



THE

**LAW SOCIETY**  
OF HONG KONG

香 港 律 師 會

**THE LAW SOCIETY OF HONG KONG**

Position on

**LEGAL EDUCATION AND TRAINING**

**September 2001**

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## Preamble

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The quality of the services provided by solicitors to the community is, to a significant degree, the product of their legal education and training.

The Law Society, therefore, is vitally concerned to ensure that all those entering the profession have received legal education and training of the high standard necessary to ensure that Hong Kong solicitors are equipped to meet the needs of their clients, the profession and society, both now and well into this century.

This document contains the Law Society's position on legal education and training. It specifies the standards which the Law Society believes are appropriate for the various stages through which a person passes, both before and after admission to practice. These standards are the benchmarks against which the Law Society evaluates existing arrangements for legal education and training in Hong Kong, and against which it will evaluate future developments.

By publishing this policy the Law Society wishes to ensure that its position on these matters is clear, consistent and fair.

The document represents the Law Society's current position and will be subject to further review from time to time.

## Underlying principles

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The Law Society's policy on legal education and training is based on the following principles:

- that a commitment to education and training is a defining characteristic of a profession;
- that legal education is a lifelong process;
- that each phase of the process of legal education (the undergraduate law degree, the legal practice course (LPC), the trainee solicitor contract and continuing professional development) must be provided to the highest possible standards;
- that solicitors acquire knowledge and skills in both the day to day practice of law and through formal educational activities; and
- that this policy, and the provision of the various phases of legal education and training, should be reviewed periodically in order to ensure the maintenance and improvement of standards.

The Law Society's policy is that legal education and training must reflect:

- that the legal system in Hong Kong is a common law system;
- that Hong Kong has a special situation whereby, although English and Chinese are the official languages of the legal system, English remains the predominantly used language in legal practice, although it is to be expected that this will change;
- that Hong Kong is one of the major commercial and financial centres of the world; and
- that Hong Kong is commercially, and in other ways, a gateway both to mainland China and from China to the rest of the world.

As such, it is vital and essential that high standards be achieved by those engaged in all phases of the legal education and training process, so that the standards of legal service offered by Hong Kong solicitors are comparable to the world's best.

The aim of education and training is to produce lawyers who:

- uphold legal, professional and ethical values;
- can think through and solve problems;
- are knowledgeable in the law; and
- have the necessary linguistic and communication skills.

# 1 The academic stage of legal education – the law degree

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## 1.1 Aim of the degree<sup>1</sup>

A law degree which qualifies students to seek admission to practice in Hong Kong (a “qualifying law degree”) should enable students to acquire through study in depth of substantive areas of law, and by using primary sources<sup>2</sup> and the study of some subjects from the humanities, social sciences and sciences:

- (a) general transferable intellectual skills<sup>3</sup>;
- (b) knowledge and understanding of the general principles, nature, and development of law, and of the making and interpretation of common law and legislation<sup>4</sup>;
- (c) legal values, including a commitment to the rule of law, justice, fairness and high ethical standards;
- (d) knowledge and understanding of the contexts in which law operates; and
- (e) a knowledge and understanding of the legal system of China.

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<sup>1</sup> These aims are an adaption of a statement of outcomes of a qualifying law degree in England and Wales as proposed in the *First Report on Legal Education and Training* published by the Lord Chancellor’s Advisory Committee on Legal Education and Conduct in April 1996.

<sup>2</sup> Cases and legislation

<sup>3</sup> This includes: (i) the construction of logical argument; (ii) the capacity for abstract manipulation of complex ideas; (iii) the systematic management of complex factual information; (iv) intelligent, critical reading of texts; (v) the use of the English language and the Chinese language (where applicable) at all times with scrupulous care and integrity; (vi) the related ability to communicate orally and in writing in a clear, consistent and compelling way; and (vii) competence in retrieving, assessing, analysing and using texts and information, including information technology skills.

<sup>4</sup> This includes: (i) the ability to handle judicial decisions through reading and analysis of cases; and (ii) the ability to handle Hong Kong SAR legislation through reading and analysis of statutory and other relevant materials.

