



THE
LAW SOCIETY
OF HONG KONG
香港律師會

Standing Committee on Standards and Development

2021

STANDING COMMITTEE ON STANDARDS AND DEVELOPMENT



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 foreign lawyers, and on their conduct and practice.

The Standing Committee convened 13 meetings.

Businesses dealt with by the Standing Committee during meetings and by paper circulation are categorized into the following:

- (a) Formulating policies on regulating solicitors, foreign lawyers and their practice:
- Consideration of a proposal to establish a working party to review the regime governing cessation agents including but not limited to a comparative study of the practices and policies of other jurisdictions, the issues and problems encountered by law firms in Hong Kong upon cessation of practice and the guidelines governing cessation of practice and appointment of cessation agents;
 - Formulating and issuing invitations to firms to consider applying for appointment as cessation agents, compilation of a list of firms willing to act as cessation agents, issuance of a Circular on an updated list of firms willing to act as cessation agents, reminder on the current guidelines applicable on appointment of cessation agents and the current guidelines applicable on cessation of practice;
 - Applications to the Solicitors Regulation Authority of England and Wales (“SRA”) on behalf of Hong Kong solicitors seeking admission as solicitors of England and Wales for institutional exemption from taking the *Solicitors Qualifying Examination* (“SQE”);
 - Review of the regulatory regime of overseas lawyers working in corporations;
 - Consideration of a proposal for an Anti-Money Laundering (“AML”) Review of Hong Kong law firms and registered foreign firms, approval of the documentation and the logistics of the Review;
 - Proposal for admission of Hong Kong solicitors to be dealt with by paper applications;
 - Consideration of the applications for appointment as Chinese language law draftsmen;
- (b) Keeping under regular review the *LPO* and its subsidiary legislation, The Law Society’s *Practice Directions* and the *Hong Kong Solicitors’ Guide to Professional Conduct, Volume 1* (“*Conduct Guide*”):
- Interpretation of rule 9(1) of the *Trainee Solicitors Rules*;

- Interpretation of rule 13(1) and rule 13(3) of the *Foreign Lawyers Registration Rules*;
 - Consideration of the *Overseas Lawyers (Qualification for Admission) (Fees) (Amendment) Rules*;
 - Consideration of the comments of the Department of Justice (“DOJ”) on the amendments proposed by The Law Society to Section 55 of the *LPO* and formulation of further amendments to Section 55;
 - Consideration of the policy intent of Section 53(1) of the *LPO*, proposed amendments to Section 53(1)(a), comments of DOJ on the proposed amendments and views of the Standing Committee on Policy and Resources;
 - Review of the amendments proposed to the Notes for completing Form 1B (Application for a Certificate of Eligibility for Admission as a Solicitor on the basis of Compliance with Section 4(1)(a) - Barristers), the Notes for Completing Form 1C (Application for a Certificate of Eligibility for Admission as a Solicitor under Section 4(1)(b)) and the Notes for completing Form 4 (Application for a Certificate of Eligibility for Admission as a Solicitor on the basis of Compliance with Section 4(1)(a) – Trainee Solicitors);
 - Review of the fees set out in Schedule 3 to the *Solicitors (General) Costs Rules*;
 - Consideration of the revamp of the *Conduct Guide* and the proposal to appoint a publication company to take on a supporting role in the revamp;
 - Promulgation of the *Admission and Registration (Amendment) Rules* on 1 November to amend the *Admission and Registration Rules* to introduce international law as one of the basic legal topics in which a trainee solicitor could gain training and experience, with consequential amendments to the Information Package for Trainee Solicitors, Trainee Solicitor Contract – Form B, Information Package for Admission as a Solicitor: Trainee Solicitors and Training Checklist for Trainee Solicitors;
- (c) Overseeing the administration of the *Continuing Professional Development (“CPD”) Scheme* and the *Risk Management Education (“RME”) Programme*:
- Review of the maximum number of CPD points which can be claimed by attending live webinars, viewing pre-recorded multimedia, audio-visual, audio or visual courses, issuance of a Circular on the removal of the cap on the CPD points which can be claimed and approval of the consequential amendments to the CPD Information Package;

- Consideration of a complaint made by a participant against a CPD course provider, review of the consequential amendments to the CPD Information Package and formulation of a reply to complainant;
 - Consideration of an appeal of a course provider against the decision of the CPD Accreditation Subcommittee on its application for CPD accreditation of its course and formulation of the recommendation to the Council;
 - Review of the hourly rate payable to RME part-time tutors;
 - Review and approval of the amendments to Guideline 4.1, Guideline 5 and Guideline 8 of the CPD Information Package and approval of the updated lists of legal journals, law courses, distance learning courses, committees, working parties and associations for accreditation purpose;
 - Approval and issuance of a Circular on the exemption granted to solicitor-mediators in respect of their CPD requirements in mediation training;
 - Approval and issuance of a Circular to remind the general membership of their CPD and RME obligations from the 2021/22 CPD/RME practice year onwards
 - Review and approval of the amendments to paragraph 3(A) of Section E of the RME Information Package and amendments to the Application Form for Accreditation of RME Elective Course;
 - Appointment of the College of Law, Australia and New Zealand (“College of Law”) to develop the RME elective on “High Risk Issues in Legal Practice”;
 - Review and approval of the amendments to the Statement of Compliance with CPD/RME Requirements (“Statement of Compliance”) and Explanatory Notes for completing the Statement of Compliance;
- (d) Overseeing the administration of the *Overseas Lawyers Qualification Examination (“OLQE”)*:
- Approval of the logistics of the 2020 Head V *OLQE*;
 - Consideration and review of the results of the 2020 *OLQE*;
 - Consideration of the modes of examination of the 2021 *OLQE*;
 - Approval of the documentation of the 2021 *OLQE* including the 2021 *OLQE* Information Package and Supplementary Information Package;

- Approval of the logistics of the 2021 *OLQE* including the preventive measures to be taken in the light of the COVID-19 pandemic and mutant strains, taking into consideration the provisions in the *Prevention and Control of Disease (Requirement and Directions)(Business and Premises) Regulation, the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation, the Prevention and Control of Disease (Wearing of Mask) Regulation*, the advice of the Centre for Health Protection, the advice of the Food and Health Bureau and the measures taken by the Hong Kong Examinations and Assessment Authority;
- Approval of the amendments to the Health Declaration Forms to be completed by Examination personnel;
- Revision of the number of questions in the Head V *OLQE* on Principles of Common Law;
- Consideration and renewal of appointment of the incumbent Examiners and incumbent Panel Convenors and appointment of a new Panel Convenor for the Head II *OLQE* on Criminal and Civil Procedure;
- Appointment of the *OLQE* Co-Chief Examiners;
- Revision of the allocation of responsibilities between the two *OLQE* Co-Chief Examiners;
- Revision of the job description of the *OLQE* Co-Chief Examiners;
- Review of the fees of the *OLQE* Co-Chief Examiners and Examiners for the 2021 *OLQE*;
- Determination of the applications for review under rule 9 of the *Overseas Lawyers (Qualification for Admission) Rules* (“*OLQE Rules*”);
- Consideration of a question raised by an *OLQE* preparatory course provider and formulation of a reply to the course provider;
- Review of the exemption guidelines for the Head IV *OLQE* on Accounts and Professional Conduct and the various options for restructuring Head IV;
- Consideration of the views and questions raised by DOJ on the proposed increases in examination fees and the formulation of a reply to DOJ;
- Consideration of the use of The Law Society’s Cloud to facilitate the marking of examination scripts;
- Consideration of the implications of the *SQE* on the *OLQE*;

