

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 11 members of the Standing Committee, five of whom are Council Members. The Standing Committee met 12 times during the year and considered 205 agenda items (compared to 220 agenda items in 2006).

Members of the Standing Committee:

Thomas S.T. SO (*Chairman*)

Alex T.H. LAI (*Vice-Chairman*)

Anna May M.L. CHAN

Ivy S.C. CHENG

David A. FOK

Dennis H.F. HIE

Stephen W.S. HUNG

Ambrose S.K. LAM (resigned in November)

Teresa S.Y. LIU

Amirali B. NASIR

Kenneth S.Y. NG

Brian K.K. TSE

WONG Kwai Huen (resigned in May)

Secretary: Director of Compliance

CONSENTS COMMITTEE

The Consents Committee is a Sub-committee of the Standing Committee on Compliance. There are 14 members, of whom seven are Council Members.

The Committee met 21 times during the year and considered 413 agenda items (There were 20 meetings during 2006 when 611 agenda items were considered.) A further 13 matters were dealt with by circulation of three agenda. (In 2006, 79 matters were considered by circulation of four agenda.)

Members of the Committee:

IP Shing Hing (*Chairman*)

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

Mimmie M.L. CHAN (resigned in April)

Junius K.Y. HO

James E. JAMISON

Raymond M.S. KWOK

Henry H.W. LAI

Ambrose S.K. LAM (resigned in November)

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 ("Part A" abolished in July)

Secretary: Director of Compliance

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With the promulgation of *Practice Direction N* on employed solicitors on 1 June, the Consents Committee no longer considers applications by employed solicitors for specific exemption from compliance with the *Solicitors (Professional Indemnity) Rules*. The Consents Committee also abolished the practice of separating the agenda into two parts with Part A for consideration of applications relating to employed solicitors only.

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

	2007	2006	2005
Registration as a foreign law firm	12	14	9
Registration as a foreign lawyer	157	254	228
Registration as an Association	10	6	2
Removal of name from the roll of solicitors	9	4	12
Restoration of name to the roll of solicitors	1	2	0
Admission of English barristers	1	0	0
Qualifications for admission s.4(1A) LPO*	5	57	–
Employment of staff: s.53(1) LPO	3	3	6
s.53(3) LPO	1	1	7
PIS Rules exemption: employed solicitors	0	4	3
Practising certificates – removal of conditions under s.6(6A) LPO	19	18	26
Practising certificates – special conditions	10	16	30
Trainee solicitors	28	114	142
Special leave to employ trainee solicitors	22	10	3
Law costs draftsmen	1	4	6
Accountant's reports	8	12	25
Firm name and letterhead	4	4	5
Group practice	0	1	0
Name cards	0	0	1
Registration as an associate member	6	5	5

* LPO-*Legal Practitioners Ordinance*

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Registration Section

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

	2007	2006	2005
Admissions	316	354	355
Certificates of eligibility for admission	340	365	322
Practising certificates	5925	5757	5593
Practising certificates – removal of conditions under s.6(6) LPO (solicitors)	168	185	116
Registration as a foreign lawyer ¹	182	63	–
Removal of conditions on certificates of registration (foreign lawyers)	20	13	20
Certificates of standing	481	1507	300
Registration of trainee solicitor contracts	335	305	302
Trainee solicitors ¹	122	27	–
Membership cards ²	1423	1121	1984
Accountant's reports	686	661	662
Letters of No Objection ³	885	749	671

¹ – Only specific types of applications.

² – Solicitors (847), trainee solicitors (312), student members (131) and associate members (133)

³ – “No Objection” letters are issued to applicants for work visas.

As with previous years, the Registration Section (in conjunction with the Conduct Section) reviewed, processed and filed the “employees’ returns” submitted by all solicitors firms and foreign law firms in January of each year, and the notifications on changes of firms’ particulars submitted by solicitors firms and foreign law firms throughout the year.

Two new staff members joined the Registration Section in 2007.

