

# Standing Committee on Compliance



THE  
**LAW SOCIETY**  
OF HONG KONG  
香港律師會

2018

The Standing Committee oversees The Law Society's administrative and regulatory functions, these responsibilities having been delegated to it by the Council.

The Standing Committee met 12 times during the year and considered 186 agenda items (compared to 200 agenda items in 2017).

The Compliance Department (Conduct and Registration Sections) of the Secretariat supports the work of the Standing Committee.

## **Conduct Section**

The Conduct Section of the Compliance Department is mainly responsible for investigating allegations of professional misconduct against solicitors, foreign lawyers, trainee solicitors and employees of solicitors and foreign lawyers. In 2018, it handled 985 complaints (1,037 in 2017), of which 436 complaints (480 in 2017) were lodged or referred by members of the public and government organisations and 45 complaints (50 in 2017) were made by solicitors. 1149 files were closed during the year; of which 555 were closed without seeking an explanation.

## **INVESTIGATION COMMITTEE**

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Investigation Committees are ad-hoc Sub-Committees of the Standing Committee. Three members of the Standing Committee are appointed to each Investigation Committee to consider reports prepared by the Conduct Section and to adjudicate on complaints.

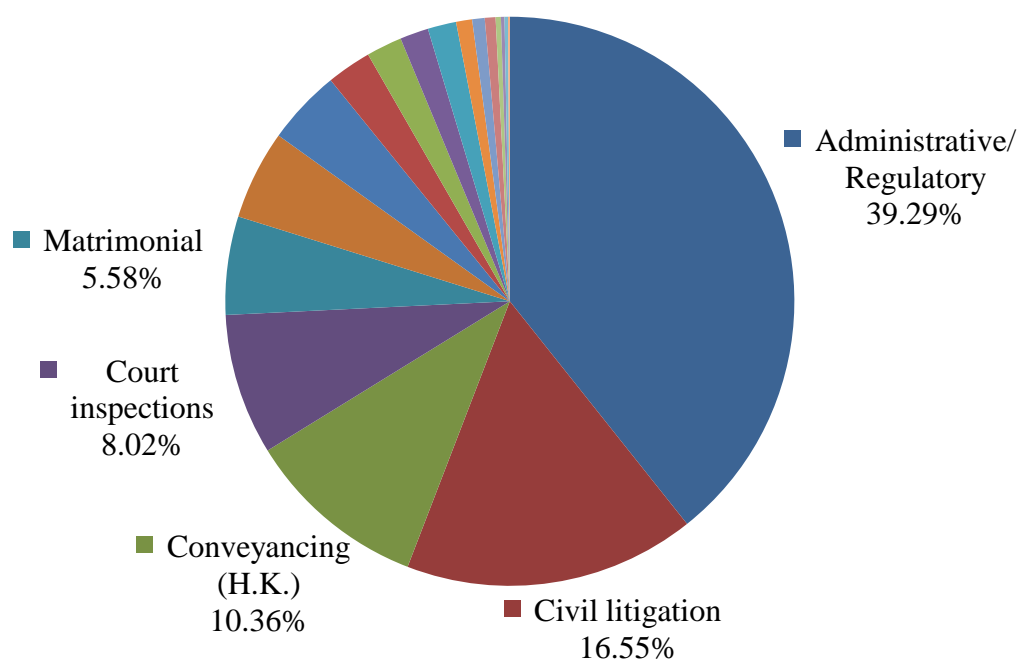
Investigation Committees may recommend to the Standing Committee to issue letters of good practice, regret, or disapproval, and to submit matters to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel ("the Tribunal Convenor").

Investigation Committees considered 402 complaints by circulation of 402 agenda. (In 2017, 370 complaints were considered by circulation of 370 agenda.)

The Standing Committee reviewed nine decisions of the Investigation Committees. One review was allowed resulting in the withdrawal of a letter of disapproval. Eight decisions of the Investigation Committees were upheld. (In 2017, five decisions were reviewed.)

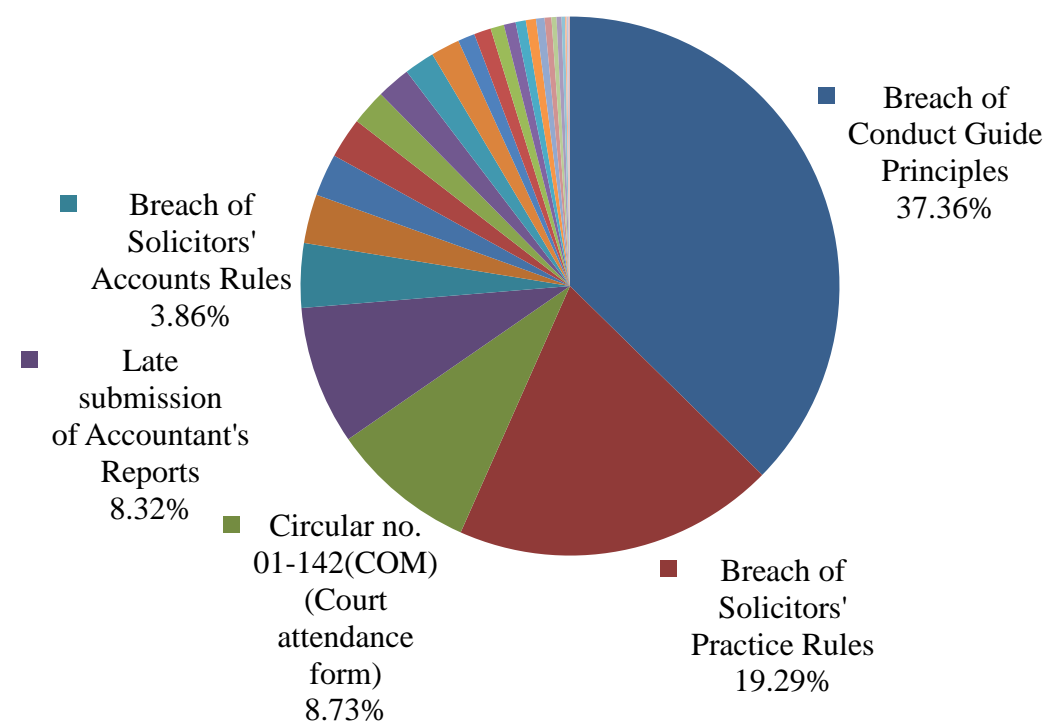
## Determination of Complaints in 2018

Figure 1: Subject matters of complaints



Subject Matters of Complaints	2018	2017	2016
Administrative/regulatory	39.29%	31.73%	42.98%
Civil litigation	16.55%	18.23%	16.13%
Conveyancing (H.K.)	10.36%	11.57%	12.17%
Court inspections	8.02%	8.58%	3.43%
Matrimonial	5.58%	6.17%	4.58%
Miscellaneous	5.08%	3.09%	2.08%
Company/commercial	4.26%	4.34%	3.85%
Probate	2.54%	2.60%	1.56%
Criminal	2.03%	3.47%	2.50%
Owners'/incorporated owners' disputes	1.62%	1.64%	1.77%
Reports of purported law firms	1.62%	2.70%	2.71%
Bankruptcy	0.91%	0.48%	0.62%
Civil Celebrant	0.71%	0.58%	0.94%
Conveyancing (other than H.K.)	0.61%	1.93%	0.83%
Contract	0.30%	1.16%	1.66%
Media/promotion	0.20%	0.10%	—
Inspections	0.20%	0.39%	0.21%
Landlord & tenant	0.10%	0.68%	1.25%
Recovery agents	—	—	0.21%
Election	—	—	0.10%
Legal Visit	—	0.29%	0.21%
Mediation	—	0.29%	0.21%