- Consideration of the use of zoom to conduct the Head V *OLQE* on Principles of Common Law;
 - Guidelines on dealing with late arrival of candidates in the Head V *OLQE* on Principles of Common Law;
 - Review of fees of the *OLQE* Co-Chief Examiners and Examiners of the 2022 *OLQE*;
- (e) Overseeing legal education:
- Renewal of appointment of External Examiners of the *Postgraduate Certificate in Laws (“PCLL”) Programmes* of City University (“CityU”), the Chinese University of Hong Kong (“CUHK”), and The University of Hong Kong (“HKU”) and appointment of new External Examiners;
 - Renewal of appointment of representatives of The Law Society on the *PCLL* Academic Board of HKU;
 - Consideration of renewal of appointment of the *PCLL* Chief External Examiner;
 - Consideration of the draft Paper on the Law Society Examination (“LSE”) Syllabus and Outcomes;
 - Approval of a new legal executive course “Higher Diploma in Law and Legal Informatics” proposed by the Hong Kong Institute of Vocational Education (“IVE”);
 - Nomination of representatives to speak at the “Professional Conduct and Practice” Module of the *PCLL* Programme at CityU on “The Admission and Forms of Practice Organization (Solicitors)”;
 - Nomination of a representative to speak at the Career Talk of the Young Solicitors’ Group for the law students of HKU and CUHK;
 - Nomination of a representative to attend the meeting of the Panel on Administration of Justice and Legal Services of the Legislative Council on “Advancing the Rule of Law: Empowering Youths and Enriching Young Legal Practitioners”;
- (f) Overseeing trainee solicitor training of trainee solicitors:
- Approval of the amendments to the Training Checklist for Trainee Solicitors;
 - Review of the minimum wages prescribed by The Law Society for trainee solicitors;

- Issuance of a Circular on the minimum wages prescribed for trainee solicitors;
 - Review of the amendments proposed to the Notes for completing Form AA (Application for Registration of Trainee Solicitor Contract), Form BB (Application for Registration of New Trainee Solicitor Contract), Specimen Trainee Solicitor Contract – Form A;
 - Review and approval of the Toolkits for completing Form AA (Application for Registration of Trainee Solicitor Contract), Form BB (Application for Registration of New Trainee Solicitor Contract), Form CC (Release), Trainee Solicitor Contract – Form A, Trainee Solicitor Contract – Form B and Trainee Solicitor Contract – Form C;
 - Consideration of the restructure of the *Legal Trainee Scheme* proposed by DOJ to include the Inclusive Dispute Avoidance and Resolution Office and the Law Reform Commission Secretariat within the Secretary for Justice’s Office as government agencies to provide training to trainees under the *Legal Trainee Scheme*;
 - Consideration of the *Competition Law Ordinance*, the Advisory Bulletins issued by the Competition Commission and the Guideline on the First Conduct Rule issued jointly by the Competition Commission and the Communications Authority;
 - Review of the *Code of Good Practice in the Recruitment of Trainee Solicitors* (“Code”);
 - Review of the regulatory regime of trainee solicitors, in particular, whether principals could require trainee solicitors to take garden leave, how to monitor the training provided by the principals and how to evaluate the training experience of trainees;
 - Issuance of a Circular to remind principals and trainees on the avenues available under the current regulatory regime on resolving any difficulties and/or problems encountered in training;
- (g) Supervising the work and the operation of the Committees, Working Parties and Sub-Committees under its umbrella and reviewing their recommendations and proposals:
- Review on a regular basis all the minutes of the meetings of the Committees and Working Parties under its umbrella;
 - Review of the composition of the Committees and Working Parties, renewal of appointment of their Members and appointment of new Members;
 - Renaming the Sub-Committee on Practice in Service Centres, at Home, in Domestic Premises or by Virtual Offices as the Sub-Committee on Practice Venues;

- Review of the composition of the Sub-Committee on Practice Venues, appointment of the new Members of the Sub-Committee;
- Approval of the composition of the Subgroups of the Sub-Committee on Practice Venues;
- Consideration of the policy on how to deal with the membership of Members of the Committees and the Working Parties who have relocated outside Hong Kong and the steps to be taken to implement the policy;
- Review of the progress of the work of the Committees and Working Parties;
- Review of the roadmap of the work of the Sub-Committee on Practice Venues;
- Review of the roadmap of the work of the AML Committee;
- Review of the progress of the legislative amendment exercise to enable solicitors to incorporate their practices, including the progress in the drafting of the *Solicitor Corporation Rules* (“*SC Rules*”), the *Foreign Lawyer Corporation Rules* (“*FLC Rules*”), the amendments to the *LPO* and the consequential amendments to the subsidiary legislation of the *LPO* and the estimated timeline for completion of the exercise.

AML COMMITTEE

The Committee plays a pivotal role in supporting the Council and the legal profession in their AML and Counter-Terrorist Financing (“CTF”) efforts. Its terms of reference are to review the guidelines on money laundering, to revise those guidelines, to liaise with the Narcotics Division of the Security Bureau and the DOJ on practical issues relating to compliance requirements. It advises on AML risk management, strategies and development. It also steers the formulation of AML/CTF guidelines and the implementation of the AML/CTF regime within the legal sector. In collaboration with governmental, industry and law enforcement agencies, the Committee oversees compliance of legal professionals with the requirements of *Practice Direction P* (“*PDP*”) and the *AML and CTF Ordinance* (“*AMLO*”).

The Committee held seven meetings including two meetings with representatives of the Security Bureau.

Key themes and agenda items discussed included:

- (a) Consultation on the legislative proposal to bring corporations beneficially owned and controlled by legal practitioners carrying on the business of trust and company services

- i.e. trust and company services providers (“TCSPs”) out of the regulatory regime of the Registrar of Companies and to put them under the sole supervision of The Law Society;
- (b) Completion of the second draft of the “Hong Kong Money Laundering (“ML”) and Terrorist Financing (“TF”) Risk Assessment” (“RA”) for the legal professionals’ sector conducted by the Risk Assessment Unit (“RAU”) of the Hong Kong Police Force;
 - (c) Assessment of the Proliferation Financing risks exercise as part of the sectoral risk assessment for legal professionals and review of the “Guidance on Proliferation Financing Risk Assessment and Mitigation” issued by the Financial Action Task Force (“FATF”);
 - (d) Proposal to enhance The Law Society’s risk-based supervision of legal practitioners’ compliance with the AML requirements under *PDP* and *AMLO*;
 - (e) Deliberation of the FATF publication “A Risk-Based Approach for Supervision”;
 - (f) Proposal to conduct an off-site AML Review for the purposes of verifying compliance of solicitors and law firms with the *PDP* and *AMLO* requirements, understanding AML risks specific to the Hong Kong legal sector and individual firms, identifying the type of guidance law firms may require to enhance compliance with their AML obligations, and seeking their views on the most appropriate type of supervision to effectively combat ML and TF risks.

