

PRESIDENT'S REPORT



Graced with the confidence and trust my fellow Council Members have placed in me, I humbly accepted the honour to serve a second term of presidency of the Law Society in May 2010.

I first took office as President in May 2009. As at the end of December 2010, I have assumed this role for 19 months. Looking back, although the term of service seemed fleetingly brief, the multitude of challenges I encountered was invaluable experience of a lifetime and I enjoyed every part of it.

The tireless concerted efforts by the Council, the Secretariat and general members who selflessly and generously poured in their help and support made 2010 a fruitful year for the Law Society.

PROMOTION OF LEGAL PROFESSION

During the past year, we worked assiduously to promote our legal profession to the Hong Kong public as well as to the world.

Locally, armed with the ardour of our members for voluntary services, the Law Society organised a series of community projects including "Teen Talk" which involved over 2,000 participants, "Solicitors Care and Share Mentorship Programme", "Law Week", "Caring Cooking Competition", numerous school talks, public seminars and educational campaigns on social issues like anti-youth drug abuse. These projects successfully raised the public awareness of the social contributions that the legal profession has been quietly making and unveiled the compassionate side of the profession to the community.

The Law Society was awarded the Caring Organisation Logo 2009/2010 in recognition of our contributions to community through volunteering, giving, mentoring and caring for the environment and our employees. We have actively encouraged members to participate in a number of "go green" initiatives, including opting out from receiving hard copies of Hong Kong Lawyer, the Law List and Annual Report. Further, we are committed to fostering diversity and inclusion and have promoted these concepts to members encouraging them to incorporate them into their employment policies.

Attracting young talent is one of the crucial ways to sustain the healthy growth of our profession. Through interaction with the legal profession in the community projects that we organised in the past year, the younger generation was able to acquire a better understanding of the work and career path of a lawyer and hence, they were more likely to include the legal profession as one of their career choices.

Internationally, the Law Society has been very active in the legal arena and has successfully established an extensive network with leaders of law societies and bar associations around the world. This was evident from the fact that the functions hosted by the Law Society jointly with the Hong Kong Bar Association on the day of the Opening of the Legal year in January 2011 were exceedingly well attended by over 53 delegates from 13 jurisdictions. Further, to encourage young solicitors to gain more international exposure, the Law Society has, where appropriate, considered favourably members' applications for sponsorship to participate in international conferences. The network cultivated by members around the world would no doubt pave the way for an expansion of our legal services market through increasing collaboration with our counterparts in other jurisdictions.

REPRESENTATIVE VOICE

With the voluntary assistance of our members in nearly 90 Law Society committees working on different issues affecting the legal profession, we were able to collate valuable comments and to effectively convey those views as one strong voice to the Administration and other relevant authorities.

In 2010, the Law Society made submissions reflecting the views of our profession on a wide range of issues. In addition to legislative amendments impacting on different practice areas like the Companies Ordinance, the Enduring Powers of Attorney Ordinance, the Land Titles Ordinance and the Personal Data (Privacy) Ordinance, the Law Society's submissions numbering over 40 to the Administration and the Legislature in the past year also featured prominently in some hotly debated topics like competition law, legal aid, class action, mediation, conviction rates, special stamp duty and arrangements regarding the methods for selecting the Chief Executive and for forming the Legislative Council. Further, the Law Society has also made joint statements with the Bar Association touching on issues relating to human rights and the rule of law.

As a representative voice of the legal profession and a socially responsible organisation, the Law Society contributed constructively to public discussions and consultations on issues of common concern. Through such efforts, the Law Society has successfully enhanced the visibility as well as the professional image of legal practitioners as a whole.

IMPROVING THE PRACTICE ENVIRONMENT FOR MEMBERS

After years of lobbying by the Law Society, solicitors have finally been granted higher rights of audience with the passage of the Legal Practitioners (Amendment) Bill in the Legislative Council in January 2010. Pending the promulgation of the relevant subsidiary rules which are expected to be ready by the end of 2011, solicitors are permitted to apply for the right to represent clients in the High Court and the Court of Final Appeal if they satisfy the specified eligibility requirements.

Overheads in relation to legal practices including contributions to the statutory Professional Indemnity Scheme can be a heavy burden. The reduction in professional negligence claims made against law firms have, coupled with other factors, improved the financial status of the Solicitors Indemnity Fund. According to professional actuarial advice, the Fund would remain financially healthy even if the total contributions projected for the 2010/2011 indemnity year were to be reduced by about one-third. The Council has therefore acted on the advice and resolved to reduce the total contributions payable by law firms for the renewal of professional indemnity cover for the 2010/2011 indemnity year by one-third. The reduction required amendments to the relevant subsidiary rules of the Legal Practitioners Ordinance. The Law Society worked hard to coordinate with the different bodies including the Department of Justice, the Judiciary and the Legislative Council in order to have the subsidiary legislation passed in time for the reduction to take place in the 2010/2011 indemnity year. Law firms were able to make some savings during the year by contributing less to the Fund. More importantly, we have now established a mechanism for the Law Society to go through the same exercise every year to consider whether a reduction is possible for the following indemnity year and if so, how much.