## **1.2 Entry to a qualifying law degree in Hong Kong**

Students should be accepted into a qualifying law degree at a Hong Kong university only if their academic qualifications are of a high standard, comparable to those required for entry to major law schools in other common law jurisdictions.

Generally, Hong Kong students should have attained not less than two Bs and one C in their A level examinations.

The Law Society acknowledges that the minimum entry standards for law degrees in Hong Kong are not within its control and are not always met. Nevertheless, the Law Society believes that its policy reflects a position which is highly desirable. The Society notes that in comparable common law countries where school leavers proceed direct to a law degree, such as Britain, New Zealand or Australia, a high standard in A level examinations, or their equivalent, is the norm. Nonetheless, the Law Society recognises that there may be some justifiable exceptions to this principle, for example, mature students, which may be catered for by special entry schemes.

All law students should be assessed at the end of the first year as to their capacity to continue with legal studies.

## **1.3 Scope of a qualifying law degree in Hong Kong**

The qualifying law degrees in Hong Kong should be 4 years in duration and should also be available in true part-time mode. However, the Law Society does not want to see this additional year filled purely with the study of further aspects of the law. Rather, the Law Society expects that the law course would, thereby, more rigorously develop general transferable intellectual skills such as critical thinking and analysis, contextual analysis, problem solving, the development of arguments and solutions and clear and effective writing. It should also allow more emphasis to be placed on the development of research skills and enhanced English language skills.

The qualifying law degree must provide the intellectual foundation on which further knowledge, skills and experience can be assembled. The introduction of some subjects from the humanities, social sciences and sciences should be incorporated in the degree in order to allow students to gain a wider perspective of the context in which the law operates and to assist in the development of the generally transferable intellectual skills and competencies common to most university education in the humanities, social sciences and sciences<sup>5</sup>.

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<sup>5</sup> This policy is partly derived from the recommendations of the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”, August 2001.

The course of study requires, as a minimum, an understanding of the following areas of knowledge:

- Constitutional Law and Administrative Law
- Evidence and Procedure<sup>6</sup>
- Law of Contract
- Law of Torts
- Criminal Law
- Property Law
- Equity and Trusts
- Company Law
- Legal System of the People's Republic of China

in the context of an overall course of study which provides:

- a well-rounded education in law;
- a level of scholarship usually associated with a course leading to an undergraduate degree; and
- a good grounding in the research, analytical, communication and other skills required of a legal practitioner in modern society.

To the extent that practical legal skills will contribute to a better understanding of the core subjects, practical legal training should be brought into the LLB curriculum<sup>7</sup>.

## **1.4 Assessment in the law degree**

In order to ensure suitably high standards, the assessment standards and methods used in the law degree should be applied rigorously.

The professional bodies must be satisfied that the examinations and other methods of assessment used during each year in the degree, in particular in the first year, rigorously assess whether each student is capable of proceeding on to the next year of the degree and finally being awarded the degree<sup>8</sup>.

A student's participation in class should be part of the assessment scheme of each LLB subject

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<sup>6</sup> To encompass evidence and civil and criminal procedure, and to be taught as a whole subject.

<sup>7</sup> Probably a formula of 80% substantive law 20% skills

<sup>8</sup> The Society is not convinced that the current external assessment mechanism employed by the tertiary institutions is effective in assuring quality in the LLB or the PCLL.

and there should be a compulsory requirement for students to complete a substantial writing exercise as part of the assessment for at least one law subject<sup>9</sup>.

One of the criteria for assessment of all oral and written assessable work in the LLB degree should be English language ability appropriate to the work being assessed, and this criterion should be assessed rigorously, to the point where work could be failed on that basis alone<sup>10</sup>.

In seeking rigorous assessment standards, the Law Society expects that examiners must fail students who have not met appropriate levels of performance in examinations and other forms of assessments.

## **1.5 Staffing of a law degree course**

Teachers in a law degree course should:

- have appropriate knowledge and understanding of the area/s of law being taught by them; and
- have the necessary teaching skills<sup>11</sup>.

