

# STANDING COMMITTEE ON STANDARDS AND DEVELOPMENT

The Standing Committee is responsible for establishing standards and rules and formulating policies on the education, training and regulation of solicitors, and on their conduct and practice management.

The Standing Committee convened 10 meetings and its Working Group convened one meeting to oversee the activities of the Department of Standards and Development, and to consider recommendations of the Committees and Working Parties under its umbrella.

## LEGISLATIVE AMENDMENTS

The Standing Committee considers proposed amendments to the *Legal Practitioners Ordinance* and its subsidiary legislation, *The Law Society's Practice Directions, Information Packages* and *The Hong Kong Solicitors' Guide to Professional Conduct, Volume 1* ("Guide").

The following legislative amendments were enacted during the year:

### ***Legal Practitioners Ordinance***

The *Legal Practitioners Ordinance* was amended to provide for the establishment of the Higher Rights Assessment Board on 2 July.

Consequential amendments to the *Overseas Lawyers (Qualification for Admission) Rules* and the *Barristers (Qualification for Admission and Pupillage) Rules* also came into effect on the same date.

### ***Foreign Lawyers Registration Rules***

Rule 5 of the *Foreign Lawyers Registration Rules* was amended on 22 March to the effect that when an applicant with less than two years of post-qualification experience in the full time practice of foreign law applies for registration as a foreign lawyer, he is required to be supervised irrespective of whether he works in a foreign firm or Hong Kong firm.

Incidental amendments to the *Information Package for Registration as a Foreign Lawyer, Application Form for Registration as a Foreign Lawyer* and *Application Forms for Renewal of Registration as a Foreign Lawyer* were made accordingly.

### ***Foreign Lawyers Registration (Fees) Rules***

The Schedule to the *Foreign Lawyers Registration (Fees) Rules* was amended on 1 April and 1 July respectively to the effect that the first registration fees and renewal of registration fees for foreign lawyers were reduced from HK\$10,000 to HK\$9,000 for the registration year of 2010 – 2011.

## ***Solicitors (Professional Indemnity) Rules***

The *Solicitors (Professional Indemnity) Rules* were amended on 20 May to enable Hong Kong Solicitors Indemnity Fund Limited, when authorized by a resolution passed by the Council, to reduce contributions payable by all firms and to enable the contributions so reduced to fall below HK\$20,000.

## ***Practice Direction Q***

A new *Practice Direction Q* on guidelines for cessation of practice by foreign firms came into effect on 7 June. A foreign firm intending to cease practice must notify The Law Society at least eight weeks prior to the date of cessation. It must appoint a cessation agent which can be a Hong Kong firm or a foreign firm in Hong Kong practising the law of the same jurisdiction as the foreign firm which is proposing to cease practice. The cessation agent should be a firm with at least two partners resident in Hong Kong.

## ***Practice Direction E***

### ***Information Package for Trainee Solicitors***

The minimum monthly salary for trainee solicitors was revised to HK\$9,000 for the first year of training and HK\$10,000 for the second year of training for trainee solicitor contracts commencing on or after 1 October. The revision did not affect trainee solicitor contracts commencing before 1 October.

Incidental amendments to *Practice Direction E* and the *Information Package for Trainee Solicitors* were made accordingly.

## **OTHER MATTERS**

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

- (a) overseeing the administration of the *Continuing Professional Development ("CPD") Scheme*, the *Risk Management Education ("RME") Scheme*, the *Mediator Accreditation Scheme* and the *Overseas Lawyers Qualification Examination ("OLQE")* and considering specific issues relating to these Schemes which were referred to it by the relevant Committees;
- (b) reviewing the procedure for submitting applications for a review of the decisions of the Foreign Lawyers Committee under rule 9 of the *Overseas Lawyers (Qualification for Admission) Rules*;
- (c) appointment of Examiners for the OLQE;
- (d) reviewing the *RME Programme*;
- (e) reviewing the *Commentary on the International Bar Association General Principles for the Legal Profession*;
- (f) reviewing the applications for accreditation as legal executive courses in accordance with The Law Society's benchmarks for legal executive courses;

