

## STANDING COMMITTEE ON STANDARDS AND DEVELOPMENT

The Standing Committee met on 12 occasions to oversee the activities of the Department of Standards and Development and to consider recommendations from the committees and working parties under its umbrella. These included proposed amendments to the *Legal Practitioners Ordinance*, subsidiary legislation, The Law Society's *Practice Directions, Information Packages and The Hong Kong Solicitors' Guide to Professional Conduct Volume 1* ("Guide").

### LEGISLATIVE AMENDMENTS

#### *Legal Practitioners Ordinance*

With the commencement of the relevant sections in the *Statute Law (Miscellaneous Provisions) Ordinance*, the following provisions in the *Legal Practitioners Ordinance* were amended with effect from 9 May:

- (a) Section 2(1)  
The definition of "Postgraduate Certificate in Laws" was amended to include a Postgraduate Certificate in Laws award from The Chinese University of Hong Kong.
- (b) Sections 13(1), 37B(1) and 40M(1)  
The reference to "6 weeks" was repealed and substituted by "28 days". The time for serving notice of motion of appeal shall be 21 days from the date of the relevant decision referred to in the provisions and not 28 days as provided in Order 59 of the *Rules of the High Court*.
- (c) Section 53(1)  
The amended Section 53(1) makes it clear that a law firm which intends to employ a bankrupt solicitor or foreign lawyer must apply to The Law Society for written permission to do so, irrespective of whether that bankrupted solicitor held a practising certificate, or whether that bankrupted foreign lawyer held a valid foreign lawyer registration, at the time of his bankruptcy.

#### *Foreign Lawyers Practice Rules*

Rule 7(4)(a) was amended on 30 June making it clear that where a foreign firm shares a building or common area with another business, a principal of the foreign firm has to ensure that signs are displayed in a conspicuous position at the main entrance of the firm.

## Standing Committee on Standards and Development

### *Admission and Registration Rules*

With effect from 1 November, the application of the *Legal Practitioners (Risk Management Education) Rules* was extended to trainee solicitors whose first trainee solicitor contract commenced on or after 1 November. Incidental amendments to Forms 2 and 4 in the Schedule to the *Admission and Registration Rules* also came into effect on the same date. The *Information Package for Trainee Solicitors* and the *Information Package for Admission as a Solicitor: Trainee Solicitors* were also updated.

### *Practice Directions*

#### *Practice Direction D.5(4)(i)*

The amendment which came into effect on 30 June was a corresponding amendment to rule 7(4)(a) of the *Foreign Lawyers Practice Rules* for Hong Kong firms. Where a Hong Kong firm shares a building or common area with another business, signs must be displayed in a conspicuous position at the main entrance of the firm.

#### *Practice Direction P*

*Practice Direction P* incorporates a set of guidelines on anti-money laundering and terrorist financing.

Table A and paragraphs 18-28 of the *Practice Direction* were initially intended to take mandatory effect on 1 March. To allow members more time to make the necessary adjustments, the effective date of the mandatory provisions was postponed to 1 July.

On 16 June, an exemption from compliance with the *Practice Direction* was granted to files opened prior to 1 July provided that compliance is undertaken on or before 30 June 2009.

On 24 June, paragraph 24 of the *Practice Direction* was revised making it clear that the file retention periods for different categories of files are applicable to copies of client's identification documents. Paragraph 86 was also revised requiring law firms to take or collect copies of client's identification documents. Pursuant to paragraph 3.2.2.2 of the *Code of Practice on the Identity Card Number and other Personal Identifiers*, the Privacy Commissioner for Personal Data endorsed the requirement as set out in the revised paragraph 86 of the *Practice Direction* in June and further clarified the scope of the endorsement in August.

On 1 December, The Law Society clarified that client identification and verification are two distinct concepts. Identification refers to the basic information which a solicitor is required to obtain and record about his clients to know who they are whenever he is retained. Verification refers to the information a solicitor needs to obtain to confirm that his clients are who they say they are. Client verification is only required when a solicitor is acting for a client in any of the circumstances as set out in paragraph 20 of the *Practice Direction*.