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Figure 1: Admission of solicitors 1998-2007

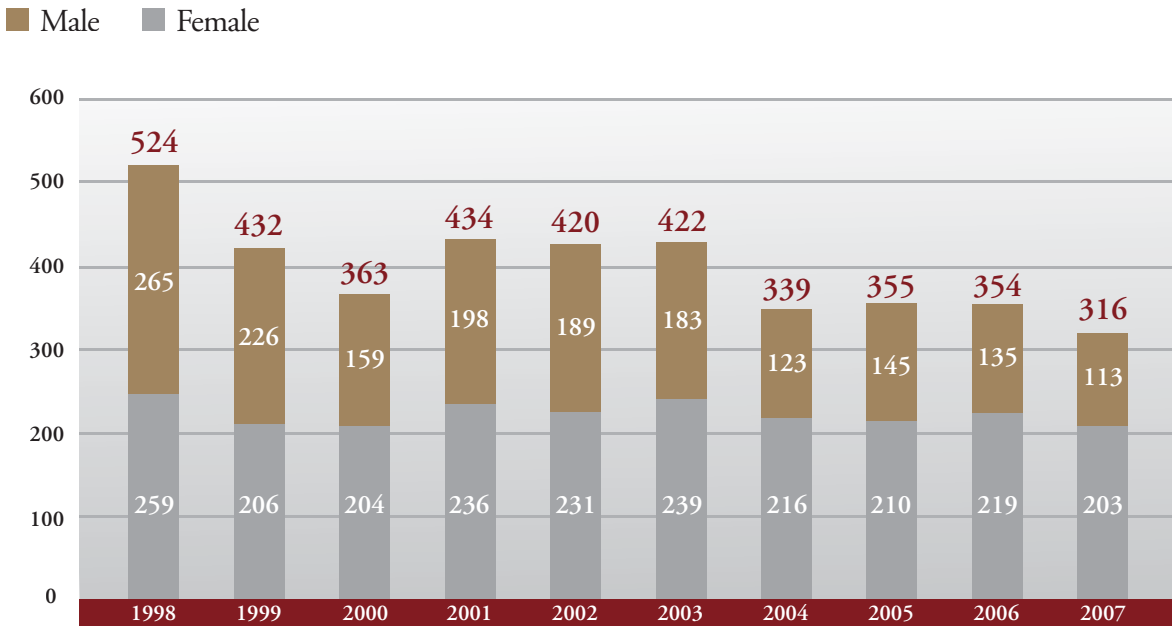
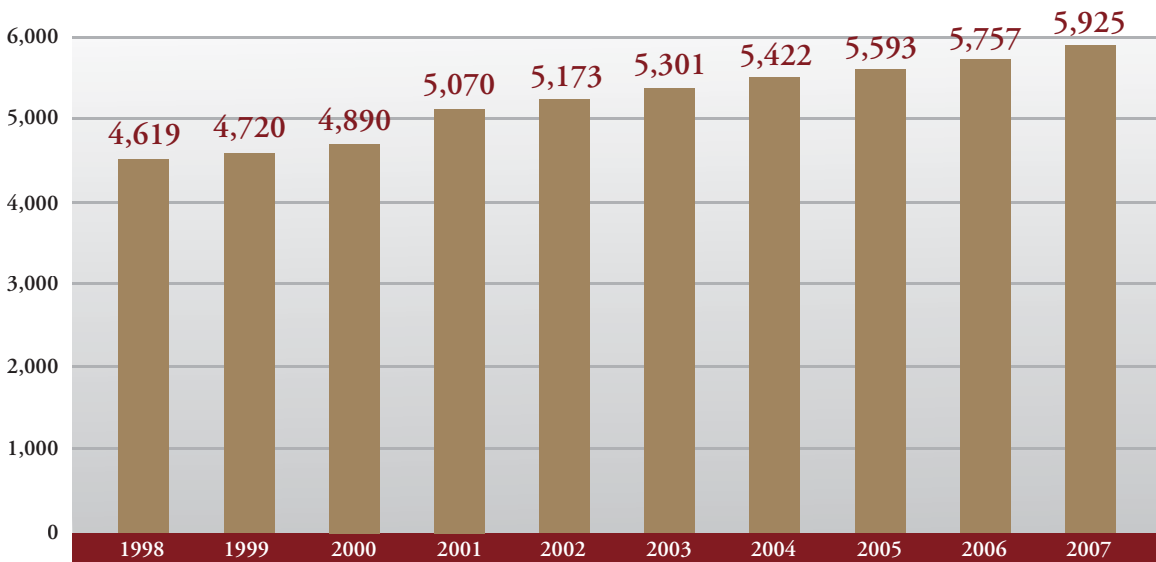
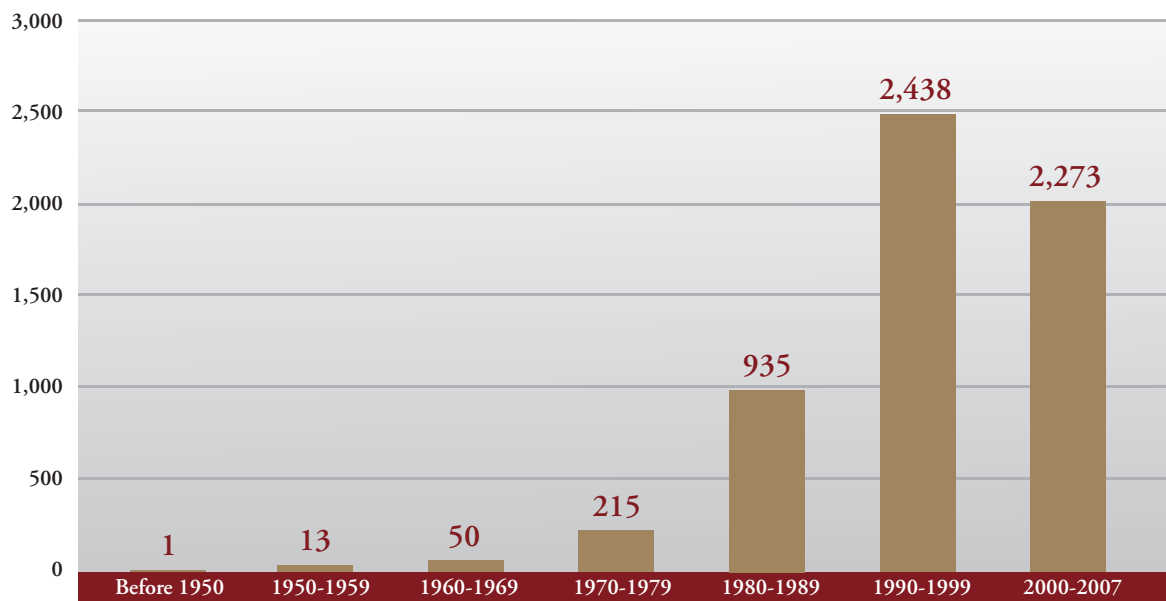


