

STANDING COMMITTEE ON STANDARDS AND DEVELOPMENT

The Standing Committee convened on 11 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, including 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 (Risk Management Education) Rules

The *Legal Practitioners (Risk Management Education) Rules* were amended on 1 May to the effect that the definition of "RME course" was expanded to include not only courses, but also such activities as approved by The Law Society. Upon the coming into operation of the legislative amendment on 1 May, writing articles and books, undertaking legal research, writing a dissertation and participation in approved committees are accredited RME electives provided that these activities satisfy the RME accreditation criteria that they deal primarily with matters related to risk management in legal practice and be of significant intellectual and practical content. The *RME Information Package* was updated accordingly.

Incidental amendments to the *Admission and Registration Rules* also came into effect on the same date.

Practising Certificate (Solicitors) Rules

Rule 3 of the *Practising Certificate (Solicitors) Rules* was amended on 15 May to the effect that the application fee for a practising certificate will be reduced from \$6,800 to \$5,000 for the practice year commencing on 1 January 2010.

Foreign Lawyers Registration Rules

The application of the *Legal Practitioners (Risk Management Education) Rules* was extended to registered foreign lawyers practising as such in Hong Kong firms on 1 November. On the same date, a new rule 6A was introduced to the *Foreign Lawyers Registration Rules* to the effect that a certificate of registration as a foreign lawyer is subject to the condition that during any period for which the foreign lawyer is employed by a Hong Kong firm to practise foreign law, he shall comply with the *Legal Practitioners (Risk Management Education) Rules*.

The *RME Information Package* was updated accordingly.

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PROPOSED LEGISLATIVE AMENDMENTS

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

Solicitors' Practice Rules

Foreign Lawyers Practice Rules

It was proposed to introduce new provisions under the *Solicitors' Practice Rules* and the *Foreign Lawyers Practice Rules* governing the use of logos by the law firms in an association or Association. In the case of a firm forming part of an association or Association and if a logo is to be included on its letterhead, its logo should be more prominent than the logo and/or name of other firm or firms in the association or Association.

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.

Trainee Solicitors Rules

A barrister wishing to be admitted as a solicitor may apply to The Law Society for exemption from employment as a trainee solicitor under rule 20 of the *Trainee Solicitors Rules*. Under the existing rule 20, he has to obtain from the Bar Association a certificate stating that it knows of no reason why he should not be admitted to practise as a solicitor. If the barrister has been subject to disciplinary proceedings or there are any outstanding complaints against him, instead of issuing an unequivocal certificate, the Bar Association would issue a qualified certificate stating the particulars of the complaint or disciplinary proceedings against him. The Bar Association and The Law Society proposed to amend rule 20 of the *Trainee Solicitors Rules* to empower the Bar Association to issue a certificate setting out the particulars of the complaints or disciplinary proceedings against the barrister. A discretionary power would be granted to The Law Society to reject the barrister's application if he has adverse conduct history. Incidental amendments to paragraph (3) of Form 1B in the Schedule to the *Admission and Registration Rules* were also proposed.

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

Foreign Lawyers Registration (Fees) Rules

The Law Society proposed to reduce the first registration fees and renewal fees for foreign lawyers from \$10,000 to \$9,000 for the registration year of 2010. Consequential amendments to the Schedule to the *Foreign Lawyers Registration (Fees) Rules* were necessitated.

The Chief Justice has granted his final approval and arrangements would be made for the gazettal of the proposed legislative amendments.

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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) 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;
- (b) reviewing the consequential amendments to the *RME Information Package* to reflect:
 - the amendment to the *Legal Practitioners (Risk Management Education) Rules* on the expansion of the definition of “RME course” to include not only courses, but also activities approved by The Law Society, for example, writing articles, books and dissertation, conducting legal research and participating in the work of approved committees;
 - the extension of the application of the *Legal Practitioners (Risk Management Education) Rules* to foreign lawyers in Hong Kong law firms from 1 November.
- (c) considering amendments to the *Mediator Accreditation Scheme* proposed by the Mediator Accreditation Committee with respect to:
 - institutions suitable to be enlisted as approved bodies that would be exempted from the accreditation requirements in the *Mediator Accreditation Scheme*;
 - the extent of recognition to be given to an accredited General Mediator for the purpose of his accreditation as a Family Mediator and vice versa;
- (d) commenting on *The Law Society Arbitration Scheme* prepared by the ADR Committee;
- (e) reviewing a draft circular on prohibition against practice promotion in a hospital or clinic proposed by the Guidance Committee;
- (f) reviewing the different application forms for renewal of registration as a foreign lawyer to ensure consistency over the requirement of disclosure of bankruptcy proceedings not only in Hong Kong but elsewhere in the world;
- (g) reviewing the revised guidelines for foreign firms ceasing practice in Hong Kong;
- (h) amending the information sheet for foreign firms intending to set up an Association in Hong Kong to include a clause encouraging the parties to an Association to choose Hong Kong law as the governing law and Hong Kong as the venue for mediation;

