

# Standing Committee on Compliance

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

There are 13 members of the Standing Committee, seven of whom are Council members. The Standing Committee met 12 times during the year and considered 220 agenda items (compared to 238 agenda items in 2005).

## **Members of the Standing Committee:**

WONG Kwai Huen (*Chairman*)

Thomas S.T. SO (*Vice-Chairman*)

Denis G. BROCK (resigned in March)

Anna May M.L. CHAN

Ivy S.C. CHENG

David A. FOK

Dennis H.F. HIE

Stephen W.S. HUNG

Alex T.H. LAI

Ambrose S.K. LAM

Teresa S.Y. LIU

Amirali B. NASIR

Kenneth S.Y. NG

Brian K.K. TSE

Secretary: Director of Compliance

## **CONSENTS COMMITTEE**

The Consents Committee is a sub-committee of the Standing Committee on Compliance. There are 16 members, of whom eight are Council members. One in-house solicitor assists in the consideration of applications relating to in-house legal practice.

The Committee met 20 times during the year and considered 611 agenda items (There were 20 meetings during 2005 when 531 agenda items were considered.) A further 79 matters were dealt with by circulation of four agenda. (In 2005, 60 matters were considered by circulation of six agenda.)

## **Members of the Committee:**

IP Shing Hing (*Chairman*)

Kenneth S.Y. NG (*Vice-Chairman*)

Mimmie M.L. CHAN

Junius K.Y. HO

James E. JAMISON

Raymond M.S. KWOK

Henry H.W. LAI

Ambrose S.K. LAM

Billy Y.C. LAM

Henson LAM

William C.W. LAM

Billy W.Y. MA

Paul K.Y. NG

Melissa K. PANG

Kelly Y.H. WONG

Dieter L.T. YIH

In-house Solicitor:

Phil K.F. CHAN

Secretary: Director of Compliance

# Standing Committee on Compliance

Applications considered by the Consents Committee during the year included those in the following categories:

	2006	2005	2004
Foreign law firms	14	9	1
Foreign lawyers	254	228	192
Associations	6	2	0
Removal of name from the roll of solicitors	4	12	8
Restoration of name to the roll of solicitors	2	0	0
Admission of English barristers	0	0	1
Qualifications for admission s.4(1A) LPO	57	-	-
Employment of staff: s.53(1) LPO	3	6	3
s.53(3) LPO	1	7	1
PIS Rules exemption: In-house solicitors	4	3	3
Practising certificates - removal of conditions under s.6(6A) LPO	18	26	12
Practising certificates - Special Conditions	16	30	31
Trainee solicitors	114	142	153
Special leave to employ trainee solicitors	10	3	9
Law costs draftsmen	4	6	1
Accountant's reports	12	25	22
Firm name and letterhead	4	5	4
Group practice	1	0	1
Name cards	0	1	0
Associate membership	5	5	0

## REGISTRATION SECTION

The trend over recent years of an increasing workload for the Registration Section continued during the year. This is an inevitable consequence of the increasing size of the profession.

The commencement of the *Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Ordinance* in March also created a huge demand for certificates of standing and applications to remove conditions on a practising certificate which prevent the holder from practising on his own account or in partnership.

In addition to handling applications considered by the Consents Committee, the Registration Section also processed applications which included:

	2006	2005	2004
Admissions	354	355	339
Certificates of eligibility for admission	365	322	363
Practising certificates	5757	5593	5422
Removal of conditions on practising certificates (solicitors)	185	116	101
Registration as a foreign lawyer <sup>⊗</sup>	63	-	-
Removal of conditions on certificates of registration (foreign lawyers)	13	20	27
Certificates of standing	1507	300	268
Registration of trainee solicitor contracts	305	302	315
Applications by trainee solicitors <sup>⊗</sup>	27	-	-
Identity cards*	1121	1984	1643
Accountant's reports	661	662	638
Letters of No Objection <sup>#</sup>	749	671	569

\* - Solicitor (597), Trainee (274), Student member (134) and Associate member (116)

# - "No Objection" letters are issued to applicants for work visas.

⊗ - Only specific types of applications.

