



# Standing Committee on Standards and Development

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THE  
**LAW SOCIETY**  
OF HONG KONG  
香港律師會

**2017**

The Standing Committee on Standards and Development 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 nine meetings 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 amendments to the *Legal Practitioners Ordinance* Cap. 159 (“*LPO*”) and its subsidiary legislation, *The Law Society’s Practice Directions* (“*PD*”), *Information Packages* and *The Hong Kong Solicitors’ Guide to Professional Conduct, third edition, Volume 1* (“*Conduct Guide*”).

The following amendments were made during the year:

### ***PD P***

Paragraph 43 of *PD P* was amended on 13 March alerting members of the statutory defences under section 25A(3) of the *Organized and Serious Crimes Ordinance*, section 25A(3) of the *Drug Trafficking (Recovery of Proceeds) Ordinance* and section 12(3) of the *United Nations (Anti-Terrorism Measures) Ordinance*.

Paragraph 129 of this *PD P* was also amended drawing Members’ attention to the different timeframes regarding the making of a suspicious transaction report to the Joint Financial Intelligence Unit (“*JFIU*”).

A hyperlink to the *JFIU* website was provided in paragraph 31 of *PD P* directing Members to their website for downloading the standard form of a suspicious transaction report.

The list of Members and Associate Members of the Financial Action Task Force (“*FATF*”) in Annexure 7 of *PD P* was updated.

### ***PD D2***

*PD D2*(2) was amended on 27 December to make it clear that law firms’ correspondence with The Law Society should be regarded as correspondence “in the course of the professional practice of the firm” and must be signed, whether in the name of the firm or in the name of the individual by a person who is an approved signatory under *PD D2*(3) for the purposes of this *PD*.

### **Chinese translation of the *Conduct Guide***

The Chinese translation of the *Conduct Guide* was published on 27 March.

## Other matters

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

- (a) overseeing the administration of the *Continuing Professional Development (“CPD”) Scheme*, the *Risk Management Education (“RME”) Programme* and the *Overseas Lawyers Qualification Examination (“OLQE”)*;
- (b) approving the documentation and the logistics of the *OLQE*;
- (c) appointment of *OLQE* Examiners and reviewing their fees;
- (d) reviewing the results of the *OLQE*;
- (e) considering the applications for review under rule 9 of the *Overseas Lawyers (Qualification for Admission) Rules (“OLQE Rules”)*;
- (f) appointing External Examiners of the *Postgraduate Certificate in Laws (“PCLL”) Programmes* of City University (“CityU”), the Chinese University of Hong Kong (“CUHK”), and The University of Hong Kong (“HKU”);
- (g) considering the syllabi and examination standards of the common entrance examination (“CEE”) and the revised *PCLL Benchmarks*;
- (h) considering the appointment of the representative of The Law Society on the *PCLL Academic Board* of HKU;
- (i) reviewing and amending the CPD Information Package;
- (j) considering the applications of law firms to participate in the pilot scheme for accepting costs on account and settlement of fees through reputable online payment operators;
- (k) reviewing the amendments to the terms of reference and the name of the Mediator Admission Committee;
- (l) considering the notifications made by law firms pursuant to the *Code of Good Practice in the Recruitment of Trainee Solicitors (“Recruitment Code”)*;
- (m) restructuring Head IV of the *OLQE*;
- (n) increasing the examination fees payable by the *OLQE* candidates;
- (o) approving amendments to the *Solicitor Advocates (Higher Rights of Audience Certificates) Rules*;