Figure 2: Practising Certificates issued 1998-2007



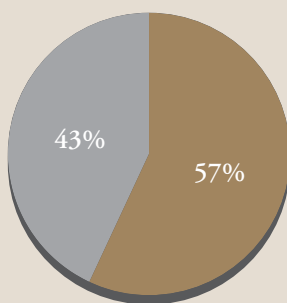
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Figure 3: Years of admission of practising members



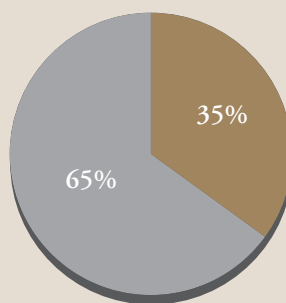
2,843 members were admitted between 1 January 1998 and 31 December 2007 and represent 48% of the total practising members.

Figure 4a: Gender ratio - Solicitors



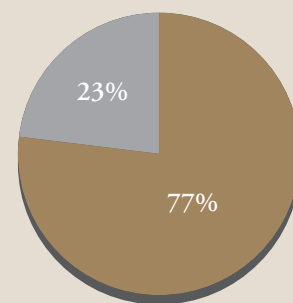
■ Male ■ Female

Figure 4b: Gender ratio - Trainee Solicitors



■ Male ■ Female

Figure 4c: Gender ratio - Partners



■ Male ■ Female

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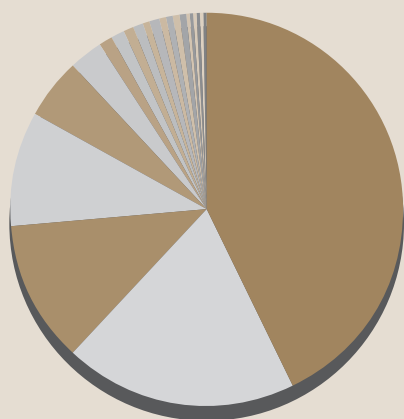
Figure 5: Size of solicitors firms and number of trainee solicitors in 2007

Size of firm	No. of firms		No. of trainee solicitors	
	2007	2006	2007	2006
Sole practitioners	320	308	39	36
2-5 partners	320	327	169	182
6-10 partners	44	40	176	157
11-20 partners	19	18	173	143
Over 20 partners	6	5	96	79
Total	709	698	653 ¹	597 ²

¹ excluding 14 in government and 3 working “in-house”

² excluding 10 in government and 3 working “in-house”

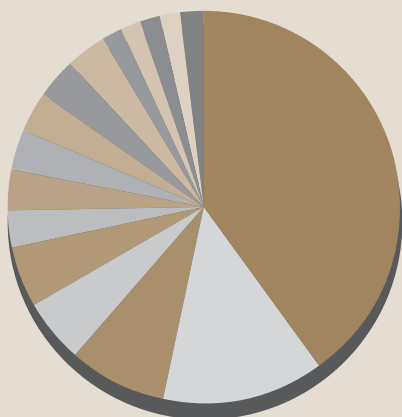
Figure 6: Home jurisdictions of registered foreign lawyers in both foreign law firms and local law firms



	Number	%
USA	445	42.75
England & Wales	198	19.02
Australia	123	11.82
Mainland China	97	9.32
Singapore	52	5.00
Bermuda	27	2.59
France	14	1.34
New Zealand	11	1.06
Germany	9	0.86
Canada	8	0.77
Cayman Islands	7	0.67
Malaysia	7	0.67
The Philippines	7	0.67
Italy	6	0.58
British Virgin Islands	5	0.48
Sweden	5	0.48
The Netherlands	4	0.38
Scotland	4	0.38
Republic of Korea	3	0.29
India	2	0.19
Taiwan	2	0.19
Austria	1	0.10
Japan	1	0.10
Nepal	1	0.10
South Africa	1	0.10
Switzerland	1	0.10

Note: Of the 1,041 registered foreign lawyers, 373 worked with registered foreign law firms and 580 with local law firms.

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Figure 7: Home jurisdictions of registered foreign law firms

	Number		%	
	2007	2006	2007	2006
USA	24	20	40.00	39.22
Mainland China	8	7	13.33	13.73
England and Wales	5	2	8.33	3.92
France	3	3	5.00	5.88
Sweden	3	2	5.00	3.92
Bermuda	2	2	3.33	3.92
British Virgin Islands	2	2	3.33	3.92
Cayman Islands	2	2	3.33	3.92
Germany	2	2	3.33	3.92
The Philippines	2	2	3.33	3.92
Singapore	2	2	3.33	3.92
Canada	1	1	1.67	1.96
Italy	1	1	1.67	1.96
Japan	1	1	1.67	1.96
Switzerland	1	1	1.67	1.96
The Netherlands	1	1	1.67	1.96

Note: There were 56 registered foreign law firms in Hong Kong, of which four firms were registered to practise law of two jurisdictions. (In 2006, there were 48 foreign firms, of which three were registered to practise law of two jurisdictions.)

