

Standing Committee on Standards and Development

2016



THE
LAW SOCIETY
OF HONG KONG
香港律師會

The Standing Committee on Standards and Development is responsible for establishing standards and rules and formulating policies on the education, training and regulation of solicitors, and on their conduct and practice management.

The Standing Committee convened 10 meetings to oversee the activities of the Department of Standards and Development, and to consider recommendations of the Committees and Working Parties under its umbrella.

Legislative Amendments

The Standing Committee considers amendments to the *Legal Practitioners Ordinance* Cap. 159 (“*LPO*”) and its subsidiary legislation, *The Law Society’s Practice Directions* (“*PD*”), *Information Packages* and *The Hong Kong Solicitors’ Guide to Professional Conduct, third edition, Volume 1* (“*Conduct Guide*”).

The following legislative amendments were made or introduced during the year:

LPO

***Solicitors’ Practice Rules* Cap. 159H (“*SPR*”)**

***Foreign Lawyers Practice Rules* Cap. 159R (“*FLPR*”)**

***Limited Liability Partnerships (Top-up Insurance) Rules* Cap. 159AL (“*LLP Insurance Rules*”)**

***Summary Disposal of Complaints (Solicitors) Rules* Cap. 159AI (“*Summary Rules*”)**

Amendments were made to the *LPO* on 1 March allowing law firms to operate as a limited liability partnership (“*LLP*”). If a firm operates as a *LLP* pursuant to the *LPO*, partners will not be personally liable for the negligent or wrongful acts or omissions or misconduct of another partner or of an employee, agent or representative of the firm. However, each partner is personally liable for his or her own default, and for the defaults of those employees, agents or representatives under his or her direct supervision in respect of a particular matter. Incidental amendments were made to the *SPR*, the *FLPR* and the *Summary Rules*. The *LLP Insurance Rules* were introduced to provide for the requirements on top-up insurance cover for *LLPs*.

***Trainee Solicitors Rules* Cap. 159J (“*TS Rules*”)**

Rule 14 of the *TS Rules* was amended on 3 May to include The Chinese University of Hong Kong (“*CUHK*”) as one of the institutions whose certificates can be regarded as sufficient evidence as to whether a candidate has passed or failed an examination.

***Solicitors’ Accounts Rules* Cap. 159F (“*SAR*”)**

***Accountant’s Report Rules* Cap. 159A (“*AR Rules*”)**

***Solicitors (Professional Indemnity) Rules* Cap. 159M (“*PIS Rules*”)**

SPR

FLPR

Amendments to the *SAR*, incidental amendments to the *AR Rules*, the *PIS Rules*, the *SPR* and the *FLPR* came into effect on 1 July.

The major amendments to *the SAR* are summarised as follows:-

- (a) A new rule was inserted to list out the principles which must be observed by a solicitor in relation to handling client's money, for example, the solicitor must use the client's money for that client's matters only; the solicitor must keep proper accounting records to show accurately the position with regard to the money held for each client and each trust.
- (b) Clarification was made to the reference to "a bank" in the definition of "client account" so that the bank would refer to "a bank located and licensed in Hong Kong". The amendment therefore removed any ambiguity as to whether a client account could be maintained with an overseas branch of a bank licensed in Hong Kong. A provision was inserted to empower the Council to waive this requirement upon a prior written application being made by a law firm.
- (c) A solicitor may receive a cheque or bank draft that includes partly client's money. Rule 5 provides that if the solicitor decides not to split the cheque or draft, he has to pay it into a client account. Rule 5(b) was amended to provide expressly what a solicitor should do with the part of a payment which is not client's money upon deciding not to split the cheque or draft. Under the amendment, if the solicitor does not split the payment, he can pay the entire sum into the client account provided he shall transfer all office money out of the client account within 14 days of receipt.
- (d) The existing *PD J* on payment of interest on a client account was incorporated into rule 6A of *the SAR* with the amendment that a solicitor would only be required to account to a client the interest earned in accordance with the circumstances set out in the Schedule to *the SAR* and only if the amount of interest accrued exceeds HK\$500. In view of the prevailing low interests and the costs associated with the administration of rule 6A, the Council resolved to suspend the operation of this rule 6A with effect from 1 July until further notice.
- (e) Rule 7A allows different categories of people to authorise the drawing of money from a firm's client account. Those categories include, for instance, a certified public accountant (practising) who can be unrelated to the firm. Rule 7A was amended to require the authorization to be countersigned by a solicitor of the firm in whose name the client account is kept or by any solicitor, partner, consultant or foreign lawyer of the firm where the client account is kept in the name of the firm.
- (f) Rule 9(2) sets out the exceptions to the requirements that a solicitor shall pay client's money held or received by him into the client account. One of the exceptions deals with the payment of an agreed fee. Rule 9(2)(c) was amended to clarify that if a bill for the agreed fee had been delivered to the client, the agreed fee should be paid into the office account.
- (g) A new rule 9(2A) was added to cover the situation where a payment received by a solicitor consists of costs and disbursements which may further be divided into disbursements, incurred but not yet paid or anticipated but not yet incurred. The new rule provides that payment by a client of disbursements that are incurred but

not yet paid by the solicitor should be placed in a client account. Alternatively, it can be deposited into the office account provided that settlement of the relevant disbursements by the solicitor is made no later than the fourth working day following receipt from the client failing which the payment should be made into the client account no later than the fifth working day following receipt. Regarding payment by the client of disbursements that are anticipated but not yet incurred by the solicitor, the payment should be placed in the client account.