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- (i) determining applications for review of the decisions of the Foreign Lawyers Committee relating to sitting or exemption from sitting the *Overseas Lawyers Qualification Examination*;
- (j) considering the appointment of PCLL External Examiners to the Chinese University of Hong Kong (“CUHK”), the City University of Hong Kong (“CityU”) and the University of Hong Kong (“HKU”) and the nomination of representatives on the PCLL Academic Board of HKU;
- (k) deliberating on the establishment of a separate regulatory regime for legal executives;
- (l) reviewing a checklist on the basic type of practice training that a trainee solicitor is expected to undergo prior to qualification prepared by the Trainee Solicitors Committee;
- (m) considering the proposed amendments to the *Solicitors Disciplinary Tribunal Proceedings Rules* and the proposed inclusion of the work of Solicitors Disciplinary Tribunal members as an activity qualified for CPD points.

Members of the Standing Committee and their attendance at meetings during the year (in brackets):

Dieter YIH (<i>Chairman</i>)	(10/11)	Susan P.S.K. LIANG (<i>resigned in July</i>)	(4/5)
Joseph C.W. LI (<i>Vice-Chairman</i>)	(9/11)	Amirali B. NASIR	(8/11)
CHU Ka Fai	(4/11)	Ivan C.K. NG (<i>joined in August</i>)	(4/4)
Gerard W.H. CHUNG	(6/11)	Peter K.P. SIT (<i>joined in August</i>)	(3/4)
Brian W. GILCHRIST (<i>joined in June</i>)	(3/7)	Sylvia W.Y. SIU	(6/11)
IP Shing Hing	(8/11)	Shane F. WEIR	(8/11)
LAU Pok Hoi	(8/11)	Cecilia K.W. WONG (<i>resigned in June</i>)	(2/4)

Secretary: Director of Standards & Development

Standing Committee on Standards and Development

ANTI - MONEY LAUNDERING COMMITTEE

The Committee held three meetings including one meeting with a representative of a law firm explaining the background and provisions of *Practice Direction P*.

The Committee continued to monitor the implementation of the *Practice Direction* closely. To allow more time for law firms to comply with the *Practice Direction* for files opened prior to 1 July 2008, the Committee recommended to the Council that the deadline for compliance on 30 June be suspended until further notice.

The Committee reviewed the Report published by the UK House of Lords on money laundering and the financing of terrorism. The Report includes the cost and benefit of the suspicious transaction reports received by the law enforcement agencies and the case-specific feedback to the providers of the suspicious transaction reports. The Committee requested the Government to provide the relevant Hong Kong statistics and considered the information supplied by the Government.

The Committee considered the Consultation Paper on the Conceptual Framework of Legislative Proposal to enhance the Anti-Money Laundering Regulatory Regime in respect of the Financial Sectors issued by the Government. It advocated to the Government that it is not necessary to introduce new legislation on client due diligence for the legal profession as such requirement has already been included in the *Practice Direction*. It also submitted that the Government should exercise extreme caution if it considers introducing new criminal sanctions.

The Committee also reviewed the Consultation Document on the Proposed New Legislation on the Customer Due Diligence and Record-Keeping Requirements for Financial Institutions and the Regulation of Remittance Agents and Money Changers (“the Consultation Document”) issued by the Government. It held a meeting with the representatives of the Narcotics Division exchanging views on the Consultation Document and the implementation of the *Practice Direction*.

Members of the Committee:

Michael J. LINTERN-SMITH (*Chairman*)

Andrew J. DALE

Serge G. FAFALLEN

Secretary: Assistant Director, Regulation & Guidance

Lester G. HUANG

Jeffrey H. LANE

Angela W.Y. LEE

Standing Committee on Standards and Development

THE CONTINUING PROFESSIONAL DEVELOPMENT ("CPD") SCHEME

The CPD Scheme aims at providing a convenient framework for the profession to meet the changing demands of clients and society to continuously update knowledge and skills.

The Civil Justice Reform ("CJR") took effect in April and has been in operation for over a year. The Law Society, jointly with the Bar Association, organised two sessions on an overview of the CJR. The two sessions trained a total of about 1,200 practitioners.



The guest speakers (from left to right) – The Honourable Mr. Justice Ma, Mr Joseph Kwan, Madam Registrar Au-Yeung and The Honourable Mr Justice Joseph Fok presented the seminar on "CJR Update" jointly organised by The Law Society and The Hong Kong Bar Association on 10 October.