**Figure 2: Nature of professional misconduct**

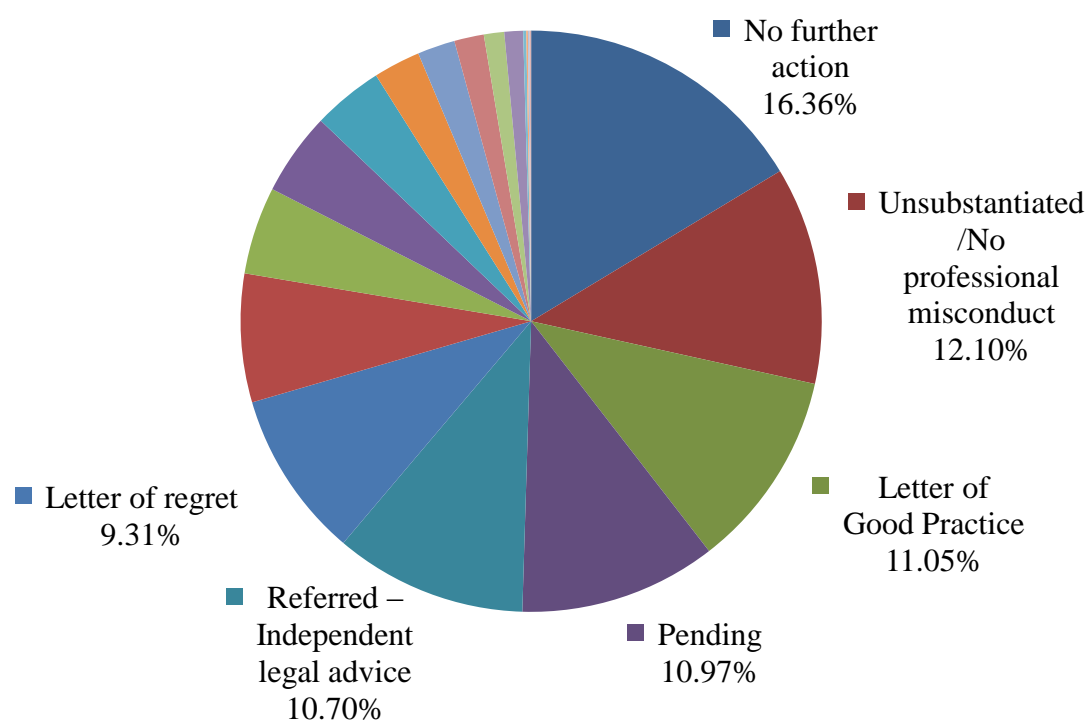


- Breach of Conduct Guide Principles
- Breach of Solicitors' Practice Rules
- Circular no. 01-142(COM) (Court attendance form)
- Late submission of Accountant's Reports
- Breach of Solicitors' Accounts Rules
- Breach of Continuing Professional Development Rules
- Breach of undertaking
- Miscellaneous
- Breach of Foreign Lawyers Registration Rules
- Dishonesty
- Unqualified persons acting or pretending to be a solicitor (ss.45-48 of the LPO)
- Breach of Foreign Lawyers Practice Rules
- Overcharging
- Breach of Practice Directions
- Offences in relation to foreign lawyers, etc.(s.50B of the LPO)
- Conflict of interest
- Negligence
- Misbehaviour
- Delay
- Breach of Solicitors (Professional Indemnity) Rules (general)
- Breach of Solicitors' Practice Promotion Code
- Breach of Trainee Solicitors Rules
- Non-payment of barristers' fees
- Failure to reply to letters on behalf of a client or to inquiries from The Law Society
- Commission-taking
- Property fraud

<b>Nature of professional misconduct</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>
Breach of <i>Conduct Guide</i> Principles	37.36%	38.57%	33.51%
Breach of <i>Solicitors' Practice Rules</i>	19.29%	15.14%	27.78%
Circular no. 01-142(COM) (Court attendance form)	8.73%	8.49%	4.79%
Late submission of Accountant's Reports	8.32%	1.54%	6.76%
Breach of <i>Solicitors' Accounts Rules</i>	3.86%	8.20%	2.91%
Breach of <i>Continuing Professional Development Rules</i>	2.94%	3.28%	2.29%
Breach of undertaking	2.54%	2.22%	1.25%
Miscellaneous	2.44%	3.66%	3.33%
Breach of <i>Foreign Lawyers Registration Rules</i>	2.13%	1.45%	2.19%
Dishonesty	2.03%	2.70%	1.98%
Unqualified persons acting or pretending to be a solicitor (ss.45-48 of the <i>LPO</i> )	1.83%	3.09%	2.91%
Breach of <i>Foreign Lawyers Practice Rules</i>	1.73%	1.35%	1.46%
Overcharging	1.02%	1.54%	1.56%
Breach of <i>Practice Directions</i>	1.02%	2.03%	1.04%
Offences in relation to foreign lawyers, etc. (s.50B of the <i>LPO</i> )	0.81%	0.10%	0.21%
Conflict of interest	0.71%	0.29%	0.42%
Negligence	0.61%	0.77%	0.42%
Misbehaviour	0.61%	0.58%	0.42%
Delay	0.51%	1.35%	1.25%
Breach of <i>Solicitors (Professional Indemnity) Rules</i> (general)	0.41%	—	1.25%
Breach of <i>Solicitors' Practice Promotion Code</i>	0.30%	0.39%	0.94%
Breach of <i>Trainee Solicitors Rules</i>	0.30%		
Non-payment of barristers' fees	0.20%	0.48%	0.73%
Failure to reply to letters on behalf of a client or to inquiries from The Law Society	0.10%	0.19%	0.10%
Commission-taking	0.10%	1.74%	—
Property fraud	0.10%	—	0.31%
Inadequate service	—	0.39%	0.21%
Practising without a practising certificate	—	0.19%	—
Touting	—	0.29%	—

“*Conduct Guide*” = *The Hong Kong Solicitors' Guide to Professional Conduct* (Volume 1, 2nd and 3rd editions)  
“*LPO*” = *Legal Practitioners Ordinance*, Cap. 159

