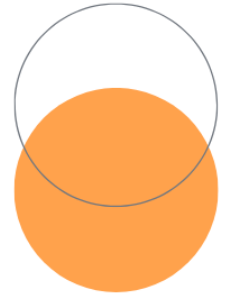


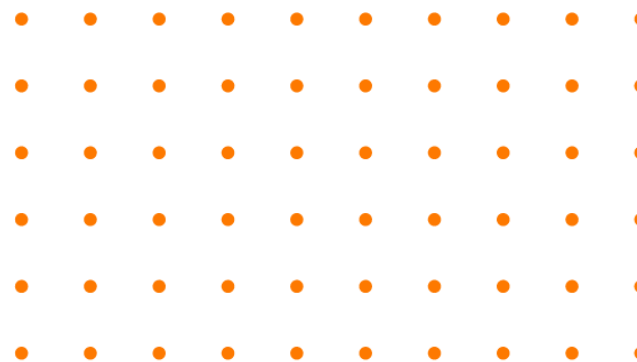


THE
LAW SOCIETY
OF HONG KONG
香港律師會



2022

Standing Committee on Compliance



STANDING COMMITTEE ON COMPLIANCE



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 196 agenda items (187 agenda items in 2021). A further two matters were dealt with by circulation of two agenda.

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 2022, it handled 876 complaints (1,090 in 2021), of which 480 complaints (428 in 2021) were lodged or referred by members of the public and government organisations and 42 complaints (40 in 2021) were made by solicitors.

Particulars about the subject matters of the complaints and the nature of the alleged professional misconduct are set out in the charts below. Complaints against a respondent which involved the same subject matter and nature of professional conduct are counted as one complaint.

1,076 files were closed during the year; of which 405 were closed without seeking an explanation.

INVESTIGATION COMMITTEE

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.

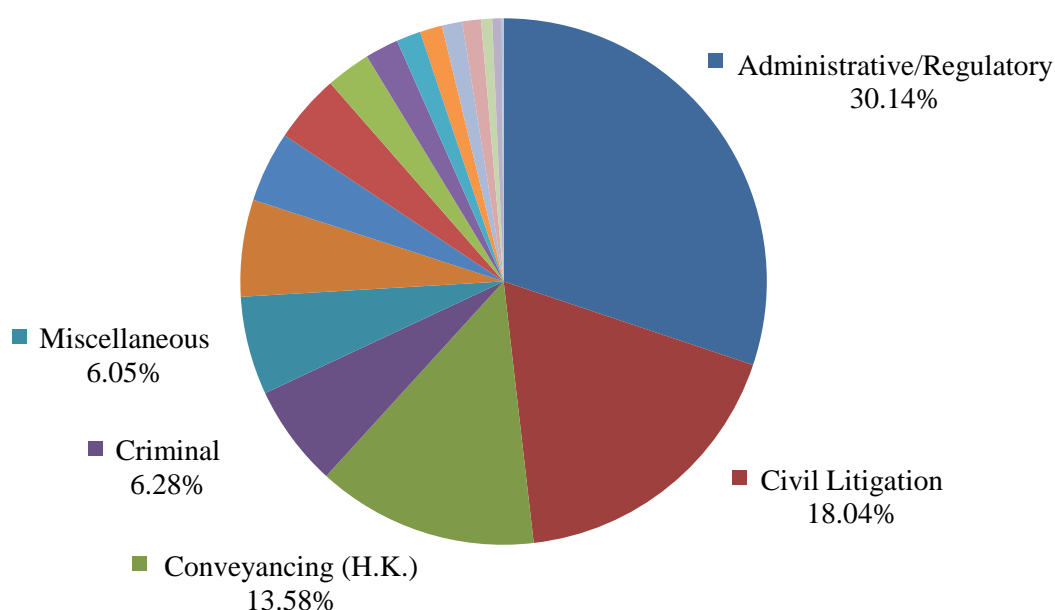
Investigation Committees may recommend to the Standing Committee to issue letters of good practice, regret, or disapproval, and to submit matters to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.

Investigation Committees considered 267 complaints by circulation of 267 agenda. (In 2021, 276 complaints were considered by circulation of 276 agenda.)

The Standing Committee reviewed and upheld nine decisions of the Investigation Committees; in one of the reviews, the Standing Committee further resolved to refer to another committee for consideration as to whether guidance should be given to members on an issue of professional conduct. (In 2021, nine decisions were reviewed.)

