

LCQ9: Appointment of the Director of Public Prosecutions

Following is a question by the Hon Dennis Kwok and a written reply by the Secretary for Justice, Ms Teresa Cheng, SC, in the Legislative Council today (January 30):

Question:

The Government announced by a notice published in the Gazette on December 29, 2017 that the Chief Executive (CE) had, on the same date, appointed a Principal Government Counsel of the Department of Justice (DoJ) as the Director of Public Prosecutions (DPP) (with the following remark in the notice: Acting as Law Officer). Later on, the Government announced by a notice published in the Gazette on January 11, 2019 that CE had appointed the said person as DPP on June 29, 2018. Regarding the appointment of DPP, will the Government inform this Council:

- (1) of the criteria and procedure for the selection of DPP by DoJ;
- (2) as the aforesaid person was officially promoted to DPP on June 29, 2018, of the reasons why not until more than half a year later (i.e. January 11, 2019) did the Government publish the appointment concerned in the Gazette; and
- (3) of the respective durations of the acting appointments (if any) in respect of the successive DPPs since July 1, 1997?

Reply:

President,

In consultation with the Civil Service Bureau (CSB), the consolidated reply is set out as follows:

(1) The selection criteria for the Director of Public Prosecutions (DPP) included professional competence, integrity, knowledge and experience in criminal law and prosecution work, judgement, leadership, communication skills and vision, etc. Following the established appointment procedures for civil servants, the selection procedures comprised setting up a selection board and formulating the selection criteria, etc. Moreover, the Public Service Commission (PSC) was consulted on the recommendations put forward by the selection board as required.

(2) Mr David Leung, SC, was appointed as DPP after the conduct of a promotion-cum-open recruitment exercise in late 2017. The appointment was announced and gazetted on December 29, 2017, and Mr Leung commenced acting as DPP for six months from the same date. Following the completion of the acting period and relevant administrative procedures on appointments in the civil service, the CSB approved in late December 2018 Mr Leung's promotion to

Law Officer (Directorate (Legal) Pay Scale 6) with effect from June 29, 2018 (i.e. completing an acting period of six months). The arrangement was subsequently gazetted on January 11, 2019.

(3) Officers recommended for promotion to Head of Department (HoD) ranks through internal promotion are normally required to go through an acting process before substantive promotion, so as to ensure that they are fully competent of discharging the duties and responsibilities at HoD level. Recommendations on promotion to HoD ranks including acting arrangements are made by promotion boards having regard to all relevant factors and approved by the CSB as the appointment authority taking into account the advice tendered by the PSC.

Apart from promotion, open recruitment exercises were also conducted concurrently in the past to identify suitable candidates for the post of DPP. Where a person is recommended through an open recruitment exercise, acting arrangement does not apply.

Since July 1, 1997, a total of three DPPs, namely Mr Ian Charles McWalters, SC, Mr Kevin Paul Zervos, SC, and Mr David Leung, SC, were substantively promoted after acting for three or six months. Besides, Mr Grenville Cross, SC, was directly and substantively promoted when succeeding as DPP in October 1997. Moreover, Mr Keith Yeung, SC, was appointed as DPP in September 2013 after an open recruitment exercise, in which case the acting arrangement did not apply.

As recruitment and promotion involve different arrangements and procedures, it is inappropriate to compare the respective durations of the acting appointments in respect of the DPPs.