A law degree course should have a ratio of teaching staff to students that facilitates individual instruction and feedback.

## **1.6 Teaching and learning methods**

The process of active learning in the teaching of law should include a strong and rigorous emphasis on the use of English.

The lecture and tutorial method should be discarded as the primary mode of instruction and should be used only exceptionally. Interactive teaching in medium sized class groups based on pre-assigned and pre-read material should become the norm of instruction, where the role of the teachers is primarily that of stimulators, facilitators and modellers of analytical, critical, creative and deep thinking<sup>12</sup>.

Teaching methods should be more interactive and devised in such a way as to encourage students to become active learners, to contribute to critical analysis during tutorials, to undertake further research beyond the materials supplied to them, to enable them to think logically, critically and

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<sup>9</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”. The Society also endorses recommendations 64 to 73 of the Report on “Assessment”.

<sup>10</sup> Ibid.

<sup>11</sup> Lecturers and tutors should be assessed periodically and evaluated by persons qualified to do so in order to ensure that they possess the necessary teaching skills.

<sup>12</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

creatively and to have the capacity to evaluate and to analyse legal problems and issues<sup>13</sup>.

The tertiary institutions should provide their teachers with adequate training and guidelines on the most appropriate, effective and up-to-date teaching methods and should be adequately funded with the resources to do so<sup>14</sup>.

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<sup>13</sup> Derived in part from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>14</sup> Ibid. The Society also endorses recommendations 52 to 63 of the Report on “Teaching and learning methods”.

## **2 The first part of the vocational stage of legal education - the legal practice course (LPC)**

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### **2.1 Aim of an LPC course<sup>15</sup>**

A legal practice course (LPC) should orientate students from their academic studies in the law degree to the actual practice of the law. It should thus:

- (a) prepare students for general practice by equipping them with the basic skills to perform with competence legal work in specified fields; and
- (b) provide students with a general foundation for subsequent practice by equipping them with basic skills to develop new competencies in response to employer and client needs.

### **2.2 Governance of an LPC course**

The LPC should be conducted by a free-standing institution in its own premises established under the Legal Practitioners Ordinance, its own ordinance, as a company or in some other way, and governed by a board which would consist of all stakeholders in legal education (ie. the judiciary, government, the universities and the wider community) but with dominant representation by both branches of the profession on an equal basis. Ultimately, the LPC could be conducted by the proposed Academy of Law<sup>16</sup>.

An establishment grant should be provided to set up premises for the course and to recruit the initial staff and to design and plan the course. The course should be supported by UGC funding to the fullest extent possible. Although the profession's own training body, the institution would be required to conduct its affairs in a transparent way<sup>17</sup>.

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<sup>15</sup> The PCLL should be discontinued.

<sup>16</sup> Derived largely from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>17</sup> Ibid.

## 2.3 Entry to an LPC course

Students should be accepted into an LPC course only if they have obtained:

- a qualifying law degree (not lower than a 2:2)<sup>18</sup> from a university in Hong Kong;
- an equivalent law degree from an approved non-Hong Kong university; or
- a non-law degree (not lower than a 2:2) from an approved university and passed the Common Professional Examination of England and Wales (CPE) or the Common Professional Examination of Hong Kong (CPEC).

There should be no numerical quotas for entry to an LPC. Entry should be based solely on academic merit and language ability.<sup>19</sup>

## 2.4 Scope of an LPC course

There should be more emphasis on the teaching of skills than the teaching of substantive law<sup>20</sup>. The curriculum should be based on a conceptual framework of how legal work is done rather than structured around subject areas of law. It should take the form of practical training in transactions and skills within a strong ethical context<sup>21</sup>.

The preferred option for the LPC is a common course for both branches of the profession but the Society would accept the option of a common core of instruction for both branches of the profession, but with electives provided. Included in those electives should be a course on dealing with transactions in Chinese law, to be conducted in Chinese.