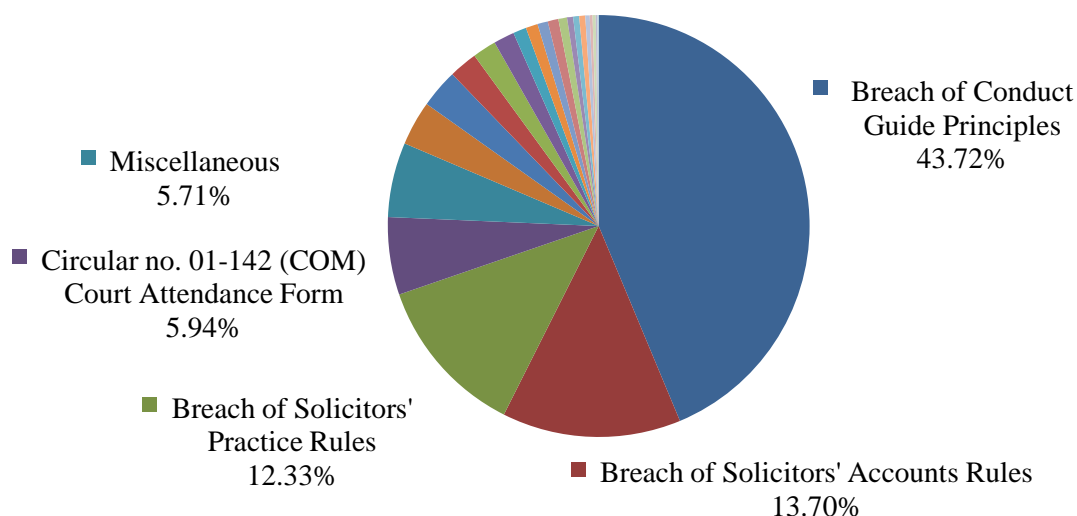
Determination of Complaints in 2022

Figure 1: Subject matters of complaints



Subject Matters of Complaints	2022	2021	2020
Administrative/regulatory	30.14%	38.35%	31.98%
Civil litigation	18.04%	14.68%	17.96%
Conveyancing (H.K.)	13.58%	10.83%	7.67%
Criminal	6.28%	2.84%	6.13%
Miscellaneous	6.05%	3.67%	4.27%
Court inspections	5.94%	13.21%	15.44%
Matrimonial	4.34%	4.50%	3.83%
Civil Celebrant	4.22%	1.19%	0.44%
Probate	2.74%	3.49%	0.99%
Company/commercial	2.05%	1.65%	5.26%
Bankruptcy	1.48%	0.55%	1.10%
Owners’/incorporated owners’ disputes	1.37%	1.19%	1.10%
Landlord & tenant	1.26%	0.18%	0.44%
Reports of purported law firms	1.14%	1.47%	2.30%
Contract	0.68%	0.46%	0.55%
Conveyancing (other than H.K.)	0.57%	0.09%	—
Media/promotion	0.11%	—	0.33%
Inspections	—	0.09%	0.22%
Legal Visit	—	0.18%	—
Solicitors’ Clerks (s.53 of the LPO)	—	1.38%	—

Figure 2: Nature of professional misconduct

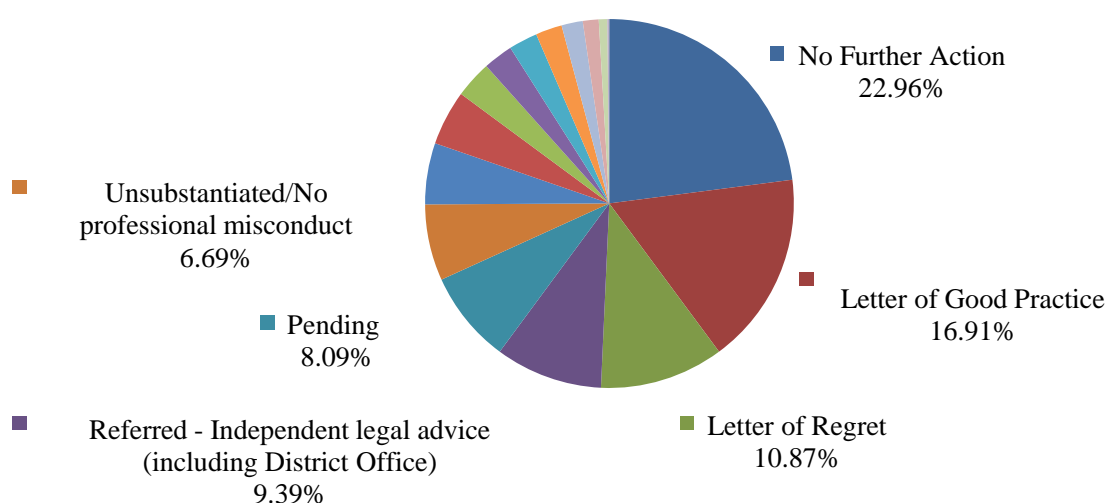


Nature of professional misconduct	2022	2021	2020
Breach of <i>Conduct Guide Principles</i>	43.72%	31.28%	35.49%
Breach of <i>Solicitors' Accounts Rules</i>	13.70%	16.51%	7.89%
Breach of <i>Solicitors' Practice Rules</i>	12.33%	8.62%	12.71%
Circular no. 01-142(COM) (Court attendance form)	5.94%	13.49%	15.33%
Miscellaneous	5.71%	4.50%	5.91%
Commission-taking	3.42%	0.73%	2.96%
Dishonesty	2.97%	2.02%	0.33%
Late submission of Accountant's Reports	2.17%	5.87%	4.82%
Misbehaviour	1.83%	1.28%	1.64%
Breach of undertaking	1.60%	1.74%	0.55%
Unqualified persons acting or pretending to be a solicitor (ss.45-48 of the <i>LPO</i>)	1.03%	1.56%	2.19%
Breach of <i>Practice Directions</i>	0.91%	2.75%	1.53%
Breach of <i>Foreign Lawyers Practice Rules</i>	0.80%	1.01%	1.75%
Overcharging	0.80%	0.64%	0.33%
Negligence	0.68%	1.47%	0.33%
Breach of <i>Solicitors' Practice Promotion Code</i>	0.46%	0.55%	1.64%
Delay	0.46%	0.09%	0.11%
Inadequate service	0.46%	0.55%	—
Breach of <i>Foreign Lawyers Registration Rules</i>	0.34%	2.75%	2.08%
Conflict of interest	0.23%	0.37%	0.55%
Failure to reply to letters on behalf of a client or to inquiries from The Law Society	0.23%	0.37%	0.33%
Non-payment of barristers' fees	0.11%	1.19%	0.22%
Practising without a practising certificate	0.11%	0.09%	—
Offences in relation to foreign lawyers, etc. (s.50B of the <i>LPO</i>)	—	0.28%	0.22%
Breach of <i>Solicitors (Professional Indemnity) Rules (general)</i>	—	0.09%	0.22%