To facilitate interaction with other professions and government departments, The Law Society also jointly organised courses of common interest with other professional bodies including the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Bar Association and government departments including the Narcotics Division, Security Bureau. Excluding the courses relating to CJR, three courses were jointly held with other professional bodies and they attracted a total of over 460 practitioners.



The Law Society, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Institute of Chartered Secretaries jointly organised a Conference on Company Law Reform on 19 May.

Standing Committee on Standards and Development



The Law Society jointly with the Hong Kong Institute of Certified Public Accountants and the Hong Kong Institute of Chartered Secretaries organised a seminar on “Islamic Finance” on 29 October.

With the establishment of the Hong Kong Academy of Law (“Academy”) in late 2008, most of the CPD courses were provided through the Academy in 2009.

The Academy organised 40 free specialised training courses on CJR and a total of over 8,700 participants attended.

CJR also highlights the importance of mediation. Apart from offering six general and one family mediation training courses, the Academy also conducted five courses providing training on mediation in general, mediator assessment, mediation advocacy skills and practical workshops on mediation skills.



Mr. Gregg F. Rehyea presented a five-day Mediation Training Course in November and December organised by the Academy.

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Following the judgment of the Court of First Instance in *FB and others v Director of Immigration* [2008] in which the court lay down requirements on the standards of fairness in handling torture claims, the Government has implemented a publicly-funded legal assistance scheme to meet the Court's requirements.

In support of the legal assistance scheme, the Academy organised a 4-day training programme on handling torture claims in December and a total of over 300 participants attended the full 4-day training.



The guest speakers (sitting from left to right) – Mr. Johnson Hau, Mr. Chow Wing-hang, Mr. Peter Barnes, Mr. Mark Daly, Mr. Martin Jones, Mr. Rodger Haines QC and Professor Manfred Nowak, were being introduced by the Chairman of the Academy, Mr. Lester Huang (at the podium) on the first day of the Training Programme for Lawyers on Convention Against Torture Claims and Refugee Law on 14 December.

Overall, The Law Society and the Academy offered 430 CPD courses during the year. Of the 430 courses, 15 courses were conducted in Mandarin or Cantonese. The courses attracted a total number of 20,489 course participant attendances.

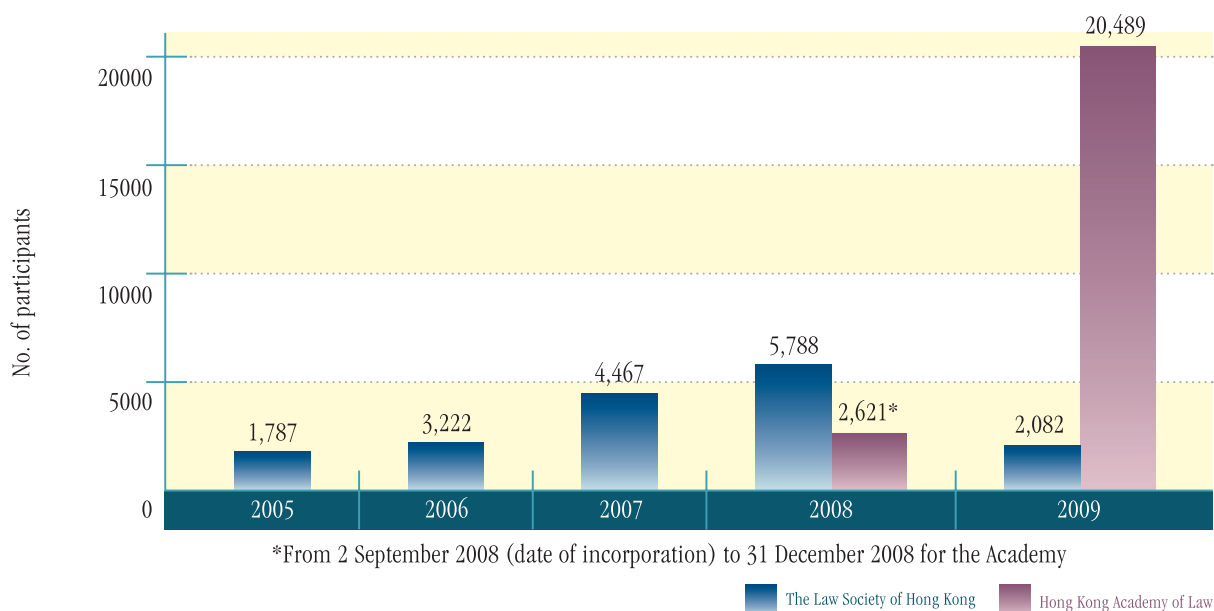
The Law Society and the Academy are grateful to the 135 presenters who contributed by sharing their valuable experiences and expertise.

Pursuant to rule 9 of the *CPD Rules*, 153 practitioners were granted suspension from the operation of the *CPD Scheme*.