Students should be able to develop basic competence in those intellectual and practical skills necessary to carry out the tasks in the areas of practice dealt with in the course, such as:

- problem solving
- communication - writing, drafting, advising, interviewing, counselling
- fact investigation and analysis
- litigation and alternative dispute resolution procedures

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<sup>18</sup> If the Law Society is not satisfied that the institutions are awarding bona fide 2:2 degrees then the Society will revise its policy in this respect to require not less than a 2:1 degree.

<sup>19</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>20</sup> Probably a formula of 80% skills 20% substantive law.

<sup>21</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

- negotiation
- practical legal research and analysis (including computer-aided)
- organisation and management of legal work (work and file management, office and personal management (including computer-aided))
- recognising and resolving ethical dilemmas and ethical formation
- intellectual skills

The areas of practice to be studied in an LPC course shall embrace all or most of the following<sup>22</sup>:

- conveyancing (including landlord & tenant) law and practice;
- wills, probate and administration;
- civil and criminal procedure;
- commercial law and practice<sup>23</sup>;
- advocacy;
- professional conduct and practice<sup>24</sup>;
- accounts and financial management (including basic bookkeeping, profit and loss accounts and analysis of financial statements); and
- China law practice

## 2.5 Staffing of an LPC course

Teachers in an LPC course should:

- have an appropriate background and experience in the practice of law and the area/s of practice being taught<sup>25</sup>; and
- have the necessary teaching and other skills to teach knowledge and skills<sup>26</sup>.

An LPC course should have a ratio of teaching staff to students that facilitates individual

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<sup>22</sup> Revenue law and practice, currently included in the PCLL, should be an elective subject in the LLB.

<sup>23</sup> This includes company law.

<sup>24</sup> This subject should include: the nature of professionalism; the fiduciary obligations of professional lawyers to their clients; the rule of law; representing clients without fear or favour; equality of opportunity; provision of competent representation; striving to promote justice, fairness and morality; striving to improve the profession; professional self-development; and client services and care.

<sup>25</sup> Teachers should have recent and relevant practical experience at the time of their appointment, but it is not necessary that such experience should have been gained in Hong Kong.

<sup>26</sup> Teachers should be assessed periodically and evaluated by persons qualified to do so in order to ensure that they possess the necessary teaching skills.

instruction and regular feedback<sup>27</sup>.

The Law Society encourages practitioners, so far as they are able, to meet the requests of the LPC institution to assist in lecturing.

## **2.6 Assessment in an LPC course**

Students should be assessed as to whether they “could do”<sup>28</sup>.

In order to ensure suitably high standards, the assessment standards and methods used in an LPC course should be applied rigorously. In particular, the standard of work required for a pass should meet all of the aims and objectives of the course.

There should be no closed book examinations as this encourages rote learning. Other assessment methods should also be used which test the ability to conduct transactions and intellectual and work management skills, that is, to properly reflect the emphasis on teaching lawyering skills. Assessment should be continual, not only by way of a final open book examination.

## **2.7 Teaching methods**

Emphasis should be placed on teaching methods which discourage memorising and rote learning and encourage active learning and independent and critical thinking. To this end, innovative teaching methods should be employed, including “learning-by-doing”<sup>29</sup>.

## **2.8 Delivery and duration of an LPC**

Provided that the scope of the LPC is covered, there can be flexibility in the way the course is undertaken eg by way of modularisation, or on a part-time basis, or by the inclusion of some distance learning approaches<sup>30</sup>.

An LPC should be of at least 4 to 6 months in duration<sup>31</sup>. The course should be modularised, enabling students to undertake all of the course immediately prior to pupillage or the training

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<sup>27</sup> For small group/skills related teaching the ratio of teaching staff to students should not exceed 1:12.

<sup>28</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>29</sup> Derived in part from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>30</sup> Ibid.

<sup>31</sup> The Society does not, at this stage, wish to be dogmatic about the duration of the LPC as this will depend upon the outcome of the detailed planning of the course.

contract, or spread throughout the vocational stage<sup>32</sup>.

## **2.9 Monitoring of an LPC**

The LPC would be governed by a Board comprising all stakeholders in the provision of legal education in Hong Kong and would be responsible to that Board<sup>33</sup>.