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### *Commentary 3 to Principle 10.17 of the Guide*

A new Commentary 3 to Principle 10.17 of the *Guide* was introduced on 1 October. A litigation solicitor should consider and, if appropriate, advise his client on alternative dispute resolution procedures such as mediation, conciliation and the like.

## PROPOSED LEGISLATIVE AMENDMENTS

The following proposals on legislative amendments were considered by the Standing Committee:

### *Legal Practitioners Ordinance*

Section 50B(4) provides that a foreign lawyer or foreign firm shall not take a solicitor into partnership or employ a solicitor who holds a practising solicitor or a barrister who holds a practising certificate. It was proposed that the Section be amended to remove any ambiguity over a Hong Kong solicitor (who does not hold a practising certificate) becoming a partner of a foreign firm.

The Chief Justice has granted his approval in principle to the proposed amendments. The drafting of the proposed amendments by the Department of Justice is in progress.

### *Admission and Registration Rules*

It was proposed to amend Forms 2, 3, 4 and 5 to:

- (a) allow completion on the Forms the actual period of reduction of the trainee solicitor contract for trainee solicitors with prior relevant work experience under rule 9A(3) of the *Trainee Solicitors Rules*; and
- (b) replace gender-specific terms with gender-neutral terms.

The Chief Justice has granted his approval in principle to the proposed amendments. The proposed amendments will be submitted to the Chief Justice for his final approval when ready.

### *Practising Certificate (Special Conditions) Rules (“Special Conditions Rules”) and Solicitors’ Practice Rules*

The Working Party on *Practising Certificate (Special Conditions) Rules* had conducted a review of these two Rules and recommended some changes. The following major proposals were endorsed by the Standing Committee and the Council:

- (a) that the qualifying condition of “since he was last issued a practising certificate” in rule 3(b), (d) and (g) of the *Special Conditions Rules* be removed when determining whether any condition may be imposed on a solicitor’s practising certificate;

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- (b) that the three exceptional circumstances relating to the type of judgment or order given against the solicitor under rule 3(g) of the *Special Conditions Rules* be modified;
- (c) that a new rule 3(2) be introduced so that The Law Society shall not impose any condition on a solicitor's practising certificate if there is a pending appeal unless in the opinion of The Law Society the appeal proceedings have been unduly protracted or are unlikely to be successful;
- (d) that a prohibition against handling client's money and a requirement to attend courses in the *Risk Management Education Programme* be included as conditions in Schedule 1 to the *Special Conditions Rules*;
- (e) that the meaning of "unconditional practising certificate" in the *Solicitors' Practice Rules* be revised to make it clear that a holder of such certificate is free of any restriction preventing him from practising on his own account or in partnership save as to the condition of compliance with the *Continuing Professional Development Rules* and the *Legal Practitioners (Risk Management Education) Rules* or any condition under the *Special Conditions Rules*.

Approval in principle of the proposed amendments is being sought from the Chief Justice.

### OTHER MATTERS

Apart from reviewing proposed legislative amendments and making recommendations to the Council as appropriate, the work of the Standing Committee also covered the following:

- (a) reviewing specific issues on legal education including:
  - (i) an additional alternative training model known as the *Integrated Training Programme* ("ITP"). The ITP will be delivered as a sandwich course in which a student is required to complete the PCLL course and the two years of practical training in a law firm in stages;
  - (ii) the duration of the LLB programme having regard to the introduction of the *New Academic Structure for Senior Secondary Education and Higher Education*;
  - (iii) an update of The Law Society Position Paper on Legal Education and Training taking into account the latest developments in legal education;
  - (iv) the appointment of PCLL External Examiners;

## Standing Committee on Standards and Development

- (b) the introduction of an honour-based *Continuing Professional Development Scheme* and the consequential amendments to the *CPD Information Package*;
- (c) reviewing an interim report of the Working Party on Multi-jurisdictional Partnerships;
- (d) considering a proposal from the Judiciary on the photocopying charge to be stipulated in the *Solicitors (General) Costs Rules*;
- (e) overseeing the administration of the *Continuing Professional Development Scheme*, the *Risk Management Education Scheme*, the *Mediator Accreditation Scheme* and the *Overseas Lawyers Qualification Examination* and considering specific issues that were referred to it by the relevant Committees.