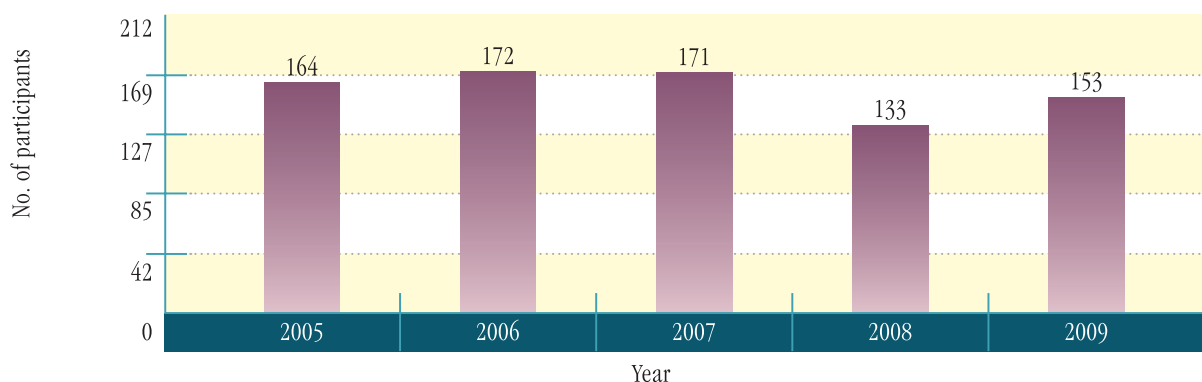
Arising from general enquiries made by practitioners or from reports made on their own initiatives, 16 solicitors and 12 trainee solicitors were found to be in non-compliance with the *CPD Rules*. All cases of non-compliance were referred to the Compliance Department to be dealt with in accordance with the Council's sanction policy.

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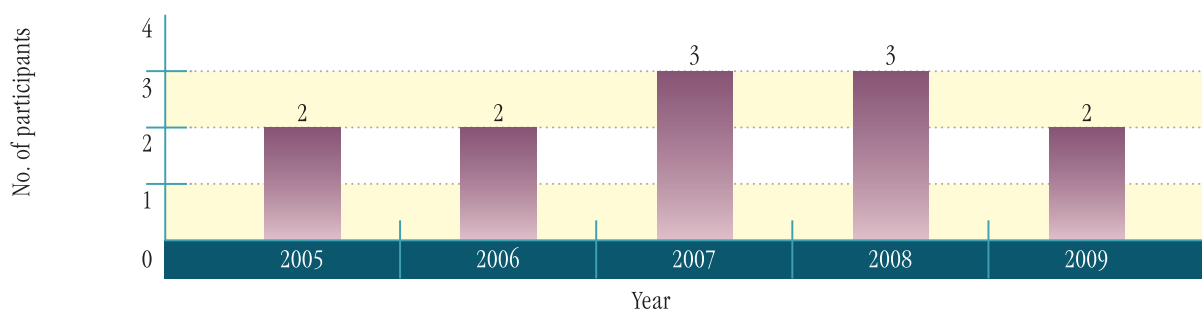
The number of course participant attendances in the CPD courses organised by The Law Society and the Academy in each of the five years from 2005-2009:



The number of practitioners who were granted suspension from the operation of the CPD Scheme in each of the past five years from 2005-2009:



The number of practitioners who were granted full exemption from the participation in the CPD Scheme in each of the past five years from 2005 to 2009:



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CONTINUING PROFESSIONAL DEVELOPMENT COMMITTEE

The Committee 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.

It also granted two full exemptions from participation in the *CPD Scheme* to practitioners on the ground of age.

Members of the Committee:

Sylvia W.Y. SIU (*Chairman*)

Douglas ARNER

Gerard W.H. CHUNG

Ada W.Y. FUNG (*resigned in August*)

Alexandra D. W. LO

Secretary: Director of Standards & Development

Michael A. OLESNICKY

Adamas K.S. WONG

Victor C.K. YAU

Allan W.M. YU

CPD ACCREDITATION SUB-COMMITTEE

The Sub-committee accredited a total of 3,970 courses, compared with 4,067 in 2008. Of these courses, 640 were accredited on a course-by-course basis and 3,330 were accredited under the *Provider Accreditation Scheme*. 17 of the courses were offered by The Law Society, 413 courses were offered by the Academy out of which, 290 half-day courses were under the *Risk Management Education Programme*, 3,151 by in-house providers and other institutions and 389 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 five postgraduate or other law courses and one legal journal, 39 legal researches and accredited 12 committees and six working parties for the purpose of compliance with the CPD requirement.

