

Committees and Working Parties Reporting Directly to Council

HONOURS COMMITTEE

The Committee met on one occasion. In accordance with the Nomination Guidelines, the Committee considered candidates for admission to The Law Society's Roll of Honour and for admission as an Honorary Member of The Law Society.

At the 2012 Annual General Meeting of The Law Society held in May, on recommendation of the Honours Committee, the Council admitted Mr. James Bertram, Mr. S H Leung and Mr. T S Tong to the Roll of Honour of The Law Society.

Members of the Committee:

Huen WONG (*Chairman*)

Ambrose S. K. LAM

Michael J. LINTERN-SMITH

Anson K. C. KAN

Paul C. Y. TAN

Herbert H. K. TSOI

Secretary: Secretary General

MEDIATION COMMITTEE

The Mediation Committee met seven times during the year and spent considerable time in shaping the development of mediation policies and standards in Hong Kong by reviewing and implementing the following matters:

Mediation Ordinance

The Secretary for Justice's Working Group on Mediation ("SJWG") convened a Mediation Task Force to prepare legislation to introduce a regulatory framework for mediation. The Committee reviewed the draft *Mediation Bill* and presented its views to the Bills Committee in relation to confidentiality, immunity and Section 7 of the *Legal Practitioners Ordinance* ("LPO") to ensure public interest could be adequately safeguarded. The *Mediation Ordinance* was gazetted on 22 June and came into operation on 1 January 2013.

Hong Kong Mediation Accreditation Association Limited ("HKMAAL")

The SJWG recommended that a single accreditation body should be established to safeguard the standards of mediators and protect the interests of users. The concept to establish HKMAAL as the single accreditation body of mediators in Hong Kong was formulated. HKMAAL was incorporated under the *Companies Ordinance* as a company limited by guarantee. The Law Society is one of the founding members of HKMAAL and has a permanent seat on its Council. HKMAAL will be responsible for the accreditation of mediators tentatively from April 2013; The Law Society will then cease its *Mediator Accreditation Scheme* accordingly. HKMAAL will offer grandfathering to mediators already accredited by The Law Society.

Abolition of the Exemption for Family Mediators to be Recognised as General Mediators

The Committee considered a recommendation by The Law Society's Mediator Accreditation Committee ("MAC") to abolish the exemption which permits Family Mediators to apply for accreditation as General Mediators on the basis of being an Accredited Family Mediator. MAC concluded that as there were substantial differences in the training and practices between Family and General Mediators, such differences should be resolved by a requirement on Family Mediators to attend a conversion course. The recommendation to abolish the exemption was approved by the Council and a circular was issued informing members of the abolition.

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Promotion of Solicitor-mediators

The Committee continued to take initiatives to promote solicitors' practices in mediation.

Promotion of Law Society's Accredited Family Mediators

The Secretariat circulated a list of The Law Society's Accredited Family Mediators to every law firm in Hong Kong to promote their services in March.

Establishment of a List of Co-Mediators

The Committee took the view that the establishment of a List of Co-Mediators ("List") could assist mediators, who were willing to co-mediate for training purposes, to obtain field experience from co-mediating real cases. An invitation was sent via email to all panel members inviting them to sign up for the List in December. The List will be made accessible to the parties who agree to appoint a co-mediator in their mediation and selection will be made directly by the relevant parties.

Participation in Local and Overseas Mediation Events

The Law Society participated in and/or sponsored the following mediation events to promote its mediation services to potential business partners and users:

- 1st Shanghai-HK Commercial Mediation One Day Conference
- "Mediation First" Conference
- Conference on "Asian-Pacific Mediation Conference 2012: Mediation and its Impact on National Legal Systems"
- Huizhou-Hong Kong Commercial Mediation One Day Conference Mediation in Hong Kong — Your Option.

Mediation Services

The Mediation Co-ordinator continued to provide assistance to members and during the year handled over 40 cases involving requests for nomination of a mediator. A Pilot Project to provide community venues for mediation, initiated by the Government and administered by The Law Society, offered venues free of charge for mediations conducted on a pro bono basis.