Committee Members attended four industry wide webinars organised by:

- (a) The Security Bureau on 28 April for Designated Non-Financial Businesses and Professions (“DNFBPs”) entitled “Webinar series on DNFBP Supervision” with representatives from real estate agencies, dealers in precious metals and stones, accountants and TCSPs;
- (b) The Hong Kong Monetary Authority (“HKMA”) on 16 September for authorised institutions and stored value facility licensees entitled the “AML Webinar on Collaboration, Data and Technology” with speakers from the HKMA, law enforcement agencies, regulatory consulting and banks;
- (c) The Companies Registry on 20 October for TCSPs entitled “Licensing Regime & AML and CTF Requirements for TCSPs” with speakers from the Companies Registry and the Hong Kong Police Force;
- (d) The Hong Kong Chartered Governance Institute on 25 November for the TCSPs entitled “2nd AML/CTF Conference - TCSP Regulations, Topical Issues and Practical Sharing” with speakers from various company services providers, regulatory consulting and The Law Society.

Two AML seminars for legal practitioners were conducted on 22 June and 4 November covering the following topics:

- (a) Major provisions and amendments of *AMLO*;
- (b) Latest developments in international and domestic AML/CTF trends and regulations;
- (c) Legal practitioners' statutory obligations with respect to Suspicious Transaction Reporting ("STR"), including STR case studies and statistics;
- (d) Customer due diligence and record keeping requirements for legal professionals.

Guest speakers included representatives of the Security Bureau, DOJ and the Financial Intelligence and Investigation Bureau. These seminars were attended by a total of 649 participants.

Apart from the RME elective on AML conducted regularly by Hong Kong Academy of Law Limited ("Academy") under the RME Programme of The Law Society, the accredited RME course providers of The Law Society's *RME Provider Accreditation Scheme* delivered another four RME electives for practitioners on topics relating to AML and 550 participants attended these electives.

An AML Executive was employed with effect from September to assist the Committee, the Standing Committee and the Council in monitoring compliance with AML/CTF requirements, to liaise with various Government departments on AML matters, to handle AML enquiries, to respond to AML consultation documents, to draft AML/CTF guidelines, to attend AML experience sharing sessions and workshops organized by the HKSAR Government and other law enforcement agencies, to conduct internal and external AML training and to act as Secretary to the Committee.

AML/CTF Regime for TCSPs

With effect from 1 March 2018, any individual, partnership or corporation who carries on a trust or company service business in Hong Kong is required to apply for a licence from the Registrar of Companies. Under *AMLO*, corporate TCSPs are subject to the regulatory regime and sanctions of the Registrar of Companies. If the TCSP is wholly-owned or managed by legal professionals, directors or beneficial owners of the corporate TCSPs in their capacity as solicitors must also comply with *PDP*.

This creates a situation where the legal professionals who beneficially own or manage the corporate TCSPs must comply with both the Guideline on Compliance of AML and CTF Requirements for TCSPs and *PDP*.

In the first half of the year, the Committee focused on appealing against the decision of the Financial Services and Treasury Bureau ("FSTB") to have a dual regulatory regime where TCSPs are supervised by both the Registrar of Companies and also, where TCSPs are beneficially owned or controlled by legal professionals, The Law Society.

The Committee proposed that a corporate TCSP, as a separate legal entity, should be exempt from Part 5 of *AMLO* (in the same manner as legal professionals in their individual capacity are

exempt). Alternatively, the Committee proposed that section 9A of the *LPO* be amended to empower the Council with investigative and enforcement powers against any violation by a legal entity of *PDP* and *AMLO*.

Despite the Committee's significant time and efforts, the FSTB has not accepted the Committee's proposals. The current dual regulatory regime continues to place legal professionals in an uncertain position, having to deal with two distinct supervisors and approaches to AML/CTF.

Second RA for the Legal Professionals' Sector

The Committee formalised its draft of the sectorial AML/CTF risk assessment for legal professionals which forms part of the nationwide second AML/CTF RA that will be published by the HKSAR Government in early 2022. All jurisdictions that are FATF members (which include Hong Kong from 1991) are required to compile a national AML/CTF assessment on a bi-annual basis.

Building upon the experience of the RA published in 2018, the second RA provides a more detailed assessment of the AML/CTF threats and vulnerabilities from both a national and a sectoral perspective. The assessment was developed on the basis of the National Risk Assessment Tool Guidance Manual issued by the World Bank Group, and the RAU of the Hong Kong Police Force is responsible for the oversight and coordination of this exercise.

The Committee worked closely with the Security Bureau over the course of the year to provide input into a number of worksheets describing the AML regulatory framework, threats, risks, controls and vulnerabilities, supervision, sanctions and enforcement actions for violation of the *PDP* and *AMLO* requirements as well as legal professionals' AML knowledge and understanding. Considering the level of ML threat and ML vulnerability of the legal professionals' sector, which are both assessed as being "medium-low", the overall ML risk level for the legal sector is assessed as being "medium-low". The ratings proposed by the HKSAR Government on the legal sector were made in conjunction with its assessment of two other sectors, accountants and estate agents.

Proliferation Financing – risk assessment for legal professionals

FATF's Recommendation 7 in the FATF Recommendations on International Standards on Combating ML and the Financing of Terrorism and Proliferation aims at ensuring consistent and effective implementation of financial sanctions prescribed by the United Nations Security Council to prevent, suppress and disrupt the proliferation of weapons of mass destruction and the financing of these weapons. To address Recommendation 7, the Committee assessed the Proliferation Financing risks in the Hong Kong legal profession as part of the second RA exercise. The Committee considered the "Guidance on Proliferation Financing Risk Assessment and Mitigation" issued by FATF in June and agreed with the HKSAR Government's proposed Proliferation Financing risk rating as "low" for the legal professionals' sector. To enhance law firms' awareness of Proliferation Financing, the Committee highlighted this topic in its AML/CTF seminars and included a dedicated section on this topic at The Law Society website.

Proposal to enhance The Law Society's AML/CTF risk-based supervision

The last Mutual Evaluation Report published by FATF in 2019 highlighted deficiencies amongst the DNFBPs relating to a lack of robust risk-based supervisory approach and understanding of ML/TF risks at the individual firms' level. In response to FATF's recommendations, the Committee evaluated the supervisory approach to monitoring legal professionals undertaken in other foreign jurisdictions and the remedial actions taken by local DNFBPs.

The Committee recommended an off-site AML Review of law firms. The AML Review comprised an AML Questionnaire supplemented by a request for the firms to provide their AML Policy and risk assessment. The proposal for the AML Review was adopted by the Council and was launched in January 2022.

CPD COMMITTEE

The main terms of reference of the CPD Committee are to formulate policies, procedures, guidelines, to monitor the implementation and administration of the *CPD Scheme* and to keep under review the relevant policies, procedures and guidelines.

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 the Academy conducted a total of 302 CPD and RME courses during the year. Of the 302 courses, nine courses were conducted in Cantonese and the remainder in English. The courses attracted an attendance of 30,180 participants.

The Law Society and the Academy are grateful to the 248 presenters who contributed by sharing their valuable experiences and expertise.