Figure 1: Admission of solicitors 1997-2006

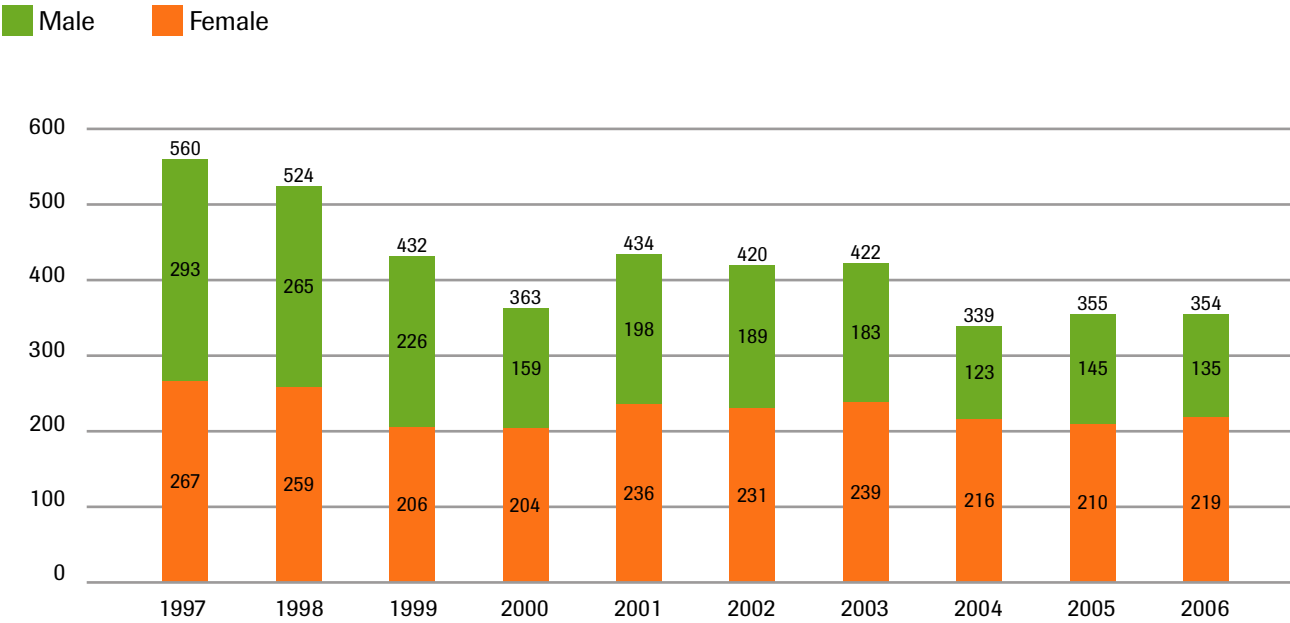
