For*

|                       |                   |
|-----------------------|-------------------|
| Mr WONG Ting-kwong    | Mr WONG Kwok-kin  |
| Mr Steven HO          | Mr YIU Si-wing    |
| Dr KWOK Ka-ki         | Mr KWOK Wai-keung |
| Mr Christopher CHEUNG | Dr Elizabeth QUAT |
| Mr POON Siu-ping      | Dr CHIANG Lai-wan |
| Dr LO Wai-kwok        | Mr CHUNG Kwok-pan |
| Mr Alvin YEUNG        | Mr HO Kai-ming    |
| Mr Holden CHOW        | Mr SHIU Ka-fai    |
| Ms YUNG Hoi-yan       | Mr CHAN Chun-ying |
| Mr Jeremy TAM         | Mr Vincent CHENG  |
| Mr Tony TSE           |                   |
| (21 members)          |                   |

*Against*

|                    |                   |
|--------------------|-------------------|
| Mr WU Chi-wai      | Mr CHAN Chi-chuen |
| Dr Fernando CHEUNG | Mr CHU Hoi-dick   |
| Mr SHIU Ka-chun    | Mr AU Nok-hin     |
| (6 members)        |                   |

50. Dr KWOK Ka-ki requested that the item be voted on separately at the relevant FC meeting.

51. There being no other business, the meeting ended at 10:35 am.