Nature of professional misconduct	2022	2021	2020
Being a partner with a conditional practising certificate (s.6(6) of the LPO)	—	0.09%	—
Touting	—	0.09%	—
Property fraud	—	—	0.88%

“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



	2022	2021	2020
No further action	22.96%	33.04%	22.85%
Letter of Good Practice	16.91%	10.15%	7.99%
Letter of regret	10.87%	6.18%	10.81%
Referred – Independent legal advice (incl. District Office)	9.39%	11.92%	10.93%
Pending	8.09%	10.89%	8.23%
Unsubstantiated/No professional misconduct	6.69%	6.25%	11.55%
Letter of disapproval	5.39%	3.97%	4.18%
Referred – Tribunal Convenor	4.83%	1.91%	4.79%
Unpursuable	3.25%	2.87%	4.05%
Referred – enforcement agencies	2.60%	2.58%	2.70%
Referred – relevant Authorities	2.51%	3.53%	3.19%
Withdrawn	2.32%	1.40%	2.70%
Strong letter of disapproval	1.86%	2.28%	1.84%
Resolved amicably	1.39%	0.96%	1.11%
Referred – taxation	0.74%	1.47%	2.21%
Referred – Joint Tribunal	0.19%	0.37%	0.25%
Referred – others (incl. intervention agents)	—	0.07%	0.12%
Summary Disposal	—	0.07%	0.37%
Referred – other departments of The Law Society	—	0.07%	0.12%

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 of the Solicitors Disciplinary Tribunal Panel (“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 2022, there were three application made to the Chief Judge under section 9A(2) of the *LPO*. The Chief Judge directed in one application that the matter be submitted to the Tribunal Convenor.

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.

In the past year, the Investigation Counsel conducted seven visits to five law firms. (20 visits to 12 law firms in 2021). 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 visit law firms to assist them to improve their accounting procedures/systems, give advice on the best use of the Manual on Solicitors’ Accounting and inspect their books and accounts to ensure their compliance with the rules relating to solicitors’ accounting. 78 visits were made to 47 solicitors’ firms and foreign law firms; some firms required more than one visit (85 visits to 51 firms in 2021).

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 section 26A, 26B or 26C of the *LPO* are set out in Schedule 2 to the *LPO*. Once a firm has been intervened, it ceases practice. 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 in order for the intervention agents to verify and determine the claims, claimants must complete a statement of truth and declaration and produce supporting documents to substantiate their claims. Documents in the possession of the Council are indexed and kept in storage in accordance with the guidelines in 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 one solicitors' firm in 2022.

In 2022, The Law Society continued to give instructions and support to the Intervention Agents, organize the indexing and storage of files, make court applications, deal with taxation and assist Police investigations in the current and past interventions.

INVESTIGATION COMMITTEE ON DISCIPLINARY MATTERS

The Investigation Committee (Disciplinary Matters) is the only Investigation Committee with a fixed membership drawn from members of the Standing Committee. The Committee's work includes monitoring the progress of disciplinary proceedings, appeals against the orders of the Solicitors Disciplinary Tribunal and enforcement 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 enforcement proceedings.

The Committee considered 82 matters by circulation of 44 agenda. (In 2021, 103 matters were considered by circulation of 61 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.

In 2022, the Council resolved to submit to the Tribunal Convenor under sections 8A(3) and 9A(1) of the *LPO* five matters concerning the conduct of six solicitors and three clerks (eight matters concerning nine solicitors and one clerk in 2021), and the Standing Committee on Compliance resolved to submit to the Tribunal Convenor under section 9A(1) of the *LPO* six matters concerning the conduct of six solicitors and one clerk (seven matters concerning six solicitors and one trainee solicitor in 2021).

A total of six matters had been submitted to the Tribunal Convenor in 2022 (six in 2021). Of these six matters, two matters were submitted under section 9A(1A) of the *LPO* for summary disposal; one matter was submitted under section 8A(3) of the *LPO* and three matters were submitted under section 9A(1) of the *LPO*.

Four disciplinary proceedings were determined by the Solicitors Disciplinary Tribunal in 2022 (eight in 2021). All the complaints were proved and the following orders were made:

Respondent	Position	Charge(s)	Penalty	Fine (HK\$)
1	Trainee Solicitor	1 count of section 2(2) of the <i>LPO</i> 1 count of Principle 11.01 of the <i>Guide</i>	censured to pay costs	HK\$20,000
1	Solicitor	1 count of conduct unbefitting a solicitor	censured suspended from practice for a period of 2 years from 15 June 2022, and for a period of 3 years following the resumption of practice after completion of the suspension, may resume practise as neither a partner nor a sole practitioner and must do so under the close supervision of a solicitor approved by The Law Society, who is either a partner or a sole practitioner, of no less than 15 years' standing, practising full-time, and of good standing to pay costs	N/A
1	Solicitor	1 count of rules 6, 9A, 10(1), 10(2) and 11 of the <i>SAR</i> 1 count of rule 7 of the <i>SAR</i> 1 count of rules 7, 9A, 10(1) and 11 of the <i>SAR</i> 1 count of rules 7, 9A and 11 of the <i>SAR</i> 1 count of rules 7 and 10(1) of the <i>SAR</i> 1 count of rules 7, 9A, 10(1), 10(2) and 11 of the <i>SAR</i> 1 count of rules 7 and 11 of the <i>SAR</i> 1 count of rule 7A of the <i>SAR</i> 1 count of rules 7A, 9A and 11 of the <i>SAR</i>	struck off from the Roll of Solicitors to pay costs	N/A