- (h) Rule 10(5) was amended to include reference to computerized system of book-keeping which has become a common form of book-keeping in law firms. Further, to address the concern of possible loss of data in a computerised accounting system, a new rule 10(5A) was inserted to impose a requirement for computer back-up capability.
- (i) Management accounts including monthly profit and loss accounts were added to the list of documents which the Council is empowered, under rule 11, to require a solicitor to produce for inspection.

The Manual on Solicitors' Accounting was also updated.

A series of seminars were organised to familiarise solicitors and their staff with the amendments. More than 1,850 participants attended these seminars.

Other matters

Apart from reviewing the aforementioned legislative amendments and making recommendations to the Council as appropriate, the work of the Standing Committee included the following:

Apart from reviewing the aforementioned legislative amendments and making recommendations to the Council as appropriate, the work of the Standing Committee included the following:

- (a) overseeing the administration of the *Continuing Professional Development* ("CPD") *Scheme*, the *Risk Management Education* ("RME") *Programme* and the *Overseas Lawyers Qualification Examination* ("OLQE");
- (b) approving the documentation and the logistics for the *OLQE*;
- (c) appointment of *OLQE* Examiners and reviewing their fees;
- (d) reviewing the results of the *OLQE*;
- (e) considering the applications for review under rule 9 of the *OLQE Rules*;
- (f) appointing External Examiners of the *Postgraduate Certificate in Laws* ("PCLL") *Programmes* of City University ("CityU"), CUHK, and The University of Hong Kong ("HKU");

- (g) considering the common entrance examination (“CEE”);
- (h) considering the appointment of the representative of The Law Society on the *PCLL* Academic Board of CityU and CUHK;
- (i) considering the comprehensive review on legal education and training conducted by the Standing Committee on Legal Education and Training (“SCLET”);
- (j) considering the Chinese translation of the Conduct Guide;
- (k) reviewing and amending the CPD Information Packages;
- (l) considering the application of the *Personal Data (Privacy) Ordinance* Cap. 486 to the OLQE;
- (m) considering the pilot scheme to enable law firms to accept costs on account and settlement of fees through reputable online payment operators;
- (n) considering the placement service for trainee solicitors;
- (o) reviewing the amendments to the terms of reference of the Mediator Admission Committee;
- (p) considering the notifications on the failure of law students and law firms to comply with the *Code of Good Practice in the Recruitment of Trainee Solicitors* (“*Recruitment Code*”);
- (q) considering the comments and enquiries of law firms on the *Recruitment Code*;
- (r) considering amendments to the *Foreign Lawyers Registration Rules* Cap. 159S and the *Foreign Lawyers Registration (Fees) Rules* Cap. 159U;
- (s) considering amendments to *PD D2(2)*;
- (t) reviewing the chairmanship of all Committees and working parties under the Standing Committee;
- (u) establishment of a committee to deal with enquiries arising from the revised *SAR*;
- (v) amending the Circular on the *Benchmarks for Legal Executive courses*;
- (w) reviewing the methodology for calculating the CPD points;
- (x) considering the feasibility of mutual recognition of CPD accreditation;
- (y) reviewing the fees payable by commercial course providers for accreditation of courses;

- (z) considering the appointment of a representative of The Law Society to the Law School Board of CityU, the Board of the Faculty of Law of HKU;
- (aa) considering the use of the title “Senior Solicitor”;
- (ab) reviewing the fees payable by solicitor corporations and foreign lawyer corporations;
- (ac) considering the amendments to *PD P*;
- (ad) reviewing the membership of the Legal Education Committee, the RME Accreditation Sub-committee, the OLQE Committee, the Trainee Solicitors Committee, the Foreign Lawyers Committee, the CPD Accreditation Sub-Committee, the RME Committee, the Working Party on Practising Certificate (Special Conditions) Rules;
- (ae) reviewing the *Solicitors’ Practice Promotion Code* (“*Promotion Code*”).

ANTI-MONEY LAUNDERING (“AML”) COMMITTEE

The AML Committee held three meetings.

The Committee held a meeting with the representatives of the Security Bureau in January. Valuable views were exchanged on the AML Risk Assessment Questionnaire for the Designated Non-Financial Businesses or Professions (“DNFBP”) prepared by the Security Bureau on the AML risks encountered by the legal profession. Representatives of the Security Bureau explained the statistics and quality of the suspicious transaction reports submitted by the legal profession.

The Committee reviewed *PD P* and proposed to:-

- (a) amend paragraph 43 relating to the conflict of interest between a solicitor and his client after making a suspicious transaction report;
- (b) amend paragraph 129 relating to different timeframes of submitting a suspicious transaction report;
- (c) update Annexure 6 of the standard form of a suspicious transaction report; and
- (d) update Annexure 7 of the list of the Financial Action Task Force Members and its associate Members.

The proposed amendments have been submitted to the Standing Committee for consideration. These proposed amendments will be submitted to the Council for final approval upon approval by the Standing Committee.