## Standing Committee on Standards and Development

- (g) reviewing the RME requirements for registered foreign lawyers who have been admitted as Hong Kong solicitors;
- (h) considering the proposals of the City University of Hong Kong ("CityU") to restructure their Postgraduate Certificate of Laws ("PCLL") Programme;
- (i) reviewing the necessity for a practice management course;
- (j) reviewing the amendments to the *Guide*;
- (k) approving the documentation for the *OLQE*;
- (l) approving amendments to the CPD Information Package;
- (m) reviewing comments made by the law firms on the standards of solicitors and trainee solicitors;
- (n) determining the applications for a review of the decisions of the Foreign Lawyers Committee to sit the *OLQE* or decisions in relation to exemption;
- (o) considering the appointment of PCLL External Examiners to the Chinese University of Hong Kong, the CityU, and the University of Hong Kong ("HKU") and the nomination of representatives on the PCLL Academic Board of CityU.

### Members of the Standing Committee and their attendance at meetings of the Standing Committee during the year are:

|   |         |   |         |
|---|---------|---|---------|
| Dieter YIH ( <i>Chairman</i> )                    | (9/10)  | LAU Pok Hoi ( <i>resigned in October</i> )    | (2/7)   |
| Joseph C.W. LI ( <i>Vice-Chairman</i> )           | (6/10)  | Amirali B. NASIR                              | (5/10)  |
| CHU Ka Fai ( <i>resigned in August</i> )          | (3/8)   | Ivan C. K. NG                                 | (8/10)  |
| Gerard W.H. CHUNG ( <i>resigned in December</i> ) | (6/10)  | Peter K. P. SIT                               | (9/10)  |
| Brian W. GILCHRIST                                | (10/10) | Sylvia W.Y. SIU                               | (10/10) |
| IP Shing Hing                                     | (7/10)  | Shane F. WEIR ( <i>resigned in December</i> ) | (7/10)  |
| Secretary: Director of Standards & Development    |         |   |         |

## ANTI-MONEY LAUNDERING COMMITTEE

The Committee co-organised a seminar on anti-money laundering issues with the Government in March. Mr. Andrew Dale, one of the members of the Committee, was a speaker at the seminar. More than 250 participants attended the seminar.

The Committee held a meeting to consider the *Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill* ("the Bill"). It reviewed the customer due diligence and record keeping requirements applicable to financial institutions under the Bill. The Committee noted that a practising solicitor in Hong Kong could be a specified intermediary to carry out the customer due diligence measures on behalf of a financial institution for a limited period of three years commencing from the effective date of the Bill. The Committee discussed the impact of the provisions of the Bill on the legal profession. The Chairman of the Committee also held a meeting with the representatives of the Narcotics Bureau exchanging views on the Bill.

### Members of the Committee:

Michael J. LINTERN-SMITH (*Chairman*)

Andrew J. DALE

Serge G. FAFALLEN

Secretary: Assistant Director, Regulation & Guidance

Lester G. HUANG (*resigned in December*)

Jeffrey H. LANE

Angela W.Y. LEE

## THE CPD SCHEME

The CPD Scheme aims at providing a convenient framework for the legal profession to meet the changing demands of clients and society by updating them on legal knowledge and skills.

The Law Society and the Hong Kong Academy of Law ("Academy") conducted a total of 472 CPD and RME courses during the year. Of the 472 courses, eight courses were conducted in Putonghua or Cantonese and the remainder in English. The courses attracted the attendance of 13,841 participants.

The Law Society and the Academy are grateful to the 123 presenters who contributed by sharing their valuable experiences and expertise.

Some of the highlights of these courses are:

### Civil Justice Reform ("CJR")

CJR has been implemented since April 2009. The Academy, jointly with the Hong Kong Bar Association ("Bar"), organised a session on the update of CJR in October. About 490 practitioners attended the session.



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*The guest speakers (from left to right) – The Honourable Mr. Justice Lam, Mr. Registrar Lung, Mr. Kumar Ramanathan S.C. and Mr. Nigel Francis, presenting at the CJR Training Programme: General Session-CJR Update, jointly organised by The Academy and the Bar on 30 October.*

The Academy also organised five free specialised training sessions on CJR covering topics like case management, originating process and pleadings, offers to settle, evidence, trials, appeals and costs. About 800 participants attended the specialised training sessions.

### Joint Courses with other professions

To facilitate interaction with other professions and government departments, The Law Society 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, Hong Kong Institute of Arbitrators, and government departments like the Narcotics Division of the Security Bureau. Four such courses were held over the year, attracting over 430 practitioners.