Respondent	Position	Charge(s)	Penalty	Fine (HK\$)
		1 count of rules 9A, 10(1) and 11 of the SAR 1 count of rules 9A, 10(1), 10(2) and 11 of the SAR 1 count of rules 9A, 10(3) and 11 of the SAR 1 count of rules 9A, 10A and 11 of the SAR 1 count of rules 9A and 11 of the SAR 1 count of rule 10(1) of the SAR 1 count of rules 10(1) and 10(2) of the SAR 1 count of rule 10(3) of the SAR 1 count of rule 10A of the SAR 1 count of rule 11 of the SAR 1 count of Principle 4.10 of the <i>Guide</i> 2 counts of section 8AA of the <i>LPO</i> and rules 2(a), 2(d) and 2(e) of the <i>SPR</i> 1 count of paragraph 9 of the Circular, rules 2(d) and 2(e) of the <i>SPR</i> and Principle 2.03 of the <i>Guide</i> 1 count of section 8 of the <i>LPO</i> , rule 8 of the <i>ARR</i> and Principle 2.03 of the <i>Guide</i>		
1	Clerk	1 count of section 2(2) of the <i>LPO</i>	prohibited from the employment by any solicitor or foreign lawyer or Hong Kong firm or foreign firm for 60 years from 13 September 2022 to pay costs	N/A

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

“*LPO*” = *Legal Practitioners Ordinance (Cap.159)*

“ARR” = Accountant’s Report Rules (Cap.159A)

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

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

“Circular” = the Law Society’s Circular 17-629(PA) dated 7 August 2017

In 2022, the Tribunal Convenor summarily disposed of two matters by making orders requiring each of the two solicitors concerned to pay respective sums of HK\$10,000 as fixed fine and HK\$15,000 as fixed costs.

Appeals and other litigation proceedings

Appeal proceedings

In November 2022, the Court of Appeal allowed The Law Society’s appeal against the order of the Solicitors Disciplinary Tribunal, set aside the penalty of suspension from practice as imposed by the Solicitors Disciplinary Tribunal and ordered the Respondent be struck off the Roll of Solicitors with effect from 1 November 2022.

In December 2022, the Court of Appeal granted leave to The Law Society to appeal against the penalties imposed in the order of the Solicitors Disciplinary Tribunal.

Charging order proceedings

In February 2022, a Charging Order Absolute was obtained by The Law Society against the property of a Respondent under the disciplinary proceedings.

Litigation proceedings

In March 2022, an application taken out by a solicitor under section 6(9) of the *LPO* by way of Originating Summons to direct The Law Society to issue a practicing certificate under section 6(1) of the *LPO* was discontinued with no order as to costs.

In June 2022, the Court granted leave for a solicitor to withdraw the application for leave to apply for judicial review against The Law Society’s decision to reject an application for approval of employment. In August 2022, the Court ordered costs in favour of The Law Society.

In November 2022, the Court granted leave for a solicitor to apply for judicial review against The Law Society’s decision to submit complaints against him to the Tribunal Convenor.

CONSENTS COMMITTEE

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 22 times during the year and considered 477 items (in 2021, 21 meetings and 560 items). A further 23 matters were dealt with by circulation of two agenda (in 2021, 44 matters by circulation of four agenda).

The Standing Committee on Compliance reviewed three decisions of the Consents Committee; all three decisions were upheld.

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:

Nature of applications	2022	2021	2020
Admissions	792	633	666
Certificates of eligibility for admission	617	695	729
Practising certificates:	11,457	10,790	10,344
Practising certificates – removal of conditions under s.6(6) <i>LPO</i> (solicitors)	200	207	168
Membership	13,144	12,795	12,296
First registration as a foreign law firm	3	4	5
First registration as a foreign lawyer	222	256	199
Renewal of registration as a foreign lawyer	1,500	1,606	1,669
Removal of conditions on certificates of registration (foreign lawyers)	84	81	63
Registration as an Association	4	2	4
Removal of name from the Roll of Solicitors	7	3	4
Restoration of name to the Roll of Solicitors	1	2	2
Qualifications for admission s.4(1A) <i>LPO</i>	74	82	86
Employment of staff: s.53(1) <i>LPO</i>	2	1	4
s.53(3) <i>LPO</i>	2	2	7
Practising certificates – removal of conditions under s.6(6A) <i>LPO</i>	29	37	30
Practising certificates – Special Conditions	1	31	8
Registration of first trainee solicitor contracts	556	686	511
Registration of subsequent trainee solicitor contracts	131	114	106
Special leave to employ trainee solicitors	10	22	8

Nature of applications	2022	2021	2020
Other trainee solicitor matters	151	109	123
Law costs draftsmen	2	5	2
Accountant's report – solicitors' firms	949	950	937
Accountant's report – foreign law firms	89	93	93
Firm name and letterhead	10	15	27
Waiver applications – general	5	8	7
Waiver applications – PD	2	1	3
Registration of new associate member	4	—	1
Certificates of standing for solicitors or foreign lawyers	1,227	1,403	656
Certificates of standing for solicitors' firms or foreign law firms	15	20	20
Letters regarding employment or training visas	217	186	198
Authorised solicitors' clerks	37	35	44

“LPO” = *Legal Practitioners Ordinance* (Cap.159)

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

* Applications were under the *Solicitors' Practice Rules* (Cap.159H)