As a result of the COVID-19 pandemic and mutant strains and to reduce the risk of transmission, the majority of the CPD and RME on-site courses of The Law Society and the Academy were suspended and were conducted by webinars instead.

Some of the highlights of courses of The Law Society and the Academy which attracted relatively high number of participants are:

Arbitration

The Academy conducted a seminar on "Should Arbitration Clause be Used in Solicitor-Client Retainers?" on 4 May. The speakers, Mr. Huen Wong, BBS, JP, Chairman of the Arbitration Committee of The Law Society and Mr. Eric Woo, Member of the Arbitration Committee of The Law Society and Partner of ONC Lawyers, discussed why arbitration clauses should be used in solicitor-client retainers, the advantages of arbitration vis-a-vis litigation including enforceability of arbitral awards, confidentiality, finality, procedural simplicity, more restrictive discovery

process, and fewer mandatory procedural rules and flexibility. The seminar attracted 395 participants.



Should Arbitration Clause be Used in Solicitor-Client Retainers?

Family Law

On 5 May, the Legislative Council passed the “*Mainland Judgements in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Bill*” (“*Bill*”). The Academy conducted a seminar on 28 July to discuss the differences in the matrimonial laws between the HKSAR and the Mainland, the key provisions of the *Bill* concerning mutual recognition and enforceability of judgments and the implications of the *Bill*. The speakers were Ms. Rita Ku, Partner of Withers and Ms. Claudia Zhao, Partner of V & T Law Firm, PRC. The seminar attracted over 430 participants.



Mainland Judgements in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Bill 2021

Insolvency Law

On 14 May, the Supreme People's Court of the People's Republic of China ("PRC") and the HKSAR Government entered into a new arrangement for the mutual recognition of and assistance to insolvency proceedings between the courts of the Mainland and the HKSAR ("Mutual Assistance and Recognition").

The Academy conducted a seminar on the Mutual Assistance and Recognition on 14 September. The speaker, Mr. Lee Hung Sang Jacky, Member of the Insolvency Law Committee and Partner of Johnnie Yam, Jacky Lee & Co., discussed the problems before the implementation of the Mutual Assistance and Recognition and the operation of the new mechanism. The seminar attracted over 240 participants.



Mutual Recognition of and Assistance to Insolvency Proceedings between the courts of the Mainland and the HKSAR

Mental Health Law

On 16 July, the Academy conducted a seminar on "Guiding Practitioners to Part II of the *Mental Health Ordinance* ("MHO")". The seminar discussed various issues of Part II of the *MHO* including its applications, the definition of "mental capacity", the requirements, contents and practicalities of medical evidence, *Practice Direction 30.1*, powers and duties of a committee appointed for managing and administering the property and affairs of a mentally incapacitated person. Ms. Sherlynn Chan, Chairlady of the Mental Health Law Committee of The Law Society, Mr. Jason Chan, Assistant Official Solicitor of the Official Solicitor's Office of the HKSAR Government and Dr. Gabriel Hung, Psychiatrist and Member of the Mental Health Law Committee of The Law Society were the speakers. Over 420 participants attended the seminar.



Guiding Practitioners to Part II of the *MHO*

On 23 April, the Academy conducted another seminar on mental health law, entitled “Mental Capacity Law of Hong Kong – Capacity Assessment, Guardianship, the New Vista of Continuing Power of Attorney and Beyond”. The speaker, Mr. Charles Chiu, Immediate Past Chairperson of the Guardianship Board, discussed the legal framework and application of guardianship under the *MHO*, definition of mentally incapacitated persons, financial and medical powers of guardian, Part II orders, Enduring Powers of Attorney and Continuing Powers of Attorney. Over 450 participants attended the seminar.

Mediation

On 19 August, the Academy conducted a seminar on “The Impact of Innovative Technologies and Contemporary Practices in Healthcare on Medical Law; Shared Decision-making and Mediation”. The seminar discussed the future of law in medicine, explainable Artificial Intelligence in healthcare, innovative therapies and treatment, decision-making and mediation. The speakers were Mr. Terry Kaan, Associate Professor at the Department of Law of HKU, Dr. Calvin Ho, Associate Professor at the Department of Law and Co-Director of the Centre for Medical Ethics and Law of the Li Ka Shing Faculty of Medicine and the Faculty of Law of HKU and Dr. James Chiu, Honorary Clinical Assistant Professor, Faculty of Medicine of HKU. The seminar attracted over 130 participants.



The Impact of Innovative Technologies and Contemporary Practices in Healthcare on Medical Law; Shared Decision-making and Mediation

Legal Tech

To enable practitioners to capitalise on the latest developments in legal technology, the Academy conducted numerous seminars on Legal Tech covering productization of legal services, robotics process automation, artificial intelligence in the legal sector, big data in e-discovery and document review, InsurTech, blockchain, digital forensics in intellectual property theft investigations, regulations of cryptocurrencies and non-fungible tokens, bitcoin and blockchain for lawyers, E-discovery, technology support for legal operations, new cyber ID in the expanding digital market and managing data breach. Over 3,060 participants attended the seminars.



Using Digital Forensics in Intellectual Property Theft Investigations

PRC Law

The PRC Individual Income Tax Law and the implementation rules have been substantively modified since they became fully effective on 1 January 2019. To apprise practitioners of the latest developments, the Academy conducted a seminar on “The PRC Individual Income Tax” on 28 September. The seminar provided an overview of the reforms and discussed the definition of “PRC individual tax resident”, the implementation rules including the day-counting rule, the "six-year" tax break rule, the time-apportionment approach, the annual reconciliation tax filing requirement, and the subsidy available to qualified individuals working in the Greater Bay Area. The speakers were Ms. Ellen Tong, Associate Partner, Ernst & Young Tax Services Limited and Mr. Michael Hong, Director, Ernst & Young (China) Advisory Limited, Guangzhou Branch. The seminar attracted over 180 participants.



The PRC Individual Income Tax

The CPD Scheme

Pursuant to rule 9 of the *CPD Rules* (“*CPD Rules*”), 155 legal practitioners were granted suspension from the *CPD Scheme* during the year. Pursuant to rule 8 of the *CPD Rules*, 52 solicitors and 51 trainee solicitors were granted an exemption from complying with the CPD requirements. These figures do not include those who were entitled to the general exemption granted by the Council in the 2020/21 CPD practice year as a result of the COVID-19 pandemic. Five trainee solicitors whose duration of trainee solicitor training had been reduced from the statutory two-year training period were granted partial exemption from participation in the *CPD Scheme*.

817 Statements of Compliance completed by solicitors were reviewed. CPD audit was conducted on 613 trainee solicitors during the year. 29 trainee solicitors were found to have failed to comply with the *CPD Rules*.

The following matters were dealt with by the Committee by paper circulation:

- (a) Applications for exemption from complying with the CPD requirements on the basis of old age;
- (b) Proposed amendments to the standard form of Statement of Compliance for solicitors and draft Explanatory Notes;
- (c) Requests of 2 accredited providers under the *Provider Accreditation Scheme* to remove the maximum number of CPD points to be claimed by practitioners by attending live webinars, viewing pre-recorded multimedia, audio-visual, audio or visual courses for the 2019/20 and 2020/21 CPD practice years;
- (d) Proposed amendments to the CPD Information Package;
- (e) Complaint about a course provider by a member of The Law Society; and
- (f) Application for review of a decision made by the CPD Accreditation Sub-Committee on the number of CPD point to a CPD course.