**Figure 3: Analysis of closed files decided by Investigation Committees**



	2018	2017	2016
No further action	16.36%	28.22%	17.85%
Unsubstantiated/No professional misconduct	12.10%	9.41%	9.07%
Letter of Good Practice	11.05%	10.08%	12.27%
Pending	10.97%	7.50%	8.37%
Referred – Independent legal advice (incl. District Office)	10.70%	6.61%	11.30%
Letter of regret	9.31%	13.66%	13.39%
Unpursuable	7.14%	6.05%	6.83%
Letter of disapproval	4.87%	6.94%	5.30%
Withdrawn	4.61%	3.47%	3.77%
Referred – enforcement agencies	3.92%	1.34%	4.74%
Strong letter of disapproval	2.61%	1.79%	2.65%
Referred – relevant Authorities	2.09%	0.90%	0.84%
Referred – taxation	1.65%	0.90%	0.98%
Resolved amicably	1.13%	0.90%	0.98%
Referred – Tribunal Convenor	1.04%	1.79%	1.12%
Summary Disposal	0.17%		
Referred – other departments of The Law Society	0.09%	—	0.14%
Referred – Joint Tribunal	0.09%	0.22%	0.14%
Circular issued	0.09%	—	—
Referred – others (incl. intervention agents)	—	—	0.28%
Referred – Inspection by the Monitoring Accountant	—	0.22%	—

## **Applications to the Chief Judge under section 9A(2) of the *Legal Practitioners Ordinance, Cap. 159* (“LPO”)**

Under section 9A(2) of the *LPO*, where a complaint is made to the Council and the Council does not submit a matter to the Tribunal Convenor under section 9A(1) of the *LPO* within six months after receiving the complaint, the Chief Judge may, on application by any person or on his own initiative, submit the matter to the Tribunal Convenor if he considers that the Council ought to have done so.

In 2018, one application was made to the Chief Judge under section 9A(2) of the *LPO*.

## **Inspections and visits**

Under section 8AA of the *LPO*, the Council is empowered to appoint inspectors to verify compliance with the provisions of the *LPO* or any *Practice Direction* (“PD”) issued by The Law Society, and to determine whether the conduct of those against whom an inspection was made should be inquired into or investigated. Section 8AA of the *LPO* stipulates the powers of an inspector in making such inquiries and investigations.

During the year, Investigation Counsel made 34 visits to 15 law firms. Four of these visits were made under section 8AA of the *LPO*. In addition, three court inspections were conducted by inspectors at magistrates’ courts. For these court inspections, the Council appointed inspectors to verify compliance with rule 5D of the *Solicitors’ Practice Rules* (“SPR”), Cap. 159H and to monitor the proper completion of court attendance forms.

The Monitoring Accountants paid visits to law firms to provide assistance in their accounting procedures/systems and to inspect their books and accounts to ensure compliance with the rules relating to solicitors’ accounting. 82 visits were made to 50 solicitors’ firms and foreign law firms; some firms required more than one visit (94 visits to 63 firms in 2017).

## **Interventions**

The Council’s power of intervention is exercised for the protection of the public and occurs when clients’ interests are at risk. The powers vested in the Council for the exercise of an intervention under Sections 26A, 26B or 26C of the *LPO* are set out in Schedule 2 to the *LPO*. Through the intervention agents, The Law Society first takes control of the office and clients’ monies of the intervened firms and takes possession of the intervened firms’ documents. If necessary, The Law Society may commence court applications to implement the Council’s resolution to intervene. The intervention agents return documents to clients who have specifically requested their return or forward clients’ documents to other firms of solicitors on the instructions of clients. The process of distributing clients’ money of the intervened firms may involve court proceedings and claimants must produce supporting documents to verify their claims. Documents in the possession of the Council are kept in storage in accordance with the guidelines in The Law Society circular 12-475 (PA) or until there is a Court order as to disposal or destruction.

Subject to any Court order for the payment of costs, any costs incurred by the Council in the intervention shall be paid by the solicitor or the foreign lawyer whose practice was being intervened.

The Council has intervened in the practice of two solicitors' firms and one foreign law firm in 2018.

The Law Society also dealt with taxation and assisted Police investigations related to current and past interventions during the year.

## **INVESTIGATION COMMITTEE ON DISCIPLINARY MATTERS**

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The Investigation Committee (Disciplinary Matters) is the only Investigation Committee with a fixed membership drawn from senior members of the Standing Committee. The Committee's work includes monitoring the progress of disciplinary proceedings, appeals and court proceedings (including bankruptcy petitions), giving instructions to prosecutors and The Law Society's legal representatives, and authorising the payments of fees incurred in disciplinary proceedings, appeals and court proceedings.

The Committee considered 87 matters by circulation of 35 agenda. (In 2017, 73 matters were considered by circulation of 31 agenda.)

### **Disciplinary proceedings and summary disposals**

A Solicitors Disciplinary Tribunal is a statutory tribunal established by the *LPO*. It is independent of The Law Society which is the prosecuting body. Members of the Solicitors Disciplinary Tribunal Panel are appointed by the Chief Justice. The Chief Justice also appoints the Tribunal Convenor and the Deputy Tribunal Convenors who have the responsibility to appoint a panel of three or four members to sit as a Tribunal to determine applications, and who have the power to dispose of certain classes of complaint on a summary basis.

The Standing Committee on Compliance resolved to submit eight matters to the Tribunal Convenor concerning the conduct of eight solicitors and five clerks under section 9A(1) of the *LPO* (nine matters concerning nine solicitors and three clerks in 2017) and two matters to the Tribunal Convenor concerning two solicitors under section 9A(1A) of the *LPO* for him to dispose of on a summary basis. In 2018, a total of 10 matters had been submitted to the Tribunal Convenor (five in 2017) including two matters for the Tribunal Convenor to dispose of on a summary basis.

Five disciplinary proceedings were determined by the Solicitors Disciplinary Tribunal in 2018 (five in 2017) which resulted in the following orders being made:



Respondent	Position	Charge(s)	Penalty	Fine (HK\$)
1	Solicitor	<ul style="list-style-type: none"> <li>• 2 counts of breach of rule 2(a), (c) and (d) of the <i>SPR</i></li> </ul>	<ul style="list-style-type: none"> <li>• struck off from the Roll of Solicitors</li> <li>• to pay costs</li> </ul>	
1	Solicitor	<ul style="list-style-type: none"> <li>• 1 count of breach of rule 2(a) and (d) of the <i>SPR</i></li> <li>• 3 counts of breach of Rule 7 of the <i>SAR</i></li> <li>• 1 count of breach of Rule 8(1) of the <i>SAR</i></li> <li>• 1 count of breach of Rule 10 of the <i>SAR</i></li> <li>• 1 count of breach of Rule 10A of the <i>SAR</i></li> <li>• 1 count of breach of Principle 13.02 of the <i>Conduct Guide</i></li> <li>• 1 count of breach of Principle 12.05 of the <i>Conduct Guide</i></li> <li>• 1 count of breach of Rule 9A of the <i>SAR</i></li> </ul>	<ul style="list-style-type: none"> <li>• cannot practise in Hong Kong as a sole proprietor or partner of a firm for three years from the date of the Order. During such period, the solicitor cannot handle any documents relating to clients' money or office money or handle clients' money or office money</li> <li>• to pay costs</li> </ul>	<p>Fined a total of HK\$200,000 for Complaints 1, 5, 7 and 9</p> <p>Fined a total of HK\$60,000 for each of Complaints 2, 3 and 4</p> <p>Fined HK\$60,000 for Complaint 6</p> <p>Fined HK\$40,000 for Complaint 8</p> <p>Fined HK\$10,000 for Complaint 10</p>
1	Solicitor	<ul style="list-style-type: none"> <li>• 8 counts of breach of Principle 6.04 of the <i>Conduct Guide</i></li> <li>• 3 counts of breach of Principle 14.02 of the <i>Conduct Guide</i></li> <li>• 1 count of breach of section 8 of the <i>LPO</i>, rule 8(2) of the <i>ARR</i> and Principle 2.03 of the <i>Conduct Guide</i></li> <li>• 2 counts of breach of rule 10 of the <i>SAR</i></li> <li>• 1 count of breach of</li> </ul>	<ul style="list-style-type: none"> <li>• censured</li> <li>• subject to conditional practice that the Respondent cannot practice for three years as a sole proprietor or partner of a solicitors' firm and his practice as a solicitor be subject to the supervision of a full-time solicitor of no less than 15 years'</li> </ul>	<ul style="list-style-type: none"> <li>• Fined a total of HK\$100,000 Complaints 1, 5, 6, 7, 9, 10, 13 and 17</li> <li>• Fined a total of HK\$30,000 for Complaints 2, 8 and 21</li> <li>• Fined a total of HK\$45,000 for Complaints 3, 4 and 19</li> <li>• Fined HK\$20,000 for</li> </ul>

Respondent	Position	Charge(s)	Penalty	Fine (HK\$)
		10A of the SAR <ul style="list-style-type: none"> <li>• 1 count of breach of rule 2(c), (d) and (e) of the SPR</li> <li>• 1 count of breach of rule 11 of the SAR</li> <li>• 2 counts of breach of paragraph 1 of Schedule 1 to the SPI</li> <li>• 1 count of breach of rule 8(1)(a) of the SPI</li> <li>• 1 count of breach of rule 2(d) of the SPR</li> </ul>	standing and also good standing <ul style="list-style-type: none"> <li>• to pay fixed costs</li> </ul>	Complaint 12 <ul style="list-style-type: none"> <li>• Fined HK\$50,000 for Complaints 14, 15 and 16</li> <li>• Fined HK\$5,000 for Complaint 18</li> <li>• Fined HK\$40,000 for Complaint 20</li> </ul>
1	Foreign Lawyer	<ul style="list-style-type: none"> <li>• 1 count of breach of section 12 of the Foreign Lawyers Registration Rules</li> </ul>	<ul style="list-style-type: none"> <li>• censured;</li> <li>• to pay costs</li> </ul>	HK\$50,000
1	Clerk	<ul style="list-style-type: none"> <li>• 1 count of disgraceful, dishonourable and discreditable conduct within the meaning of section 2(2) of the LPO.</li> </ul>	<ul style="list-style-type: none"> <li>• prohibited from being employed by any law firm in Hong Kong for a period of 25 years; and</li> <li>• to pay costs.</li> </ul>	

“LPO” = *Legal Practitioners Ordinance*, Cap.159

“SPR” = *Solicitors’ Practice Rules*

“SAR” = *Solicitors’ Accounts Rules*

“ARR” = *Accountant’s Report Rule*

“SPI” = *Solicitors (Professional Indemnity) Rules*

“Conduct Guide” = *The Hong Kong Solicitors’ Guide to Professional Conduct* (Volume 1, 2nd and 3rd editions)

Furthermore, the Tribunal Convenor summarily disposed of two matters by making orders requiring each of the two solicitors concerned to pay a total of a fixed fine of HK\$10,000 and fixed costs of HK\$15,000.

## **Appeals and other Litigation proceedings**

In June, on the application of The Law Society under section 4(3) of the *LPO*, the Court ordered that the name of a solicitor be removed from the Roll of Solicitors with costs to The Law Society.

In September, the Court of Appeal granted leave to The Law Society to appeal against the penalties imposed on a solicitor by the order of the Solicitors Disciplinary Tribunal.

In October, a solicitor lodged with the Court of Appeal an appeal against the Order of the Solicitors Disciplinary Tribunal.

In November, taxation proceedings commenced in relation to one concluded judicial review application.

## CONSENTS COMMITTEE

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The Consents Committee is a Sub-Committee of the Standing Committee on Compliance.

The Consents Committee decides on applications made under the *LPO*, its subsidiary legislation and The Law Society's *PD* for (i) registration by solicitors; (ii) registration as a (a) trainee solicitor, (b) foreign lawyer and (c) foreign law firm; and (iii) consent and waiver.

The Committee met 19 times during the year and considered 567 items (in 2017, 20 meetings and 612 items). A further 84 matters were dealt with by circulation of six agenda (in 2017, 69 matters by circulation of five agenda).

The Standing Committee reviewed four decisions of the Consents Committee and upheld the four decisions.

### Registration Section

The Registration Section of the Compliance Department processes applications and handles applications considered by the Consents Committee.

As with previous years, in conjunction with the Conduct Section, the Registration Section reviewed, processed and filed the "employees' returns" submitted by all solicitors' firms and foreign law firms in January of each year, and the Notification of Changes to a Practice on firms' particulars submitted by solicitors' firms and foreign law firms throughout the year.

### Nature of applications

Applications considered by the Consents Committee and those processed by the Registration Section during the year included:

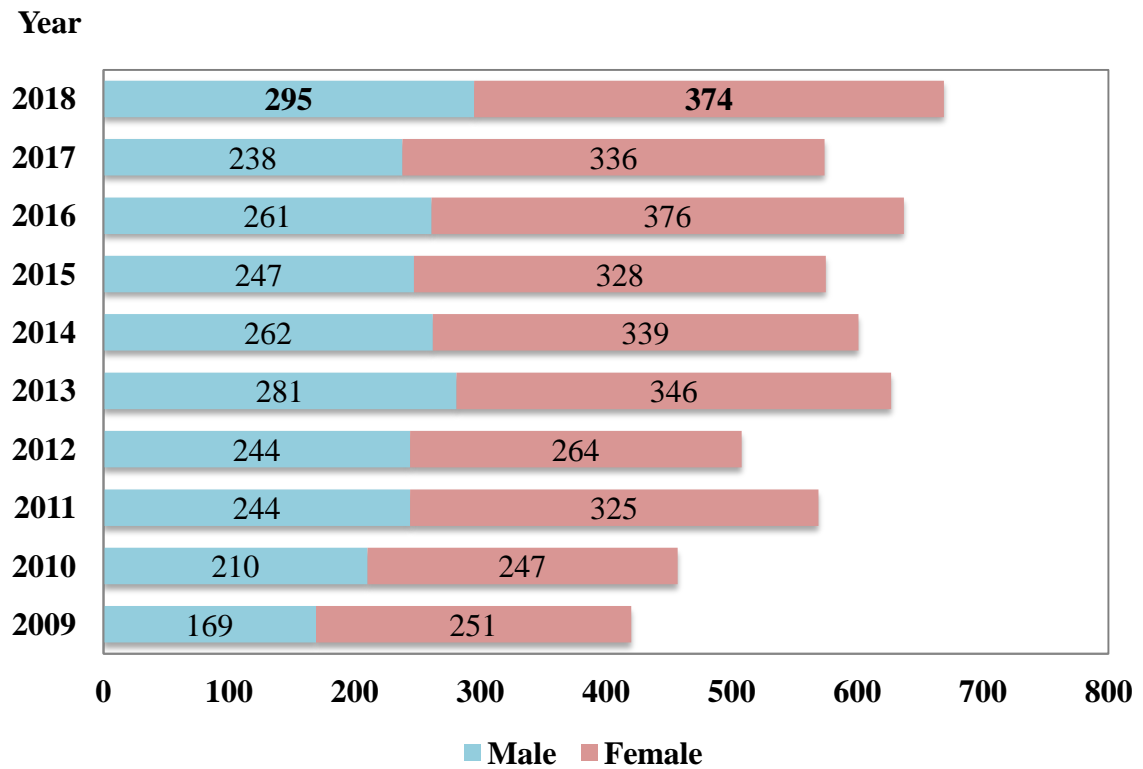
<b>Nature of applications</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>
Admissions	669	574	637
Certificates of eligibility for admission	654	586	615
Practising certificates: English	9,903	9,463	9,076
Chinese	4,736	4,402	4,137
Practising certificates – removal of conditions under s.6(6) <i>LPO</i> (solicitors)	236	243	216
Membership	11,266	10,798	10,345
First registration as a foreign law firm	8	9	8
First registration as a foreign lawyer	473	413	335
Renewal of registration as a foreign lawyer	1,509	1,393	1,310
Removal of conditions on certificates of registration (foreign lawyers)	60	70	79
Registration as an Association	10	8	9
Removal of name from the roll of solicitors	5	5	5
Restoration of name to the roll of solicitors	0	1	2
Qualifications for admission s.4(1A) <i>LPO</i>	102	104	108
Employment of staff: s.53(1) <i>LPO</i>	3	6	1
s.53(3) <i>LPO</i>	7	2	2
Practising certificates – removal of conditions under s.6(6A) <i>LPO</i>	30	34	27
Practising certificates – Special Conditions	10	10	10
Registration of first trainee solicitor contracts	628	606	537
Registration of subsequent trainee solicitor contracts	97	74	109
Special leave to employ trainee solicitors	6	10	20
Other trainee solicitor matters	236	222	191
Law costs draftsmen	2	—	—
Accountant’s report – solicitors’ firms	899	874	868
Accountant’s report – foreign law firms	87	84	86
Firm name and letterhead	28	24	13
Waiver applications – general	*3	*1	*16
Waiver applications – <i>PD</i>	4	3	3
Registration of new associate member	3	3	4
Certificates of standing	816	618	1,258
Letters regarding employment or training visas	467	411	798
Authorised solicitors’ clerks	33	30	19

“*LPO*” = *Legal Practitioners Ordinance, Cap. 159*

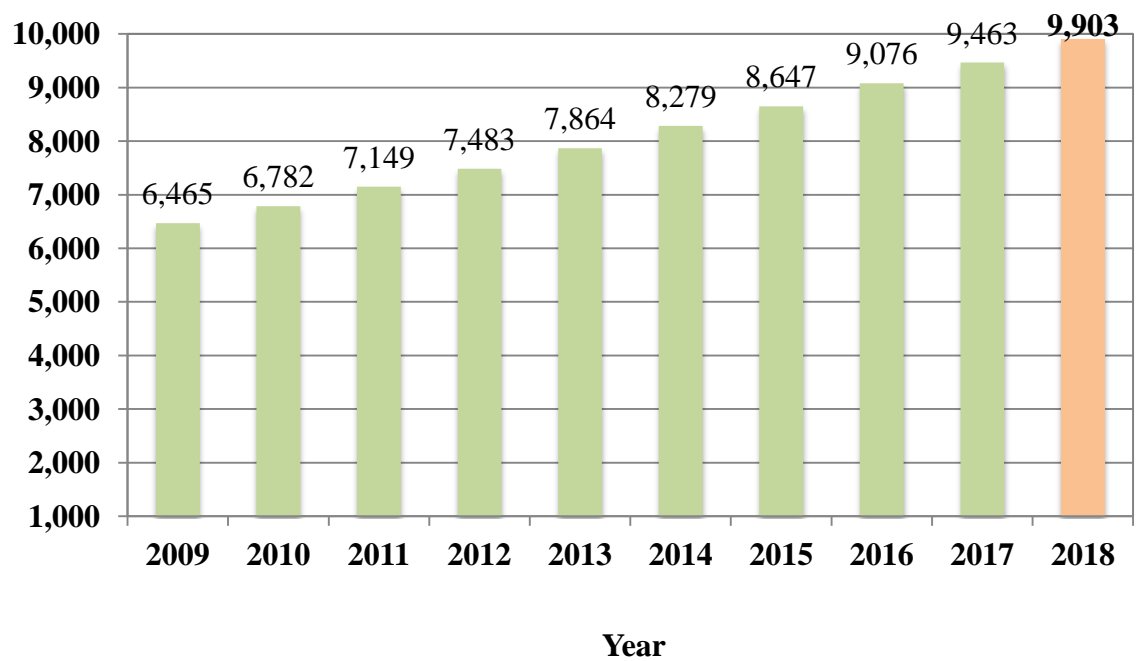
“*PD*” = *The Law Society’s Practice Directions*

\* Applications were under the *LPO, Cap. 159*; the *SPR, Cap. 159H*; the *SAR, Cap.159F*; the *FLRR, Cap.159S*, and the *FLPR, Cap.159R*