There were 18 Associations between foreign law firms and local firms. 10 new foreign firms were registered. Two registered foreign law firms were closed in 2007, one of which became a local firm of solicitors.

Student Membership

There were 211 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 282 matters by circulation of 275 agenda. (In 2006, 302 matters were considered by circulation of 275 agenda.)

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The Investigation Committee on Disciplinary Matters

The Investigation Committee on Disciplinary Matters is the only Investigation Committee with a fixed membership. The Committee considered 199 matters by circulation of 85 agenda. (In 2006, 328 matters were considered by circulation of 119 agenda.)

Conduct Section

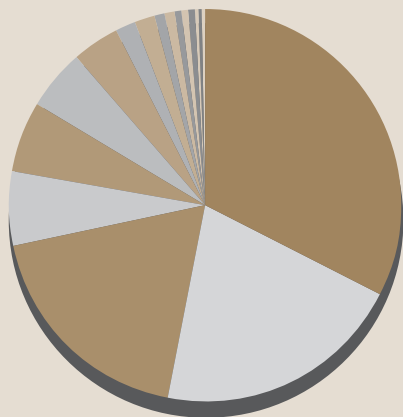
532 complaints were lodged or referred by members of the public and government organizations in 2007 (In 2006, 451). 84 complaints were made by solicitors and 387 by The Law Society (60 and 429 respectively in 2006). 990 files were closed during the year (832 files were closed in 2006).

There was a marked increase in the number of files that were closed as “unpursuable” and with “no further action”. In these cases, the complaints did not identify any issues of professional misconduct; most were enquiries in nature, some failed to disclose the respondents against whom the complaints were lodged while others related to matters which should be resolved in court proceedings. No explanation was sought before the files were closed.

The Standing Committee on Compliance has approved the use of a standard complaint form and a personal data form to streamline the complaint handling procedure of the Conduct Section. The forms are being prepared and will be in use in 2008.

Determination of Complaints in 2007

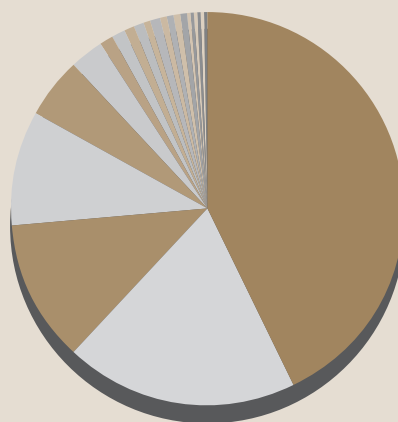
Figure 8: Subject matter of complaints



	2007	2006	2005
Administrative/regulatory	32.74%	30.85%	21.78%
Conveyancing (H.K.)	20.51%	14.89%	30.58%
Civil litigation	18.54%	17.34%	18.11%
Criminal	6.21%	5.74%	3.81%
Miscellaneous	5.82%	5.96%	5.12%
Matrimonial	4.83%	4.68%	5.51%
Probate	3.85%	1.17%	1.71%
Owners'/incorporated owners' disputes	1.78%	–	–
Company/commercial	1.58%	4.47%	3.15%
Contract	0.89%	0.53%	0.52%
Recovery agents	0.79%	1.06%	1.84%
Civil Celebrants	0.69%	–	–
Being a solicitors' clerk without The Society's approval	0.59%	0.43%	0.26%
Landlord & tenant	0.49%	1.49%	1.44%
Conveyancing (others)	0.39%	0.64%	0.13%
Inspections	0.2%	10.64%	5.91%
Election	0.10%	0.11%	–
Legal visits	–	–	0.13%