- (p) considering the Consultation Paper on enhancing *Anti-Money Laundering ("AML") Regulation of Designated Non-Financial Businesses and Professions* and the Consultation Paper on the *United Nations (Anti-Terrorism Measures) Ordinance - Proposals for Amendments*, and the *AML and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("AMLO Amendment Bill")*;
- (q) considering proposals for the *RME Programme* to gain international recognition;
- (r) considering the personal data issues arising from the use of conduct history in the recruitment and co-option of Committee Members and Examiners;
- (s) co-option of members to the CPD Committee;
- (t) considering the feasibility of granting blanket CPD accreditation;
- (u) appointment of the chairman of the CPD Accreditation Sub-Committee;
- (v) amending *CPD Guidelines 15(1)(g) and 15(1)(h)*;
- (w) reviewing the procedures for course providers to take attendance at CPD courses and the requirement for signing out at the end of CPD courses;
- (x) streamlining the procedures for accreditation of Committee work;
- (y) approving train the trainer courses for RME trainers;
- (z) considering an enquiry from law firm on how to deal with copies of documents and originals of correspondence with firms representing the client's opponent in litigation and copies of correspondence with third parties after the termination of retainer;
- (aa) considering the applications for CPD accreditation made by attendees of a course which was conducted locally;
- (ab) reviewing the hourly rate payable to speakers of *CPD* and *RME* courses;
- (ac) approving the Frequently Asked Questions ("FAQs") on the *Solicitors' Accounts Rules ("SAR")*;
- (ad) reviewing the Application for Registration as a Foreign Law Firm, Form FF;
- (ae) reviewing the present regulatory regime and the mode under which foreign firms may practise in Hong Kong;
- (af) considering the amendments to s.53(1) of the *LPO*;

- (ag) considering the use of awards and rankings for practice promotion and amending the *Solicitors' Practice Promotion Code* (“*Promotion Code*”);
- (ah) considering how to regulate sole proprietors in the case of their mental incapacity;
- (ai) reviewing the minimum wages prescribed by The Law Society for trainee solicitors;
- (aj) revising the procedures for the conduct of the Head V *OLQE*.

## AML COMMITTEE

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The AML Committee held 10 meetings.

In January, the Committee considered the following three Consultation Papers issued by the Government:

- (a) Enhancing AML Regulation of Designated Non-Financial Businesses and Professions;
- (b) *United Nations (Anti-Terrorism Measures) Ordinance* – Proposals for Amendments; and
- (c) Enhancing Transparency of Beneficial Ownership of Hong Kong Companies.

The Committee organised a briefing session on 9 March for the Government officials to explain and answer enquiries from members on the Government’s proposals to prescribe statutory client due diligence (“CDD”) and record keeping requirements. The briefing session was well received and attended by 60 participants. Based on the comments received by The Law Society, The Law Society made written submissions to the Government in April raising concerns on the Government’s proposals to amend the *AML and Counter-Terrorist Financing (Financial Institutions) Ordinance* (“*AMLO*”) to include the solicitors and foreign lawyers into its regulatory regime.

The Government gazetted the *AMLO Amendment Bill* on 23 June. Incidental amendments to the *LPO* were also proposed by the Government. The Committee scrutinised the *AMLO Amendment Bill* and opposed the Government’s stance vigorously.

The Committee reiterated to the Government that there is no need to include the legal profession in the draft legislation because it is already subject to a well-established, effective and enforceable AML regime. If the Government insists on including solicitors and foreign lawyers in its AML regime, all that is required is a simple provision providing that solicitors and foreign lawyers should conduct CDD and keep all records obtained through CDD measures. The Law Society shall have the authority to make rules setting out enforceable CDD and record keeping requirements with sanctions for non-compliance. Reiterating the FATF Recommendations in the *AMLO* introduces conflicts into *PD P* requirements, effectively creating a second AML regime for solicitors and foreign lawyers.

The Government's proposals also fail to recognise the special requirements of the legal profession and the CDD framework already in place. The Law Society's written submissions on the *AMLO Amendment Bill* were issued in October.

The Legislative Council ("LegCo") formed a Bills Committee to scrutinise the *AMLO Amendment Bill*.

The Committee Members attended the meeting of the Bills Committee on 30 October to address the concerns of The Law Society to the Bills Committee on the legislative amendment exercise.