### Members of the Standing Committee:

Dieter L.T. YIH (*Chairman*)

Joseph C.W. LI (*Vice-Chairman*)

CHU Ka Fai

Gerard W.H. CHUNG

IP Shing Hing

James E. JAMISON (resigned in December)

LAU Pok Hoi

Susan P.S.K. LIANG

Amirali B. NASIR (joined in July)

Sylvia W.Y. SIU

Shane F. WEIR

Cecilia K.W. WONG

Secretary: Director of Standards & Development

## ANTI - MONEY LAUNDERING COMMITTEE

The Committee held five meetings including two meetings with the representatives of some law firms explaining the background and the provisions of *Practice Direction P*.

The Committee closely monitored the implementation of the *Practice Direction*. To allow more time for law firms to make the necessary arrangements to comply with the requirements, the Committee recommended to the Council that the effective date of the mandatory provisions of the *Practice Direction* be postponed from 1 March to 1 July.

In addition, the Committee recommended to the Council that a grace period up to 30 June 2009 to comply with the *Practice Direction* for files opened prior to 1 July be granted.

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The work of the Committee also included:

- dealing with enquiries from law firms on anti-money laundering matters;
- reviewing the personal data privacy issues in connection with the implementation of the *Practice Direction*;
- co-ordinating with the *Working Party on Promotion of Anti-Money Laundering* on the publicity campaign launched by The Law Society;
- reviewing the 3rd Mutual Evaluation Report published by the *Financial Action Task Force* (“FATF”) and commenting on the draft risk-based approach guidance for lawyers issued by the *FATF*.

### Members of the Committee:

Michael J. LINTERN-SMITH (*Chairman*)

AU Ping Kwan (resigned in April)

Victor K.S. CHIU (retired in November)

Andrew J. DALE

Serge G. FAFALAN

Lester G. HUANG

Jeffrey H. LANE

Angela W.Y. LEE

Gareth H. THOMAS (retired in November)

Secretary: Assistant Director, Regulation & Guidance

## THE CONTINUING PROFESSIONAL DEVELOPMENT (“CPD”) SCHEME

To assist practitioners in coping with the rapid changes in the practice environment, The Law Society has introduced a variety of CPD courses targeted to meet the training needs of its members.

14 courses on Civil Justice Reform (“CJR”) which is due to come into effect from April 2009 were conducted. The Law Society jointly organised two sessions on an overview of the CJR with the Bar Association training a total of over 1,600 practitioners. Further, The Law Society organised free specialised training covering various aspects of the CJR for its members. Three series of such specialised training courses comprising five modules each, training a total of 3,718 course participants, were held.



CJR also highlights the importance of mediation. Apart from five general and family mediation training courses, two free courses introducing mediation in general were held.

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Moreover, to assist practitioners to guard against money laundering and to ensure compliance with the new *Practice Direction on Anti Money Laundering*, four free courses on the topic were held and they were all well attended by a total of 537 participants.

To facilitate interaction with other professions, The Law Society also jointly organised courses of common interest with other professional bodies including the International Chamber of Commerce, the Society of Notaries, the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Bar Association. Excluding the courses relating to CJR, five courses were jointly held with other professional bodies and they attracted a total of 217 practitioners.



Overall, The Law Society offered 95 CPD courses during the year. Of the 95 courses, 15 courses were conducted in Mandarin or Cantonese. The courses attracted a total number of 8,409 course participants.

The Law Society is grateful to the 110 presenters who shared their valuable time and experience to present courses for the benefit of the profession.

Pursuant to rule 9 of the *CPD Rules*, 133 practitioners were granted suspension from the operation of the *CPD Scheme*.

An audit of 5% of all practitioners who were in the *CPD Scheme*, 15% of all first year trainee solicitors and all trainee solicitors seeking admission as a solicitor was undertaken in March. A total of 627 practitioners within these target groups were audited. 25 practitioners were found to be in non-compliance with the provisions of the *CPD Rules*. Arising from general enquiries made by practitioners or from reports made on their own initiatives, 19 practitioners were found to be in non-compliance with the *CPD Rules*. All cases of non-compliance were referred to the Compliance Department to be dealt with in accordance with the Council's sanction policy.