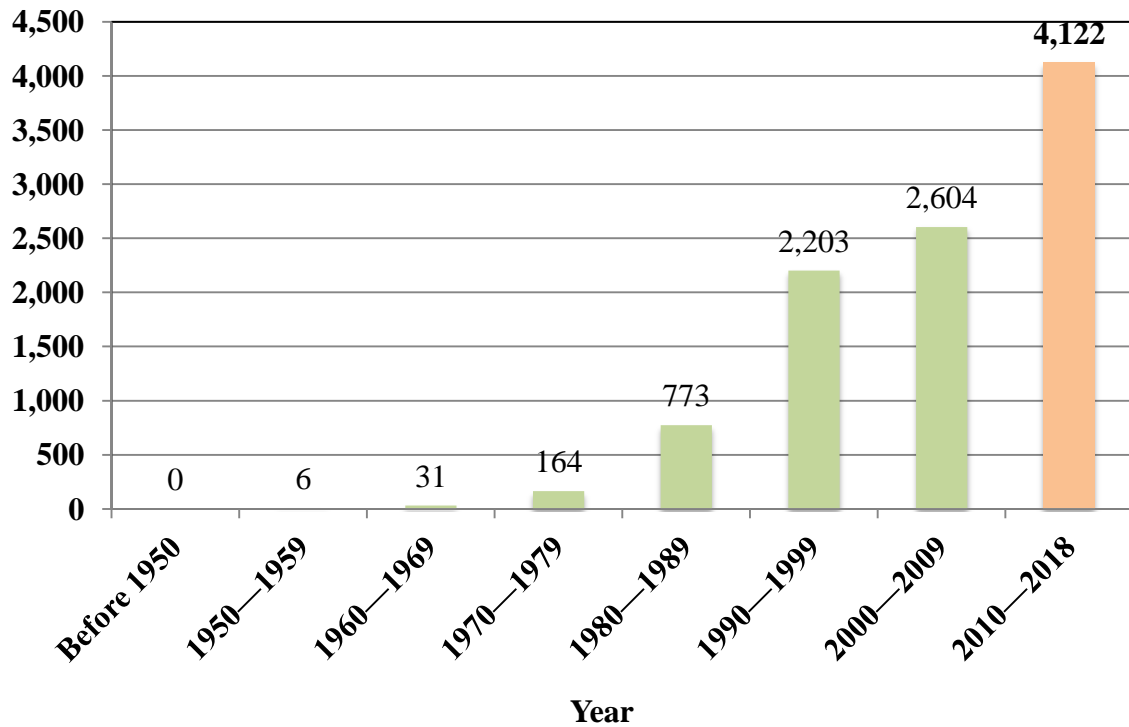
**Figure 4: Admission of solicitors 2009—2018**



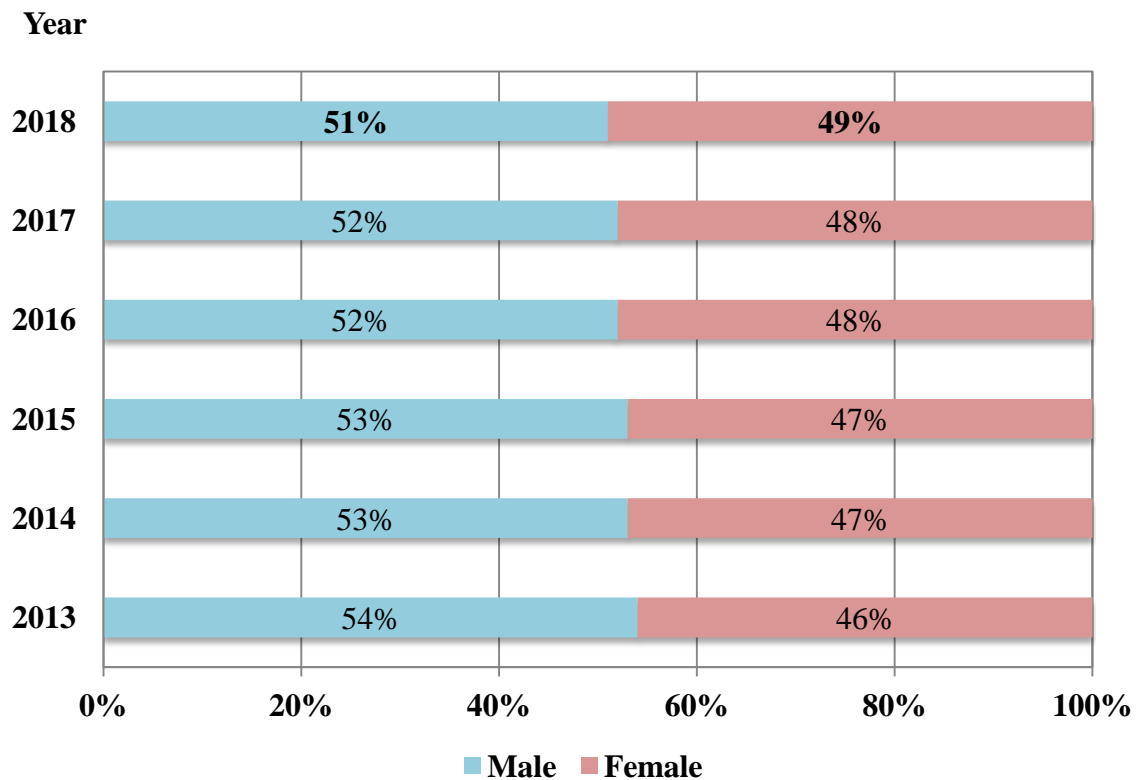
**Figure 5: Solicitors holding practising certificates 2009—2018**



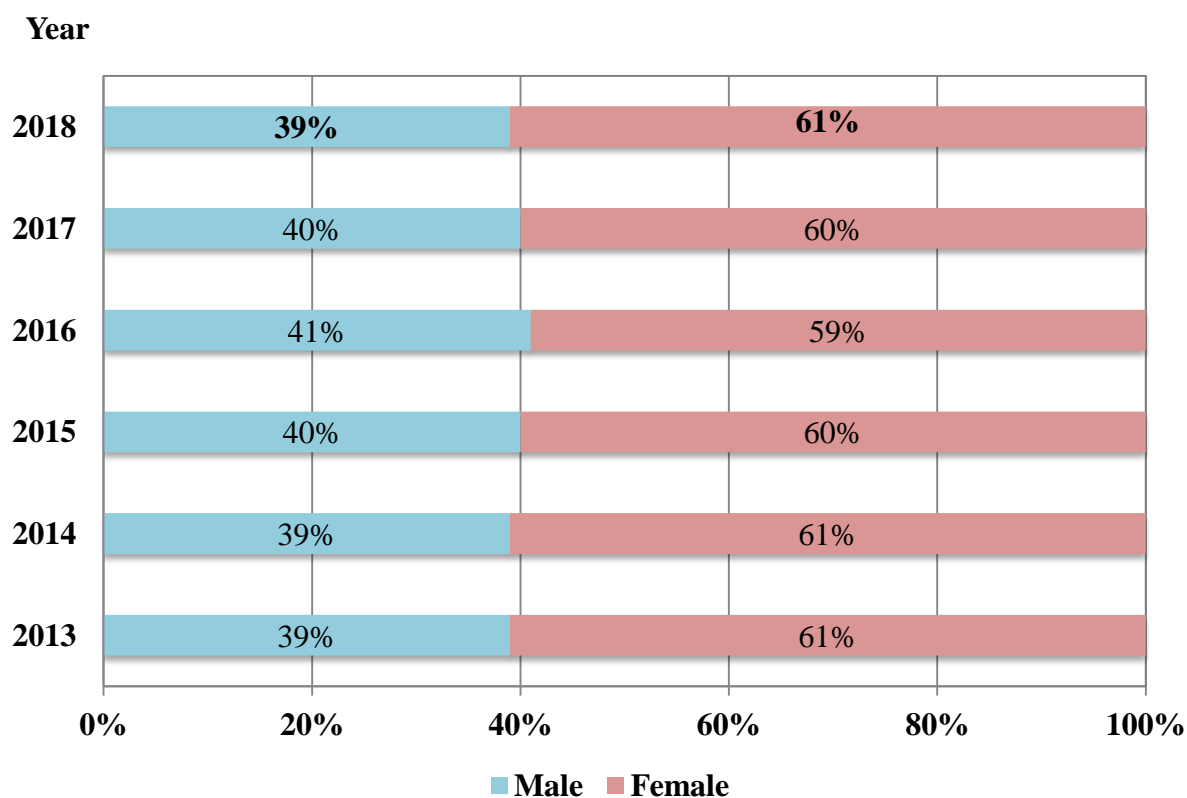
**Figure 6: Years of admission - solicitors holding a 2018 practising certificate**