Figure 4: Admission of solicitors 2013 – 2022

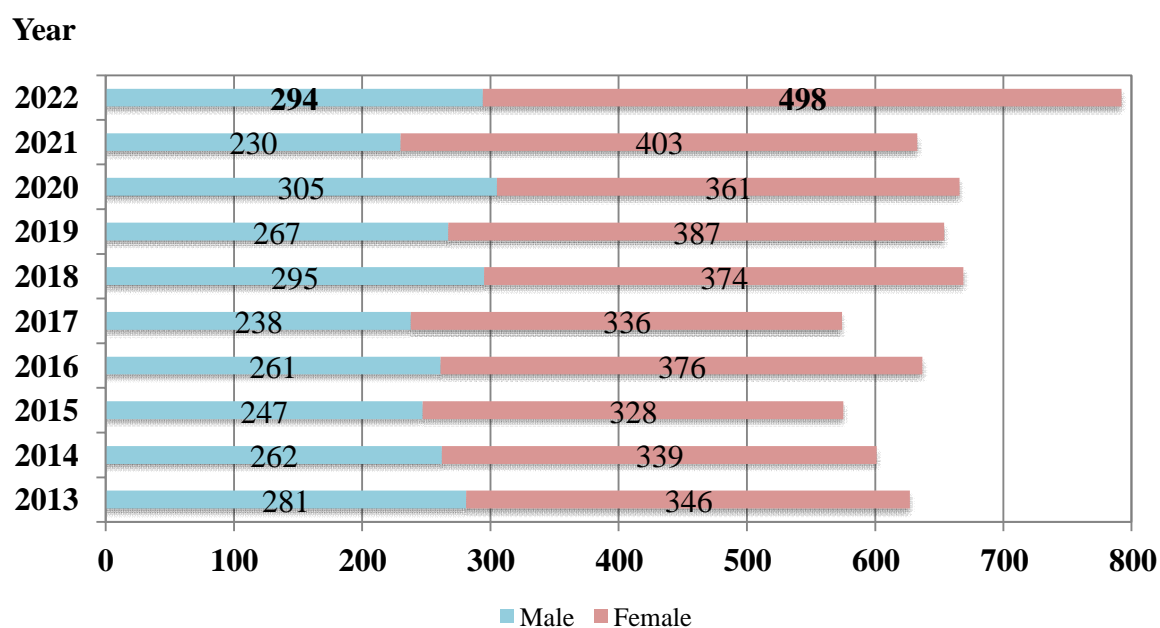


Figure 5: Solicitors holding practising certificates 2013 – 2022

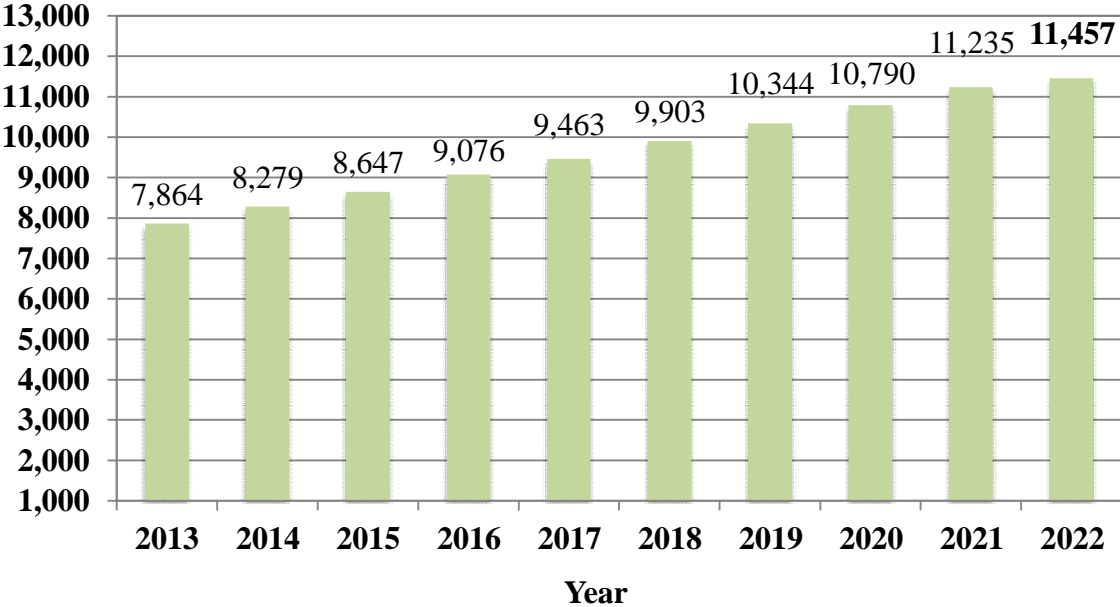


Figure 6: Years of admission – solicitors holding a 2022 practising certificate

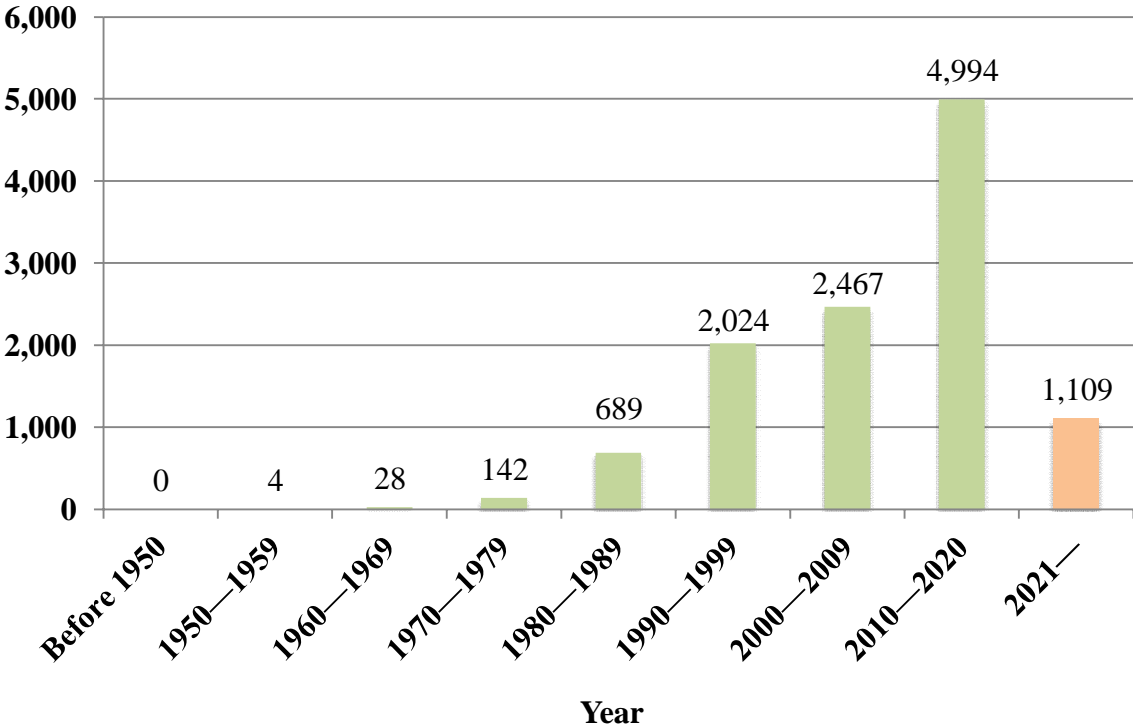


Figure 7a: Gender ratio – Solicitors holding a practising certificate (2015 – 2022)