## Standing Committee on Standards and Development

### CONTINUING PROFESSIONAL DEVELOPMENT COMMITTEE

The Committee convened on two occasions. It considered the feasibility of the introduction of an honour-based *CPD Scheme* and reviewed the *CPD Guidelines* relating to the criteria for accreditation as a CPD course provider and accreditation of law courses.

It also updated the *CPD Information Package and the Training Record* to reflect changes made to the lists of approved legal journals, accredited law courses and approved committees/working parties/associations for CPD purposes.

In addition, it considered enquiries relating to the application of the *CPD Guidelines* to particular activities including the work of an external examiner.

Further, the Committee granted two full exemptions from participation in the *CPD Scheme* to practitioners on the ground of age and one full exemption on the ground of illness.

#### Members of the Committee:

Sylvia W.Y. SIU (*Chair*)

Douglas ARNER

Gerard W.H. CHUNG

Ada W.Y. FUNG

Alexandra D. W. LO

Michael A. OLESNICKY

Martin D. ROGERS (resigned in January)

Adamas K.S. WONG

Victor C.K. YAU

Allan W.M. YU

Secretary: Director of Standards & Development

### CPD ACCREDITATION SUB-COMMITTEE

The Sub-committee accredited a total of 4,067 courses, compared with 3,601 in 2007. Of these courses, 970 were accredited on a course-by-course basis and 3,127 were accredited under the *Provider Accreditation Scheme*. 95 of the courses were offered by The Law Society, 344 half-day courses by The Law Society under the *Risk Management Education Programme*, 3,021 by in-house providers and other institutions and 607 by commercial providers.

Apart from dealing with applications for accreditation of courses by circulation, the Sub-committee also met on two occasions to consider, inter alia, the irregularities of course providers and applications for renewal of accredited provider status.

The Sub-committee accredited one new provider under the *Provider Accreditation Scheme*. The total number of accredited providers was 45 as at the end of the year. The Sub-committee also approved eight postgraduate or other law courses and seven legal journals, 40 legal researches and accredited one working party for the purpose of compliance with the CPD requirement.



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Members of the Sub-committee continued to monitor the standard of accredited CPD courses by reviewing course evaluation records, attending selected accredited courses and seeking feedback by way of a standardised assessment form from solicitors and trainees who had attended CPD courses selected at random by The Law Society.

### Members of the Sub-committee:

Sylvia W.Y. SIU (*Chair*)

Douglas ARNER

Ram D. BIALA

Simon M.Y. CHAN

Joseph T.Y. CHU (resigned in September)

Johnny C.M. FEE

John D.S. HO

Albert K.M. LEUNG

Christopher H.W. SO

Adrian K.M. WONG

Sandy H.Y. WONG

Jill T.L. WONG (resigned in October)

Secretary: Assistant Director, Professional Development

## FOREIGN LAWYERS COMMITTEE

Since 2007, the number of candidates sitting the *Overseas Lawyers Qualification Examination* (“OLQE”) has increased substantially. There were 150 candidates sitting the 2008 OLQE. The increase might be due to the anticipated implementation of the proposed amendments to the *Overseas Lawyers (Qualification for Admission) Rules* including the introduction of an additional written Head on *Hong Kong Basic Law*.

The Committee convened five meetings. It dealt with 55 applications for exemption from sitting all or part of the 2008 OLQE in accordance with the guidelines issued by The Law Society. In addition, it considered three applications relating to the eligibility to sit the OLQE.