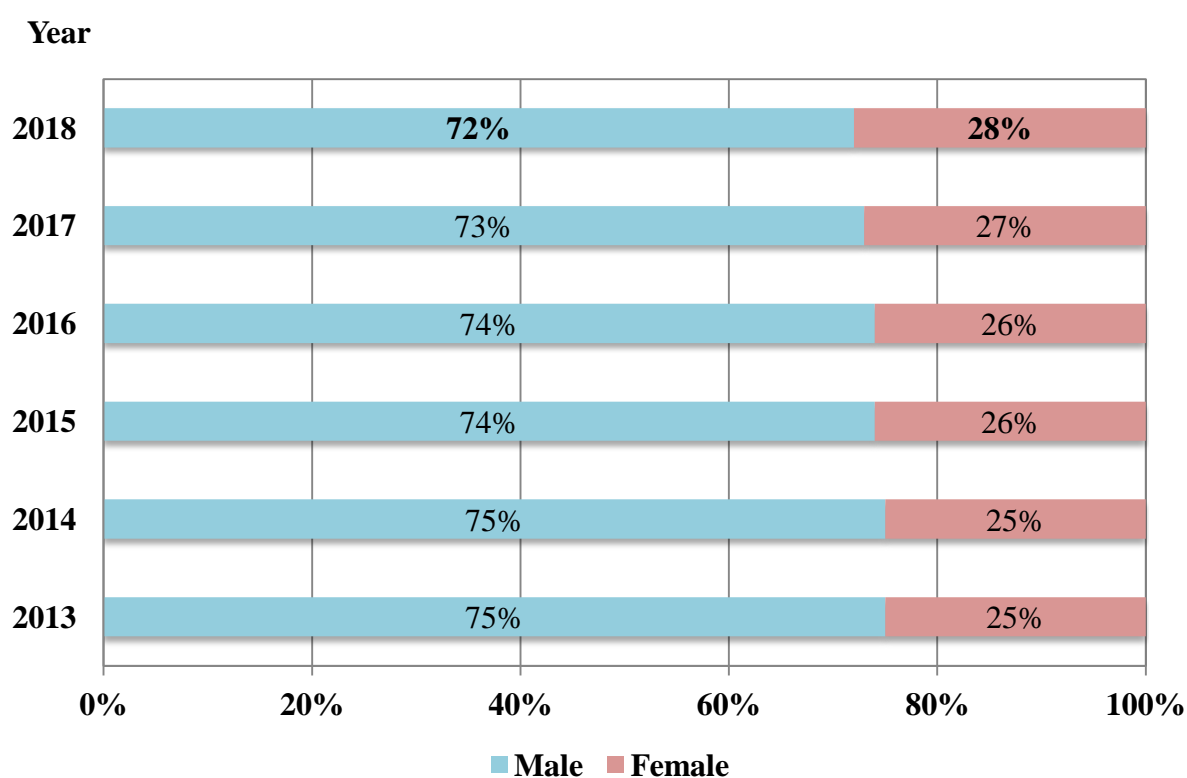
**Figure 7a: Gender ratio – Solicitors holding a practising certificate (2013 – 2018)**



**Figure 7b: Gender ratio – Trainee solicitors 2013 – 2018**



**Figure 7c: Gender ratio – Partners 2013 – 2018**





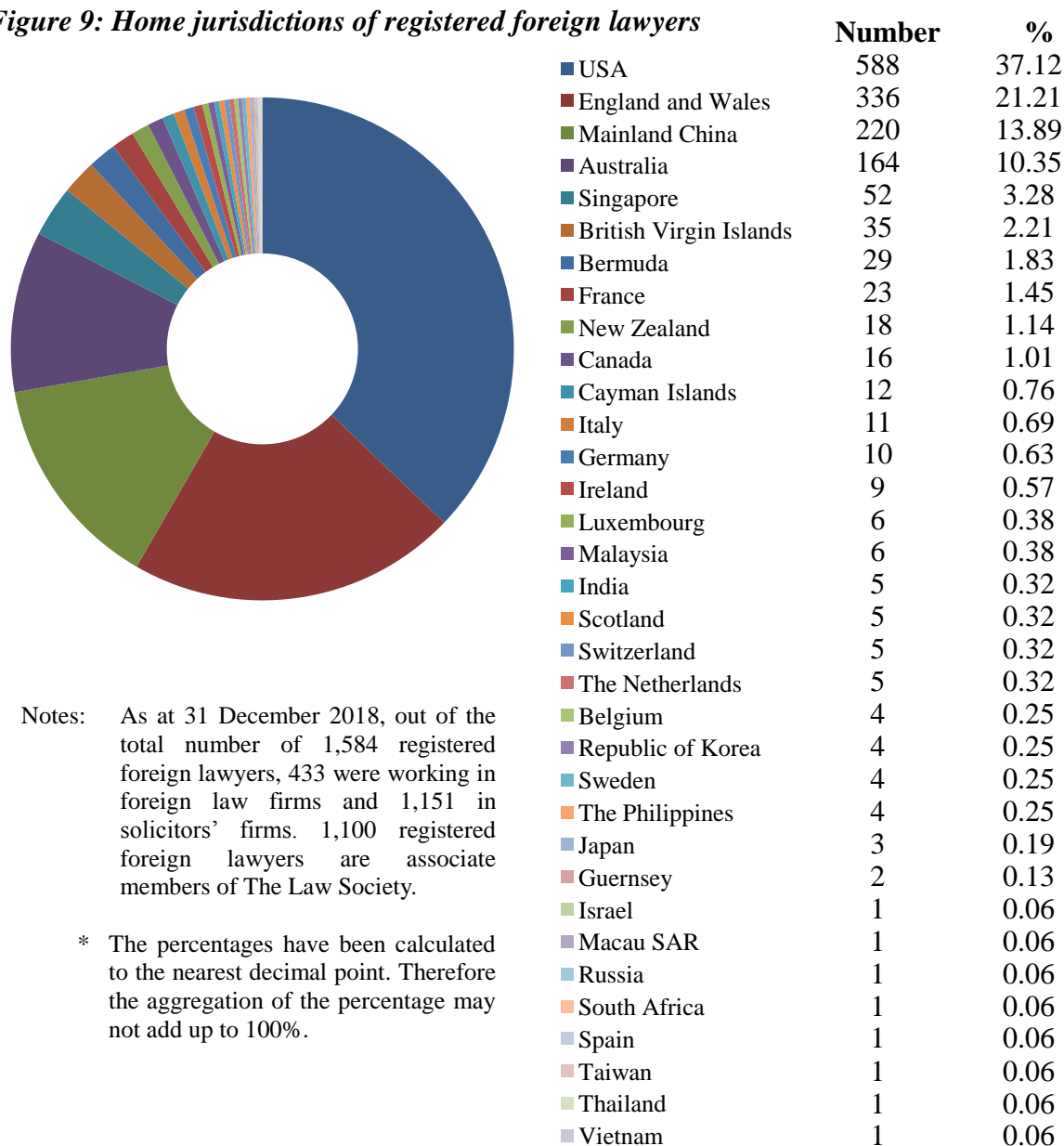
**Figure 8: Size of solicitors' firms and number of trainee solicitors in 2018**