The role of the external examiner is vitally important in ensuring high standards through rigorous assessment. Examiners should scrutinise a greater sample of examination scripts than is currently scrutinised. Moreover, the Law Society expects that any external examiner will not verify a “pass” grade to students whose performance in the examinations and assessments indicates they have not achieved the prescribed standards, aims and objectives of the course.

It is acknowledged that external examiners do not have the time and manpower to exercise a closer and constant supervision of the courses. Therefore, in order to improve the supervision of an LPC course, in both the training and assessment programmes, it is proposed that two monitoring teams be created - one to monitor the training programmes and the other (a team of examiners) to scrutinise the examinations and assessments. A key element of the proposals is the appointment of a course monitor to assist in the supervision of the courses.

Any team of external examiners should comprise persons with suitable qualifications and who have sufficient time to scrutinise a greater sample of examination scripts over a short period.

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<sup>32</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>33</sup> Ibid.

### **3 The second part of the vocational stage of legal education – the trainee solicitor contract**

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#### **3.1 Aim of a trainee solicitor contract**

The practical skills training provided through simulation and role play during the LPC should be reinforced under the trainee solicitor contract through properly supervised on-the-job training and experience in accordance with user-friendly standards, checklists and any other guidance set out by the Law Society<sup>34</sup>. The trainee solicitor contract shall provide the trainee solicitor with the opportunity to gain experience in the basic skills and characteristics associated with the practice and profession of a solicitor of the High Court.

#### **3.2 Training establishments and training principals**

The trainee solicitor contract should be made between the trainee solicitor and a solicitors' firm ("training establishment")<sup>35</sup>. The training establishment will be responsible for setting up a training programme and nominating appropriate solicitor(s) ("training principals") who would be directly responsible to the training establishment for carrying out the necessary training of the trainee solicitor and ensuring the trainee's well-being during the period of the contract. The training establishment would need to demonstrate to the satisfaction of the Law Society that there is an adequate training programme and training infrastructure in place which is in accordance with the Society's standards.

There should be negative vetting by the Law Society of both the training establishment and the training principals as to their suitability and fitness to take on the responsibility of training a trainee solicitor. In addition, it would be desirable for the training establishment to demonstrate that its prospective training principals have some training in teaching techniques and supervisory skills.

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<sup>34</sup> This policy is based on that of the Law Society of England and Wales.

<sup>35</sup> The Law Society will need to monitor the availability of sufficient seats for trainee solicitors in smaller firms.

### 3.3 Length and scope of a trainee solicitor contract

The LPC and trainee solicitor contract together should comprise 2 years<sup>36</sup>.

During a trainee solicitor contract, a training establishment shall:

- (a) provide the trainee solicitor with the opportunity to learn the principles of professional conduct and ethics and to practise a range of basic skills. These include but are not limited to<sup>37</sup>:
- communication
  - practice support
  - legal research
  - drafting
  - interviewing
  - negotiation
  - advocacy
- (b) provide the trainee solicitor with proper training and experience in at least three of the following basic legal topics<sup>38</sup>:
- |                       |  |
|-----------------------|--|
| • banking             | • family                                 |
| • civil litigation    | • insolvency                             |
| • commercial          | • intellectual property                  |
| • company             | • property (including landlord & tenant) |
| • criminal litigation | • trusts, wills and probate.             |

Where necessary, secondments to other training establishments in Hong Kong should be encouraged to ensure that the required scope of training is provided to the trainee solicitor. Training establishments should be required to notify such secondments to the Law Society to enable the Society to adequately monitor the trainee's progress. Overseas secondments should

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<sup>36</sup> The Society envisages the LPC as forming part of an integrated vocational preparation period of two years. For example, if the LPC is 4 months in duration, the trainee solicitor contract would be 20 months, or 18 months if the LPC is six months in duration.

<sup>37</sup> Derived from the Law Society of England and Wales' *Authorisation and Trainee Solicitors: A Practical Guide Version 2*.

<sup>38</sup> Whilst not a mandatory topic, training establishments should endeavour to expose trainee solicitors to Mainland-related work.

continue to be encouraged by the Society.