The Committee co-organised a seminar on AML issues with the HKSAR Government on 7 October. Mr. Michael Lintern-Smith, Chairman of the AML Committee, was a speaker at the seminar. The seminar was well attended by over 200 participants.

The Committee also held a meeting with representatives of the Security Bureau and the Financial Services and the Treasury Bureau (“FSTB”) in September. The Committee noted the FSTB’s proposal to codify the customer due diligence measures and record keeping requirements for certain DNFBPs including the legal profession with reference to Schedule 2 to the *Anti-Money Laundering and Counter-Financing of Terrorism (Financial Institutions) Ordinance* Cap. 615. The Committee will consider the draft Bill when it is available. Representatives of the Security Bureau and the FSTB also explained the AML measures taken by other professions.

THE CPD SCHEME

The *CPD Scheme* aims at providing a convenient framework for the legal profession to meet the changing demands of clients and society by updating the practitioners on legal knowledge and skills.

The Law Society and Hong Kong Academy of Law Ltd. (“Academy”) conducted a total of 388 CPD and RME courses during the year. Of the 388 courses, 13 courses were conducted in Putonghua and/or Cantonese and the remainder in English. The courses attracted an attendance of 17,356 participants.

The Law Society and the Academy are grateful to the 116 presenters who contributed by sharing their valuable experiences and expertise.

Some of the highlights of these courses are:

SAR

The *SAR* amended by the *Solicitors’ Accounts (Amendment) Rules 2012* came into effect on 1 July. The Academy conducted 12 courses (both before and after the amendments came into operation) to update practitioners and demonstrate how the revised Rules would operate in practice. The courses were open to practitioners, law firm support staff and representatives nominated by law firms. Mr. Amirali B. Nasir, Vice-President, and Monitoring Accountants of The Law Society were the speakers. Over 1,850 participants attended the courses.

Parenting Coordination (“PC”)

PC is an alternative dispute resolution process to resolve child-related issues in matrimonial disputes. The Academy conducted a 3-day training course on PC from 28 to 30 November to provide practitioners with a basic understanding of the role of parenting coordinators, the structures and procedures of PC in high conflict custody cases. The

speaker of the course was Dr. Matthew J. Sullivan, Clinical Psychologist in California, U.S.A. 39 participants attended the course.

Training on the Unified Screening Mechanism (“USM”)

The Immigration Department issued a notice on 12 September clarifying that “all applicable grounds” for non-refoulement protection in the USM include the right to life under Article 2 of *the Hong Kong Bill of Rights*. The Law Society organised a seminar on the USM on 24 November to explain the relevant law relating to the Immigration Department’s clarification. The speakers of the seminar were Professor James C. Hathaway, the James E. and Sarah A. Degan Professor of Law and Director of Program in Refugee and Asylum Law, University of Michigan and Mr. Barry Chan, Chief Immigration Officer, Removal Assessment Session of the Immigration Department of the HKSAR Government. Mr. Mark Daly, Council Member of The Law Society was the moderator. 103 participants attended the seminar.

Arbitration

A symposium entitled “*Developing Commercial Law through the Courts: Rebalancing the Relationship between the Courts and Arbitration*” (“Symposium”) was held on 17 October to discuss the development of commercial law and arbitration. The Right Honorable The Lord Phillips of Worth Matravers, KG PC, Past President of the Supreme Court of England and Wales was the keynote speaker. The other speakers of the Symposium were Mr. Ralph Ybema, Managing Director of China Law & Tax Direct Limited and Honorary Member of The Hong Kong Corporate Counsel Association; The Honorable Chief Justice Mr. Geoffrey Ma, Chief Justice of the Court of Final Appeal of Hong Kong; Mr. Christopher Tahbaz, Partner and Co-Chair of Asian Litigation of Debevoise & Plimpton. Mr. Denis Brock, Council Member and Member of the Arbitration Committee of The Law Society, was the moderator of the Symposium. 155 participants attended the Symposium.

LLP

The Academy conducted two briefing sessions on LLP on 22 January and 3 February. The seminars provided an overview of the major provisions in the new Part IIAAA of *LPO*, which introduced LLP for law firms in Hong Kong with effect from 1 March. The speakers were Mr. Joseph Li, Mr. Michael Lintern-Smith, Mr. Amirali B. Nasir, Mr. David Smyth, and Mr. Huen Wong, then Chairman and Members respectively of the Working Party on LLP, Ms. Regina Chen, Director and Head of Specialty of Financial Services Professions Group, Aon, and Ms. Fiona Stewart, Head of Claims of Aon. Over 430 participants attended the briefing sessions.

Mediation

Mediation has become one of the primary means of alternative dispute resolution in Hong Kong with *PD 31* coming into effect on 1 January 2010.

The Academy and the Mediation Committee of The Law Society conducted six free sharing sessions on mediation. Dr. Dai Lok Kwan, David, Geriatrician and Accredited

Mediator; Mr. Iu Ting Kwok, Consultant of Kwok, Ng & Chan; Mr. Lung Gwun Ting, Bryan, Consultant of So, Lung & Associates; Ms. Yip Mei Sze, Clara, Consultant of So, Lung & Associates; Ms. Cindy Fong, Mediation Consultant of the Joint Mediation Helpline Office; Mr. Sam Wei, ADR Case Manager of the Hong Kong International Arbitration Centre; Mr. Yeung Sai Man, Simon, Partner of Waller Ma Huang & Yeung and Mrs. Cecilia Wong, Council Member and Chairlady of the Mediation Committee of The Law Society, were the speakers. They shared their experiences with the participants on topics including the challenges faced by solicitor-mediators in their practice, confidentiality and settlement negotiation issues, Qianhai mediation initiative and mediation cases involving separation and divorce matters, personal injuries, medical claims and employment disputes. Over 270 participants attended the sharing sessions.