CPD ACCREDITATION SUB-COMMITTEE

The main terms of reference of the Sub-Committee are to determine applications for accreditation of CPD courses and activities, to determine the number of CPD points awarded on accreditation, to review the criteria for accreditation and to monitor the providers of accredited courses.

A total of 3,857 courses, compared with 3,478 courses in 2020, were accredited as CPD courses. In terms of applications, 1,186 of the 3,857 courses were accredited on a course-by-course basis and 2,410 were accredited under the *Provider Accreditation Scheme*. In terms of course providers, 43 of the 3,857 courses were provided by The Law Society, 259 were provided by the Academy of which 196 were provided under the *RME Programme*, 315 were provided by commercial providers, and the remaining 3,240 were provided by in-house providers such as universities, professional bodies and law firms.

Matters resolved by the Sub-Committee by paper circulation included applications for accreditation of courses, applications for renewal of accredited provider status, accreditation of providers, accreditation of committees and working parties and accreditation of other legal activities including writing articles, books and conducting legal researches.

The total number of accredited providers under the *Provider Accreditation Scheme* at the end of the year was 63. The Sub-Committee approved five postgraduate and other law courses and 21 legal journals and books, 86 pieces of legal research 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. 22 courses were monitored during the year.

GUIDANCE COMMITTEE

The main terms of reference of the Committee are to provide guidance and advice to the solicitors' profession and others on professional conduct and ethics, including the *Conduct Guide*.

The Committee dealt with 4 enquiries from members and 4 referrals from the other Committees or Departments within the Secretariat on the following issues of professional conduct:

- (a) Interpretation of Principle 11.03 of the *Conduct Guide* on whether a solicitor making a report to the Council about professional misconduct of another can be free from restriction to use the relevant information and documents that he had acquired from the report;
- (b) Consideration of a mandatory regime for conveyancing transactions which explicitly authorises the release of sale proceeds from the purchaser to the vendor through solicitors and the implications of such a regime on professional conduct;
- (c) Retainer of a minor who is a victim and witness of a criminal case;
- (d) Consultation on the draft *Code of Practice for Third Party Funding of Mediation*;
- (e) Review of Circular 12-475 on the storage and destruction of old files;
- (f) Application of Principle 5.06 of the *Conduct Guide* relating to third party instructions;
- (g) Application of Principle 13.07 of the *Conduct Guide* relating to a law firm's demand letter accompanied by a threat to report to the authority for criminal prosecution unless the demand is met;
- (h) Consultation on the draft *Guide to Good Practice on Family Law*.

LEGAL EDUCATION COMMITTEE

The main terms of reference of the Committee are to monitor the *PCLL*, to set education standards for the solicitors' profession, to monitor the entrants to the profession including the need for a qualifying examination for such entrants.

Matters considered and dealt with by the Committee by paper circulation included:

- (a) Proposal of CityU to remove student anonymity in the *PCLL* assessments;
- (b) Consideration of the applications for appointment as External Examiner for a new *PCLL* elective “Legal Practice and Technology” at CUHK;
- (c) Renewal of appointment of incumbent *PCLL* External Examiners at HKU and CityU;
- (d) Renewal of appointment of the *PCLL* Chief External Examiner;
- (e) Consideration of the proposal of IVE to introduce a new legal executive course “Law and Legal Informatics”;
- (f) Proposal of CityU, CUHK and HKU to continue to conduct *PCLL* examinations online.

A sharing session with the interns of law firms was organised in July. Vice-President Amirali Nasir; Mr. Lung Gwun Ting, Bryan, Adjudicator, Small Claims Tribunal; Ms. Serina Chan, Legal Counsel, Insurance Authority and Mr. Wesley Wong, SC, JP, Solicitor General, Legal Policy Division of DOJ shared their valuable practice experiences with summer interns and trainee solicitors. About 67 participants attended the sharing session.

Past President Dieter Yih and Vice-President Brian Gilchrist served as representatives of The Law Society on the Standing Committee on Legal Education and Training (“SCLET”), the statutory body established by the HKSAR Government to oversee legal education in Hong Kong under S74A of the *LPO*. SCLET held five meetings during the year.

MEDIATOR AND PARENTING CO-ORDINATOR ADMISSION COMMITTEE

The main terms of reference of the Committee are to establish and maintain panels of mediators and parenting co-ordinators, to approve the applications for admission of mediators and parenting co-ordinators to the panels, to review and safeguard the standards of mediators and parenting co-ordinators and their training, to liaise with other relevant organizations on issues pertaining to the development and training of mediators and parenting co-ordinators.

Matters considered by the Committee by paper circulation included:

- (a) Applications for admission as General Mediators;
- (b) Applications for admission as Family Mediators;

- (c) Applications for renewal of membership on the Panels of General Mediators, Family Mediators and Family Mediation Supervisors;
- (d) Applications for an extension of time to complete the CPD requirements in mediation training;
- (e) Approval of an extension of the exemption granted in 2020 to solicitor-mediators on the Panels of General Mediators, Family Mediators and Family Mediation Supervisors of The Law Society to comply with their CPD requirements in mediation training to cover all solicitor-mediators on the Panels whose term of membership expired at the end of the 2020/21 CPD practice year, or will expire at the end of the 2021/22 and 2022/23 CPD practice years, on the basis their Panel membership is renewable on a 4-year basis and the term of membership of these solicitor-mediators covers the 2019/20 CPD practice year;
- (f) Engagement of external mediators by DOJ;
- (g) Development of a Stage I General Mediation training course;
- (h) Preparation of the agreement for the appointment of a course provider to conduct a Stage I General Mediation training course and consideration of the amendments counter-proposed by the course provider to the draft agreement;
- (i) Membership of the Committee;
- (j) Proposal for the development of online applications for admission to the Panels of Mediators and Panel of Parenting Co-ordinators;
- (k) Updating the Circular on the guidelines on the use of the title “Accredited Mediator of The Law Society” or “Admitted Mediator of The Law Society” to include the use of titles of the International General Mediators and International Family Mediators of The Law Society.

The *Mediator Accreditation Scheme* was formally launched in August 2005. The Law Society joined the Hong Kong Mediation Accreditation Association Ltd. (“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 two mediator assessments by 15 July 2013 and accrediting applicants as mediators by 15 September 2013. Thereafter, all accreditation of mediators must be conducted by HKMAAL.

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

In November 2017, The Law Society further extended the *Mediator Admission Scheme (General Mediators)* to cover the admission of family mediators and family mediation supervisors and the

Mediator Admission Scheme (General Mediators) was renamed as the *Mediator Admission Scheme*.

Solicitors who were not accredited by The Law Society as General Mediators, Family Mediators and Family Mediation Supervisors prior to September 2013 under the *Mediator Accreditation Scheme* of The Law Society may seek admission, subject to the requirements in the *Mediator Admission Scheme*, onto the Panel of Admitted General Mediators, Panel of Admitted Family Mediators and Panel of Admitted Family Mediation Supervisors through 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 177 solicitors on the Panel of General Mediators, 42 solicitors on the Panel of Family Mediators and nine solicitors on the Panel of Family Mediation Supervisors.