### Members of the Committee:

WONG Kwai Huen (*Chairman*)

John C.K. CHAN

CHEONG Pui Fan

Philip M.J. CULHANE

Hannah C.L. HA

Junius K.Y. HO

LI Huanting

Michael P. PHILLIPS

Rupert C. SKRINE

Secretary: Assistant Director, Regulation & Guidance

## Standing Committee on Standards and Development

### GUIDANCE COMMITTEE

The Committee met on three occasions and dealt with nine enquiries from members on matters relating to professional conduct and ethics including:

- the legal effect of non-compliance with *Practice Direction L.4*;
- the application of section 7 of the *Legal Practitioners Ordinance*, rule 6 of the *Solicitors (Professional Indemnity) Rules* and circular 07-606 to a solicitor practising overseas;
- the disclosure of a client's file to a former clerk of a law firm;
- conflict of interest between clients arising out of a merger between a law firm in Hong Kong and an overseas firm;
- the application of *Practice Direction N* to an in-house solicitor employed by a statutory body;
- conflict of interest between a solicitor and his client in an initial public offer;
- the interpretation of section 50B(4) of the *Legal Practitioners Ordinance*;
- conflict of interest between a solicitor and his client in a conveyancing transaction that had fallen through;
- the placing of an advertisement in a light box panel in a hospital.

#### Members of the Committee:

Amirali B. NASIR (*Chairman*)

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James J. BERTRAM

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Stephanie S.Y. CHEUNG

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Victor K.S. CHIU

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Richard CULLEN

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Alex K.L. LAU (joined in June)

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LAU Pok Hoi

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Joseph C.W. LI

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Patrick R. MOSS

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Kenneth S.Y. NG

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Richard N. TANNER

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Johnson M.H. TSANG

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Benny Y.B. YEUNG

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Secretary: Assistant Director, Regulation & Guidance

## Standing Committee on Standards and Development

### LEGAL EDUCATION COMMITTEE

The Committee convened on eight occasions including a meeting with the Postgraduate Certificate in Laws (“PCLL”) External Examiners and a meeting with the Trainee Solicitors Committee. Its work included the following:

- (a) review of the ramifications of the concept of clinical legal education;
- (b) revision and update of The Law Society Position Paper on Legal Education and Training taking into account the recent developments in the legal education field since the issuance of the Position Paper in 2001;
- (c) conduct of a survey on trainee solicitors with a view to collate comments on the quality of the PCLL from its users;
- (d) analysis of the results of the survey on the quality of the PCLL and the follow up work with the University of Hong Kong (“HKU”) and the City University of Hong Kong (“CityU”) on how to address the concerns raised;
- (e) review of applications for accreditation as legal executive courses in accordance with The Law Society’s benchmarks for legal executive courses;
- (f) regular review and input on the curriculum, teaching and assessment of the PCLL programmes on offer;
- (g) monitoring of PCLL courses and review of the PCLL course materials of HKU, CityU and the Chinese University of Hong Kong through the PCLL External Examiners nominated by The Law Society;
- (h) review of law programme initiatives, for instance, the JD programme by HKU;
- (i) review of applications for the appointment of PCLL External Examiners.

A sharing session with interns of law firms was organised in August at which senior legal practitioners in different fields were invited to share their valuable experiences with new entrants to the profession. It was well received with over 120 participants.



## Standing Committee on Standards and Development

The President of The Law Society and the Chairman of the Committee also served as representatives of The Law Society on the Standing Committee on Legal Education and Training (“SCLET”), which met on four occasions during the reporting period. The Secretary of the Committee continued to serve as Secretary of SCLET.

The President and the Secretary also served as Chairman and Secretary respectively of the Sub-committee of the Standing Committee on English Language Proficiency which met on one occasion during the period.

### Members of the Committee:

Dieter L.T. YIH (*Chairman*)

Charles C.C. CHAU

John J. CLANCEY

HA Yiu Fat

Stephen W.S. HUNG

Adrian K.M. WONG

Susan WONG

Felix K.Y. YAU

Secretary: Director of Standards & Development

## MEDIATOR ACCREDITATION COMMITTEE

Apart from dealing with enquiries relating to mediator accreditation, the Committee also reviewed and accredited two general, three family (two basic and one advanced) mediation training courses. In addition, it accredited six general mediators for inclusion in The Law Society’s Panel of Mediators by circulation.

The Scheme was formally launched in August 2005. As of the end of the year, there were 40 solicitors accredited on the Panel of General Mediators, 17 solicitors on the Panel of Family Mediators and seven solicitors on the Panel of Family Mediation Supervisors.