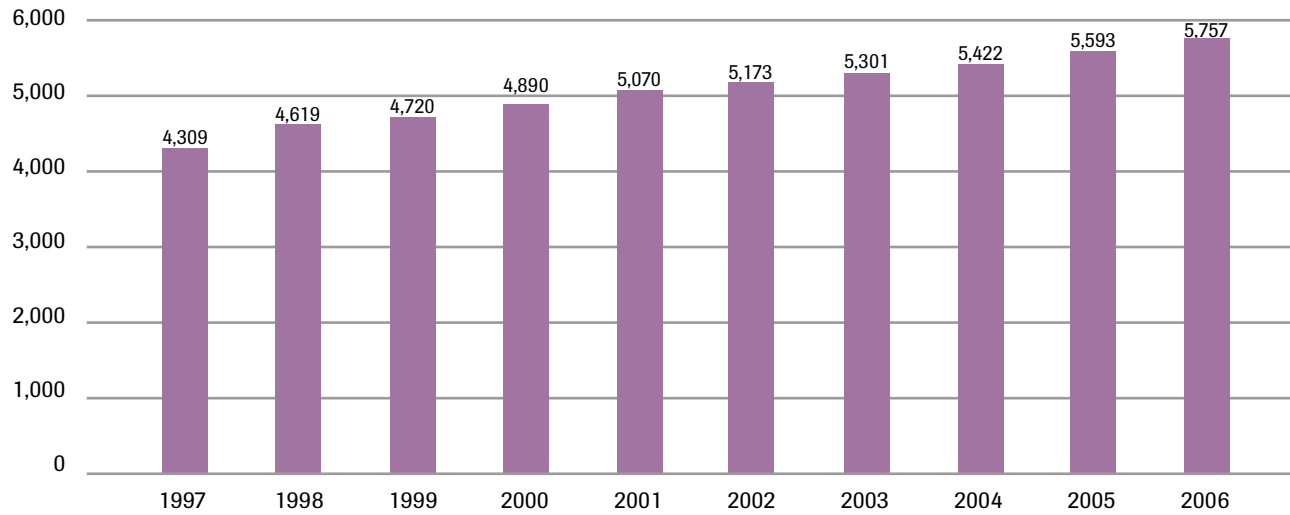
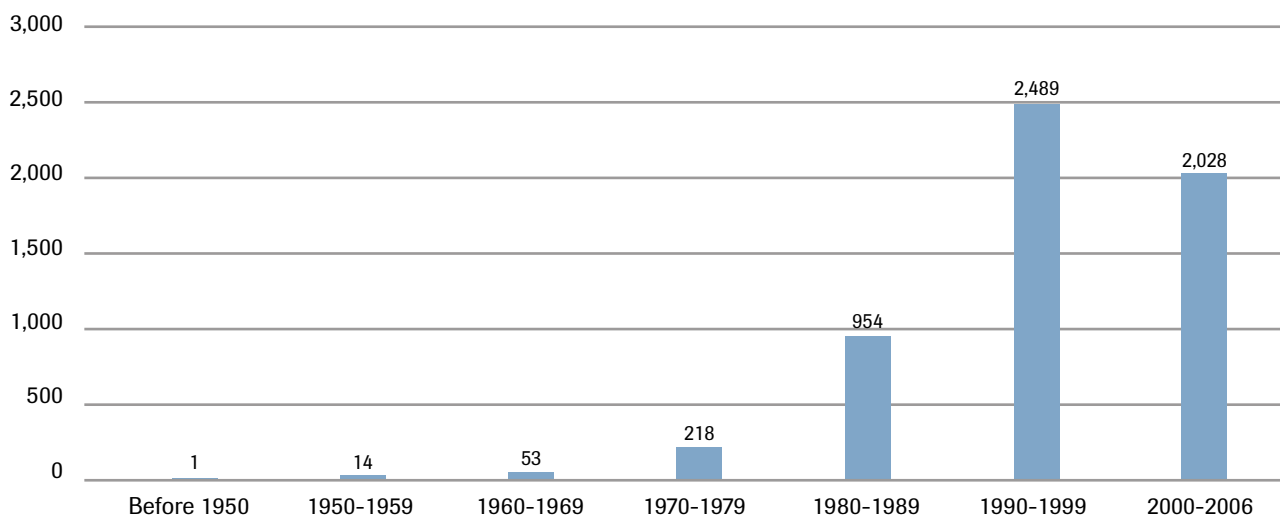