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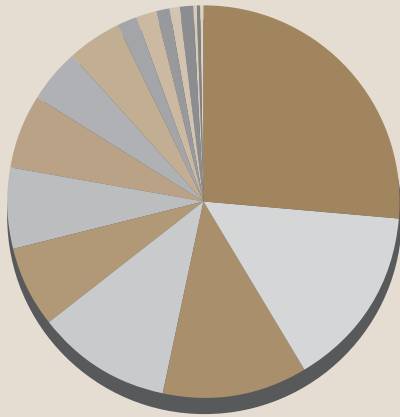
Figure 9: Nature of professional misconduct



	2007	2006	2005
Breach of Conduct Guide Principles	29.68%	43.09%	48.16%
Breach of <i>Solicitors' Practice Rules</i>	12.82%	11.06%	11.42%
Breach of <i>Legal Practitioners (Risk Management Education) Rules</i>	7.69%	0.96%	–
Breach of <i>Continuing Professional Development Rules</i>	6.80%	8.30%	4.07%
Breach of undertaking	5.23%	3.09%	7.74%
Miscellaneous	5.23%	0.96%	0.92%
Overcharging	3.85%	2.77%	2.62%
Negligence	3.55%	1.60%	2.23%
Misbehaviour	3.55%	1.81%	0.66%
Circular no. 01-142 (Com) (Court attendance form)	3.35%	10.64%	5.51%
Inadequate service	3.25%	1.28%	1.97%
Delay	2.66%	2.13%	3.81%
Breach of <i>Solicitors' Accounts Rules</i>	2.66%	1.60%	2.62%
Breach of <i>Foreign Lawyers Registration Rules</i>	1.87%	1.38%	1.97%
Breach of <i>Solicitors (Professional Indemnity) Rules (general)</i>	1.87%	0.53%	–
Dishonesty	1.48%	1.49%	0.66%
Conflict of interest	1.28%	1.28%	1.18%
Non-payment of barristers' fees	0.99%	1.38%	1.05%
Unqualified persons acting or pretending to be a solicitor (ss.45-48 of the <i>LPO</i>)	0.59%	0.74%	0.39%
Breach of <i>Solicitors' Practice Promotion Code</i>	0.39%	0.64%	0.79%
Offences in relation to foreign lawyers, etc. (s.50B of the <i>LPO</i>)	0.30%	0.32%	0.13%
Breach of <i>Practice Directions</i>	0.20%	0.53%	0.13%
Being a partner with a conditional practising certificate (s.6(6) of the <i>LPO</i>)	0.20%	0.43%	–
Failure to reply to letters on behalf of a client or to inquiries from The Law Society	0.20%	0.32%	0.39%
Late submission of accountant's reports	0.10%	0.43%	0.92%
Breach of <i>Foreign Lawyers Practice Rules</i>	0.10%	–	0.26%
Property fraud	0.10%	–	0.13%
Breach of <i>Solicitors (Professional Indemnity) Rules (r.8)</i>	–	0.64%	–
Practising without a practising certificate	–	0.32%	0.26%
Breach of <i>Trainee Solicitors Rules</i>	–	0.11%	–

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Figure 10: Analysis of closed files



	2007	2006	2005
No further action	26.46%	25.60%	18.90%
Unpursuable	15.05%	5.17%	3.70%
Unsubstantiated/No professional misconduct	11.92%	16.35%	21.92%
Letter of disapproval	11.11%	13.34%	8.63%
Withdrawn	6.77%	8.17%	10.55%
Letter of good practice	6.57%	5.29%	10.00%
Letter of regret	6.16%	5.17%	7.81%
Referred – Independent legal advice (including District Office)	4.44%	1.68%	2.05%
Pending	4.34%	3.37%	5.89%
Referred – Tribunal Convenor	1.82%	1.08%	3.01%
Resolved amicably	1.62%	2.40%	4.79%
Referred – taxation	1.01%	0.84%	0.14%
Referred – panel of prosecutors (for advice)	1.01%	–	–
Referred – relevant authorities	0.91%	0.72%	0.55%
Referred – Joint Tribunal	0.20%	0.12%	0.41%
Referred – inspection by the Monitoring Accountants	0.20%	–	0.14%
Referred – others (including intervention agents)	0.20%	–	–
Circular issued	0.10%	10.34%	0.14%
Referred – enforcement agencies	0.10%	0.24%	0.96%

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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.