Standing Committee on Standards and Development

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 (*Chairman*)

Douglas ARNER

Ram D. BIALA

Simon M.Y. CHAN

Maggie M.C. CHENG (*joined in June*)

Johnny C.M. FEE

Secretary: Assistant Director, Professional Development

John D.S. HO

Albert K.M. LEUNG

Christopher H.W. SO

Adrian K.M. WONG

Sandy H.Y. WONG

Jill T.L. WONG

FOREIGN LAWYERS COMMITTEE

Since 2007, the number of candidates sitting the *Overseas Lawyers Qualification Examination* (“OLQE”) has increased substantially. There were 151 and 150 candidates sitting the 2007 and 2008 OLQE respectively. In 2009, the number increased to 224, an increase of over 49%.

The Committee convened nine meetings and dealt with one circulation agenda. It dealt with 77 applications for exemption from sitting all or part of the 2009 OLQE in accordance with the guidelines issued by The Law Society. In addition, it considered ten applications relating to the eligibility to sit the OLQE and one application relating to the eligibility to resit the OLQE.

The work of the Committee also included:-

- (a) reviewing the proposed amendments to rule 5 of the *Foreign Lawyers Registration Rules*;
- (b) considering the guidelines for cessation of practice by foreign firms; and
- (c) reviewing the draft outline of the *Risk Management Education Core Programme* for foreign lawyers.

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Members of the Committee:

Angela W.Y. LEE (*Chairman from May*)

Huen WONG (*resigned as Chairman in May*)

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

GUIDANCE COMMITTEE

The Committee met on three occasions and dealt with eight enquiries from members and six referrals from other committees or departments within the Secretariat on matters relating to professional conduct and ethics including:

- (a) reference to membership of the Academy of Experts in the context of practice promotion under the *Solicitors' Practice Promotion Code*;
- (b) commission to a limited company formed by a solicitor for business referrals;
- (c) time limit for compliance with a solicitor's undertaking to pay photocopying charges;
- (d) qualification requirement for directors and shareholders of a service company of a law firm;
- (e) risk of conflict of interest between former and potential clients when a solicitor may be in possession of relevant confidential information about the former client;
- (f) entitlement to profit costs for handling enquiries from the client's auditor;
- (g) professional conduct issues arising out of the Guidelines for handling claims under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (h) share of profit costs with a retired solicitor not holding a practising certificate;
- (i) reference to cash gift or rebate to potential clients or third parties in a law firm's advertisement;
- (j) employment by a law firm of a qualified mediator not being a qualified solicitor;
- (k) title of "Accredited Mediator" on the letterhead or business card of a practising solicitor;
- (l) share of mediation fees by solicitor-mediator with unqualified persons;
- (m) legal professional privilege under *Practice Direction P*;
- (n) client's money under a restraint order.

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Members of the Committee:

Amirali B. NASIR (*Chairman*)

James J. BERTRAM

Stephanie S.Y. CHEUNG

Victor K.S. CHIU

Richard CULLEN

Alex K.L. LAU

LAU Pok Hoi

Secretary: Assistant Director, Regulation & Guidance

Joseph C.W. LI

Patrick R. MOSS

Kenneth S.Y. NG

Richard N. TANNER

Johnson M.H. TSANG

Benny Y.B. YEUNG

LEGAL EDUCATION COMMITTEE

The Committee convened on two occasions. Its work included the following:

- (a) conduct of a survey on trainee solicitors with a view to collate comments on the quality of the PCLL from its users;
- (b) analysis of the results of the survey on the quality of the PCLL and the follow up work with HKU and CityU on how to address the concerns raised;
- (c) review of applications for accreditation as legal executive courses in accordance with The Law Society's benchmarks for legal executive courses;
- (d) review of the admission requirements for legal executive courses recognised as meeting The Law Society's benchmarks;
- (e) deliberation on establishing a separate regulatory regime for legal executives;
- (f) consideration of the need to develop any benchmarks for paralegals;
- (g) regular review and input on the curriculum, teaching and assessment of the PCLL programmes on offer;
- (h) monitoring of PCLL courses and review of the PCLL course materials of HKU, CityU and CUHK through the PCLL External Examiners nominated by The Law Society;
- (i) review of applications for the appointment of External Examiners for the PCLL and the legal executive courses.

A sharing session with interns of law firms was organised in June. Senior legal practitioners in different fields were invited to share their valuable experiences with new entrants to the profession. About 70 participants took part in the sharing session. Representatives of the Committee also assisted CityU in producing an instructional DVD on advocacy.

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The Immediate Past 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, which met on three occasions. The Secretary of the Committee continued to serve as Secretary of the Standing Committee.

The Immediate Past President and the Secretary also served as Chairman and Secretary respectively of the Sub-committee of the Standing Committee on English Language Proficiency.