In addition, a panel of experienced solicitor-mediators conducted a seminar entitled "Risk Management in Evaluative Mediation Practice" on 18 October. Mrs. Cecilia Wong, Council Member and Chairlady of the Mediation Committee of The Law Society; Ms. Sylvia Siu, JP, Consultant, Sit, Fung, Kwong & Shum and Member of the Board of Governors of the Hong Kong Mediation Centre; Mr. Norris Yang, Partner of Zhong Lun Law Firm and Mr. Iu Ting Kwok, Consultant of Kwok, Ng & Chan, were the speakers. Over 180 participants attended the seminar.

Competition Law

The Competition Ordinance, Cap. 619 came into effect on 14 December 2015. The Academy conducted a seminar entitled "Risk Management and the New Competition Law" on 7 June. The seminar provided an update on how the competition law may have an impact on law firms' risk management procedures and clients, and practitioners' practice areas in mergers and acquisitions, IPOs and advice to industry associations. Ms. Jill Wong, Partner of Howse Williams Bowers, was the speaker. Over 175 participants attended the seminar.

A seminar entitled "*Update on the Hong Kong Competition Law*" was conducted on 25 November. The seminar provided practitioners with an overview of the Ordinance and practical tips to minimise the risk of contravening the Ordinance. Mr. Philip Monaghan, Executive Director (General Counsel) of the Competition Commission, was the speaker. 99 participants attended the seminar.

Civil Justice Reform ("CJR")

Since the implementation of CJR in April 2009, the Academy has provided regular training to update practitioners on the CJR. The Academy organised a series of free specialised training sessions on CJR in September. The series of specialised training sessions consisted of five modules covering topics such as case management, originating process and pleadings, offers to settle, evidence, trials, appeals and costs. Mr. Andrew Sheppard, Barrister-at-law; Mr. William Clarke, Consultant of Brian Kong & Company and Mr. Amirali B. Nasir, Vice-President of The Law Society, were the speakers. 880 participants attended the specialised training sessions.

Joint Courses with other Professions

The Law Society and the Academy jointly organised courses of common interest with other professions, Government departments and organisations including the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Certified Public Accountants, the Narcotics Division of the Security Bureau. Five such courses were held over the year. Topics included “*The Liberalisation and Cooperative Measures of CEPA for the Legal Service Sector in Hong Kong*”, AML, Small-and-Medium Enterprise Growth Markets under the Markets in Financial Instruments Directive (MiFID-II), insider dealing in Europe, corporate governance and listing regulatory reforms. Over 600 participants attended these courses.

Pursuant to rule 9 of the *CPD Rules* Cap. 159W (“*CPD Rules*”), 228 practitioners were granted suspension from the CPD Scheme during the year.

568 Statements of Compliance with CPD/RME requirements were reviewed. CPD audit was conducted on 513 trainee solicitors and solicitors during the year. Arising from the CPD audits, general enquiries, and reports made by practitioners on their own initiatives, 17 solicitors and 10 trainee solicitors were found to have failed to comply with the CPD Rules. All cases of default were referred to the Compliance Department to be dealt with in accordance with the Council’s sanction policy.

CPD COMMITTEE

The Committee met on one occasion during the year. Issues considered by the CPD Committee in the meeting and by paper circulation included:

- (a) review of the method of calculation of the annual CPD requirement;
- (b) feasibility of granting blanket CPD accreditation;
- (c) amendments to the 2015/16 and 2016/17 *CPD Information Packages*;
- (d) feasibility of mutual recognition of CPD courses between the Society and other jurisdictions;
- (e) the application fees payable by commercial providers for accreditation of courses;
- (f) complaints made against an online course provider;
- (g) terms of reference of the CPD Committee;
- (h) an application for retrospective accreditation of a course;
- (i) hourly rate of speakers of CPD courses;

- (j) membership of *CPD Alliance*;
- (k) applications for exemption from CPD requirements.

The Committee granted a full exemption from participation in the *CPD Scheme* to a practitioner on the ground of age and partial exemptions from participation in the *CPD Scheme* to two trainee solicitors whose term of trainee solicitor contracts had been reduced from the standard two-year period.

CPD ACCREDITATION SUB-COMITTEE

A total of 5,197 courses, compared with 5,711 courses in 2015, were accredited as CPD courses. In terms of applications, 1,205 of the 5,197 courses were accredited on a course-by-course basis and 3,604 were accredited under the *Provider Accreditation Scheme*. The remaining 388 courses were conducted by The Law Society and the Academy. In terms of course providers, 27 of the 5,197 courses were provided by The Law Society, 383 were provided by the Academy of which 304 were provided under the *RME Programme*, 553 were provided by commercial providers, and the remaining 4,234 were provided by in-house providers such as universities, professional bodies and law firms.