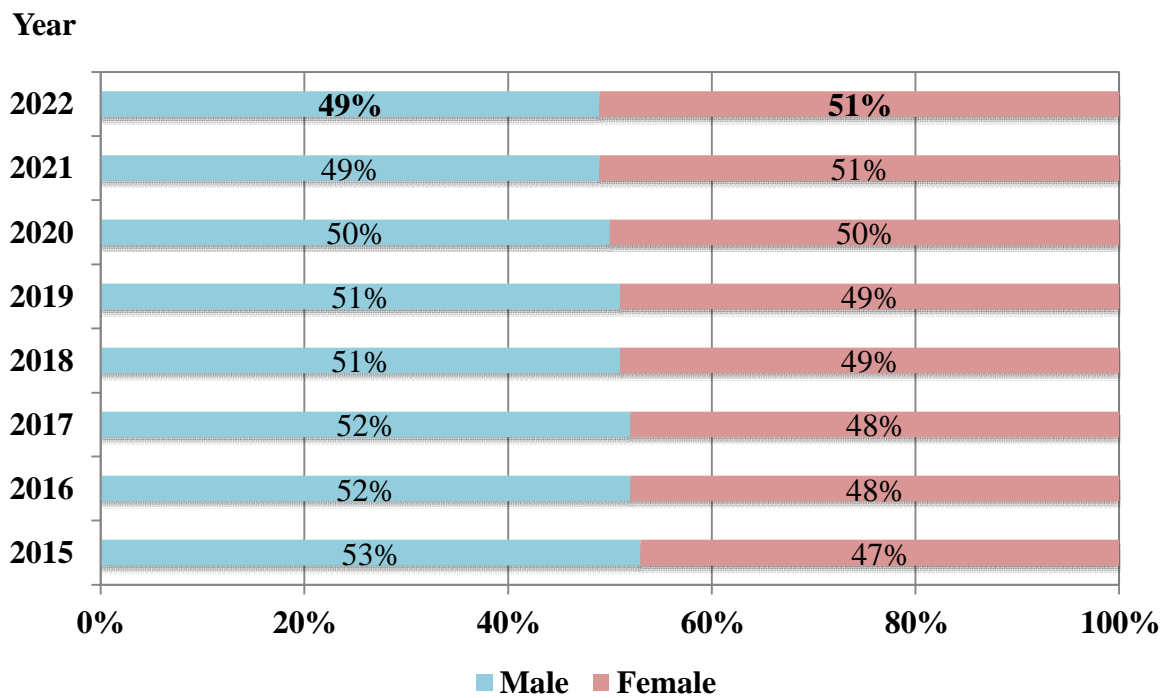


Figure 7b: Gender ratio – Trainee solicitors 2016 – 2022

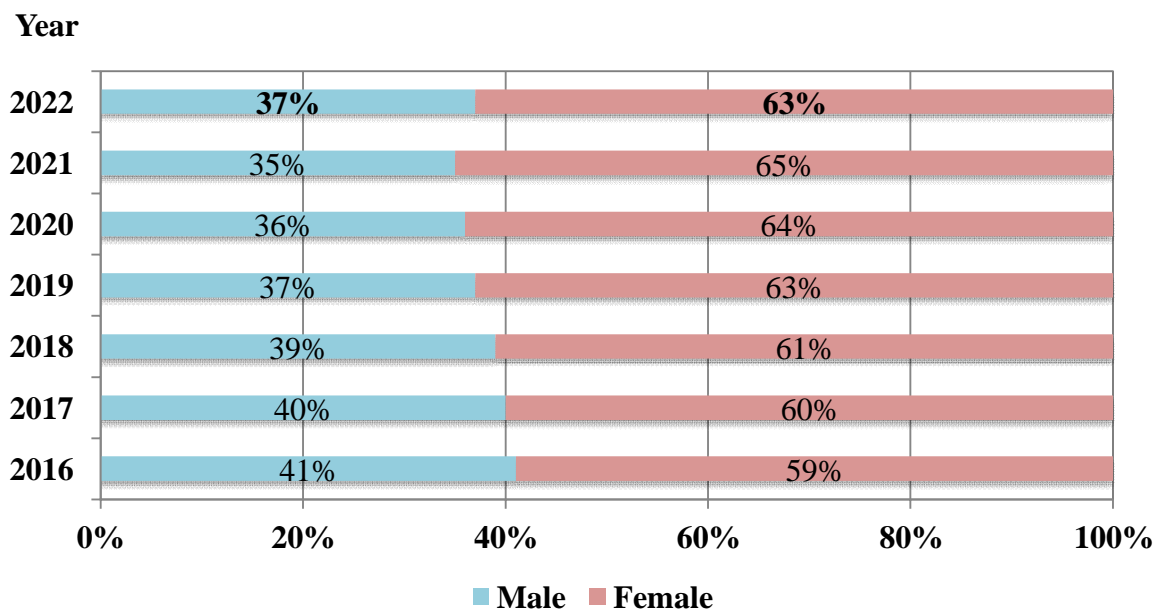


Figure 7c: Gender ratio – Partners 2016 – 2022