The Committee provided valuable input on the Government's proposed amendments. Committee Members held meetings with Government officials in the office of the Legislative Councillor for the Legal Functional Constituency, the Honourable Dennis Kwok on various occasions with a view to making progress towards agreeing the terms of amendments to the *AMLO*. Through the relentless efforts of the Committee, the Government made several concessions to The Law Society in that:-

- (a) The Law Society was to be recognised as the sole regulatory authority. No external body would be involved in policing CDD conducted by solicitors.
- (b) The Government no longer insisted upon The Law Society being proactive in policing the CDD compliance.
- (c) The Government was prepared to recognise the authority of the *PD P* implemented by The Law Society.

LegCo approved the *AMLO Amendment Bill* on 24 January 2018 and the *AML and Counter-Terrorist Financing (Financial Institutions) (Amendment) Ordinance 2018* will take effect from 1 March 2018.

The Committee also dealt with a case in which a law firm was requested by a bank to disclose their client's financial information in the AML context without specifically referring to any statutory provision authorising them to do so. The Law Society raised concerns with the Hong Kong Monetary Authority asking them to take appropriate follow up action.

## **THE CPD SCHEME**

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

The Law Society and Hong Kong Academy of Law Ltd. ("Academy") conducted a total of 375 CPD and RME courses during the year. Of the 375 courses, 13 courses were conducted in Cantonese and the remainder in English. The courses attracted an attendance

of 17,471 participants.

The Law Society and the Academy are grateful to the 120 presenters who contributed by sharing their valuable experiences and expertise.

Some of the highlights of the courses are:

### **Arbitration**

A seminar entitled “Arbitration for Partnership Disputes” was held on 28 April. The seminar discussed the problems and issues that often arise in the course of arbitrating partnership disputes and compared alternative means of resolving such disputes by way of mediation and expert determination. Professor Anselmo Reyes, Professor of Legal Practice, Faculty of Law, HKU and former Judge of the Court of First Instance of the High Court was the speaker. Mr. Huen Wong, Chairman of the Arbitration Committee, and Past President and Council Member of The Law Society was the moderator of the seminar. 124 participants attended the seminar.

*The Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016* (“the Bill”) was passed by LegCo on 14 June and save for certain provisions, the Bill came into effect on 23 June. A seminar entitled “Third Party Funding for Arbitration” held on 22 August provided practitioners with a brief introduction on the *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017* and the offers of third party funders in Hong Kong. The speakers of the seminar were Mr. Tom Glasgow, Investment Manager (Asia) of IMF Bentham and Ms. Ruth Stackpool-Moore, Director of Litigation Funding and Head of Harbour Hong Kong of Harbour Litigation Funding. Mr. Denis Brock, Council Member and Member of the Arbitration Committee of The Law Society was the moderator. 121 participants attended the seminar.

In addition, a seminar entitled “Arbitration: New Challenges and Opportunities” was held on 25 September. The seminar discussed the challenges and opportunities available for practitioners after the passing of the legislation on arbitrability for intellectual property disputes and on arbitration funding. Other practical issues including conflicts of interest in arbitration and the latest developments in the local jurisprudence on arbitration in Hong Kong were also discussed. Ms. Mary Thomson, Barrister-at-law and Mr. Lee Tin Yan, Senior Assistant Solicitor General of the Department of Justice (“DOJ”) were the speakers. Mr. Huen Wong, Chairman of the Arbitration Committee, and Past President and Council Member of The Law Society was the moderator of the seminar. 68 participants attended the seminar.

### **Insolvency Law**

The Academy conducted a conference entitled “Insolvency Law and Practice” on 9 March. The Conference provided an update on the developments in insolvency law. Topics discussed included cross-border insolvency and choice of forum, legislative reforms on corporate rescue, litigation funding and acquisition of non-performing loans.