Size of firm	No. of firms		No. of trainee solicitors	
	2018	2017	2018	2017
Sole practitioners	424	423	59	74
2—5 partners	393	371	398	339
6—10 partners	46	51	209	217
11—20 partners	37	33	303	264
Over 20 partners	15	14	242	234
<b>Total</b>	<b>915</b>	<b>892</b>	<b>1,211<sup>#</sup></b>	<b>1,128<sup>*</sup></b>

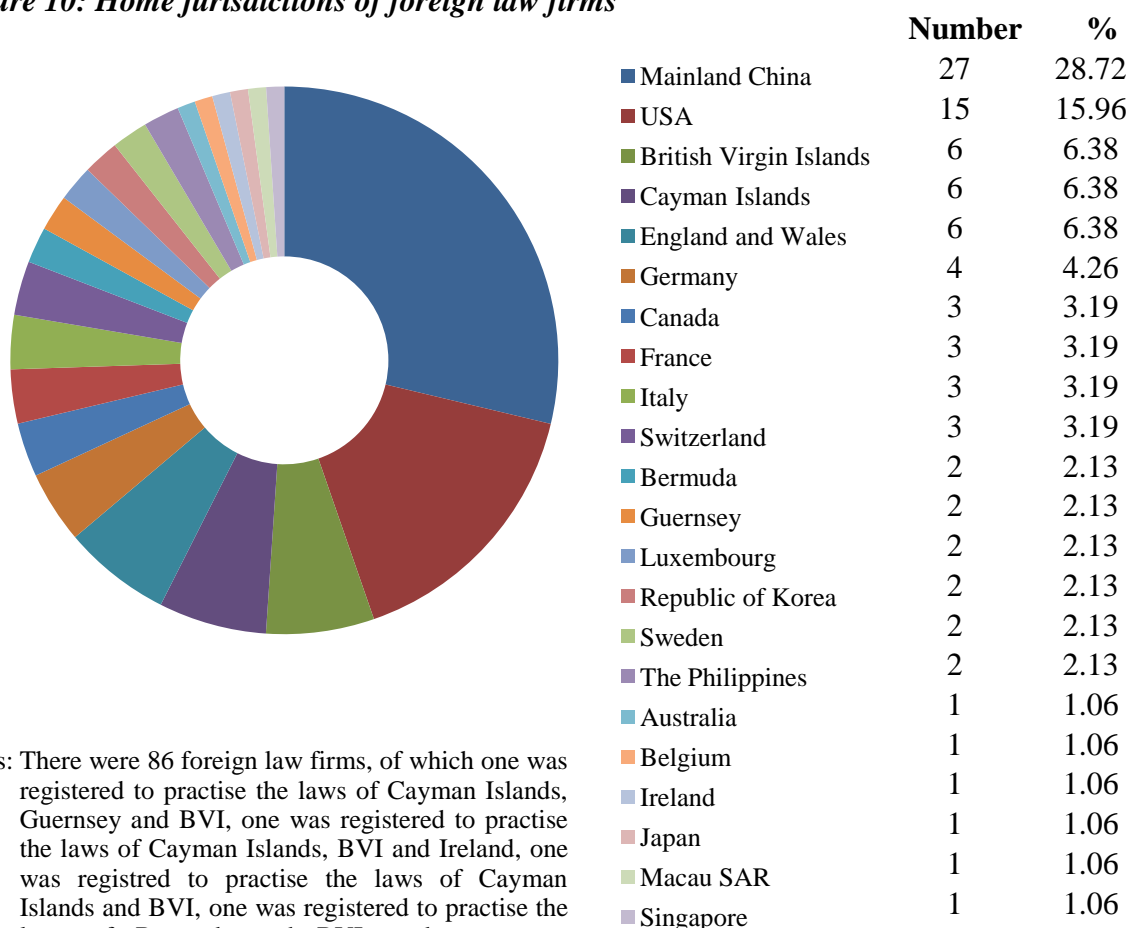
\* excluding 20 in government and 8 working “in-house”

# excluding 27 in government and 3 working “in-house”

**Figure 9: Home jurisdictions of registered foreign lawyers**



**Figure 10: Home jurisdictions of foreign law firms**



Notes: There were 86 foreign law firms, of which one was registered to practise the laws of Cayman Islands, Guernsey and BVI, one was registered to practise the laws of Cayman Islands, BVI and Ireland, one was registered to practise the laws of Cayman Islands and BVI, one was registered to practise the laws of Bermuda and BVI, and two were registered to practise the laws of England and Wales and USA. (In 2017, there were 84 foreign law firms.)

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

There were 40 Associations registered between foreign law firms and solicitors' firms (38 in 2017). Eight new foreign law firms commenced practice (eight in 2017). Five foreign law firms were closed, one of which established local practice. (In 2017, five foreign law firm were closed, three of which established local practices.)

There were 16,032 unqualified staff members employed by solicitors' firms at the end of the year (15,581 at the end of 2017). In addition, there were 560 unqualified staff members employed by foreign law firms at the end of 2018 (527 in 2017).

The Standing Committee oversees the work of the Conduct Section in administrating the authorised solicitors' clerks scheme and has delegated its power to the Consents Committee to consider applications. By December, there were 818 authorised solicitors' clerks (835 in 2017).

The Law Society continued to waive subscription fees for student members in 2018. By the end of the year, there were 289 student members registered with The Law Society (321 in 2017).

At the end of December, the number of Law Society Approved Law Costs Draftsmen was 34 (33 in 2017).