*The guest speakers (from left to right)-Mr. Ashley Alder, Dr. Michelle Welsh and Professor C. K. Low presenting at the seminar jointly organised by The Law Society; the Hong Kong Institute of Certified Public Accountants and The Hong Kong Institute of Chartered Secretaries on "Enforcement of the requirement to Disclose Price Sensitive Information: Lessons from Down Under" on 18 November.*

### Mediation

With the introduction of Practice Direction 31, mediation has increasingly been used as a means of alternative dispute resolution. The Academy offered four general mediation training courses, two family (one basic and one advanced) mediation training courses, two courses on mediation advocacy skills and mediator assessor skills during the year.



The Academy organised two series of General Mediation Training Courses in July and August. The trainers from Bond University, Australia, Professor John Wade (standing on the left) and Ms. Robyn Hooworth (standing on the right) presenting at the first series on 23-24 and 26-28 July.

### Training Programme on Convention Against Torture (“CAT”) Claims and Refugee Law

The Government has put in place a publicly-funded legal assistance scheme through the Duty Lawyer Service, the CAT Scheme to assist claimants who have made a claim to the Immigration Department under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. To prepare practitioners to represent claimants under the CAT Scheme, the Academy organised a second series of *CAT Training Programme* in June. Over 90 participants attended the 4-day training.



The panelists (from left to right)-Mr. Peter Barnes, Mr. Mark Daly, Mr. Rodger Haines QC, and Professor Manfred Nowak, having a discussion with the participants in the CAT Training Programme.



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### 7th Labour Law Conference

The Academy and LAWASIA co-hosted the 7th Labour Law Conference in Hong Kong on 17 and 18 September. 18 speakers from 10 jurisdictions including Malaysia, Vietnam, Sri Lanka, Indonesia, Korea, China and Australia were invited to speak on labour law and related issues. Over 70 local and overseas delegates attended the Conference.



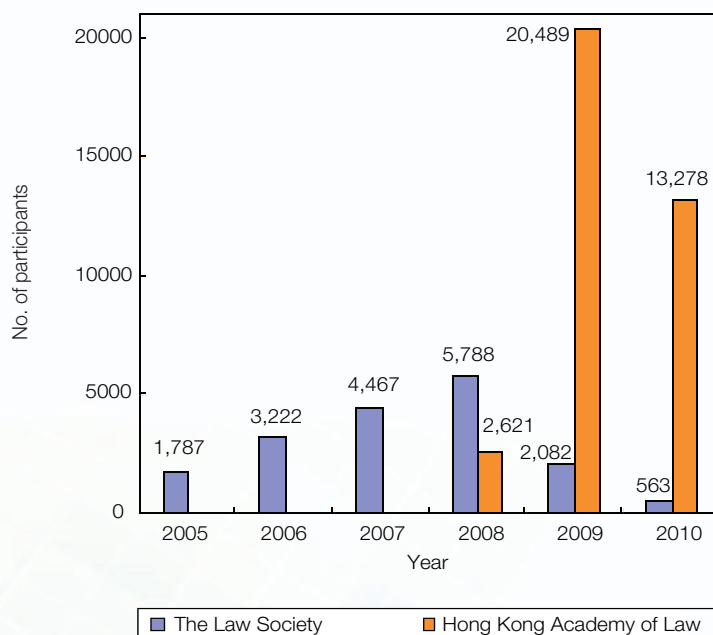
The Honourable Chief Justice Geoffrey Ma delivering an opening speech on the first day of the Conference, together with Mr. Lester Huang JP, President of LAWASIA (sitting on the right), Mr. Huen Wong, JP, President of The Law Society (sitting on the left) and Mr. Bernard Banks, Chair of the LAWASIA Labour Law Committee (sitting in the middle).

Pursuant to rule 9 of the *CPD Rules*, 179 practitioners were granted suspension from the operation of the *CPD Scheme*.