Mr. Justice Harris, Judge of the Court of the First instance of the High Court, was the Keynote Speaker. Other Speakers of the Conference included (in alphabetical order): Mr. Theron Alldis, Sourcing Asia of SC Lowy; Ms. Christina Cheung, Law Officer (Civil Law) of DOJ; Mr. Paul Forgue, Managing Director of Alvarez & Marsal; Mr. Keith Ho, Chairman of the Insolvency Law Committee of The Law Society; Mr. Camille Jojo, Member of the Insolvency Law Committee of The Law Society; Dr. Stefan Lo, Senior Assistant Law Officer (Civil Law)(Commercial) III (Acting) of the Civil Division, Commercial Unit of DOJ; Mr. Ian Mann, Head of Litigation & Insolvency Practice (HK) of Harneys; Ms. Phyllis McKenna, The Official Receiver of Official Receiver's Office; Mr. Edward Middleton, Head of Restructuring Services, Deal Advisory of KPMG China and Asia Pacific; Ms. Melissa Pang, Vice-President of The Law Society; and Mr. Rupert Purser, Senior Advisor of Burford Capital. Mr. Ian De Witt, Member of the Insolvency Law Committee of The Law Society and Mr. Victor Joffe, QC, Temple Chambers were moderators of the seminar. 287 participants attended the seminar.

### **Taxation of Costs**

A seminar entitled "Taxation of Costs" held on 16 January provided practitioners with a general overview of the procedure on costs and the law, and practical tips on taxation of costs. The speakers of the seminar were Mr. Sean Frost, Sole Proprietor of Sean Frost & Co. (Hong Kong) and Mr. Alfonso Fung, Sole Proprietor of Alfonso Fung & Co. 287 participants attended the seminar.

### **Hong Kong e-Legislation ("HKeL")**

DOJ launched a new website providing online access to Hong Kong legislation which is called "HKeL". HKeL will replace the existing "Bilingual Law Information System" ("BLIS") with effect from 1 July 2018. The Academy conducted eight briefing sessions on HKeL from April to December. Four of the briefing sessions were conducted in English and four were conducted in Cantonese. The speaker was Ms. Karmen Kwok, Senior Government Counsel from the Law Drafting Division of DOJ. The speaker demonstrated to the participants the various enhanced functions of HKeL. Over 1,200 participants attended the briefing sessions.

### **Mediation**

Mediation has become one of the primary means of alternative dispute resolution in Hong Kong with *PD 31* coming into effect on 1 January 2010.

The Academy and the Mediation Committee of The Law Society conducted four free sharing sessions on mediation. Dr. James S.P. Chiu, Specialist in General Surgery; Mr. Lung Gwun Ting, Bryan and Ms. Yip Mei Sze, Clara, Consultant of So, Lung & Associates; and Mr. Norris Yang, Partner of Zhong Lun Law Firm were the speakers. They shared their experiences with the participants on topics including the facilitative, evaluative and collaborative models of alternative dispute resolution for medical and personal injuries cases, practical tips for mediators in conducting mediation, representing a



client in mediation, child-focused and child-inclusive mediation, and parenting coordination in Hong Kong. Over 270 participants attended the sharing sessions.

In addition, a seminar entitled "Risk Management in Family Mediation Practice" was held on 27 September. Mrs. Cecilia Wong, Council Member and Chairlady of the Mediation Committee of The Law Society; Ms. Sylvia Siu, Consultant of Sit, Fung, Kwong & Shum and Member of the Board of Governors of the Hong Kong Mediation Centre were the speakers. Over 120 participants attended the seminar.

## **SAR**

*The SAR* amended by *the Solicitors' Accounts (Amendment) Rules 2012* came into effect on 1 July 2016. The Academy conducted nine courses to update practitioners and demonstrate how the revised *SAR* would operate in practice. The courses were open to practitioners, law firm support staff and representatives nominated by law firms. Vice-President Amirali Nasir and Monitoring Accountants of The Law Society were the speakers. Over 790 participants attended the courses.

## **Civil Justice Reform ("CJR")**

Since the implementation of CJR in April 2009, the Academy has provided regular training to update practitioners on the CJR. The Academy organised a series of free specialised training sessions on CJR in September. The series of specialised training sessions consisted of five modules covering topics such as case management, originating process and pleadings, sanctioned offers and sanctioned payments, evidence, trials, appeals and costs. Mr. Andrew Sheppard, Barrister-at-law; Mr. William Clarke, Consultant of Brian Kong & Company and Mr. Amirali Nasir, Vice-President of The Law Society, were the speakers. Over 610 participants attended the specialised training sessions.