### **3.4 Assessment during the trainee solicitor contract**

Frequent assessment of the trainee should be carried out by the training establishment/training principals to ensure satisfactory progress of the trainee solicitor's training under the contract.

Both the training establishment and the trainee solicitor shall ensure that an adequate training record is completed and maintained and is capable of showing the standard of training provided. The training principal shall inspect and discuss the training record with the trainee solicitor each calendar month or delegate another person to do so. Training establishments should also be required to review the progress of training with the trainee solicitor at regular intervals.

### **3.5 Monitoring of training**

A Trainee Solicitor Contract (TSC) Committee appointed by the Law Society Council will be responsible for the overseeing of the training provided to trainee solicitors. There will also be the creation of a senior position and section/department in the Law Society reporting to the TSC Committee whose role is to oversee the efficient and effective operation of the trainee solicitor contract system, including providing guidance and counselling.

In addition, training establishments will be required to lodge training plans with the Society in respect of their training programmes, such plans to be approved by the Society.

Regular progress reports<sup>39</sup> must be provided by the training establishments to the Society on the training provided to the trainee solicitor.

The Law Society will engage in discussions and visits with training establishments, training principals and trainee solicitors for the purpose of providing guidance on the training provided to the trainee solicitor.

Training establishments and training principals will be encouraged to seek the Law Society's guidance in the implementation of their training plans so as to ensure that effective training is provided in accordance with the Society's published standards.

### **3.6 Counselling/grievance mechanism**

The Society will establish an informal and a formal counselling and grievance mechanism to conciliate and arbitrate, if necessary, disputes between training establishments/training principals and trainee solicitors. The effective administration of this mechanism will be the responsibility of the senior officer and section/department in the Law Society referred to in paragraph 3.6 and the TSC Committee.

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<sup>39</sup> At least 3 times during the training contract.

### **3.7 Minimum salary**

As at present, the Law Society will continue to prescribe a minimum salary to be paid to trainee solicitors by training establishments. The charging of a premium by firms should not be permitted.

### **3.8 Continuing professional development**

A training establishment shall ensure that the trainee solicitor with whom he/she has entered into a trainee solicitor contract complies with rule 5 of the Continuing Professional Development Rules, shall give the trainee solicitor paid leave for such purposes, and shall pay the relevant course fees. The Law Society encourages training establishments to view these requirements as a minimum. Trainees should be encouraged to acquire in excess of the minimum CPD requirement where possible.

### **3.9 Further review of the trainee solicitor contract system**

The Society, having recently completed a review of the training provided under the trainee solicitor contract system, and having approved reforms to the system, will review the system again 12 months after the date of implementation of the reforms to assess their effectiveness and to decide whether further clarification or reforms are necessary.

## **4 Language**

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### **4.1 General principle**

Because of Hong Kong's status as an international commercial and financial centre and the nature of the legal system and of legal work in Hong Kong, it is essential that all those undertaking legal education and training have a high standard of English, and it is desirable that those who have the capabilities are provided with opportunities to be trained to use Chinese to a high standard.

### **4.2 Entry to the law degree**

Students should be accepted into a qualifying law degree only if they have obtained a minimum grade of C5 in the Use of English Examination (UEE), although the Law Society considers that a grade B is more desirable.

The Law Society has been prepared to lower its expectations from Grade B to Grade C5 only in view of the complementary strategies to improve the English language standard recommended in the Consultants' Report on the Review of Legal Education and Training in Hong Kong, as adopted in this Position Paper. If these other strategies are not implemented, the Law Society will adhere to its previous position that a minimum grade B in the UEE is necessary for students to be accepted into a qualifying law degree programme.

### **4.3 During the law degree**

There should be a new test, the Use of English in Law Test (UELTL), for testing English language ability for legal purposes<sup>40</sup>.

A test of sufficient stringency should be undertaken by all law students at the end of the first year. Those passing it would not be required to sit it again. Those failing it would be permitted to continue their law studies but would be required to undertake remedial tuition (in addition to their law studies)<sup>41</sup>.