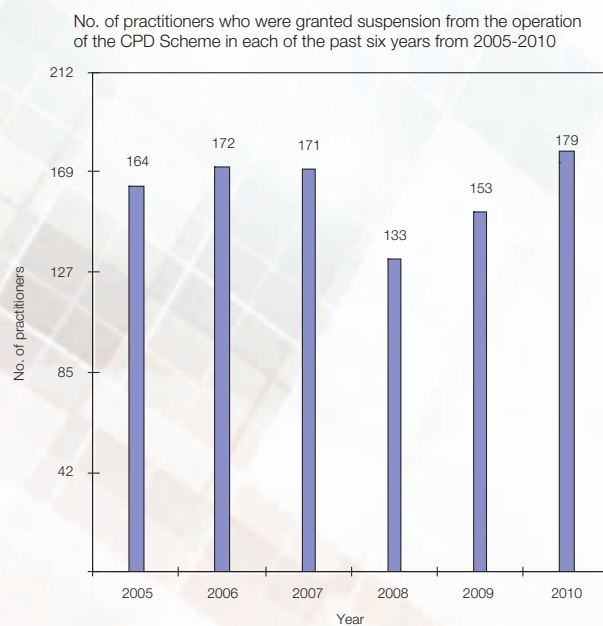
Arising from general enquiries made by practitioners or from reports made on their own initiatives, 16 solicitors and 14 trainee solicitors were found to have failed to comply with the *CPD Rules*. All cases of default were referred to the Compliance Department to be dealt with in accordance with the Council's sanction policy.

The attendance rates of the participants in the CPD and RME courses organised by The Law Society and the Academy in each of the six years from 2005-2010 are as follows:

No. of participants in the CPD and RME courses organised by The Law Society and the Academy in each of the six years from 2005-2010



The number of practitioners who were granted suspension from the operation of the CPD Scheme in each of the past six years from 2005-2010:

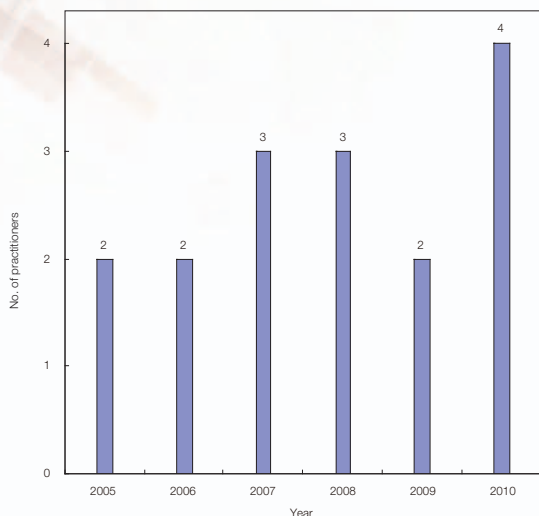


The number of practitioners who were granted full exemption from participation in the CPD Scheme in each of the past six years from 2005 to 2010:



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No. of practitioners who were granted suspension from the operation of the CPD Scheme in each of the past six years from 2005-2010



## CPD COMMITTEE

The Committee met on one occasion to discuss the following issues:

- (a) the consistency in awarding CPD points to skills courses and the criteria and guidelines on accrediting skills courses; and
- (b) amendments to 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.

The Committee granted four full exemptions from participation in the *CPD Scheme* to practitioners on the ground of age, two partial exemptions from participation in the *CPD Scheme* to trainee solicitors whose term of trainee solicitor contracts had been reduced from the standard two-year period.

### Members of the Committee:

Sylvia W.Y. SIU (*Chairman*)

Douglas ARNER

Gerard W.H. CHUNG

Iris CHEUNG

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 3,967 courses, compared with 3,970 in 2009. Of these courses, 823 were accredited on a course-by-course basis and 3,144 were accredited under the Provider Accreditation Scheme. 26 of the courses were offered by The Law Society, 467 courses were offered by the Academy, out of which 384 half-day courses were under the RME Programme, 3,073 by in-house providers and other institutions and 401 by commercial providers.

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

The Sub-committee considered 46 applications and approved 44 applications for renewal of accredited provider agreements under the Provider Accreditation Scheme. The Sub-committee approved four postgraduate or other law courses and two legal journals, 33 legal researches and accredited two committees and one working party for the purpose of compliance with the CPD requirement.

Members of the Sub-committee continued to monitor the standard of accredited CPD courses by reviewing course evaluation records and attending selected accredited courses.

### Members of the Sub-committee:

Sylvia W.Y. SIU (*Chairman*)

Douglas ARNER

Ram D. BIALA

Simon M.Y. CHAN

Maggie M.C. CHENG

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 (*resigned in October*)

Sandy H.Y. WONG

Jill T.L. WONG

## FOREIGN LAWYERS COMMITTEE

In 2010, there were 224 candidates sitting the *OLQE*.