## **Joint Courses with other Professions**

The Law Society and the Academy jointly organised courses of common interest with other professions and organisations including Hong Kong Bar Association, the Hong Kong Institute of Chartered Secretaries and the Hong Kong Institute of Certified Public Accountants. Six such courses were held over the year. Topics included review of the achievements and possible enhancements of the *Companies Ordinance*, Cap. 622, providing an overview of the *Financial Institutions (Resolution) Ordinance*, Cap. 628, a comparative analysis of directors' duties and legal safe harbours, shareholder stewardship, hedge fund activism, human trafficking, sexual orientation and fundamental rights. Over 670 participants attended these courses.

Pursuant to rule 9 of the *CPD Rules*, 254 practitioners were granted suspension from the *CPD Scheme* during the year. Pursuant to rule 8 of the *CPD Rules*, 11 trainee solicitors whose term of trainee solicitor contracts had been reduced from the standard two-year period were granted partial exemptions from participation in the *CPD Scheme*.

693 Statements of Compliance with CPD/RME requirements were reviewed. CPD audit

was conducted on 519 trainee solicitors and solicitors during the year. Arising from the CPD audit, general enquiries, and reports made by practitioners on their own initiatives, 17 solicitors and 21 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.

## CPD Committee

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The Committee met on one occasion during the year. Issues considered by the CPD Committee in the meeting and by paper circulation included:

- (a) review of the method of calculation of CPD points to be claimed by attendees for attending courses accredited on a segmented basis;
- (b) review of the accreditation procedures of newly established committees or working parties of The Law Society;
- (c) amendments to the 2016/17 *CPD Information Package*;
- (d) chairmanship of the CPD Accreditation Sub-Committee;
- (e) applications made by attendees for accreditation of a course conducted locally;
- (f) review of the practice of course providers in taking attendance at CPD courses and the requirement for signing out at the end of courses;
- (g) membership of *CPD Alliance*;
- (h) applications for exemption from CPD requirements;
- (i) membership of the Committee;
- (j) amendments to *CPD Guidelines 15.1(g) and 15.1(h)*.

The Committee granted two full exemptions from participation in the *CPD Scheme* to a practitioner on the ground of age during the year pursuant to rule 8 of the *CPD Rules*.

## CPD ACCREDITATION SUB-COMMITTEE

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A total of 4,963 courses, compared with 5,197 courses in 2016, were accredited as CPD courses. In terms of applications, 1,262 of the 4,963 courses were accredited on a course-by-course basis and 3,326 were accredited under the *Provider Accreditation Scheme*. The remaining 375 courses were conducted by The Law Society and the Academy. In terms of course providers, 34 of the 4,963 courses were provided by The Law Society, 369 were provided by the Academy of which 276 were provided under the *RME Programme*, 550

were provided by commercial providers, and the remaining 4,010 were provided by in-house providers such as universities, professional bodies and law firms.

Apart from dealing with the applications for accreditation of courses, the Sub-Committee met on one occasion during the year. Issues considered by the Sub-Committee in the meeting and by paper circulation included applications for renewal of accredited provider status, the irregularities of course providers and accreditation of providers, courses and activities.

The Sub-Committee accredited three new providers under the *Provider Accreditation Scheme* during the year. The total number of accredited providers was 63 as at the end of the year. The Sub-Committee approved five postgraduate or other law courses and six legal journals and books, 82 legal researches, and accredited seven committees and working parties for the purpose of compliance with the CPD requirements during the year.

Members of the Sub-Committee continued to monitor the standard of accredited CPD courses by reviewing course evaluation records and attending selected accredited courses. 14 courses were monitored during the year.

## FOREIGN LAWYERS COMMITTEE

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During 2017, there were 273 *OLQE* applications. Of these, there were

- (a) 122 applications for exemption from sitting all or part of the 2017 *OLQE* in accordance with the guidelines issued by The Law Society; and
- (b) 151 applications for eligibility to sit or re-sit the *OLQE*.