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<sup>40</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>41</sup> Ibid.

A test of similar stringency should be undertaken by those students who were required to undertake remedial tuition, to be conducted annually. Affected students should be given the opportunity to fail it twice<sup>42</sup>.

#### **4.4 Entry to the LPC**

Students should be accepted into an LPC course only if they have passed the UELT which would be set at a higher level than that referred to in 4.2 and 4.3<sup>43</sup>.

#### **4.5 Entry to the trainee solicitor contract**

Persons should be accepted into a trainee solicitor contract only if they have reached the benchmark in English language ability recommended by the Law Society.

#### **4.6 Active learning**

The process of active learning in the teaching of law should include a strong and rigorous emphasis on the use of English. One of the criteria for assessment of all oral and written assessable work in the LLB degree should be English language ability appropriate to the work being assessed, and this criterion should be assessed rigorously, to the point where work could be failed on that basis alone<sup>44</sup>.

#### **4.7 Chinese**

It is highly desirable that there be a number of those admitted to practice in Hong Kong who are able to use the Chinese language, where appropriate to their practice, to comparable standards as those required in regard to English.

Continuing training in the Chinese language should be provided for students and lawyers who have capabilities in the use of Chinese.

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

## **5 Continuing professional development**

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### **5.1 General principle**

Continuing professional development is both an individual and collective responsibility. All solicitors in Hong Kong need to be committed to lifelong learning which will enable them to respond to the changing needs of society.

Collectively, the Law Society will ensure that high quality continuing professional development activities are available to all members of the profession.

### **5.2 Aim of continuing professional development**

Continuing professional development will foster the development and knowledge of solicitors necessary to provide high quality and efficient legal services to the community, and will promote a spirit of continuing learning amongst solicitors. Professional development activities will enable solicitors to:

- acquire a wide range of skills relating to the delivery of legal services and the management of their practices;
- work with and train others involved in the delivery of legal services;
- maintain an up-to-date knowledge of the law and changes in the practice of law;
- master new areas of the law; and
- maintain and enhance their level of competence.

### **5.3 Mandatory continuing professional development**

Under the Continuing Professional Development (CPD) Scheme which commenced on 1 January 1998, it is mandatory for all trainee solicitors and solicitors with practising certificates who were admitted after 31 December 1993 to undertake continuing professional development of a minimum of 15 CPD points each practice year. The mandatory CPD Scheme is being phased in over 6 years so that by the year 2003 all trainee solicitors and all solicitors with practising

certificates will be embraced by the Scheme.

The Law Society's policy is that:

- there should be a broad range of activities for which CPD points can be accumulated;
- enhanced accreditation points should be allocated to target areas, such as professional ethics;
- there should be a mandatory practice management course for all solicitors seeking an unconditional practising certificate for the first time;
- there should be a risk management course developed for solicitors;
- the onus for keeping a record of CPD points accumulated should rest with solicitors and trainee solicitors and not the Society. The Society's role should be to monitor compliance with mandatory CPD by conducting audits; and
- the method of accreditation of CPD activities should be by way of provider accreditation for providers who can demonstrate a good track record as a provider through course by course accreditation by the Society.

## **6 Academy of Law**

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### **6.1 Aims of the Academy**

The Law Society is of the view that there are very good reasons for the establishment of an Academy of Law which would comprise a one-stop shop for the provision and administration by the profession of qualifications and training for all lawyers post LLB. The most important reason is that it will ensure the maintenance of a consistent high quality and standard of professional legal education across the entire legal profession from the moment a student completes his LLB through to the end of his professional career.

Other reasons in support of such a proposal are that, given the size of the jurisdiction in Hong Kong, it will lead to economies of scale in the provision of these functions and services, and will result in better regulation of the profession.

### **6.2 Scope of the Academy**

It is proposed that this Academy would, in due course, be responsible for:

- the Legal Practice Course for all intending solicitors and barristers following the completion of the LLB
- CPD programmes for both solicitors and barristers at all levels
- additional skills training programmes for the profession post-LPC, including advocacy skills training, mediation skills training, communication skills training.
- specialist training in specified areas of practice and specialist accreditation
- implementing a Mandatory Practice Management Course for solicitors
- implementing a Risk Management Education Programme (mandatory or otherwise) for solicitors
- administering the Overseas Lawyers Qualification Examinations and preparatory training courses
- administering the conversion course.