The Committee convened six meetings. It dealt with 67 applications for exemption from sitting all or part of the 2010 *OLQE* in accordance with the guidelines issued by The Law Society. In addition, it considered four applications relating to the eligibility to sit the *OLQE*.

The work of the Committee also included:

- (a) reviewing and commenting on the draft “Best Practice Principles for the Regulation of Foreign Lawyers and Transactional Law Practice” prepared by the Asia-Pacific Economic Cooperation Legal Services Workshop;
- (b) reviewing the Examination Procedures and the meaning of “experience in the practice of law” as set out in the *OLQE Information Package*; and
- (c) considering the issues relating to the storage and destruction of old files out of Hong Kong.

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## Members of the Committee:

Angela W.Y. LEE (*Chairman*)

John C.K. CHAN

CHEONG Pui Fan

Philip M.J. CULHANE

Hannah C.L. HA

Secretary: Assistant Director, Regulation & Guidance

Junius K.Y. HO

LI Huanting

Michael P. PHILLIPS

Rupert C. SKRINE

## GUIDANCE COMMITTEE

The Committee met on three occasions and dealt with 11 enquiries from members and 10 referrals from other Committees or Departments within the Secretariat on matters relating to professional conduct and ethics including:

- (a) checklist for unclaimed money in client account;
- (b) application of *Practice Direction L.2* under impracticable circumstances;
- (c) proposed amendments to rule 5D of the *Solicitors' Practice Rules* in consultation with the Criminal Law and Procedure Committee;
- (d) apportionment of profit costs after termination of an association between a Hong Kong firm and an overseas firm and the waiver of rule 4 of the *Solicitors' Practice Rules*;
- (e) conflict of interest for a solicitor to act for a defendant client where his litigation clerk is related to a prosecution witness by blood;
- (f) connotation of "Legal Clinic" in the context of the *Solicitors' Practice Promotion Code*;
- (g) application of the *Solicitors' Practice Promotion Code* to trainee solicitors;
- (h) storage costs of office documents;
- (i) conflict of interest for a solicitor-mediator to act for the parties in a mediation after conclusion of the mediation;
- (j) conflict of interest for a solicitor to provide legal opinion to both the lender and the borrower in a financial transaction;
- (k) salary payment to an unqualified person on an hourly basis;
- (l) court attendance in support of counsel during the hearing;
- (m) storage and destruction of old files outside Hong Kong;
- (n) legal visit on pro-bono basis;
- (o) proposed amendments to *Commentary on the International Bar Association General Principles for the Legal Profession*;
- (p) conflict of interest for a solicitor to act for the former Chairman of the Board of Directors of a company to claim against the company when he had also acted for that company previously;
- (q) costs of delivering files under *Principle 5.23*; *Commentary 6* of the *Guide*;
- (r) re-registration of conveyancing documents;
- (s) online "view only" right of access to client account by the client's authorised representative;
- (t) ownership of a solicitor's attendance notes and records prepared for the solicitor's benefit and protection; and
- (u) application of *Principle 13.09* of the *Guide* to the practice of China-Appointed Attesting Officers and proposed amendments to the Principle.



# Standing Committee on Standards and Development

## 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 (*resigned in October*)

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 five meetings during the year including one joint meeting with the PCLL External Examiners. Its work included the following:

- (a) conduct of a survey on trainee solicitors with a view to collating comments on the quality of the PCLL Programmes from their users;
- (b) analysis of the results of the survey on the PCLL Programmes;
- (c) review of the 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;
- (e) review of the curricula, teaching and assessment of the PCLL Programmes on offer;
- (f) review of the comments made by the PCLL External Examiners on the PCLL courses and course materials in the monitor forms;
- (g) review of the applications for the appointment as External Examiners for the PCLL courses;
- (h) review of the comments made by law firms on the standards of solicitors and trainee solicitors;
- (i) discussion with HKU on their Clinical Legal Education Programme.

A sharing session with the interns of law firms was organised in July. Senior legal practitioners in different fields were invited to share their valuable experiences with new entrants to the profession. About 92 participants took part in the sharing session. Representatives of the Committee also assisted CityU in producing an instructional DVD on advocacy.