### Members of the Committee:

Lester G. HUANG (*Chairman*)

CHAN Bing Woon

CHAN Wing Kai (retired in October)

Junius K.Y. HO

Maurice W.M. LEE

Maureen E. MUELLER

Jody K.Y. SIN

Cecilia K.W. WONG

Secretary: Director of Standards & Development

## Standing Committee on Standards and Development

### OVERSEAS LAWYERS QUALIFICATION EXAMINATION COMMITTEE

The Committee met on two occasions including a joint meeting with the Chief Examiners and Examination Panel Convenors and Examiners.

The work of the Committee covered the following:

- reviewing the results of the 2007 *Overseas Lawyers Qualification Examination* (“Examination”) together with the Chief Examiners, Examination Panel Convenors and Examiners;
- determining the format and the logistical arrangements for the 2008 Examination;
- proposing amendments to the *Information Package* for the 2008 Examination;
- considering the appointment of Examiners; and
- reviewing the syllabus and reading list of each head of the Examination.

#### Members of the Committee:

John R. BUDGE (*Chairman*)

Mark LIN

Amirali B. NASIR

Sylvia W.Y. SIU

Donna L. WACKER

Secretary: Director of Standards & Development

#### Convenors and Members of the Overseas Lawyers Qualification Examination Panels:

HEAD I : Conveyancing

Myrette J. FOK (*Convenor*)

Alisa W.C. KWAN

Alexander H.S. LEUNG

George S.K. NGAI

Simon J. REID-KAY

Cleresa P.Y. WONG (resigned in May)

HEAD II : Civil and Criminal Procedure

Brian W. GILCHRIST (*Convenor*)

Amanda WHITFORT (*Convenor*)

Melville T.C. BOASE

Louis K.L. FUNG

Julienne JEN

Martyn RICHMOND

Martin D. ROGERS

## Standing Committee on Standards and Development

### HEAD III : Commercial and Company Law

Michael P. PHILLIPS (*Convenor*)

Mary W.Y. AU-YUENG

Felix W. H. CHAN

Shirley S.L. CHUA

Alexandra D.W. LO

Vanessa STOTT

Adrian K.M. WONG

### HEAD IV : Accounts and Professional Conduct

Colin B. COHEN (*Convenor*)

Michael WILKINSON (*Convenor*)

Richard CULLEN

Adrian J. HALKES

Ludwig S.W. NG

Peter K.P. SIT

Anthony R. UPHAM

Judith A. WALDRON

Amanda WHITFORT (resigned in April)

### HEAD V : Principles of Common Law

Adrian K.M. WONG (*Convenor*)

Jack BURKE

Shirley S.L. CHUA

Julianne P. DOE

Kenneth H.W. KWOK, S.C.

Anthony F. NEOH SC

Michael P. PHILLIPS

## OVERSEAS LAWYERS QUALIFICATION EXAMINATION

The 14th *Overseas Lawyers Qualification Examination* was held from 28 October to 12 December. A total of 150 candidates sat one or more written heads of the Examination. 140 candidates were from 14 overseas jurisdictions, six of which were non-common law jurisdictions. 10 candidates were Hong Kong barristers.

Of the 150 candidates, 117 candidates (78%) passed the Examination, having passed each of the heads that they were required to sit. 33 candidates (22%) failed the Examination, having failed one or more of the heads that they were required to sit.

**Figure 1: Examination results with respect to each head of the Examination**

	Head I		Head II		Head III		Head IV		Head V		The Exam	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Pass	119	87%	18	67%	21	70%	19	54%	2	100%	117	78%
Fail	18	13%	9	33%	9	30%	16	46%	0	0%	33	22%
Total	137		27		30		35		2		150	

## Standing Committee on Standards and Development

<i>Written Heads:</i>	<i>Head I</i>	<i>Conveyancing</i>
	<i>Head II</i>	<i>Civil and Criminal Procedure</i>
	<i>Head III</i>	<i>Commercial and Company Law</i>
	<i>Head IV</i>	<i>Accounts and Professional Conduct</i>
<i>Oral Head:</i>	<i>Head V</i>	<i>Principles of Common Law</i>