Figure 2: Practising Certificates issued 1997-2006



# Standing Committee on Compliance

Figure 3: Years of admission of 2006 practising members



The 2,920 practising members admitted between 1 January 1997 and 31 December 2006 represent 50.72% of total practising members.

Figure 4a: Gender ratio - Solicitors

Male Female

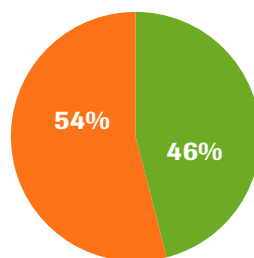


Figure 4b: Gender ratio - Trainee Solicitors

Male Female

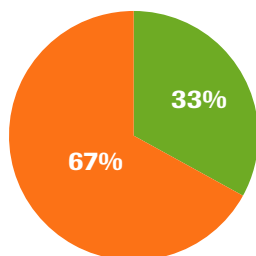
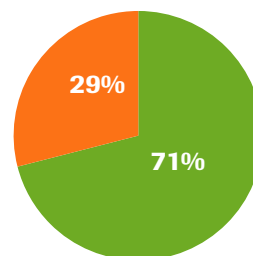


Figure 4c: Gender ratio - Partners

Male Female



**Figure 5: Size of firms and number of trainee solicitors in 2006**

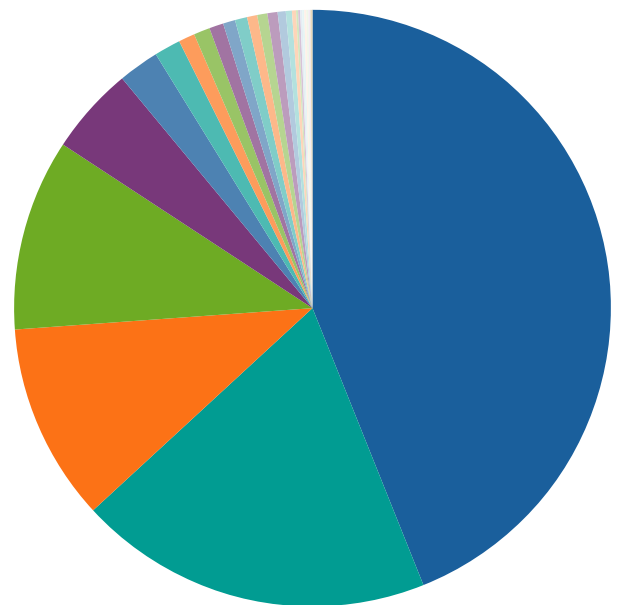
Size of firm	No. of firms		No. of trainee solicitors	
	2006	2005	2006	2005
Sole Practitioners	308	301	36	36
2-5 Partners	327	328	182	172
6-10 Partners	40	34	157	112
11-20 Partners	18	19	143	149
Over 20 Partners	5	6	79	93
Total	698	688	597 <sup>#</sup>	562 <sup>*</sup>

<sup>#</sup> excluding 10 in government and 3 working "in-house"

<sup>\*</sup> excluding 5 in government and 3 working "in-house"

**Figure 6: Home jurisdictions of registered foreign lawyers in both foreign law firms and local law firms**

	Number	%
USA	398	43.93
England & Wales	174	19.21
Australia	97	10.71
Mainland China	94	10.38
Singapore	43	4.75
Bermuda	20	2.21
France	13	1.43
New Zealand	8	0.88
Cayman Islands	8	0.88
Germany	7	0.77
Canada	6	0.66
Italy	6	0.66
British Virgin Islands	5	0.55
The Philippines	5	0.55
Malaysia	5	0.55
The Netherlands	4	0.44
Sweden	3	0.33
Republic of Korea	2	0.22
Scotland	1	0.11
India	1	0.11
Ireland	1	0.11
Japan	1	0.11
Taiwan	1	0.11
South Africa	1	0.11
Sri Lanka	1	0.11
Switzerland	1	0.11

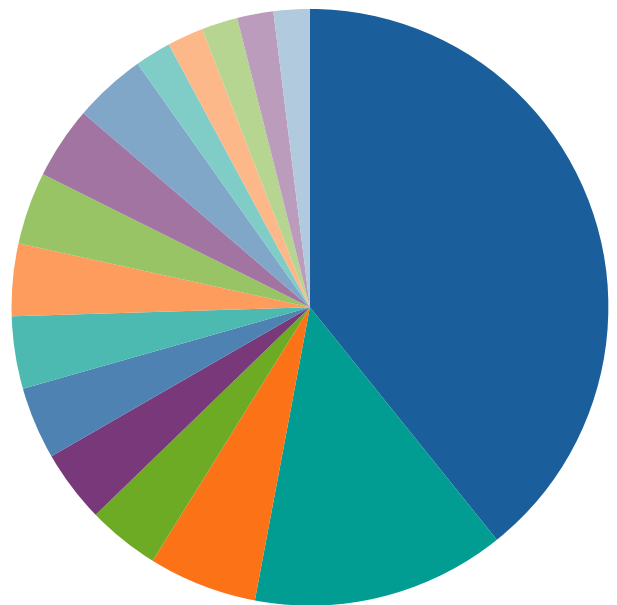


Notes: Of the 906 registered foreign lawyers, 290 worked with registered foreign law firms, 528 with local law firms and 88 not engaged in any law firms.

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**Figure 7: Home jurisdictions of registered foreign law firms**

	Number		%	
	2006	2005	2006	2005
USA	20	15	39.22	40.54
Mainland China	7	2	13.73	5.41
France	3	2	5.88	5.41
Bermuda	2	2	3.92	5.41
British Virgin Islands	2	2	3.92	5.41
Cayman Islands	2	2	3.92	5.41
England and Wales	2	-	3.92	-
Germany	2	2	3.92	5.41
Singapore	2	2	3.92	5.41
Sweden	2	1	3.92	2.70
The Philippines	2	2	3.92	5.41
Canada	1	1	1.96	2.70
Italy	1	1	1.96	2.70
Japan	1	1	1.96	2.70
Switzerland	1	1	1.96	2.70
The Netherlands	1	1	1.96	2.70



There were 11 associations registered between foreign law firms and local firms. No firm previously registered as a foreign law firm became a firm of solicitors in 2006. 14 new foreign firms were registered, notably, those from the United States and the Mainland China; of these, two foreign firms registered to practise law of more than one jurisdiction. No foreign law firm was closed in 2006.