The President of The Law Society and the Chairman of the Committee served as representatives of The Law Society on the Standing Committee on Legal Education and Training, which met on four occasions. The Secretary of the Committee continued to serve as Secretary of the Standing Committee and as Secretary of the Sub-committee of the Standing Committee on English Language Proficiency.

# Standing Committee on Standards and Development

## Members of the Committee:

Dieter YIH (*Chairman*)

Charles C.C. CHAU

John J. CLANCEY

HA Yiu Fat

Secretary: Director of Standards & Development

Stephen W.S. HUNG

Adrian K.M. WONG

Susan WONG

Felix K.Y. YAU

## MEDIATOR ACCREDITATION COMMITTEE

The Committee convened seven meetings. With the growing importance of mediation and the increasing demand for mediation training courses and to gain accreditation as a mediator, the Committee's work has focused on the standards of mediation training and assessment, the standards of accreditation, and consideration of applications for accreditation as a mediator on The Law Society's Panels.

The work of the Committee included:

- (a) selection of lead assessors for The Law Society mediator assessments;
- (b) consideration of the qualifications of assessors and selection of assessors for The Law Society mediator assessments;
- (c) review of the mediator assessment procedure and documentation;
- (d) review of the results of mediator assessments;
- (e) dealing with enquiries from members relating to the mediator accreditation requirements;
- (f) consideration of accreditation standards and policies;
- (g) consideration of institutions suitable to be enlisted as approved bodies that would be exempted from the accreditation requirements in the Mediator Accreditation Scheme;
- (h) discussion with the Hong Kong International Arbitration Centre on mutual recognition of mediators accredited by either organisation;
- (i) consideration of applications for waiver or exemption of various accreditation requirements;
- (j) consideration of the standards for accrediting general mediation training courses;
- (k) consideration of applications for renewal of mediator membership of The Law Society Panels;
- (l) determination of applications for a review of the mediator assessment results;

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- (m) approval of applications for mediator accreditation;
- (n) consideration of a proposal for a joint assessor committee.

The Committee reviewed and accredited four general and two family (one basic and one advanced) mediation training courses. In addition, it accredited 53 general mediators and 10 family mediators for inclusion in The Law Society's Panels of Mediators.

The Mediator Accreditation Scheme was formally launched in August 2005. As of the end of the year, there were 172 solicitors on the Panel of General Mediators, 31 solicitors on the Panel of Family Mediators and seven solicitors on the Panel of Family Mediation Supervisors. Further, 84 mediator assessments were conducted.

### Members of the Committee:

Cecilia K.W. WONG (*Chairman*)

Michael H. BECKETT

CHAN Bing Woon

Secretary: Director of Standards & Development

Junius K.Y. HO

Maureen E. MUELLER

Jody K.Y. SIN

## OLQE 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 2009 OLQE together with the Chief Examiners, Examination Panel Convenors and Examiners;
- determining the format and the logistical arrangements for the 2010 OLQE;
- proposing amendments to the Information Package for the 2010 OLQE;
- considering the appointment of Examiners;
- reviewing the syllabus and reading list of each head of the OLQE.

### Members of the Committee:

John R. BUDGE (*Chairman*)

Mark LIN

Arthur McINNIS

Secretary: Director of Standards & Development

Amirali B. NASIR

Sylvia W.Y. SIU

Donna L. WACKER



# Standing Committee on Standards and Development

## Convenors and Members of the OLQE Panels:

### HEAD I: Conveyancing

Myrette J. FOK (*Convenor*)  
Alisa W.C. KWAN  
Alexander H.S. LEUNG

Michael LOWER (*appointed in May*)  
George S.K. NGAI  
Simon J. REID-KAY

### HEAD II: Civil and Criminal Procedure

Brian W. GILCHRIST (*Convenor*)  
Amanda WHITFORT (*Convenor*)  
Ned AUGHTERSON (*appointed in March*)  
Melville T.C. BOASE  
Louis K.L. FUNG

Julienne JEN  
Elsa KELLY  
Martin D. ROGERS  
Bernard K.F. SIU (*appointed in May*)  
Anthony R. UPHAM (*appointed in March*)

### HEAD III: Commercial and Company Law

Michael P. PHILLIPS (*Convenor*)  
Mary W.Y. AU-YUENG  
Felix W. H. CHAN  
Shirley S.L. CHUA  
Dennis H.F. HIE (*appointed in March*)