Apart from dealing with the applications for accreditation of courses, the Sub-Committee considered by paper circulation issues on, inter alia, the irregularities of course providers, applications for renewal of accredited provider status and accreditation of skills courses.

The Sub-Committee accredited a new provider under the *Provider Accreditation Scheme* during the year. The total number of accredited providers was 60 as at the end of the year. The Sub-Committee approved seven postgraduate or other law courses and six legal journals and books, 74 legal researches, and accredited 10 committees and working parties for the purpose of compliance with the CPD requirements during the year.

Members of the Sub-Committee continued to monitor the standard of accredited CPD courses by reviewing course evaluation records and attending selected accredited courses. 12 courses were monitored during the year.

FOREIGN LAWYERS COMMITTEE

During 2016, there were 274 OLQE applications.

The Law Society dealt with:

- (a) 153 applications for exemption from sitting all or part of the 2016 OLQE in accordance with the guidelines issued by The Law Society; and
- (b) 109 applications for eligibility to sit or re-sit the OLQE.

216 eligible candidates sat the 2016 OLQE.

The Committee reviewed and revised the guidelines for exemption from sitting Heads I to VI of the 2016 OLQE.

The Committee resolved that the meaning of “jurisdiction” in paragraph 26 of the Application Form can include the different States in Australia.

GUIDANCE COMMITTEE

The Committee met on two occasions and dealt with 6 enquiries from members and 5 referrals from other Committees or Departments within the Secretariat by paper circulation on matters relating to professional conduct. These matters included:

- (a) secondment of staff by a law firm and/or a law firm’s service company to their clients;
- (b) the meaning of “in the course of the professional practice” and the meaning of “in the course of the business” in *PD D2*;
- (c) expansion of solicitor’s practice into the work of estate agents;
- (d) scope of the *Promotion Code* to cover the use of awards as promotional tools in legal practice;
- (e) conflict of interests between multiple bidders in an auction;
- (f) referral fees payable by estate agents to the solicitors;
- (g) breach of undertaking in conveyancing transactions;
- (h) storage and destruction of files upon termination of retainer;
- (i) ownership of documents and inspection of documents by a former client;
- (j) third party funding for arbitration;
- (k) duty of confidentiality owed by a personal representative of a client after the client’s death.

LEGAL EDUCATION COMMITTEE

The Committee convened four meetings, including one Brainstorming Session and one joint meeting with the Working Party on CEE. Matters considered by the Committee in the meetings and by paper circulation included:

- (a) structure, procedures and logistics of the CEE;
- (b) enquiries raised by students on the CEE;
- (c) request for information from the consultants appointed by SCLET to conduct the comprehensive review on legal education and training;
- (d) comments by External Examiners on the marking of the *PCLL* examination papers;
- (e) amendments to the *Higher Diploma in Law and Administration* conducted by the Institute of Vocational Education;
- (f) establishment of working groups to consider the syllabus, examination procedures, logistics of the CEE;
- (g) appointment of a representative of The Law Society to the Law School Board of CityU and the Board of the Faculty of Law of HKU;
- (h) amendments to the Circular on the *Benchmarks for Legal Executive Courses*;
- (i) concerns raised by External Examiners on supplementary *PCLL* examinations;
- (j) restructure of the *PCLL* core courses at CityU;
- (k) appointment of External Examiners of CityU, CUHK and HKU;
- (l) membership of the *PCLL* Academic Board of CityU and HKU.

A sharing session with the interns of law firms was organised in July. President of The Law Society; His Honour Judge Eric Tam Lee Cheung, Deputy District Judge, District Court; Mr. Roden Tong, then Assistant Vice President, North Asia Financial Lines Claims Manager, Chubb Group of Insurance Companies and Mr. Wesley Wong S.C., Solicitor General, Legal Policy Division, Department of Justice shared their valuable experiences with summer interns and trainee solicitors. About 62 participants took part in the sharing session.

Mr. Huen Wong and Mr. Nick Chan served as representatives of The Law Society on SCLET, which met on four occasions. The Secretary of the Committee continued to serve as Secretary of SCLET and as Secretary of the Sub-Committee of the Standing Committee on English Language Proficiency.

WORKING PARTY ON CEE

Member of the Working Party conducted one Brainstorming Session and one joint meeting with the Legal Education Committee.

The Working Party considered the following at the Brainstorming Session and the joint meeting:

- (a) timeline of the implementation of the CEE;
- (b) syllabus of the CEE;
- (c) examination standard;
- (d) exemption guidelines;
- (e) examination questions;
- (f) logistics of the examination;
- (g) examination procedures such as marking, passing, resits and appeals;
- (h) costs and manpower planning.

MEDIATOR ADMISSION COMMITTEE

The Committee convened five meetings.

The Committee considered the following in the meetings and by paper circulation:

- (a) establishment of the Panel of Lawyer-Mediators in Qianhai;
- (b) establishment of a panel of parenting co-ordinators;
- (c) seminar on PC;
- (d) applications for renewal of membership on the Panels of General and Family Mediators and Family Mediation Supervisors;
- (e) training in mediation advocacy;
- (f) CPD points in mediation training;
- (g) applications for admission as general mediators;
- (h) amendments to the terms of reference of the Committee;
- (i) feasibility of Hong Kong Mediation Accreditation Association Ltd. (“HKMAAL”) accredited mediators to take additional stage 2 assessments at HKMAAL for the purpose of applying for admission to The Law Society’s Panel of Mediators;

- (j) amendments to the CPD Information Package on the CPD points awarded to assessors conducting stage 2 mediator assessments and to coaches in general or family mediation courses;
- (k) training on evaluative mediation;
- (l) complaint against a mediator.