73 applications for renewal of membership on the Panel of General Mediators, 21 applications for renewal of membership on the Panel of Family Mediators and five applications for renewal of membership on the Panel of Family Mediation Supervisors were processed during the year. 80 applications for renewal were approved.

In November 2017, The Law Society also established the Panel of Parenting Co-ordinators. Parenting Co-ordination is an alternative dispute resolution process whereby a Parenting Co-ordinator is appointed either by the courts or the parties in high conflicts matrimonial disputes to resolve child-related issues. As of the end of the year, there were 17 Parenting Co-ordinators on the Panel.

In January 2020, The Law Society established the Panel of International General Mediators and the Panel of International Family Mediators to assist parties with mediation on international and cross-border disputes. At the end of the year, there were 19 solicitors on the Panel of International General Mediators and seven solicitors on the Panel of International Family Mediators.

OLQE COMMITTEE

The main terms of reference of the Committee are to establish, keep under review and resolve the standards required of overseas lawyers sitting the *OLQE*, to establish and review the syllabi, reading lists of each Head of the *OLQE*, to prepare the *OLQE* Information and Supplementary Information Packages, to formulate policies on all procedural matters and logistics of the *OLQE*, and to supervise the Examination Panels.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened four meetings including a joint meeting with the *OLQE* Co-Chief Examiners, Panel Convenors and Examiners.

Matters considered and dealt with by the Committee in meetings and by paper circulation included:

- (a) Results of the 2020 *OLQE*;
- (b) Feedback of the candidates on the conduct of the 2020 *OLQE* set out in their responses to the *OLQE* Questionnaire;
- (c) Logistical arrangements for the 2021 *OLQE*;
- (d) Modes of examination of the 2021 *OLQE*;
- (e) The 2021 and 2022 *OLQE* Information Packages, the 2021 *OLQE* Supplementary Information Package and related documents;
- (f) The syllabus and the reading list of each Head of the 2021 *OLQE*;
- (g) Appointment of Examiners and Panel Convenors;
- (h) Appointment of the *OLQE* Co-Chief Examiners;
- (i) Review of the fees of the *OLQE* Co-Chief Examiners, Panel Convenors and Examiners;
- (j) Division of responsibilities between the *OLQE* Co-Chief Examiners;
- (k) Revised job description of the *OLQE* Co-Chief Examiners;
- (l) Membership of the Committee;
- (m) Question raised by a preparatory course provider and formulation of the reply;
- (n) Preventive measures for the 2021 *OLQE* in the light of the COVID-19 pandemic and mutant strains.

***OLQE* ELIGIBILITY AND EXEMPTION COMMITTEE**

The main terms of reference of the Committee are to determine the applications for exemption from sitting all or part of the *OLQE*, the applications to sit the *OLQE*, the guidelines for approving such applications and any amendments to the *OLQE Rules*.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened six meetings to resolve the applications to sit the *OLQE* and applications

for exemptions and amendments to the *OLQE* Information Package.

During the year, there were 253 *OLQE* applications. Of these, there were

- (a) 90 applications for exemption from sitting all or part of the 2021 *OLQE*;
- (b) 162 applications for eligibility to sit or re-sit the *OLQE*; and
- (c) One application for direct admission as a solicitor.

165 eligible candidates sat the 2021 *OLQE*.

OLQE

The 27th *OLQE* commenced on 26 October. A total of 165 candidates sat one or more written Heads of the Examination. 162 out of 165 candidates came from 18 jurisdictions outside the HKSAR, nine of which were non-common law jurisdictions. The remaining three out of the 165 candidates were Hong Kong barristers.

Of the 165 candidates, 65 candidates (39 %) passed the Examination, having passed each of the Heads that they were required to sit. 100 candidates (61%) 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 – Conveyancing