212 eligible candidates sat the 2017 *OLQE*.

The Committee reviewed and revised the guidelines for exemption from sitting Heads I to VI of the 2017 *OLQE*.

## GUIDANCE COMMITTEE

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The Committee met on three occasions and dealt with six enquiries from members and five referrals from other Committees or Departments within the Secretariat by paper circulation on matters relating to professional conduct. These matters included:

- (a) breach of undertakings in conveyancing transactions;
- (b) application of Principle 13.09 of the *Conduct Guide* to a supplementary statutory declaration which is not intended to be used directly in Mainland China;
- (c) third party funding for arbitration;

- (d) informed consent in case of conflict of interests between a solicitor and his client;
- (e) solicitor as a litigant in person under *Principle 10.09* of the *Conduct Guide*;
- (f) insertion of a document into a certified copy of a document without the consent of the attesting solicitor;
- (g) a consulting business set up by a law firm;
- (h) application of the *Promotion Code* to advertisements in a hospital;
- (i) payment of bank charges from the client accounts under rule 4(b) of the *SAR*;
- (j) communication between a solicitor acting in person and a client of another solicitor under *Principle 11.02* of the *Conduct Guide*;
- (k) confidentiality and conflict of interests between potential clients.

## LEGAL EDUCATION COMMITTEE

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

- (a) syllabi and the examination standards of the CEE;
- (b) revised *PCLL Benchmarks*;
- (c) appointment of External Examiners of CityU, CUHK and HKU;
- (d) revised accreditation standards of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications;
- (e) review of the assurance of the External Academic Advisors (“EAAs”) in the EAAs’ report;
- (f) interim report of the Consultants appointed by the Standing Committee on Legal Education and Training (“SCLET”) on the comprehensive review of legal education and training in Hong Kong;
- (g) amendments to the Programme Validation Document of the *Professional Diploma for Legal Executives*;
- (h) survey on public perceptions issued by the Vocational Training Council;
- (i) English language requirement for legal executives.

Members of the Committee attended a meeting of the Panel on Administration of Justice and Legal Services at LegCo in June to brief the Panel on the progress of the implementation of the CEE and to discuss issues relating to the PCLL and comprehensive review on legal education and training conducted by SCLET.

A sharing session with the interns of law firms was organised in July. Vice-President of The Law Society; Her Honour Judge Grace Chan, Judge of the Family Court; Mr. Simon Lai, General Counsel, Chow Tai Fook Enterprises Ltd. and Mr. Wesley Wong S.C., Solicitor General, Legal Policy Division, DOJ shared their valuable experiences with summer interns and trainee solicitors. About 85 participants took part in the sharing session.

Mr. Nick Chan and Mr. Simon Lai served as representatives of The Law Society on SCLET, which met on four occasions. The Secretary of the Committee continued to serve as Secretary of SCLET and as Secretary of the Sub-Committee of the Standing Committee on English Language Proficiency.

## **WORKING GROUP ON THE SYLLABUS OF THE CEE**

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The Working Group convened three meetings.

The Working Group considered the following in the meetings and by paper circulation:

- (a) syllabi of the CEE;
- (b) logistics of the CEE;
- (c) revised *PCLL Benchmarks*;
- (d) Trainee Solicitor Training Checklist.

## **MEDIATOR AND PARENTING CO-ORDINATOR ADMISSION COMMITTEE**

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The Committee convened three meetings.

The Committee considered the following in the meetings and by paper circulation:

- (a) establishment of a Panel of Parenting Co-ordinators;
- (b) the admission requirements for Parenting Co-ordinators;
- (c) the admission requirements for Family Mediators and Admitted Family Mediation