Members of the Committee:

Dieter YIH (*Chairman*)

Stephen W.S. HUNG

Charles C.C. CHAU

Adrian K.M. WONG

John J. CLANCEY

Susan WONG

HA Yiu Fat

Felix K.Y. YAU

Secretary: Director of Standards & Development

MEDIATOR ACCREDITATION COMMITTEE

The Committee convened on eight occasions. With the growing importance of mediation and the increasing demand for mediation training courses and avenues to gain accreditation as a mediator, the Committee's work has been focused on the supervision of the conduct of mediation training and assessment and the consideration of applications for accreditation as a mediator on The Law Society Panels.

The work of the Committee included:

- (a) selection of lead assessors for The Law Society mediator assessments;
- (b) consideration of the criteria for appointment of an assessor and selection of assessors for The Law Society mediator assessments;
- (c) review of the mediator assessment procedure and documentation;
- (d) dealing with enquiries from members relating to the mediator accreditation requirements;
- (e) consideration of the extent of recognition to be given to an accredited General Mediator for the purpose of his accreditation as a Family Mediator and vice versa;
- (f) consideration of institutions suitable to be enlisted as approved bodies that would be exempted from the accreditation requirements in the Mediator Accreditation Scheme;
- (g) discussion with Hong Kong International Arbitration Centre on mutual recognition of mediators accredited by either organisation;
- (h) consideration of applications for waiver from certain accreditation requirements;
- (i) review of a proposal to create a list of mediators offering pro-bono services;

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- (j) consideration of applications for mediation training course accreditation, mediator accreditation and renewal of membership of The Law Society Panels;
- (k) determination of applications for review against assessment results; and
- (l) review of proposed amendments to the *Mediator Accreditation Scheme*.

The Committee reviewed and accredited seven general and three family (one basic and two advanced) mediation training courses. In addition, it accredited 80 general mediators, five family mediators and one family mediation supervisor for inclusion in The Law Society's Panels of Mediators.

The Scheme was formally launched in August 2005. As of the end of the year, there were 120 solicitors accredited on the Panel of General Mediators, 22 solicitors on the Panel of Family Mediators and eight solicitors on the Panel of Family Mediation Supervisors. Further, 138 mediator assessments were conducted.

Members of the Committee:

Cecilia K.W. WONG (*Chairman in April*)

Lester G. HUANG (*resigned as Chairman in April*)

Michael H. BECKETT (*joined in September*)

CHAN Bing Woon

Secretary: Director of Standards & Development

Junius K.Y. HO

Maurice W.M. LEE (*retired in May*)

Maureen E. MUELLER

Jody K.Y. SIN

OVERSEAS LAWYERS QUALIFICATION EXAMINATION COMMITTEE

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

The work of the Committee covered the following:

- (a) reviewing the results of the 2008 *Overseas Lawyers Qualification Examination* ("Examination") together with the Chief Examiners, Examination Panel Convenors and Examiners;
- (b) determining the format and the logistical arrangements for the 2009 Examination;
- (c) proposing amendments to the *Information Package* for the 2009 Examination;
- (d) considering the appointment of Examiners;
- (e) reviewing the syllabus and reading list of each head of the Examination; and
- (f) considering a candidate's request for further review of the Examination results.

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Members of the Committee:

John R. BUDGE (*Chairman*)

Mark LIN

Arthur McINNIS (*joined in May*)

Secretary: Director of Standards & Development

Amirali B. NASIR

Sylvia W.Y. SIU

Donna L. WACKER

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

HEAD II : Civil and Criminal Procedure

Brian W. GILCHRIST (*Convenor*)

Amanda WHITFORT (*Convenor*)

Melville T.C. BOASE

Louis K.L. FUNG

Julienne JEN

Elsa KELLY (*appointed in March*)

Martin D. ROGERS

Martyn RICHMOND (*resigned in August*)

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 (*resigned in February*)

Judith A. WALDRON (*resigned in February*)

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HEAD V : Principles of Common Law

Jack BURKE (*Convenor*)

Adrian K.M. WONG (*Convenor*)

Shirley S.L. CHUA

Julianne P. DOE

Kenneth H.W. KWOK, S.C.

Anthony F. NEOH S.C.

Michael P. PHILLIPS

OVERSEAS LAWYERS QUALIFICATION EXAMINATION

The 15th *Overseas Lawyers Qualification Examination* was held from 29 October to 15 December. A total of 224 candidates sat one or more written heads of the Examination. 221 candidates were from 14 overseas jurisdictions, four of which were non-common law jurisdictions. Three candidates were Hong Kong barristers.