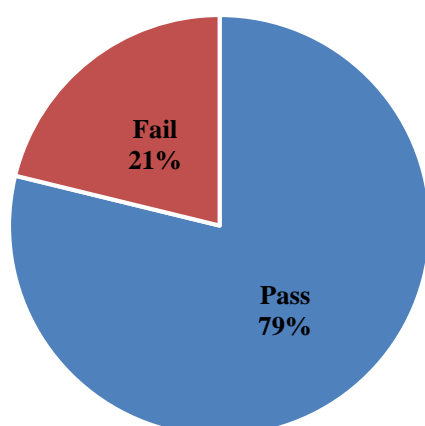


Figure 2 :
Head II - Civil and Criminal Procedure

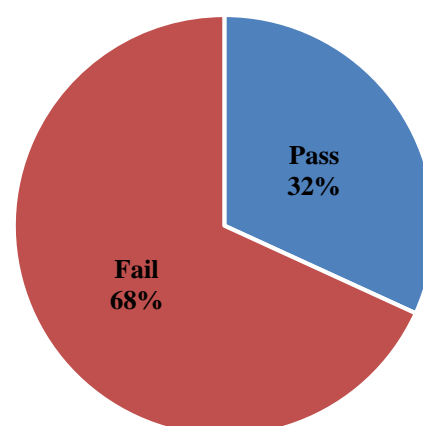


Figure 3 :
Head III - Commercial and Company Law

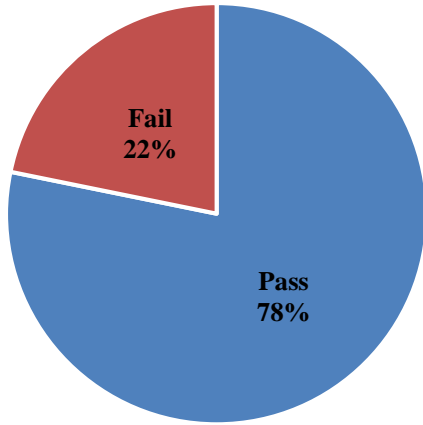


Figure 4 :
Head IV – Accounts and Professional Conduct

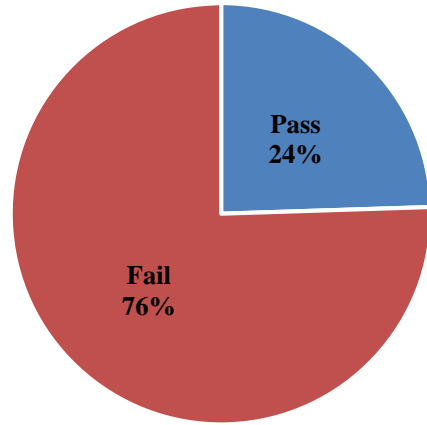


Figure 5 :
Head V – Principles of Common Law

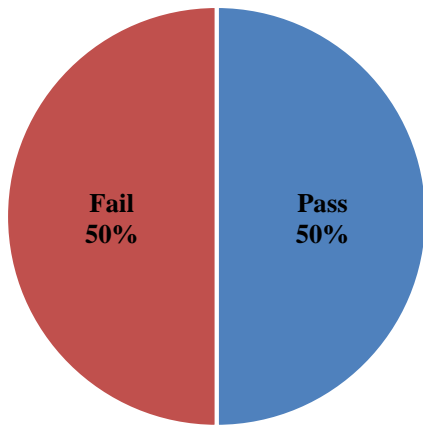


Figure 6 :
Head VI - Hong Kong Constitutional Law

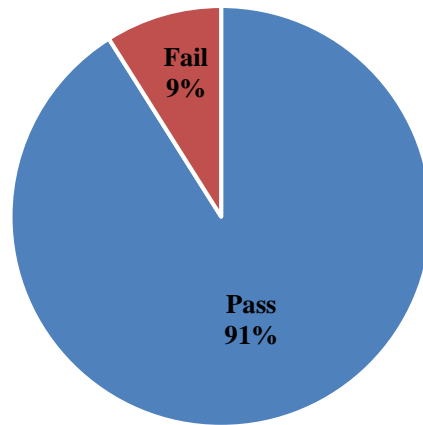
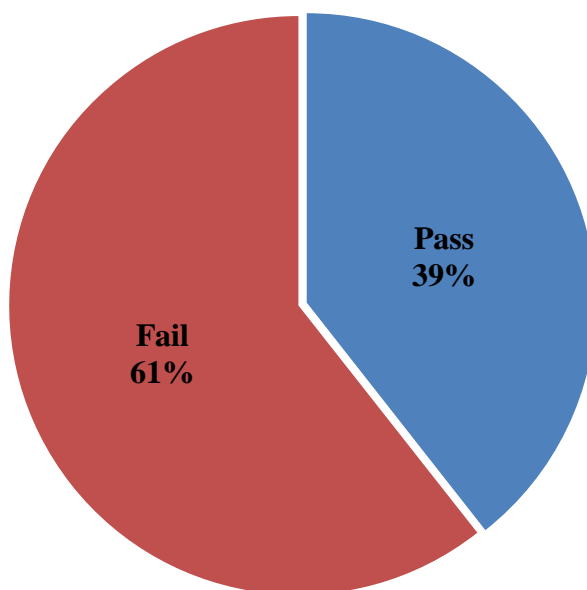


Figure 7 : Overall Examination Result



	No. of Candidates						Overall Result
	Head I	Head II	Head III	Head IV	Head V	Head VI	
Pass	93	14	43	24	3	71	65
Fail	25	30	12	74	3	7	100
Total	118	44	55	98	6	78	165

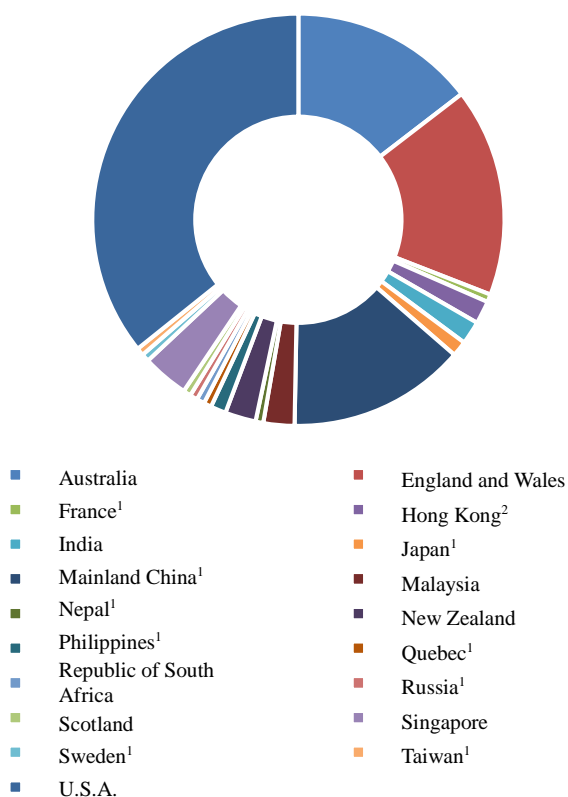
Written Heads

Head I – Head IV & Head VI

Oral Head

Head V

Figure 8: Jurisdictions of the candidates



Jurisdictions	No. of Candidates	%*	Jurisdictions	No. of Candidates	%*
Australia	24	14.5	Philippines ¹	2	1.2
England and Wales	27	16.4	Quebec ¹	1	0.6
France ¹	1	0.6	Republic of South Africa	1	0.6
Hong Kong ²	3	1.8	Russia ¹	1	0.6
India	3	1.8	Scotland	1	0.6
Japan ¹	2	1.2	Singapore	6	3.6
Mainland China ¹	23	13.9	Sweden ¹	1	0.6
Malaysia	4	2.4	Taiwan ¹	1	0.6
Nepal ¹	1	0.6	U.S.A.	59	35.8
New Zealand	4	2.4	Total	165	

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 main terms of reference of the Committee are to formulate and to keep under review the policies, procedures and guidelines of the *RME Programme* and to monitor the implementation and administration of the *RME Programme*.

The *RME Programme* 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 17 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.

Five Module 1A, five Module 1B, five Module 2A and five Module 2B of principals' core courses, two Module 1 and two Module 2 of non-principals' core courses, six Module 1 and six Module 2 of registered foreign lawyers' core courses, 21 Module 1 and 21 Module 2 of trainee solicitors' core courses, 18 Compulsory First Elective courses for trainee solicitors, and 68 elective courses were held during the year. The majority of the courses were delivered via webinars. 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. Core courses have also been offered by the Academy free of charge 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 of charge to participants.

Matters considered and dealt with by the Committee by paper circulation included:

- (a) Membership of the Committee;
- (b) Applications for exemption;
- (c) Amendments to the RME Information Package and application form for accreditation arising from the amendments to the accreditation criteria and procedures of webinars;
- (d) Hourly rate payable to part-time RME tutors.

47 applications for exemption from complying with the RME requirements made under rule 8A of the *Legal Practitioners (RME) Rules* were processed during the year.

RME ACCREDITATION SUB-COMMITTEE

The main terms of reference of the Sub-Committee are to determine the applications for accreditation of RME courses and activities, to review the criteria for accreditation and to monitor the providers of accredited courses.

72 applications for accreditation of courses were processed, out of which 46 elective courses offered by law firms and other institutions and 23 elective courses offered by commercial providers were accredited.

Course provider accreditation of RME elective courses was introduced in 2007. 14 law firms accredited as RME elective course providers conducted 81 elective courses within their firms and another 14 elective courses for the benefit of the general membership of The Law Society during the year.

The Sub-Committee also considered and accredited one application for conducting legal research.

SOLICITORS' ACCOUNTS RULES COMMITTEE

The main term of reference of the Committee is to handle enquiries arising from the *Solicitors' Accounts Rules* (“SA Rules”).

The Committee reviewed the Frequently Asked Questions of the *SA Rules* to include practical examples to illustrate how the statutory requirements relating to the authority for drawing money from the client account under rule 7A of the *SA Rules* can be satisfied. Upon conclusion of the review, the Committee will submit its recommendations to the Standing Committee for its consideration.