## STUDENT MEMBERS

There were 169 student members.

## INVESTIGATION COMMITTEES

Investigation Committees are sub-committees of the Standing Committee on Compliance. Three members of the Standing Committee on Compliance are appointed to each Investigation Committee.

Investigation Committees considered 302 matters by circulation of 275 agenda. (In 2005, 324 matters were considered by circulation of 304 agenda.)

The Investigation Committee on Disciplinary Matters is the only Investigation Committee with a fixed membership. The Committee considered 328 matters by circulation of 119 agenda. (In 2005, 375 matters were considered by circulation of 128 agenda.)

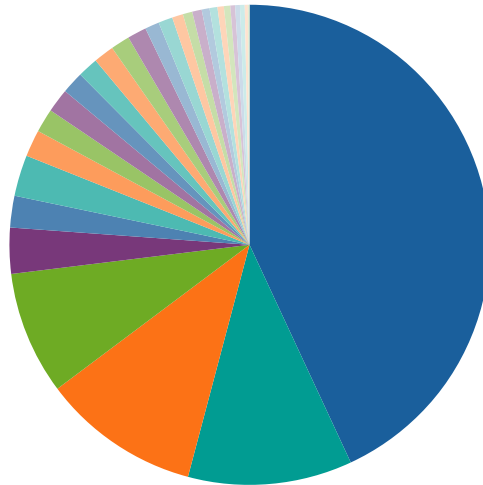
## CONDUCT SECTION

451 complaints were lodged or referred by members of the public and government organizations in 2006 (In 2005, 434). 60 complaints were made by solicitors and 429 by The Law Society.

832 files were closed during the year. (730 files were closed in 2005.)

## DETERMINATION OF COMPLAINTS IN 2006

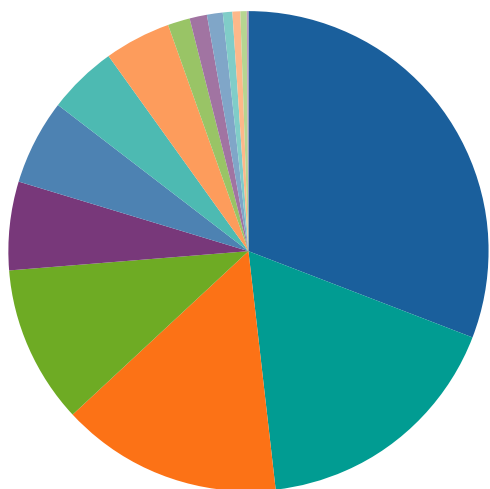
Figure 8: Nature of complaints



	2006	2005	2004
Breach of <i>Conduct Guide</i> Principles	43.09%	48.16%	40.08%
Breach of Solicitors' Practice Rules	11.06%	11.42%	6.88%
Court Attendance Form	10.64%	5.51%	7.29%
Breach of Continuing Professional Development Rules	8.30%	4.07%	8.50%
Breach of Undertaking	3.09%	7.74%	5.40%
Delay	2.13%	3.81%	2.97%
Overcharging	2.77%	2.62%	2.16%
Behaviour	1.81%	0.66%	1.08%
Breach of Solicitors' Accounts Rules	1.60%	2.62%	1.89%
Negligence	1.60%	2.23%	2.16%
Dishonesty	1.49%	0.66%	1.35%
Breach of Foreign Lawyers Registration Rules	1.38%	1.97%	3.51%
Non-payment of Counsel's Fees	1.38%	1.05%	2.16%
Inadequate Service	1.28%	1.97%	1.62%
Conflict of Interest	1.28%	1.18%	2.56%
Miscellaneous	0.96%	0.92%	1.89%
Breach of Risk Management Education Rules	0.96%	-	-
Unqualified persons acting or pretending to be a solicitor (ss.45-48 of the LPO)	0.74%	0.39%	1.08%
Media/Promotion	0.64%	0.79%	1.08%
Accountant's Certificate/Application for Insurance	0.64%	-	-
Breach of Practice Directions	0.53%	0.13%	0.67%
Professional Indemnity Insurance	0.53%	-	1.75%
Accountant's Reports	0.43%	0.92%	1.75%
Being a partner with a conditional Practising Certificate	0.43%	-	-
Failure to reply to letters on behalf of a client or to inquiries from the Society	0.32%	0.39%	0.54%
Practising without a Practising Certificate	0.32%	0.26%	0.27%
Offences in relation to foreign lawyers, etc. (s.50B of the LPO)	0.32%	0.13%	0.27%
Touting	0.21%	-	0.27%
Breach of Trainee Solicitors Rules	0.11%	-	0.40%
Breach of Foreign Lawyers Practice Rules	-	0.26%	0.40%
Property fraud	-	0.13%	-

