

# COMMITTEES AND WORKING PARTIES REPORTING DIRECTLY TO COUNCIL

## HONG KONG LAWYER EDITORIAL BOARD (“EDITORIAL BOARD”)

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### 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 2013 Annual General Meeting of the Law Society held in May, on recommendation of the Honours Committee, the Council admitted Mr. Ip Sik On, Mr. Donald Yap and Mr. William Tsui Hing Chuen to the Roll of Honour of The Law Society.

### Members of the Committee:

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# COMMITTEES AND WORKING PARTIES REPORTING DIRECTLY TO COUNCIL

## MEDIATION COMMITTEE

The Committee met nine times during the year to discuss, among other things, policies on the development of mediation and standards in Hong Kong. The Committee reviewed the following matters:

### Hong Kong Mediation Accreditation Association Limited (“HKMAAL”)

The Law Society is one of the Founding Members of HKMAAL. Under a grand-parenting policy, Accredited Mediators and Accredited Family Supervisors of the Founding Members of HKMAAL could apply for accreditation to the HKMAAL Panel of mediators before 1 April 2014. The Committee liaised with HKMAAL and assisted Law Society’s Accredited Mediators and Accredited Family Supervisors to apply for HKMAAL’s accreditation under the above policy. Since 2 April 2013, more than 70% of Accredited Mediators and all Accredited Family Supervisors of The Law Society have successfully applied to migrate to the HKMAAL Panels of Mediators and Family Supervisors. Assistance for migration would continually be provided to relevant members.

Furthermore, the Committee worked closely with the HKMAAL on transitional arrangements under the grand-parenting policy, and also on accreditation standards and other matters relating to the accreditation of mediators.

### Guidance Notes on the Standard Terms of the Joint Mediation Helpline Office and the Financial Dispute Resolution Centre

The Committee has considered the risk exposure of solicitor-mediators under standard mediation agreements for use by the Joint Mediation Helpline Office and the Financial Dispute Resolution Centre. It has assessed the potential risks of those terms of mediation agreements, and issued guidance notes in June 2013, to inform members of these potential risks.

### Consultation on the Guidelines for Disclosure of Mediation Communications under s.8 (2)(e) of the *Mediation Ordinance*

With a view to assisting proper and legitimate disclosure of or use of mediation communications for research, evaluation or educational purposes and also to complying with the *Mediation Ordinance*, the Secretary for Justice’s Steering Committee on Mediation proposed a set of guidelines in July and invited comments from The Law Society. The Committee reviewed the Guidelines and provided recommendations in relation to the applicability of the Guidelines, written consents from the parties and time frame for disclosure.

### Submissions to the Panel on Administration of Justice and Legal Services (“AJLS Panel”)

The Committee made two submissions respectively in January and April to the AJLS Panel on the latest developments of mediation in Hong Kong. Among other things, The Law Society supported the Administration’s initiatives to promote the use of mediation and advised on a sustainable development of mediation in Hong Kong. These important aspects would continually be monitored by the Committee.

### Promotion of Solicitor-mediators

The Committee continued its efforts on the promotion of solicitors’ practices in mediation by continually:

- reviewing and implementing policies and services in relation to solicitors’ practices in mediation
- organising CPD activities on mediation and other related subjects
- liaising with external parties on matters in relation to mediation
- monitoring and updating solicitors on the latest development of mediation in Hong Kong

## Participation in Mediation Events

The Law Society participated in and sponsored the following events as part of the efforts to promote mediation services to the public.

(a) *Community Mediation Forum (11 May)*

The Forum attracted more than 150 participants. It provided a platform for mediation practitioners to exchange views and share experience on the latest development of community mediation and community venues in Hong Kong.

(b) *Mediation One Day Conference — “The Amazing Changes with the New Mediation Ordinance and Latest Development in Hong Kong Mediation” (17 December)*

About 90 participants including mediators, solicitors and other professionals attended the conference. The conference offered updates on the *Mediation Ordinance* and latest development of mediation in Hong Kong.