### **6.3 Establishment funding**

It would be appropriate for government or other funding to be provided to enable the development of this Academy<sup>45</sup>.

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<sup>45</sup> Ibid.

## 7 Conversion course

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### 7.1 Aim of the course

For persons seeking entry to vocational training in Hong Kong on the basis of academic qualifications other than those of the LLB from a Hong Kong university, a conversion course should be established to make up deficits, measured against the statement of academic standards required for entry to the vocational stage<sup>46</sup>.

### 7.2 Scope of the course

While the precise area of shortfall that needs to be made up will vary with the nature of the legal education received by each applicant for entry to the conversion course, possible areas of deficit that would need to be made up by those taking their legal education outside Hong Kong universities include:

- Legal System of the People's Republic of China
- Hong Kong Constitutional Law
- Hong Kong Property Law and
- legal research and writing skills<sup>47</sup>.

The subjects required in the conversion courses should give credit for study undertaken in overseas courses so that the full local subject requirement is not automatically required but might in a particular area (eg, Hong Kong Constitutional Law and Property Law) be simply a bridging course in areas where Hong Kong law is significantly different to that of the overseas legal system studied by the applicant<sup>48</sup>.

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

### **7.3 Duration and provision of the course**

The standard duration of the conversion course for the holder of a three year full time law degree might well be six months although a decision as to duration would depend upon the content of the statement of academic standards issued by the Legal Qualifying Council<sup>49</sup>.

Although the Hong Kong law schools might be the initial providers of the conversion course, other providers might be considered in future, in particular, the proposed Academy of Law.

### **7.4 Formal recognition**

Consideration should be given to the formal recognition of the conversion course through the granting of an academic award to those who complete it<sup>50</sup>.

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<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

## **8 Governance of the process of qualification for admission to practice**

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### **8.1 General**

A Legal Qualifying Council should be established to set, monitor and govern the process of qualification for admission to practice, as either a barrister or a solicitor<sup>51</sup>.

The Law Society and the Bar Association would continue to administer the process of dealing with applications for admission, collection of fees, issuance of practising certificates, and otherwise act as they do now – except that they would operate within the overall policy framework of requirements and standards as specified by the Legal Qualifying Council<sup>52</sup>.

### **8.2 Powers**

The powers of the Legal Qualifying Council should be –

- a) To develop, prescribe and keep under review a general statement of the requirements and standards of those seeking admission as barristers or solicitors in Hong Kong regardless of where their training was undertaken.
- b) To prescribe and keep under review the academic requirements for admission to practice.
- c) To prescribe and keep under review the vocational requirements for admission to practice.
- d) To prescribe and keep under review requirements for admission for those with degrees or other qualifications from institutions other than the two Hong Kong universities.
- e) To monitor the provision of academic and institutional vocational training.
- f) To collect and disseminate statistical information in regard to the legal education and training system in Hong Kong<sup>53</sup>.

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<sup>51</sup> This policy is largely derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review” except in relation to the composition of the Council.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

### 8.3 Composition

That the Legal Qualifying Council should comprise<sup>54</sup> –

- one person drawn from the judiciary and nominated by the Chief Justice
- four people nominated by the Law Society
- four people nominated by the Bar Association
- one person nominated by the University of Hong Kong
- one person nominated by City University of Hong Kong
- one person nominated by the Secretary of Justice
- one person nominated by the Secretary for Education and Manpower
- one person from the community.

The Chairman should be appointed from the legal profession.

### 8.4 Public accountability

The Legal Qualifying Council should report annually, in some detail, on its work to all relevant stakeholders. Its annual reports should be in the public domain<sup>55</sup>.

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<sup>54</sup> The Law Society is not dogmatic about the configuration of the proposed Council, except to the extent that the legal profession should have the majority representation.

<sup>55</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.