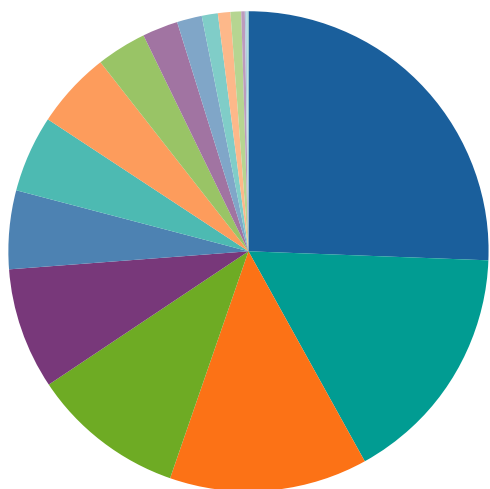
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Figure 9: Subject matter of complaints



	2006	2005	2004
Administrative/Regulatory	30.85%	21.78%	24.97%
Civil Litigation	17.34%	18.11%	20.11%
Conveyancing (H.K.)	14.89%	30.58%	18.49%
Inspection	10.64%	5.91%	8.50%
Miscellaneous	5.96%	5.12%	9.45%
Criminal	5.74%	3.81%	2.29%
Matrimonial	4.68%	5.51%	4.99%
Company/Commercial	4.47%	3.15%	4.18%
Landlord & Tenant	1.49%	1.44%	2.02%
Probate	1.17%	1.71%	2.97%
Recovery agent	1.06%	1.84%	-
Conveyancing (others)	0.64%	0.13%	0.27%
Contract	0.53%	0.52%	0.94%
Solicitors' Clerks	0.43%	0.26%	0.67%
Election	0.11%	-	0.13%
Legal Visits	-	0.13%	-

Figure 10: Analysis of closed files



	2006	2005	2004
No Further Action	25.60%	18.90%	18.64%
Unsubstantiated/ No professional misconduct	16.35%	21.92%	23.89%
Letter of Disapproval	13.34%	8.63%	15.53%
Circular Issued	10.34%	0.14%	0.12%
Withdrawn	8.17%	10.55%	7.05%
Letter of "Good Practice"	5.29%	10.00%	2.99%
Letter of Regret	5.17%	7.81%	14.46%
Unpursuable	5.17%	3.70%	2.63%
Pending	3.37%	5.89%	5.62%
Resolved Amicably	2.40%	4.79%	1.91%
Referred - Independent Legal Advice (including District Office)	1.68%	2.05%	2.03%
Referred - Tribunal Convenor	1.08%	3.01%	2.75%
Referred - Taxation	0.84%	0.14%	0.12%
Referred - relevant authorities	0.72%	0.55%	0.24%
Referred - Enforcement agencies	0.24%	0.96%	0.48%
Referred - Joint Tribunal	0.12%	0.41%	0.36%
Summary Disposal	0.12%	-	-
Referred - other departments of the Society	-	0.41%	0.24%
Referred - Inspection by the Monitoring Accountant	-	0.14%	-
Referred - others (including intervention agents)	-	-	0.96%



## DISCIPLINARY PROCEEDINGS, APPEALS, JUDICIAL REVIEWS

Solicitors Disciplinary Tribunals are statutory tribunals, independent of the Law Society, which is the prosecuting body. Tribunals are appointed by the Tribunal Convenor who selects tribunal members from a statutory panel appointed by the Chief Justice.