- Supervisors under the Mediator Admission Scheme;
- (d) extension of the Mediator Admission Scheme (for General Mediators) to cover Family Mediators and Family Mediation Supervisors;
  - (e) renaming the Mediator Admission Scheme (for General Members) as Mediator Admission Scheme;
  - (f) amendments to the Mediator Admission Scheme Information Package;
  - (g) launch of the new Mediator Admission Scheme;
  - (h) training course in evaluative mediation;
  - (i) applications for admission as General Mediators;
  - (j) applications for admission as Parenting Co-ordinators;
  - (k) applications for renewal of Panel membership;
  - (l) the feasibility of establishing a Panel of international mediators;
  - (m) invitation of the Shanghai Commercial Mediation Centre;
  - (n) complaint against a mediator;
  - (o) co-option of members of the Committee;
  - (p) terms of reference of the Committee;
  - (q) application for reinstatement of Panel membership;
  - (r) Code of Practice for Family Mediators;
  - (s) Qianhai Mediation Panel.

The *Mediator Accreditation Scheme* was formally launched in August 2005. The Law Society joined the Hong Kong Mediation Accreditation Association Ltd. (“HKMAAL”) as a Founder Member and HKMAAL commenced operation on 2 April 2013. HKMAAL resolved that all Founder Members including The Law Society should stop conducting its stage 2 mediator assessments by 15 July 2013 and accredit applicants as mediators by 15 September 2013. Thereafter, all accreditation of mediators must be conducted by HKMAAL.

In August 2015, The Law Society implemented the *Mediator Admission Scheme (General Mediators)*.

In October, The Law Society further extended the *Mediator Admission Scheme (General*

*Mediators*) to cover the admission of family mediators and family mediation supervisors and the *Mediator Admission Scheme (General Mediators)* was renamed as the Mediator Admission Scheme.

Solicitors who were not accredited by The Law Society as General Mediators, Family Mediators and Family Mediation Supervisors prior to September 2013 under the *Mediator Accreditation Scheme* may seek admission, subject to the requirements in the *Mediator Admission Scheme*, onto the Panel of Admitted General Mediators, Panel of Admitted Family Mediators and Panel of Family Mediation Supervisors through the *Mediator Admission Scheme*. Applications are considered and approved by the Committee on a case-by-case basis.

As of the end of the year, there were 199 solicitors on the Panel of General Mediators, 45 solicitors on the Panel of Family Mediators and 11 solicitors on the Panel of Family Mediation Supervisors.

71 applications for renewal of membership on the Panel of General Mediators, 21 applications for renewal of membership on the Panel of Family Mediators and five applications for renewal of membership on the Panel of Family Mediation Supervisors were processed. Audit on 15 cases was conducted. 89 applications for renewal were approved.

## OLQE COMMITTEE

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

The issues considered by the Committee in the meetings and by paper circulation included:

- (a) results of the 2016 *OLQE*;
- (b) feedback of the candidates on the 2016 *OLQE*;
- (c) the format and the logistical arrangements for the 2017 *OLQE*;
- (d) the 2017 *OLQE Information Package* and related documentation;
- (e) appointment of the Examiners and Panel Convenors and their fees ;
- (f) increases in the examination fees payable by the *OLQE* candidates;
- (g) the syllabus and reading list of each Head of the *OLQE*;
- (h) applications for special arrangements to sit the *OLQE*;
- (i) restructure of Head IV and consequential amendments to the Head IV *OLQE*

documentation including the candidate slip, instructions to candidates, announcements and examination paper;

- (j) logistical arrangements for conducting the 2017 Head V *OLQE*.

## OLQE

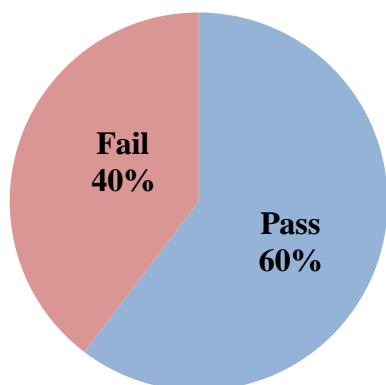
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The 23rd *OLQE* was held from 26 October to 18 December. A total of 212 candidates sat one or more written Heads of the Examination. 206 out of 212 candidates came from 20 overseas jurisdictions, eight of which were non-common law jurisdictions. The remaining six candidates were Hong Kong barristers.