TRAINEE SOLICITORS COMMITTEE

The main terms of reference of the Committee are to monitor the system of trainee solicitor contracts and the training of trainee solicitors, to consider all policies relating to them and to make recommendations on any changes in policies.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened two meetings. Matters considered and dealt with by the Committee in meetings and by paper circulation included:

- (a) Membership of the Committee;

- (b) Regulatory regime of trainee solicitors, particularly those trainees who are looking for training positions after commencement of training and before registration of training contracts;
- (c) Minimum wages of trainee solicitors and formulation of the Circular on minimum wages;
- (d) Restructure of the *Legal Trainee Scheme* proposed by DOJ;
- (e) Evaluation of training experience by means of a proposed survey;
- (f) Proposal to admit Hong Kong solicitors by paper applications;
- (g) Toolkits for completing Form AA (Application for Registration of Trainee Solicitor Contract), Form BB (Application for Registration of New Trainee Solicitor Contract), Form CC (Release), Trainee Solicitor Contract – Form A, Trainee Solicitor Contract – Form B and Trainee Solicitor Contract – Form C.
- (h) Amendments to the Notes for completing Form AA, Notes for completing Form BB and Specimen Form A;
- (i) Checklist prepared by the College of Law on the ethical requirements set out in the RME core course and Compulsory First Elective for trainee solicitors;
- (j) Garden leave of trainee solicitors;
- (k) Amendments to the *Code*;
- (l) Amendments to the Training Checklist for Trainee Solicitors.

GUIDE WORKING PARTY

The main term of reference of the Working Party is to review and update the *Conduct Guide*.

The Working Party conducted its business by way of meetings and by paper circulation. The Working Party convened four meetings. Matters considered and dealt with by the Working Party in meetings and by paper circulation included:

- (a) Review of the principles and commentaries in the *Conduct Guide* including consideration and review of suggestions made by the general membership, specialist Committees and Working Parties of The Law Society;
- (b) Assignment of different Chapters of the *Conduct Guide* to individual Members for review;

- (c) Scope of practice of registered foreign lawyers in Hong Kong;
- (d) Consultation document of the Law Reform Commission on “Outcome Related Fee Structures for Arbitration” and formulation of the response to the consultation document;
- (e) Comparison of the *Conduct Guide* with the *SRA Code of Conduct*;
- (f) Code of Conduct governing Hong Kong solicitors practising in the Greater Bay Area;
- (g) Practice of Hong Kong solicitors in the *Mainland and Hong Kong Closer Economic Partnership Arrangement*;
- (h) Membership of the Working Party;
- (i) Consideration of the engagement of a publication company to assist with the revamp of the *Conduct Guide* and formulation of the invitation to tender.

WORKING PARTY ON SOLICITOR CORPORATION RULES

The main terms of reference of the Working Party are to prepare the *SC Rules* and the *FLC Rules*, the amendments to the *LPO* and the consequential amendments to the subsidiary legislation to the *LPO* to enable law firms to incorporate.

The Working Party conducted its business by way of meetings and by paper circulation. The Working Party convened two meetings. Matters considered and dealt with in meetings and by paper circulation included:

- (a) Membership of the Working Party;
- (b) Progress of the consequential amendments to the subsidiary legislation to the *LPO* arising from the draft *SC Rules*;
- (c) Proposal for the establishment of a panel of Chinese language law draftsmen;
- (d) Appointment of an applicant to prepare the Chinese texts of the *SC Rules*, the *FLC Rules*; the *Accountant’s Report (Amendment) Rules*; the *Solicitors’ Accounts (Amendment) Rules*; the *Solicitors’ Practice (Amendment) Rules*;
- (e) Estimated timeline for completion of the legislative amendment exercise;
- (f) Comments of Hong Kong Bar Association on the amendments proposed by the Working Party to Section 31(1)(e) and Section 31(1)(f) of the *LPO*;
- (g) Amendments to the *Barristers (Qualification) Rules*;

- (h) Amendments to the *Barristers (Qualification for Admission and Pupillage) Rules*;
- (i) Renewal of registration of foreign lawyer corporations and fees for renewal of registration.

WORKING PARTY ON SOLICITORS' PRACTICE RULES

The main terms of reference of the Working Party are to consider and propose amendments to the *Solicitors' Practice Rules* (“*SP Rules*”), the subsidiary legislation to the *LPO* and to liaise with DOJ on the drafting of any amendments.

The Working Party reviewed its membership, co-opted a new member, and conducted a general review and proposed amendments to the *SP Rules* relating to the statutory requirements for firm name, letterhead, logo, appointment of solicitor-manager, steps to be taken in criminal matters and cessation of practice.

It is intended this set of proposed amendments will be promulgated after the implementation of another set of amendments to the *SP Rules* arising out of the *SC Rules*.

WORKING PARTY ON THE PRACTISING CERTIFICATE (SPECIAL CONDITIONS) RULES

The main term of reference of the Working Party is to consider the amendments to the *Practising Certificate (Special Conditions) Rules*.

The Working Party liaised and explained to DOJ the scope, nature and duration of the suspension of the practising certificate of solicitors, the right of appeal against the decision of suspension, the time limit to lodge the appeal, the rationale for introducing a new section 53 (3A) of the *LPO*, the scope of its application, the time frame and the enforcement mechanism as well as related policy issues.

The Working Party will continue to liaise with DOJ to clarify its queries on the proposed amendments.

GUIDANCE SUB-COMMITTEE TO REVIEW RULE 5AA OF THE SOLICITORS' PRACTICE RULES

The main term of reference of the Sub-Committee is to review rule 5AA of the *SP Rules* and its application.

The Sub-Committee reviewed the scope of rule 5AA of the *SP Rules* as to the management of a practice upon the death of a sole proprietor pending cessation of the practice. Upon completion of its task, it will make recommendations to the Guidance Committee to further proceed with the matter.

SUB-COMMITTEE ON PRACTICE VENUES

The Working Party on Practice in Service Centres, at Home, in Domestic Premises or by Virtual Offices was renamed as the Sub-Committee on Practice in Service Centres, at Home, in Domestic Premises or by Virtual Offices and was later renamed as the Sub-Committee on Practice Venues to reflect more concisely the terms of reference of the Sub-Committee.

The main terms of reference are to carry out a feasibility study for legal practitioners to practise in service centres, at home, in domestic premises or by virtual offices and to consider the different types of flexible work arrangements adopted by firms in response to the COVID-19 pandemic including the technological implications. The Sub-Committee is also tasked with reviewing the relevant rules and regulations and to make recommendations on whether and if so, how to allow legal practitioners to practise in the aforementioned practice venues.

The Sub-Committee conducted its business by way of meetings and by paper circulation. The Sub-Committee convened one meeting to consider the way forward. The Sub-Committee submitted to the Standing Committee a roadmap on its works with estimated timelines for completion of its tasks. New Members were recruited by the Sub-Committee and the following Subgroups were formed by the Sub-Committee to focus on different tasks:

- (a) Subgroup for Work Arrangements under COVID-19;
- (b) Subgroup for Legal Practice in Virtual Offices;
- (c) Subgroup for Legal Practice at Home or in Domestic Premises;
- (d) Subgroup for Legal Practice in Service Centres.

SUB-COMMITTEE ON PROACTIVE MANAGEMENT BASED REGULATION

The main terms of reference of the Sub-Committee are to consider the proactive management based regulation (“PMBR”) systems in other jurisdictions and the feasibility of implementing a mandatory system in Hong Kong, including the pros and cons of implementing the system, the costs involved, and whether legislative amendments are required.

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

- (a) The PMBR experience in other jurisdictions;
- (b) Whether PMBR should be implemented for the legal profession in Hong Kong;
- (c) Various options including the provision of checklists as part of a PMBR system.