Eight disciplinary proceedings were determined in 2006, compared with 17 in 2005. Solicitors Disciplinary Tribunal Orders resulted in:

Respondents	Position	Penalty	Fines (HK\$)
1	solicitor	<ul style="list-style-type: none"> <li>• struck off</li> <li>• ordered to pay costs</li> </ul>	–
1	solicitor	<ul style="list-style-type: none"> <li>• censured</li> <li>• 4-month suspension</li> <li>• ordered to pay costs</li> </ul>	150,000
1	solicitor	<ul style="list-style-type: none"> <li>• censured</li> <li>• ordered to pay 55% of costs</li> </ul>	125,000
1	solicitor	<ul style="list-style-type: none"> <li>• censured</li> <li>• practice subject to conditions for 2 years</li> <li>• ordered to pay 55% of costs</li> </ul>	15,000
1	solicitor	<ul style="list-style-type: none"> <li>• ordered to pay 65% of costs</li> </ul>	600,000
1	solicitor	<ul style="list-style-type: none"> <li>• censured</li> <li>• ordered to pay 25% of costs</li> </ul>	30,000
1	solicitor	<ul style="list-style-type: none"> <li>• ordered to pay costs</li> </ul>	63,000
1	solicitor	<ul style="list-style-type: none"> <li>• ordered to pay 25% of costs</li> </ul>	50,000
1	solicitor	<ul style="list-style-type: none"> <li>• ordered to pay costs</li> </ul>	10,000

Under Section 9AB of the *Legal Practitioners Ordinance*, the Tribunal Convenor summarily disposed of matters by making two orders requiring two solicitors to each pay a fixed fine of HK\$10,000 and fixed costs of HK\$15,000.

One case against a solicitor was not proved; no order as to costs was ordered.

Three appeals were lodged by solicitors during the year, all of which have yet to be heard.

In an appeal lodged by a solicitor, the Court of Appeal in 2006 set aside two of the eight complaints found proved by a Tribunal and the solicitor then filed a Notice of Motion for leave to appeal. The Court of Appeal also dismissed another appeal lodged by three solicitors with costs to The Law Society.

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The Court of Final Appeal dismissed one solicitor's appeal with costs to The Law Society while it also dismissed the Society's application for leave to appeal in another case.

A solicitor's judicial review against a Council resolution to suspend him from practice pending a decision of the Solicitors Disciplinary Tribunal was dismissed.

The Standing Committee referred two cases to outside prosecutors for advice; in 2005, there had been one such case.

The Standing Committee resolved to commence disciplinary proceedings against five solicitors and two clerks. The Council resolved to refer one solicitor to the Tribunal Convenor. (In 2005, there had been resolutions to commence proceedings against 12 solicitors and one clerk.)

Seven cases were referred to the Convenor of the Solicitors Disciplinary Tribunal Panel. (In 2005, three cases were referred.)

The Task Force on Summary Disposal of Complaints (Solicitors) Rules re-convened to review the penalty and investigation costs structure of the Summary Disposal of Complaints (Solicitors) Rules as requested by the Chief Justice in October 2003. The Task Force recommended the fixed penalty and fixed costs set out in the Rules should be maintained.

## INTERVENTIONS

There were no interventions during 2006.

## INSPECTIONS

51 inspections were conducted into 11 firms as a result of the Council's resolution and no case had been referred for disciplinary proceedings. However, five cases were still

under investigation. Resolutions can extend to more than one firm and some firms the subject of a resolution can be inspected more than once. The inspections related to 11 complaint files. (In 2005, there were 47 inspections.)

Court inspections are conducted each year and at different locations. In 2006 the inspections took place at Shatin, Tsuen Wan and Kowloon City Magistrates' courts. The inspectors verified compliance by solicitors and unqualified staff members with the provisions of the *Legal Practitioners Ordinance*, in particular, rule 5D of the *Solicitors' Practice Rules*, and monitored the proper completion of court attendance forms.

## MONITORING ACCOUNTANTS

249 visits were made to 170 firms, compared to 239 visits to 176 firms in 2005. The Monitoring Accountants conduct visits to newly established firms (mainly to provide assistance in their accounting procedures/systems) and routinely to all other firms to ensure compliance with relevant rules.

## STAFF OF SOLICITORS' FIRMS

There were 12,390 staff employed by solicitors' firms at the end of the year (12,041 at the end of 2005) of whom 918 were Authorized Solicitors' Clerks permitted to visit clients held in places of detention (880 in 2005).