Of the 224 candidates, 157 candidates (70%) passed the Examination, having passed each of the heads that they were required to sit. 67 candidates (30%) 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	171	80%	45	75%	52	79%	35	55%	3	100%	157	70%
Fail	44	20%	15	25%	14	21%	29	45%	0	0%	67	30%
Total	215		60		66		64		3		224	

Written Heads *Head I* *Conveyancing*
 Head II *Civil and Criminal Procedure*
 Head III *Commercial and Company Law*
 Head IV *Accounts and Professional Conduct*

Oral Head: *Head V* *Principles of Common Law*

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Figure 2: Jurisdictions of candidates

	Jurisdictions	Number of Candidates	Percentage
1	Australia	43	18
2	Canada	8	4
3	England and Wales	63	28
4	France ¹	1	1
5	Hong Kong ²	3	1
6	India	5	2
7	Ireland	1	1
8	Italy ¹	1	1
9	Mainland China ¹	5	2
10	Malaysia	2	1
11	Nepal ¹	1	1
12	New Zealand	8	4
13	Scotland	2	1
14	Singapore	17	7
15	U.S.A.	64	28
Total Number of Examination Candidates		224	100%

¹ Non-common law jurisdiction

² Barrister

RISK MANAGEMENT EDUCATION 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 five years extending its application gradually to all Hong Kong solicitors practising as sole practitioners, partners, associates, consultants and trainee solicitors in Hong Kong law firms.

With the establishment of the Hong Kong Academy of Law (“Academy”), the RME courses are all offered through the Academy.

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A total of 10 principal's core courses (two-day each), 24 Module one and 25 Module two of non-principal's core courses (one-day each), six trainee solicitor's core courses (one-day each) and 189 elective courses (half-day each) were held during the year and the Committee closely monitored the evaluation by the course participants.

Following the offer of RME electives free-of-charge since 1 November 2008, the Academy has also offered all trainee solicitor's core courses free-of-charge since 1 November 2009.

Marching into the sixth year of its operation, the Committee considered the time appropriate for the extension of the *RME Programme* to registered foreign lawyers working in Hong Kong law firms. It therefore recommended and the Council approved that the Programme be extended to apply to registered foreign lawyers working in Hong Kong law firms from 1 November.

In preparation for the extension of the application, the Committee reviewed the necessary legislative amendments, vetted the outline for the core courses for registered foreign lawyers and updated the *RME Information Package* to reflect the changes to the Programme.

Further, with effect from 1 May, the *Legal Practitioners (Risk Management Education) Rules* have been amended so that the definition of "RME course" is expanded to include not only courses, but also activities as approved by The Law Society, for example, writing articles, books and dissertation, conducting legal research and participating in the work of approved committees.

The Committee also considered 12 applications for exemption from RME requirements pursuant to rule 8A of the *Legal Practitioners (Risk Management Education) Rules*.

Members of the Committee:

Cecilia K.W. WONG (*Chairman*)

Warren P. GANESH

Lester G. HUANG

Secretary: Director of Standards & Development

Joseph C.W. LI

Evelyn S.M. YAN

Standing Committee on Standards and Development

RME ACCREDITATION SUB-COMMITTEE

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

The Sub-committee accredited one core course for non-principals, one core course for trainee solicitors, 43 elective courses (including five on-line courses) offered by law firms and other institutions and 11 elective courses (including one on-line course) offered by commercial providers.

Course provider accreditation for RME elective courses was introduced in 2007. Four law firms have remained accredited as RME elective course providers and they offered a total of 112 in-house elective courses during the year. In November, the Sub-committee accredited one more law firm as an elective course provider bringing the total number of law firms accredited as RME elective course providers to five as at the end of the year.

The Sub-committee also considered applications for accreditation of approved RME elective activities including eight applications for accreditation of writing articles, two applications for accreditation of teaching activity and two applications for accreditation of approved committees.

Members of the Sub-committee:

Joseph C.W. LI (*Chairman*)

Heather DOUGLAS (*joined in April*)

Michael PENDLETON

Secretary: Director of Standards & Development

Anthony R. UPHAM (*resigned in April*)

Helen D. WALKER

Evelyn S.M. YAN

TRAINEE SOLICITORS COMMITTEE

The Committee met on two occasions.

To enhance and further strengthen the process of training, the Committee has prepared a checklist on the basic type of practice training that a trainee solicitor is expected to undergo prior to qualification. The Committee worked in collaboration with the other specialist committees of The Law Society in finalising the training areas in the checklist. The checklist is aimed at providing general guidance on the basic training and principals can adapt it to meet the training needs of their own practice.

The checklist which was approved by the Standing Committee on Standards and Development and endorsed by the Council has been made available for use by principals and trainees since November.

Standing Committee on Standards and Development

Apart from the preparation of the checklist, the Committee has dealt with enquiries relating to the circumstances whereby a trainee solicitor contract may be terminated as well as applications for suspension of trainee solicitor contracts. The Committee also provided input relating to the areas whereby trainee solicitors could exercise limited rights of audience.