The *Mediator Accreditation Scheme* was formally launched in August 2005. The Law Society joined HKMAAL as a Founder Member and HKMAAL commenced operation on 2 April 2013. HKMAAL resolved that all Founder Members including The Law Society should stop conducting its stage 2 mediator assessments by 15 July 2013 and accredit applicants as mediators by 15 September 2013. Thereafter, all accreditation of mediators must be conducted by HKMAAL.

The Law Society has since August 2015 implemented the *Mediator Admission Scheme (General Mediators)*.

Solicitors who were not accredited by The Law Society as General Mediators prior to September 2013 under the *Mediator Accreditation Scheme* may seek admission onto the Panel of Admitted General Mediators through the *Mediator Admission Scheme* subject to the requirements in the *Mediator Admission Scheme*. Applications are considered and approved by the Committee on a case-by-case basis.

As of the end of the year, there were 207 solicitors on the Panel of General Mediators, 45 solicitors on the Panel of Family Mediators and 11 solicitors on the Panel of Family Mediation Supervisors.

47 applications for renewal of membership on the Panel of General Mediators, five applications for renewal of membership on the Panel of Family Mediators and two applications for renewal of membership on the Panel of Family Mediation Supervisors were processed. Audit on 17 cases was conducted. 41 applications for renewal were approved.

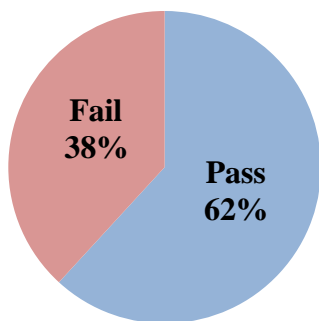
OLQE

The 22nd OLQE was held from 1 November to 19 December. A total of 209 candidates sat one or more written heads of the Examination. The 209 candidates came from 21 overseas jurisdictions, nine of which were non-common law jurisdictions. Four candidates were Hong Kong barristers.

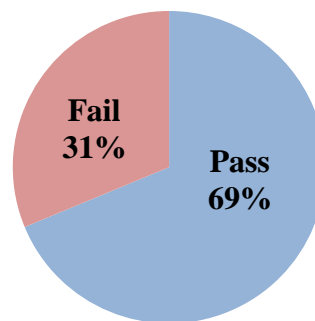
Of the 209 candidates, 109 candidates (52%) passed the Examination, having passed each of the heads that they were required to sit. 100 candidates (48%) failed the Examination, having failed one or more of the heads that they were required to sit.

Figures 1 – 6 : Examination results with respect to each head of the OLQE

*Figure 1 :
Head I – Convenancing*



*Figure 2 :
Head II - Civil and Criminal Procedure*



*Figure 3 :
Head III - Commercial and Company Law* *Figure 4 :
Head IV – Accounts and Professional Conduct*

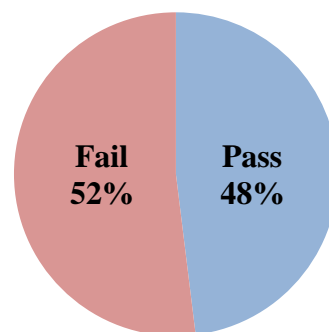
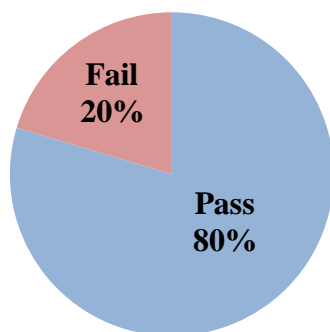


Figure 5 :
Head V – Principles of Common Law

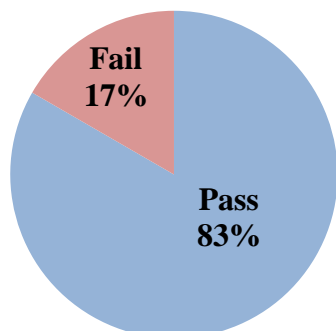


Figure 6 :
Head VI - Hong Kong Constitutional Law

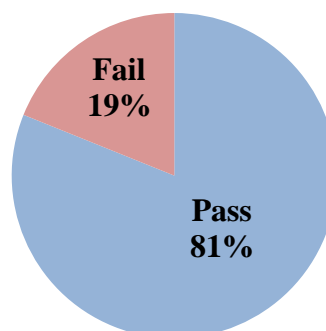
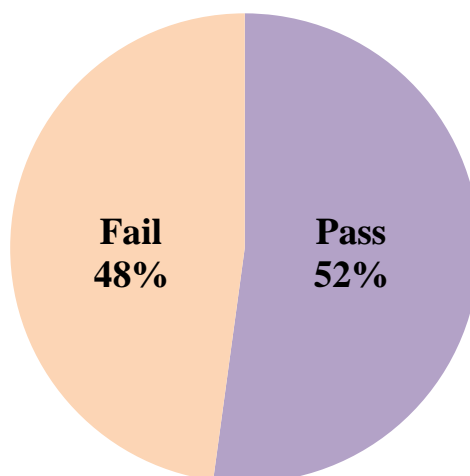