The inadequacy of the criminal legal aid resources has always been a concern to solicitors in criminal law practice because it seriously limits the defendant's ability to defend themselves against a much more resourceful prosecution resulting in an inequality of arms. The Law Society lobbied hard for a review of the system. Our efforts resulted in the Government's commitment to increase its expenditure on assigned out criminal legal aid cases by more than 100% from HK\$90 million to HK\$190 million. The Government also agreed to change the fee structure by replacing a "brief fee" at fixed levels to cover all pre-trial preparation and the first day of court hearing by an itemised fee structure covering work on reading of material before commencement of preparation work, pre-trial preparatory work, meetings with clients or witnesses and court hearings. The Law Society has continued to press for action by the Government to honour its commitment.

With the implementation of Practice Direction 31 in January 2010, there has been an increasing demand on mediation services. Practice Direction 31 empowers the Court to impose a costs order against those who refuse mediation without reasonable cause. During 2010, while continuing to provide quality training on mediation, the Law Society, jointly with seven other professional bodies, founded the Joint Mediation Helpline Office which acts as a central referral agency of mediation cases.

Solicitors acting as mediators or China Appointed Attesting Officers ("CAAO") as part of their practice are becoming more common and there was uncertainty as to whether such acts were covered by the Professional Indemnity Scheme. The Law Society has sought clarification from the Board of Hong Kong Solicitors Indemnity Fund Limited which in turn sought the views of the reinsurers. It was confirmed that solicitors who practise as mediators or CAAO are covered by the Scheme, provided that this forms part of the "Practice" of their law firms and, wherever any fees or other income accrue therefrom, they inure to the benefit of the law firms.

The difficulty faced by CAAOs in complying with principle 13.09 of the Hong Kong Solicitors' Guide to Professional Conduct Volume 1 ("Guide") and with the prescribed format and verification procedures in accordance with the CAAO practice directions has also been resolved. A CAAO is duty bound to make necessary enquiries and cause appropriate searches to be conducted to ensure that sufficient supporting documents have been annexed to the statutory declaration and the contents, as far as possible, have been verified. Under such circumstances, the preparation and administration of the statutory declaration is done by the same CAAO. The position is now made clear by appropriate amendments to principle 13.09.

With respect to the mode of practice, the Law Society has been advocating the introduction of limited liability partnerships (“LLPs”) since 2004. The LLP model proposed for Hong Kong solicitors is a variation of the traditional partnership in that the partners of an LLP are liable for their own negligence but not for each other’s acts or omissions solely by virtue of being a partner of that LLP.

The proposed amendments to the Legal Practitioners Ordinance to introduce LLPs were gazetted in June 2010. The Law Society has been working closely with the Administration and the relevant Bills Committee to review the proposed amendments to the Ordinance.

In addition to LLPs, the Law Society continued to work with the Department of Justice to finalise the drafting of the Solicitor Corporation Rules that govern the incorporation of solicitors’ practices. When the Rules are promulgated, the legal profession will have a choice of general partnerships, limited liability partnerships and solicitor corporations as their mode of operation.

The Law Society is aware of the severe competition and pressure on legal fees for conveyancing work. I have proposed various measures to resolve the unhealthy situation and I have received diverse comments on the effectiveness of those proposals. While I anticipate that we might need more time to work out a satisfactory solution to the issue, I have on different occasions highlighted to members the latest developments of law firm operations in other jurisdictions including the introduction of legal disciplinary practices and alternative business structures in the UK. I am sure that it would take yet again a long debate and lengthy deliberations before we may have any chance of being permitted to operate as an alternative business structure, I hope at least I have stimulated discussions among members in this direction.

SERVICING MEMBERS

The establishment of a new department on Member Services within the Secretariat speaks volumes on the Law Society’s efforts to promote member benefits. During 2010, the Law Society organised numerous social functions and sports activities. The 5th Recreation and Sports Night in October adopted the delightful theme of Halloween and was a huge success. Other activities included talks for members on a diversity of topics ranging from practice management to personal health care, seminars on solicitors’ accounting for unqualified staff of law firms, joint profession recreational activities, sports tournaments and educational visits for members’ children. These activities created pleasant opportunities for members to relax and mingle with fellow practitioners in a stress free environment.

I would like to take the opportunity to extend my deepest gratitude to each and every one of those who contributed to the Law Society’s achievements in the past year. If not for the same commitment to excellence, the same determination to serve the general membership and the same spirit of innovation shared by my fellow Council Members, the Secretariat and all the members who volunteered their assistance, I would not have been able to push for new boundaries, to realise new ideas and to report on the above accomplishments.

Huen Wong
President