## Mediation Services

The Law Society continued to provide mediation services support to its members. During the year, over 19 cases involving requests for nomination of mediators were received and handled by the Mediation Coordinator. Logistics support was rendered to a Government Pilot Project on mediation venue. This Pilot Project was supported by the DOJ and was administered by The Law Society. Under this Project, venues at Henry G. Leong Yaumatei Community Centre and Leighton Hill Community Hall were provided free of charge for mediations conducted on a pro bono basis.

## Members of the Committee:

Cecilia K.W. WONG (*Chair from May*)

Lester G. HUANG (*Chair until April*)

Geoffrey N. BOOTH (*joined in June*)

John R. BUDGE

Patrick M. BURKE

Bryan G. T. LUNG (*joined in June*)

Maureen E. MUELLER

Melissa K. PANG

Catherine K.G. POR

Jody K.Y. SIN

Sylvia W.Y. SIU

Norris H.C. YANG

Helena S.Y. YUEN

Secretary: Director of Practitioners Affairs

Mediation Co-ordinator: Barbarossa Wan

## WORKING PARTY ON LIMITED LIABILITY PARTNERSHIPS (“LLPs”)

The Working Party convened meetings on six occasions. Its work focused on the following issues:

- (a) Section 7AD of the *Legal Practitioners (Amendment) Ordinance 2012* (“*Amendment Ordinance*”) requires every LLP to have a top-up insurance cover for loss arising from any default that exceeds HK\$10 million up to an amount not less than HK\$10 million in respect of any one claim, with no limit in the aggregate.

Section 8 of the *Amendment Ordinance* amends section 73A(3) of the *LPO* to enable the Council of the Law Society to make provisions for the better carrying out of section 7AD of the *Amendment Ordinance*.

The Working Party reviewed and evaluated the options available in implementing the top-up requirement and recommended to the Council that LLPs be allowed to obtain their own top-up cover in the open market. The Council accepted the recommendation and the relevant subsidiary rules governing the top-up cover requirement were prepared. The draft subsidiary rules were submitted to the Chief Justice for approval in principle.

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- (b) The Working Party reviewed the recommendations on the proposed amendments to Order 81 of the *Rules of the High Court* made by the Working Group on Order 81 and exchanged views with the Administration on the proposed amendments. The Working Party had confirmed to the Administration that it had no further comment on those proposed amendments. The Administration will take the matter forward with a view to put it into effect.
- (c) Section 7AL of the *Amendment Ordinance* requires existing law firms that convert to LLPs to send a written notice to existing clients about the conversion in a form specified by the Council of The Law Society. The Working Party had prepared a draft sample form of the required notice. The sample notice sets out the minimum content and law firms may include additional information as they wish. The draft sample had been approved by the Council.
- (d) Section 7AJ of the *Amendment Ordinance* provides that the name of a LLP must include “Limited Liability Partnership” or the abbreviation “LLP” or “L.L.P.”. If it has a Chinese name, it must include the words “有限法律責任合夥” as part of the Chinese name. The Working Party reviewed the *Foreign Lawyers’ Practice Rules* and the *Solicitors’ Practice Rules*. It took the view that to avoid confusion, these Rules had to be amended to clarify that notwithstanding that the firm name of its parent firm includes “LLP”, a foreign firm shall only include “LLP” in its name if it is a limited liability partnership to which the *Amendment Ordinance* applies. The proposed amendments to these Rules had been approved by the Council and submitted to the Chief Justice for approval in principle.
- (e) To ensure that practitioners are fully informed of the formalities involved in setting up or converting to a LLP, the Working Party had also been working on a draft information package on LLPs for members. The draft is being updated with the further development and will be submitted to the Council for approval in due course.

### Members of the Working Party:

Joseph C. W. LI (*Chair*)

Junius K. Y. HO

Allen C. Y. LEUNG

Michael J. LINTERN-SMITH

Amirali B. NASIR

David G. SMYTH

Huen WONG

Secretary: Secretary General