Figure 7 : Overall Examination Result

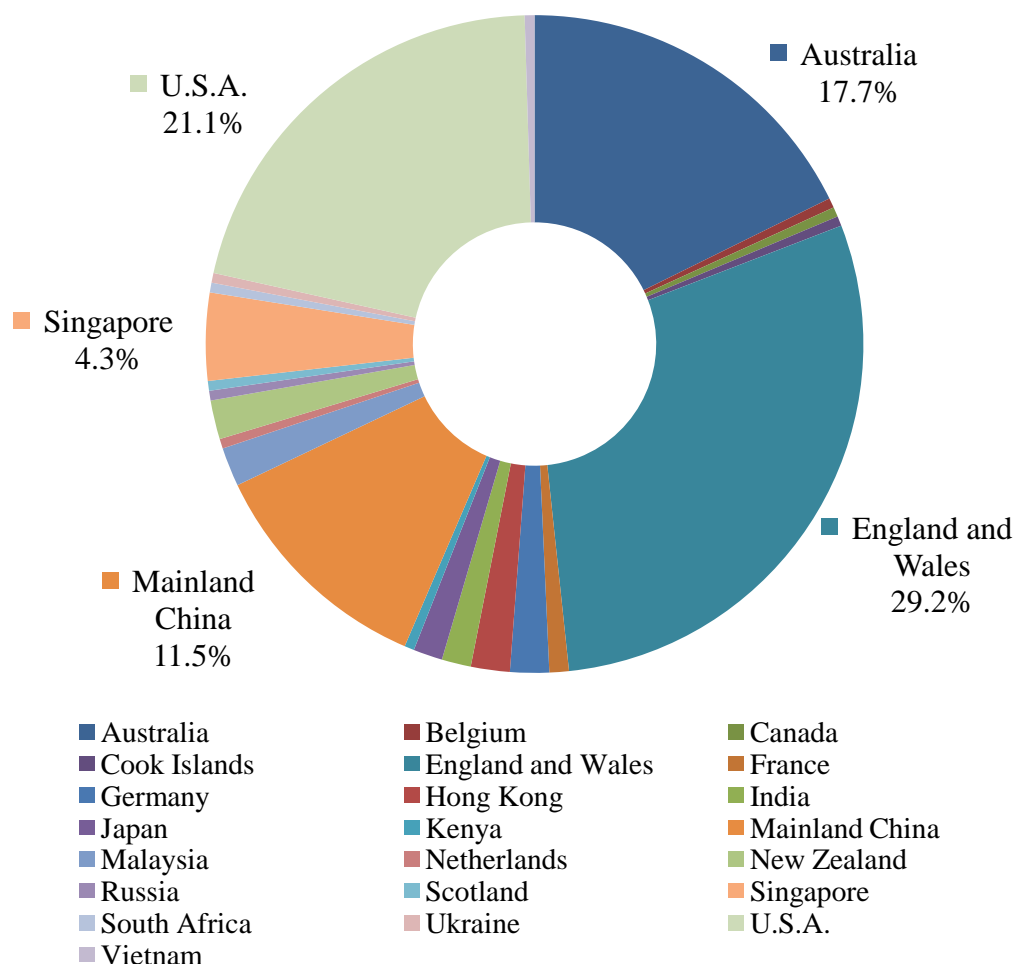


	No. of Candidates						Overall Result
	Head I	Head II	Head III	Head IV	Head V	Head VI	
Pass	115	33	43	37	5	133	109
Fail	71	15	11	40	1	31	100
Total	186	48	54	77	6	164	209

Written Heads
Oral Head

Head I – Head IV & Head VI
Head V

Figure 8: Jurisdictions of the candidates



Jurisdictions	No. of Candidates	%*	Jurisdictions	No. of Candidates	%*
Australia	37	17.7	Mainland China ¹	24	11.5
Belgium ¹	1	0.5	Malaysia	4	1.9
Canada	1	0.5	Netherlands ¹	1	0.5
Cook Islands	1	0.5	New Zealand	4	1.9
England and Wales	61	29.2	Russia ¹	1	0.5
France ¹	2	1	Scotland	1	0.5
Germany ¹	4	1.9	Singapore	9	4.3
Hong Kong ²	4	1.9	South Africa	1	0.5
India	3	1.4	Ukraine ¹	1	0.5
Japan ¹	3	1.4	U.S.A.	44	21.1
Kenya	1	0.5	Vietnam ¹	1	0.5
			Total	209	

¹ Non-common law jurisdiction

² Barrister

* The percentages have been calculated to the nearest decimal point. Therefore the aggregation of the percentages may not add up to 100%.

RME COMMITTEE

The Committee oversees the administration of the *RME Programme* which aims at raising the awareness of risk issues and promoting good risk management of legal practice.

Since its implementation in November 2004, the *RME Programme* has been in operation for over 10 years extending its application gradually to all Hong Kong solicitors practising as sole practitioners, partners, associates, consultants, trainee solicitors, and registered foreign lawyers working in Hong Kong law firms.