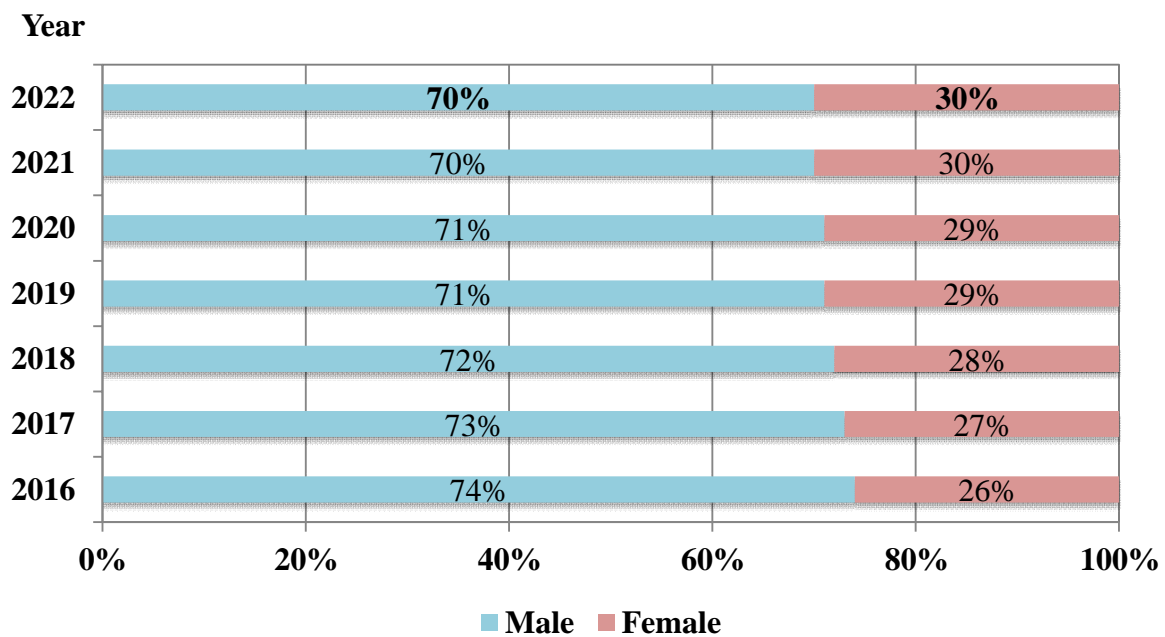


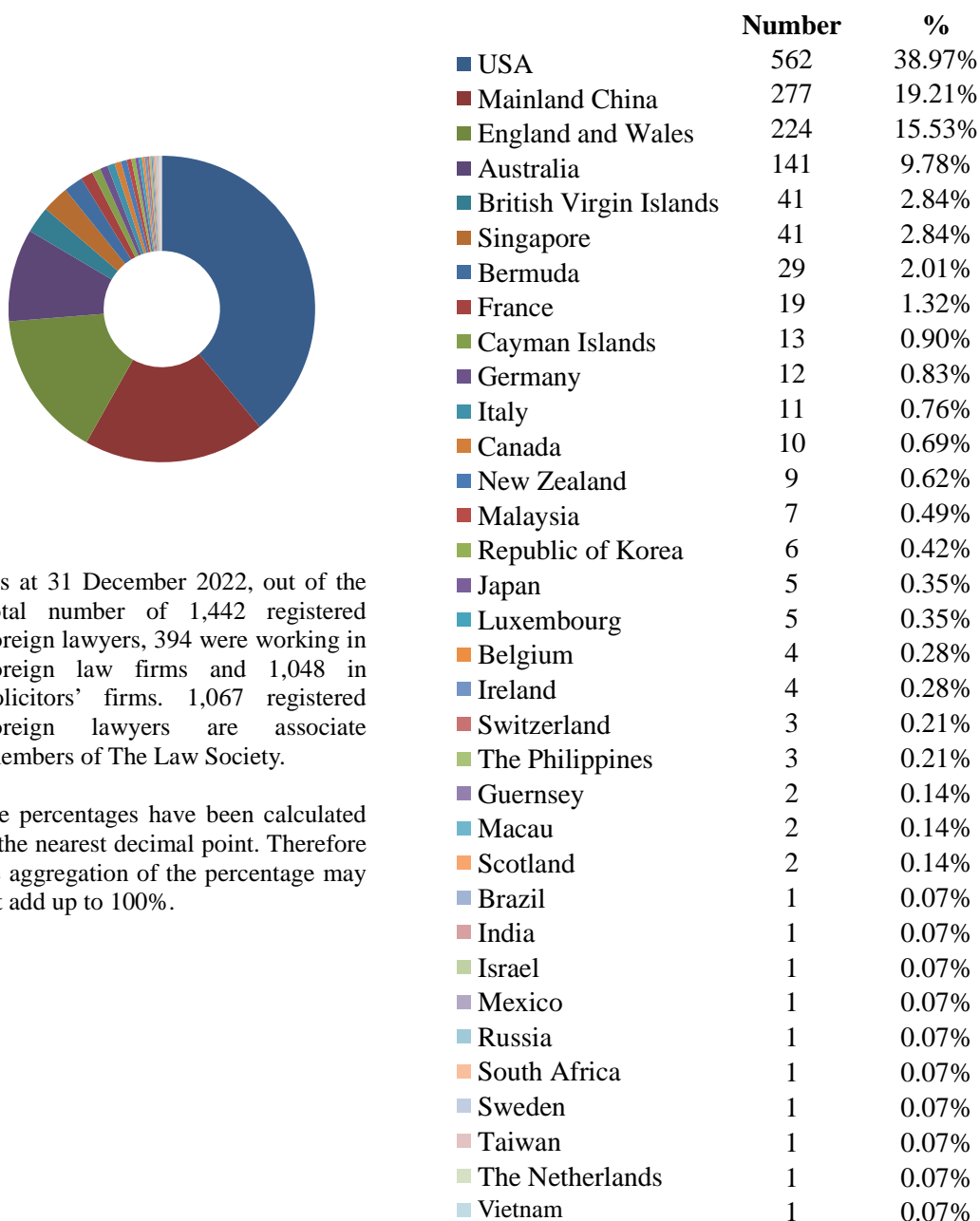
Figure 8: Size of solicitors’ firms and number of trainee solicitors in 2022