Members of the Committee:

Lester G. HUANG (*Chairman*)

John R. BUDGE

Patrick M. BURKE

Ambrose S.K. LAM

Maureen E. MUELLER

Amirali B. NASIR (*resigned in July*)

Melissa K. PANG

Catherine K.G. POR

Jody K.Y. SIN

Sylvia W.Y. SIU

Cecilia K.W. WONG

Norris H.C. YANG

Helena S.Y. YUEN

Secretary: Director of Practitioners Affairs

Mediation Co-ordinator: Barbarossa Wan

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WORKING PARTY ON DELEGATIONS AND STANDING COMMITTEES

In September, the Council resolved to set up a Working Party to identify the areas of overlap in function and uncertainties in the delineation of responsibilities among the Standing Committees, to recommend ways to maximise the resources by streamlining the function and responsibilities as well as to make recommendations on the policy in connection with Law Society delegations to overseas conferences.

The Working Party convened two meetings on 7 and 29 November and submitted its report to the Council in December. In its report, the Working Party identified the areas of overlaps and proposed amendments to the terms of reference of the Standing Committees and relevant Committees. The Council considered the Working Party's observations and invited feedback from the relevant committees. The matter will be brought back to the Council for further consideration when the relevant Committees complete their review and feedback on the Working Party's recommendations.

The Working Party also recommended some guidelines on the approval requirement relating to attendance at overseas events and the Council had approved the recommended guidelines.

Upon completion of all its tasks, the Working Party was dissolved in December.

Members of the Working Party:

Peter C. L. LO (*Chairman*)

Denis G. BROCK

Ambrose S. K. LAM

Joseph C. W. LI

Kenneth S. Y. NG

Secretary: Secretary General

WORKING PARTY ON LIMITED LIABILITY PARTNERSHIPS

The Working Party had a busy but fruitful year. The *Legal Practitioners (Amendment) Bill* gazetted in June 2010 as amended by the Committee Stage Amendments was finally passed by the Legislative Council on 12 July and the resulting Ordinance gazetted on 20 July.

The Working Party convened nine internal meetings and held four meetings with the Department of Justice, out of which the then Legislative Council Member, the Hon Margaret Ng was present at two of them. Members of the Working Party also attended five meetings with the Bills Committee of the Legislative Council. Further, on 13 February, the Working Party organised a Members' Forum to update members on the status of the Bill, to invite views from members on the outstanding issues and provide an opportunity for members to exchange views directly with Mr. Frank Poon, Solicitor General, and other representatives of the Administration as well as the Hon Margaret Ng, former Legislative Council Member representing the Legal Functional Constituency.

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The major concerns on the Bill previously raised by The Law Society were resolved as follows in the Committee Stage Amendments:

- (a) The proposed requirement on an LLP to notify the client of each matter the identity of a designated partner who would be automatically excluded from LLP protection irrespective of whether he was in default was deleted.
- (b) Instead, an LLP is required to inform the client of each matter handled by the LLP the identity of at least one partner who is responsible for the overall supervision of the matter within 21 days after accepting instructions and throughout the time the LLP handles the matter for the client, failing which, the protection of LLP will not apply to that matter.
- (c) The limitation period to enforce a liability on a partner of an LLP who receives a distribution of partnership property under specified circumstances to return the distribution to the partnership was reduced from six years to two years.
- (d) In addition to indemnity provided to Hong Kong firms under the Professional Indemnity Fund or similar insurance cover required of foreign firms, an LLP is required to maintain top-up professional indemnity cover of no less than HK\$10 million for each and every claim with no aggregate limit, failing which the LLP will lose its LLP protection for the period without such top-up cover.

Following the gazettal of the *Legal Practitioners (Amendment) Ordinance 2012*, the Working Party undertook a review of all the subsidiary legislation to the *LPO* as well as the *Law Society Practice Directions*, the *Hong Kong Solicitors' Guide to Professional Conduct*, *Rules of the High Court* and the administrative forms. Preparation of the consequential amendments necessitated by the introduction of LLPs is in progress. In particular, the Working Party has formed a Working Group on Order 81 of the *Rules of the High Court* comprising members from the Civil Litigation Committee and the Board of *Hong Kong Solicitors Indemnity Fund Limited* to review the impact of the Ordinance on the rules on court proceedings. The Working Group on Order 81 met on one occasion and submitted recommendations on the proposed amendments to Order 81 for consideration by the Working Party. The Working Party will take the matter forward in close consultation with the Administration.

Members of the Working Party :

Joseph C. W. LI (*Chairman*)

Junius K. Y. HO

David W. HIRSCH (*resigned in December*)

Michael J. LINTERN-SMITH

Allan C. Y. Leung

Amirali B. Nasir

David G. SMYTH (*joined in November*)

Huen WONG

Secretary: Secretary General