Alexandra D.W. LO  
Vanessa STOTT (*resigned in November*)  
Thelma TONG (*appointed in March*)  
Adrian K.M. WONG

### HEAD IV: Accounts and Professional Conduct

Colin B. COHEN (*Convenor*)  
Michael WILKINSON (*Convenor*)  
Richard CULLEN (*resigned in August*)

Adrian J. HALKES  
Ludwig S.W. NG  
Peter K.P. SIT

### HEAD V: Principles of Common Law

Adrian K.M. WONG (*Convenor*)  
Michael C. JENKINS (*Convenor*) (*appointed in March*)  
Jack BURKE (*Convenor*) (*resigned in January*)  
Shirley S.L. CHUA  
Julianne P. DOE

Alex K.L. LAU (*appointed in August*)  
Kenneth H.W. KWOK, S.C. (*resigned in February*)  
Anthony F. NEOH, S.C.  
Michael P. PHILLIPS (*resigned in October*)  
Peter F. RHODES (*appointed in August*)

## OVERSEAS LAWYERS QUALIFICATION EXAMINATION

The 16th OLQE was held from 28 October to 15 December 2010. A total of 224 candidates sat one or more written heads of the Examination. 216 candidates were from 14 overseas jurisdictions, three of which were non-common law jurisdictions. Eight candidates were Hong Kong barristers.

Of the 224 candidates, 176 candidates (79%) passed the Examination, having passed each of the heads that they were required to sit. 48 candidates (21%) 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  | 177    | 91 | 21      | 53 | 39       | 81 | 32      | 53 | 1      | 50 | 176      | 79 |
| Fail  | 18     | 9  | 19      | 47 | 9        | 19 | 28      | 47 | 1      | 50 | 48       | 21 |
| Total | 195    |    | 40      |    | 48       |    | 60      |    | 2      |    | 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          |

**Figure 2: Jurisdictions of the candidates**

|   | Jurisdictions               | Number of Candidates | Percentage * |
|---|-----------------------------|----------------------|--------------|
| 1   | Australia                   | 56                   | 25.0         |
| 2   | Canada                      | 8                    | 3.6          |
| 3   | England and Wales           | 51                   | 22.8         |
| 4   | Germany <sup>1</sup>        | 1                    | 0.4          |
| 5   | Hong Kong <sup>2</sup>      | 8                    | 3.6          |
| 6   | India                       | 1                    | 0.4          |
| 7   | Ireland                     | 1                    | 0.4          |
| 8   | Italy <sup>1</sup>          | 3                    | 1.3          |
| 9   | Jamaica                     | 1                    | 0.4          |
| 10  | Mainland China <sup>1</sup> | 9                    | 4.0          |
| 11  | Malaysia                    | 6                    | 2.7          |
| 12  | New Zealand                 | 5                    | 2.2          |
| 13  | Scotland                    | 1                    | 0.4          |
| 14  | Singapore                   | 17                   | 7.6          |
| 15  | U.S.A.                      | 56                   | 25.0         |
| <b>Total Number of Examination Candidates</b> |                             | <b>224</b>           |              |

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

<sup>2</sup> Barrister

\* The percentages have been calculated to the nearest decimal point. Therefore the aggregation of the percentages may not add up to 100%.

## RME COMMITTEE

The Committee oversaw the 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 six years extending its application gradually to all Hong Kong solicitors practising as sole practitioners, partners, associates, consultants, trainee solicitors, and registered foreign lawyers working in Hong Kong law firms.

With the establishment of the Academy, the RME courses are all offered through the Academy.

10 Module 1, 10 Module 2A and nine Module 2B of principals' core courses, 24 Module 1 and 25 Module 2 of non-principals' core courses, 16 trainee solicitors' core courses, 37 registered foreign lawyers' core courses, 180 elective courses for solicitors and five compulsory first electives for trainee solicitors were held during the year. The Committee monitored closely the evaluation of these courses by the course participants.

RME electives have since 1 November 2008 been offered free of charge to solicitors who have to fulfil their RME obligations in the relevant RME practice year and who have not attended any other RME electives during that year. Free core courses have since 1 November 2009 been offered by the Academy to trainee solicitors who have to fulfil their RME obligations in the relevant RME practice year.