10 disciplinary proceedings were determined in 2007, compared with eight in 2006. Solicitors Disciplinary Tribunal Orders resulted in:

Respondents	Position	Penalty	Fines (HK\$)
2	solicitors	<ul style="list-style-type: none"> • struck off • ordered to pay costs 	–
1	solicitor	<ul style="list-style-type: none"> • censured • ordered to pay 2/3 of costs 	110,000
1	solicitor	<ul style="list-style-type: none"> • censured • ordered to pay costs 	35,000
1	solicitor	<ul style="list-style-type: none"> • ordered to pay costs 	25,000
1	solicitor	<ul style="list-style-type: none"> • ordered to pay 60% of costs 	18,000
1	clerk	<ul style="list-style-type: none"> • prohibited from employment for 20 years • ordered to pay costs 	–
1	clerk	<ul style="list-style-type: none"> • censured • ordered to pay costs 	35,000
1	clerk	<ul style="list-style-type: none"> • ordered to pay 40% of costs 	12,000

The Solicitors Disciplinary Tribunal had dismissed one case against a solicitors' clerk.

Another complaint against one solicitor and one clerk was also dismissed. One case against a solicitor was withdrawn because the Tribunal had refused to grant substituted service order.

Two solicitors lodged their appeals against The Law Society.

A solicitor's motion for leave to apply for variation of order of the Court of Appeal was dismissed by the Court of Appeal with costs to The Law Society. The same solicitor's application for leave to the Court of Final Appeal on the Court of Appeal's dismissal was dismissed with costs to The Law Society. Also, an appeal by the same solicitor on taxation was allowed.

The Court of Appeal dismissed a solicitor's appeal against a Solicitors Disciplinary Tribunal decision on conviction. The Court referred the matter back to the Solicitors Disciplinary Tribunal for sentencing and no order on sentencing or costs has been handed down yet.

The Standing Committee referred two cases to outside prosecutors for advice. In 2006, there had also been two cases.

Standing Committee on Compliance

The Standing Committee resolved to commence disciplinary proceedings against eight solicitors and one clerk. (In 2006, there had been resolutions to commence proceedings against five solicitors and two clerks.) The Standing Committee had also decided to submit a matter regarding the conduct of a solicitor to the Tribunal Convenor under section 9A(1A) of the *Legal Practitioners Ordinance* for summary disposal by the Tribunal Convenor; however, the solicitor failed to notify the Council representative as to whether he wished to discuss the matter. As a result, the Standing Committee resolved to submit the matter to the Tribunal Convenor for disposal by the Solicitors Disciplinary Tribunal.

Seven cases were submitted to the Convenor of the Solicitors Disciplinary Tribunal Panel. (In 2006, seven cases were referred.)

Interventions

There were no interventions during the year.

Inspections

26 inspections were conducted into 10 firms as a result of two resolutions made by the Council and no case had been referred for disciplinary proceedings. However, four 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 eight complaint files. (In 2006, there were 51 inspections.)

Monitoring Accountant

240 visits were made to 170 firms, compared to 249 visits to 170 firms in 2006. 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 Firms

There were 13,022 staff employed by solicitors' firms at the end of the year (12,390 at the end of 2006) of whom 918 were Authorized Solicitors' Clerks permitted to visit clients held in places of detention (918 in 2006). In addition, there were 506 staff employed by registered foreign firms at the end of 2007.



Department of Compliance