Size of firm	No. of firms		No. of trainee solicitors	
	2022	2021	2022	2021
Sole practitioners	436	445	80	75
2 – 5 partners	386	390	321	350
6 – 10 partners	48	51	179	192
11 – 20 partners	47	41	308	275
Over 20 partners	14	15	237	239
Total	931	942	1,125*	1,131#

* excluding 24 in government and 4 working “in-house”

excluding 22 in government and 7 working “in-house”

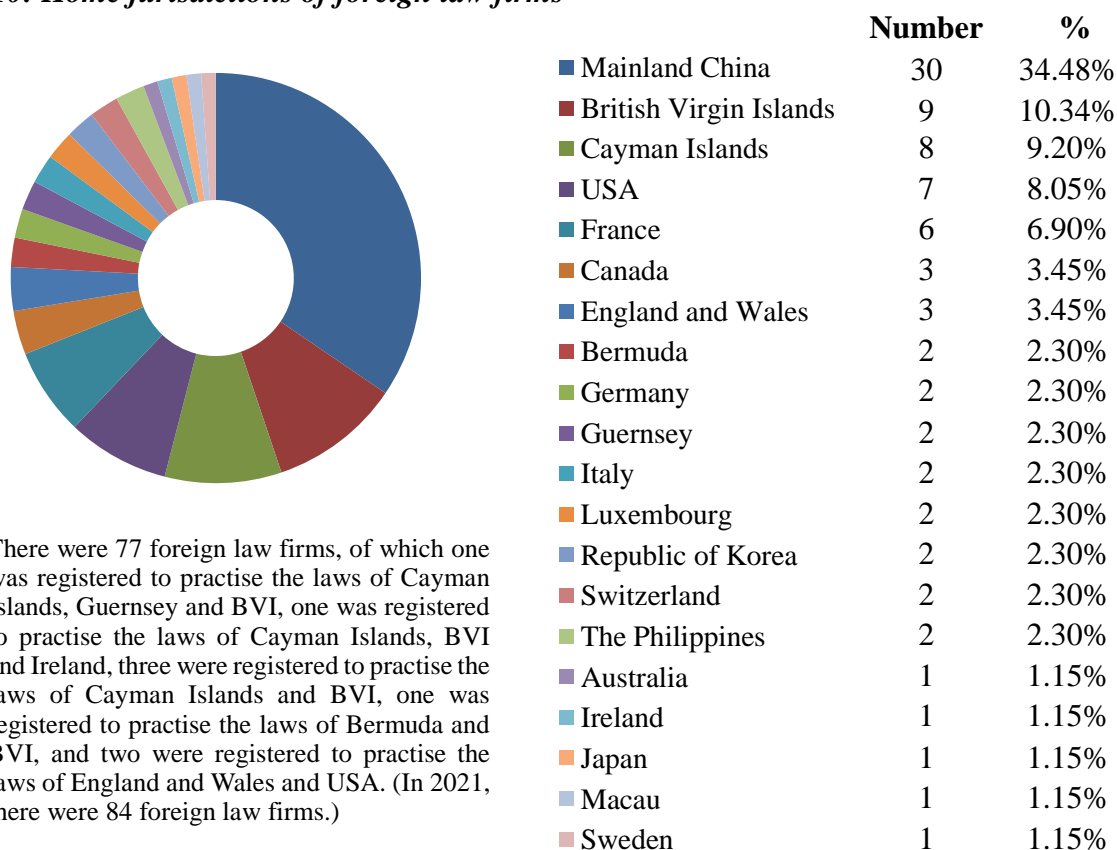
Figure 9: Home jurisdictions of registered foreign lawyers



Notes: As at 31 December 2022, out of the total number of 1,442 registered foreign lawyers, 394 were working in foreign law firms and 1,048 in solicitors' firms. 1,067 registered foreign lawyers are associate members of The Law Society.

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

Figure 10: Home jurisdictions of foreign law firms



Notes: There were 77 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, three were 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 2021, 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 36 Associations registered between foreign law firms and solicitors’ firms (37 in 2021). Two new foreign law firms commenced practice (four in 2021). Nine foreign law firms were closed, three of which established local practice. (In 2021, six foreign law firms were closed, three of which established local practice.)

There were 15,215 unqualified staff members employed by solicitors’ firms at the end of the year (15,527 at the end of 2021). In addition, there were 672 unqualified staff members employed by foreign law firms at the end of 2022 (676 in 2021).

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 653 authorised solicitors’ clerks (704 in 2021).

The Law Society continued to waive subscription fees for student members in 2022. By the end of the year, there were 228 student members registered with The Law Society (224 in 2021).

At the end of December, the number of Law Society Approved Law Costs Draftsmen was 41 (40 in 2021).