**Figure 2: Jurisdictions of candidates**

<b>Jurisdictions</b>	<b>Number of Candidates</b>	<b>Percentage</b>
1 Australia	42	28
2 Austria <sup>1</sup>	1	1
3 Canada	3	2
4 Canada (Quebec) <sup>1</sup>	1	1
5 England and Wales	43	29
6 France <sup>1</sup>	1	1
7 Hong Kong <sup>2</sup>	10	6
8 Mainland China <sup>1</sup>	3	2
9 Malaysia	10	6
10 Nepal <sup>1</sup>	2	1
11 New Zealand	3	2
12 Philippines <sup>1</sup>	1	1
13 Scotland	1	1
14 Singapore	15	10
15 U.S.A.	14	9
<b>Total Number of Examination Candidates</b>	<b>150</b>	<b>100%</b>

<sup>1</sup> *Non-common law jurisdiction*

<sup>2</sup> *Barrister*

## RISK MANAGEMENT EDUCATION (“RME”) COMMITTEE

The Committee oversaw the overall administration of the *RME Programme* which 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 four years extending its application gradually to all Hong Kong solicitors practising as sole practitioners, partners, associates and consultants in Hong Kong law firms.



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A total of eight principal's core courses (2-day each), 82 non-principal's core courses (1-day each) and 148 elective courses (half-day each) were held during the year and the Committee closely monitored the evaluation by the course participants.

With the establishment of the Hong Kong Academy of Law, the RME courses have been offered through the Academy from 1 November onwards. Further, all RME electives have been offered free-of-charge since the same date.

Marching into the 5th year of its operation, the Committee considered the time appropriate for the extension of the *RME Programme* to trainee solicitors. It recommended that the Programme be extended to apply to trainee solicitors whose first trainee solicitor contract commenced on or after 1 November.

In preparation for the extension of the application, the Committee reviewed the necessary legislative amendments, vetted the outline for the trainee's core courses and compulsory first elective and updated the *RME Information Package* to reflect the changes to the Programme.

### Members of the Committee:

Cecilia K.W. WONG (*Chair*)

Susan L. CLAY (resigned in September)

Warren P. GANESH

Lester G. HUANG

Joseph C.W. LI

Evelyn S.M. YAN (joined in September)

Secretary: Director of Standards & Development

### RME ACCREDITATION SUB-COMMITTEE

The Sub-committee is tasked with the responsibility to review applications for accreditation of RME courses and providers in accordance with the accreditation criteria.

The Sub-committee accredited one core course for non-principals, 25 elective courses (including on-line courses) offered by law firms and other institutions and 11 elective courses (including one on-line course) offered by commercial providers.

Since the introduction of course provider accreditation for RME elective courses in 2007, four law firms have been accredited as RME course providers which offered a total of 49 in-house elective courses during 2008.

### Members of the Sub-Committee:

Joseph C.W. LI (*Chairman*)

Susan L. CLAY (resigned in September)

Michael PENDLETON

Anthony R. UPHAM

Helen D. WALKER

Evelyn S.M. YAN (joined in September)

Secretary: Director of Standards & Development

## Standing Committee on Standards and Development

### TRAINEE SOLICITORS COMMITTEE

The Committee met on five occasions including a meeting with the Legal Education Committee.

A common route to admission as a solicitor of Hong Kong is to complete the PCLL and then two years of training under a trainee solicitor contract in a Hong Kong law firm.

Apart from the one-year PCLL, a proposal was raised to offer an alternative training model known as the *Integrated Training Programme* (“ITP”). The ITP will be delivered as a sandwich course in which a trainee solicitor is required to complete the PCLL course and the two years of practical training in a law firm in stages in accordance with a specified sequence.

The implementation of the proposed ITP would necessitate legislative amendments to the relevant rules and regulations. The Chief Justice has granted his approval in principle of the proposed amendments to the *Trainee Solicitors Rules*, the *Admission and Registration Rules* and the *Continuing Professional Development Rules*.