Members of the Committee:

Joseph C.W. LI (*Chairman*)

IVAN C.K. NG

John T. HARTLEY

Dieter YIH

Junius K.Y. HO

Secretary: Director of Standards & Development

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

The Sub-committee held one meeting to consider additional information on the insurance provisions provided by the prospective insurance companies for coverage of HK\$1 million in cases of death or total permanent disability. The Sub-committee sought further clarification of the insurance provisions with the prospective insurance companies and will consider their proposals further.

The Sub-committee will continue to communicate with the Chief Justice on the proposed amendments to Rule 5AA of the *Solicitors' Practice Rules*.

Members of the Sub-committee:

Amirali B. NASIR (*Chairman*)

Joseph C.W. LI

James J. BERTRAM

Billy W.Y. MA

Richard CULLEN

Stephen W.K. LAU

LAU Pok Hoi

Secretary: Assistant Director, Regulation & Guidance

Standing Committee on Standards and Development

GUIDE WORKING PARTY

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

It reviewed and updated Chapter Eight on Confidentiality and Chapter Nine on Conflict of interest between clients.

The Working Party also considered the application of Principle 13.09 of the *Guide* to the practice of China-Appointed Attesting Officers. It considered a proposal whether a China-Appointed Attesting Officer acting for a client or who is otherwise interested in the matter or proceedings, the relevant oath, affirmation or declaration may be sworn or affirmed in the presence of another China-Appointed Attesting Officer. It will continue to liaise with the Association of China-Appointed Attesting Officers Limited on the proposal.

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

Members of the Working Party:

Amirali B. NASIR (*Chairman*)

Stephanie S.Y. CHEUNG

Richard CULLEN

Joseph C.W. LI

Patrick R. MOSS

Michael WILKINSON

Secretary: Assistant Director, Regulation & Guidance

WORKING PARTY ON SOLICITORS' ACCOUNTS RULES

The Working Party held two meetings. It considered further amendments to the *Solicitors' Accounts Rules*. It recommended introducing a new statutory provision enabling law firms, subject to the prior approval of The Law Society, to agree with clients to waive the interest on client account after taking into consideration the prevailing interest rate and the administrative costs. The application will be considered by The Law Society on a case-by-case basis.

The Working Party also discussed with the representatives of the Hong Kong Institute of Certified Public Accountants ("HKICPA") the proposed amendments to the *Accountant's Report Rules* and the new checklist for accountants. It will continue to liaise with the HKICPA on the relevant amendments and the checklist.

Standing Committee on Standards and Development

Members of the Working Party:

Colin B. COHEN (*Chairman*)

Constance CARMICHAEL (*joined in February*)

Wing W.S. CHU

Secretary: Assistant Director, Regulation & Guidance

Billy W.Y. MA

Helen MACKENZIE

Amirali B. NASIR (*joined in February*)

WORKING PARTY ON LIMITED LIABILITY PARTNERSHIPS

The Working Party convened on six occasions.

In March and July, the Working Party made two written submissions to the Panel on Administration of Justice and Legal Services of the Legislative Council addressing the queries raised by the Panel in relation to the proposed introduction of Limited Liability Partnerships for solicitors.

Representatives of the Working Party also attended two sessions of the Panel held in May and December to report on the progress of the proposal.

After numerous exchanges of views and submissions with the Department of Justice and the Consumer Council, the Working Party received the 1st draft of the *Legal Practitioners (Amendment) Bill 2010* setting out the proposed legal framework for the implementation of Limited Liability Partnerships for solicitors from the Department of Justice in November. The Working Party has reverted with its comments on the draft Bill and is working hard to press for an early passage of the Bill in 2010.

Members of the Working Party:

Joseph C.W. LI (*Chairman*)

David W. HIRSCH

Allan C. Y. LEUNG

Secretary: Director of Standards & Development

Michael J. LINTERN-SMITH

Amirali B. NASIR

Huen WONG

Standing Committee on Standards and Development

WORKING PARTY ON *PRACTISING CERTIFICATE (SPECIAL CONDITIONS) RULES*

The Working Party held one meeting to consider further amendments to the *Practising Certificate (Special Conditions) Rules*. It recommended that The Law Society may impose conditions on a solicitor's practising certificate even if the censure or order to pay a penalty or costs has been satisfied in order to monitor his practice closely. It also recommended to introduce a new rule 6(2) to clarify the circumstances where an appeal occurs and The Law Society is unaware of the outcome of the appeal when a practising certificate is issued. The new provision would empower The Law Society to impose conditions on a practising certificate at the conclusion of the appeal. Consequential amendments to the *Practising Certificate (Solicitors) Rules* are also proposed to be made.

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

Members of the Working Party:

Joseph C.W. LI (*Chairman*)

IP Shing Hing

Thomas S.T. SO

Secretary: Assistant Director, Regulation & Guidance

Margot TUNG

Dieter YIH



Standards and Development Department