## Standing Committee on Standards and Development

From June onwards, the Academy has offered RME core courses in Chinese to non-English speaking registered foreign lawyers. The courses are conducted in Putonghua.

The RME Committee convened three meetings. Matters considered by the Committee in the meetings and by paper circulation included:

- (a) results of the review of the RME Programme after five years in operation;
- (b) resolving the recommendations to the Standing Committee on Standards & Development and the Council upon the review of the Programme;
- (c) considering the recruitment of RME trainers;
- (d) considering the appointment of consultants to update the RME course materials and to prepare new RME electives;
- (e) considering the RME requirements for registered foreign lawyers who have been admitted as Hong Kong solicitors;
- (f) approving applications for exemption from complying with the RME requirements.

The Committee considered 48 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 (*resigned in December*)

Secretary: Director of Standards & Development

Joseph C.W. LI

Evelyn S.M. YAN

## 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 11 elective courses offered by law firms and other institutions and two elective courses offered by commercial providers.

Course provider accreditation for RME elective courses was introduced in 2007. Five law firms accredited as RME elective course providers offered a total of 79 in-house elective courses during the year.

The Sub-committee also considered applications for accreditation of RME elective activities including three applications for accreditation of writing articles and one application for accreditation of approved committees.



## Members of the Sub-Committee:

Joseph C.W. LI (*Chairman*)

Heather DOUGLAS (*appointed in April*)

Michael LOWER (*appointed in January*)

Secretary: Director of Standards & Development

Michael PENDLETON (*On leave from January*)

Helen D. WALKER

Evelyn S.M. YAN

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

The Sub-committee held one meeting to consider the Judiciary's concern on the powers and duties of a solicitor-manager. It proposed to introduce an express statutory provision under the new Rule 5AA to make it clear that the powers and duties of a solicitor-manager are to wind down the practice of a deceased sole practitioner and that he shall not administer the estate of the deceased sole practitioner. The Sub-committee also proposed to introduce another provision making it clear that the new Rule 5AA shall not affect the operation of the *Probate and Administration Ordinance* and the *Non-Contentious Probate Rules*.

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

## Members of the Sub-committee:

Amirali B. NASIR (*Chairman*)

James J. BERTRAM

Richard CULLEN

LAU Pok Hoi

Secretary: Assistant Director, Regulation & Guidance

Joseph C.W. LI

Billy W.Y. MA

Stephen W.K. LAU

## GUIDE WORKING PARTY

The Working Party met on 14 occasions to review and update the *Guide*.

It reviewed and updated the following Chapters of the *Guide*:

- (a) Chapter One on Principles of professional conduct, use and interpretation of the *Guide*;
- (b) Chapter Two on A solicitor's practice;
- (c) Chapter Seven on The fiduciary duty;
- (d) Chapter Eight on Confidentiality;
- (e) Chapter Nine on Conflict of interest between clients; and
- (f) Chapter Ten on The litigation solicitor.

The Working Party in consultation with the Association of China-Appointed Attesting Officers Limited made a recommendation to the Council to amend *Principle 13.09* of the *Guide* enabling a client to make a statutory declaration before a China-Appointed Attesting Officer who acted for him and prepared such statutory declaration.

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

# Standing Committee on Standards and Development

## Members of the Working Party:

Amirali B. NASIR (*Chairman*)

Stephanie S.Y. CHEUNG

Richard CULLEN

Secretary: Assistant Director, Regulation & Guidance

Joseph C.W. LI

Patrick R. MOSS

Michael WILKINSON

## WORKING PARTY ON SOLICITORS' ACCOUNTS RULES

The Working Party held two meetings. After considering the views of the Hong Kong Institute of Certified Public Accountants, the Working Party agreed not to introduce a new checklist for accountants. The Working Party also discussed the specific issues arising out of the proposed amendments to the *Solicitors' Accounts Rules* and the other relevant Rules prepared by the Department of Justice. It will continue to liaise with the Department of Justice on the proposed amendments. Upon completion of the drafting exercise, The Law Society will submit the proposed amendments to the Chief Justice for his final approval.

## Members of the Working Party:

Colin B. COHEN (*Chairman*)

Constance CARMICHAEL

Wing W.S. CHU

Secretary: Assistant Director, Regulation & Guidance

Billy W.Y. MA

Helen MACKENZIE

Amirali B. NASIR



Standards & Development Department