The Committee reviewed the various drafts of the proposed amendments prepared by the Department of Justice.

In addition, the Committee also considered the feasibility of preparing competency standards for Day One solicitor and guidelines on possible tasks or scope of work suitable for training purposes.

#### Members of the Committee:

Joseph C.W. LI (*Chairman*)

John HARTLEY

Junius K.Y. HO

IVAN C.K. NG

Dieter L.T. YIH

Secretary: Director of Standards & Development

## Standing Committee on Standards and Development

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

The Sub-committee held one meeting to consider a quotation report on the annual premium rates for an insurance coverage of HK\$1 million in cases of death or total permanent disability. The Sub-committee sought clarification of the insurance provisions with the insurance companies and it will consider their proposals further.

The Sub-committee also explained to the Judiciary details of the proposed amendments to Rule 5AA of the *Solicitors' Practice Rules*.

#### **Members of the Sub-committee:**

Amirali B. NASIR (*Chairman*)

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James J. BERTRAM

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Richard CULLEN

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LAU Pok Hoi

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Stephen W.K. LAU

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Joseph C.W. LI

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Billy W.Y. MA

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Secretary: Assistant Director, Regulation & Guidance

### **GUIDE WORKING PARTY**

The Working Party met on three occasions to review and update the *Guide*.

It reviewed and updated Chapter Five on Retainer.

The Working Party will continue its review of the *Guide* and upon completion, it will be making recommendations to the Standing Committee on Standards and Development on the publication of an updated edition.

#### **Members of the Working Party:**

Amirali B. NASIR (*Chairman*)

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Stephanie S.Y. CHEUNG

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Richard CULLEN

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Joseph C.W. LI

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Patrick R. MOSS

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Michael WILKINSON

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Secretary: Assistant Director, Regulation & Guidance

## Standing Committee on Standards and Development

### WORKING PARTY ON LIMITED LIABILITY PARTNERSHIPS

The Working Party convened thrice and stepped up measures to push for the introduction of limited liability partnerships (“LLPs”) for law firms in Hong Kong.

It prepared a formal statement of the Law Society’s position on LLPs and conducted a survey to gauge the views of the general membership on the issue. Out of those who responded, 98% were in favour of LLPs.

In August, the Working Party met with the Chief Secretary for Administration and impressed upon the Administration the urgency of the introduction of LLPs for the legal profession. The matter was then referred to the Department of Justice which assured The Law Society that it was giving the matter urgent attention.

The Department of Justice’s proposal was to implement the legislative framework by amending the *Legal Practitioners Ordinance*, to which the Working Party had no objection.

The Working Party met the Solicitor General and his team in the Department of Justice in December to further discuss the details of the legislative framework. It also attended a meeting of the LegCo Panel on Administration of Justice and Legal Services and highlighted the urgency of the proposal.

The Working Party continued to work closely with all relevant parties with a view to bringing about the introduction of LLPs for law firms in Hong Kong.

#### Members of the Working Party:

Joseph C.W. LI (*Chairman*)

David W. HIRSCH

Allan C. Y. LEUNG

Michael J. LINTERN-SMITH

Amirali B. NASIR

WONG Kwai Huen

Secretary: Director of Standards & Development

## Standing Committee on Standards and Development

### WORKING PARTY ON MULTI-JURISDICTIONAL PARTNERSHIPS

The Working Party was established to consider the desirability and feasibility of permitting Hong Kong solicitors to practise as multi-jurisdictional partnerships. It had its first meeting in January and met thrice during the year.

The Working Party reviewed the relevant legislative provisions in Hong Kong and the position in overseas jurisdictions. It also considered the issues that had to be determined when designing a model of a multi-jurisdictional practice and the views expressed in a members' survey on some of those issues identified.

The Working Party then submitted an interim report to the Council in October. The Council was not in favour of proceeding further on the matter at this time.

#### Members of the Working Party:

Shane F. WEIR (*Chairman*)

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IP Shing Hing

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LAU Pok Hoi

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Susan P.S.K. LIANG

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NG Ching Wo (joined in July)

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Secretary: Director of Standards & Development



*Standards and Development Department*