With the establishment of the Academy, the RME courses are all offered through the Academy.

Six Module 1A, six Module 1B, six Module 2A and six Module 2B of principals' core courses, three Module 1 and three Module 2 of non-principals' core courses, 10 Module 1 and 10 Module 2 of registered foreign lawyers' core courses, 19 Module 1 and 19 Module 2 of trainee solicitors' core courses, 19 compulsory first elective courses for trainee solicitors, and 178 elective courses were held during the year. The Committee monitored closely the evaluation of these courses by the course participants.

RME electives have since 1 November 2008 been offered free of charge to those participants who have to fulfil their RME obligations in the relevant RME practice year and who have not attended any other RME electives during that year. Free core courses have also been offered by the Academy to all trainee solicitors since 1 November 2009. Since 1 November 2014, subject to certain exceptions, all courses within the *RME Programme* have been offered free to participants.

RME courses are generally conducted in English. However, since 2010 the Academy has offered RME core courses in Putonghua to registered foreign lawyers.

The Committee convened one meeting during the year. Matters considered by the Committee in the meeting and by paper circulation included:

- (a) membership of the Committee;
- (b) progress of the review of the *RME Programme*;
- (c) development and approval of new RME electives;
- (d) amendments to the *RME Information Package*;
- (e) applications for exemption from complying with the RME requirements;
- (f) review of the procedures for accreditation of RME elective courses;
- (g) membership of the RME Accreditation Sub-Committee;
- (h) unclaimed money in client accounts.

The Committee considered 76 applications for exemption from complying with the RME requirements pursuant to rule 8A of the *Legal Practitioners (RME) Rules* Cap. 159Z by email circulation and in the Committee meeting.

RME ACCREDITATION SUB-COMMITTEE

The Sub-Committee is tasked with the responsibility to review applications for accreditation of RME course providers, courses and activities in accordance with the accreditation criteria.

131 applications for accreditation were processed, out of which 84 elective courses offered by law firms and other institutions and 28 elective courses offered by commercial providers were accredited.

Course provider accreditation for RME elective courses was introduced in 2007. 12 law firms accredited as RME elective course providers offered a total of 125 in-house elective courses during the year.

The Sub-Committee also considered one application for conducting legal research for accreditation as RME elective activity.

WORKING GROUP ON THE STANDARD OF CEE

The Working Group convened one meeting to consider the examination standard of the CEE, the examination standard of the *PCLL*, the examination standard of the Conversion Examination, the examination standard of the OLQE, the examination standards of the Legal Practice Course (“LPC”) and the LPC Outcomes 2011 issued by the Solicitors Regulation Authority.

Other topics considered by the Working Group included the syllabus, exemption, and logistics of the CEE.

WORKING PARTY ON SYLLABUS ON CEE

The Working Group convened two meetings.

The Working Group considered the following in the meetings:

- (a) syllabi of the *PCLL* of the CityU, CUHK and HKU;
- (b) syllabus of the OLQE;

- (c) syllabus of the Conversion Examination;
- (d) syllabus of the LPC;
- (e) the *PCLL* Benchmarks;
- (f) syllabus of the CEE.

WORKING PARTY ON PRACTICE IN SERVICE CENTRES, AT HOME, IN DOMESTIC PREMISES OR BY VIRTUAL OFFICES

The Working Party held two meetings and continued to review the existing *PD*, rules and regulations which restrict a law firm's practice in a service centre, at home, in domestic premises or by virtual office. It also considered the relevant issues relating to acceptance of e-documents under The Law Society's existing regulatory framework. The Working Party discussed the various statutory meanings of "documents" under different legislation.

The Working Party noted the existing factors which would be considered by the Consents Committee in determining applications for waiver of *PD D5* and rule 7 of the *FLPR* relating to the prohibition against sharing of premises, staff and facilities. It agreed that any amendment to the existing *PD*, rules and regulations must address the concerns of preservation of clients' confidential information.

To facilitate continual discussion of the relevant issues, the Working Party also exchanged substantive views through email correspondences. After the Working Party has completed the review, its recommendations will be submitted to the Standing Committee for further consideration.

WORKING PARTY ON SOLICITOR CORPORATION RULES

The Working Party convened two meetings to consider:

- (a) the progress of the drafting exercise on the consequential amendments to the subsidiary legislation to the *LPO*;
- (b) amendments to the draft *Solicitor Corporation Rules* in the light of the *Companies Ordinance* Cap. 622;
- (c) Chinese translations of various amendment rules;
- (d) draft Foreign Lawyer Corporation Rules;

- (e) fees payable by solicitor corporations and foreign lawyer corporations;
- (f) membership of the Working Party.

TRAINEE SOLICITORS COMMITTEE

The Committee held two meetings to consider:

- (a) cases of failure to observe the *Recruitment Code*;
- (b) amendments to the *Recruitment Code* and amendments to the Circular explaining the *Recruitment Code*;
- (c) minimum wages prescribed by The Law Society for first year and second year trainees;
- (d) *the Minimum Wage Ordinance* Cap. 608;
- (e) comments made by members on the *Recruitment Code*;
- (f) placement service for trainee solicitors;
- (g) membership of the Committee;
- (h) terms of reference of the Committee.