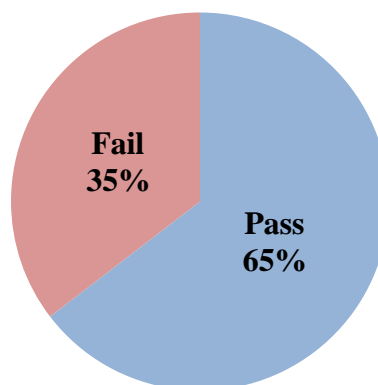
Of the 212 candidates, 108 candidates (51%) passed the Examination, having passed each of the Heads that they were required to sit. 104 candidates (49%) failed the Examination, having failed one or more of the Heads that they were required to sit.

*Figures 1 – 6 : Examination results with respect to each head of the OLQE*

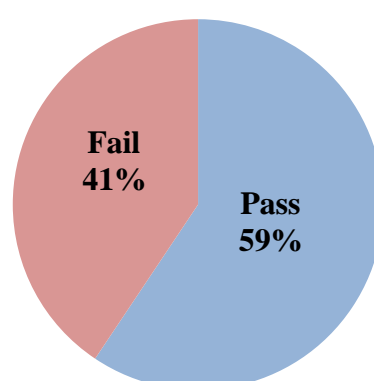
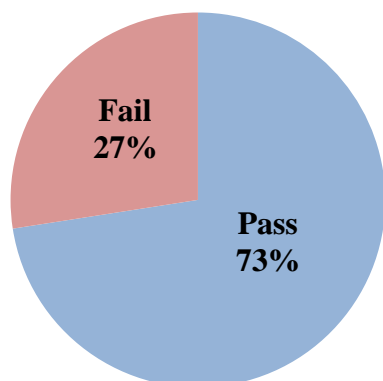
**Figure 1 :**  
**Head I – Convenancing**



**Figure 2 :**  
**Head II - Civil and Criminal Procedure**

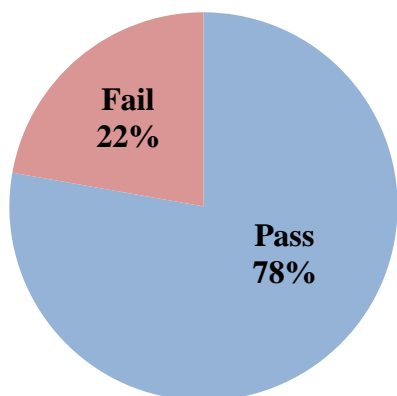


**Figure 3 :** **Head III - Commercial and Company Law**      **Figure 4 :** **Head IV – Accounts and Professional Conduct**

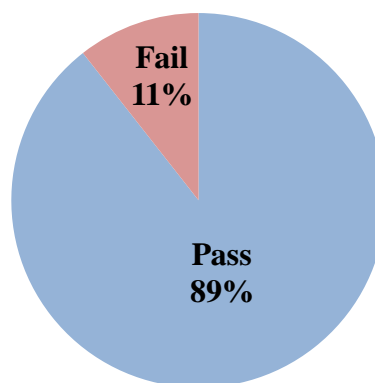




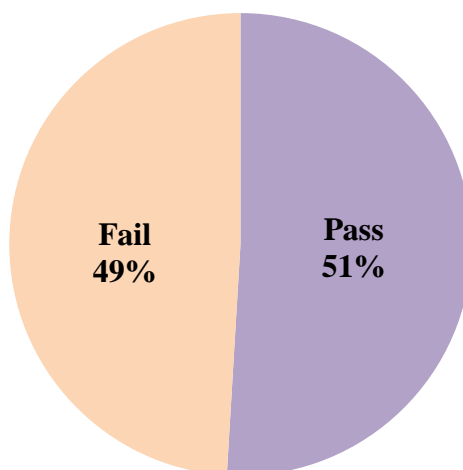
**Figure 5 :**  
**Head V – Principles of Common Law**



**Figure 6 :**  
**Head VI - Hong Kong Constitutional Law**



**Figure 7 : Overall Examination Result**

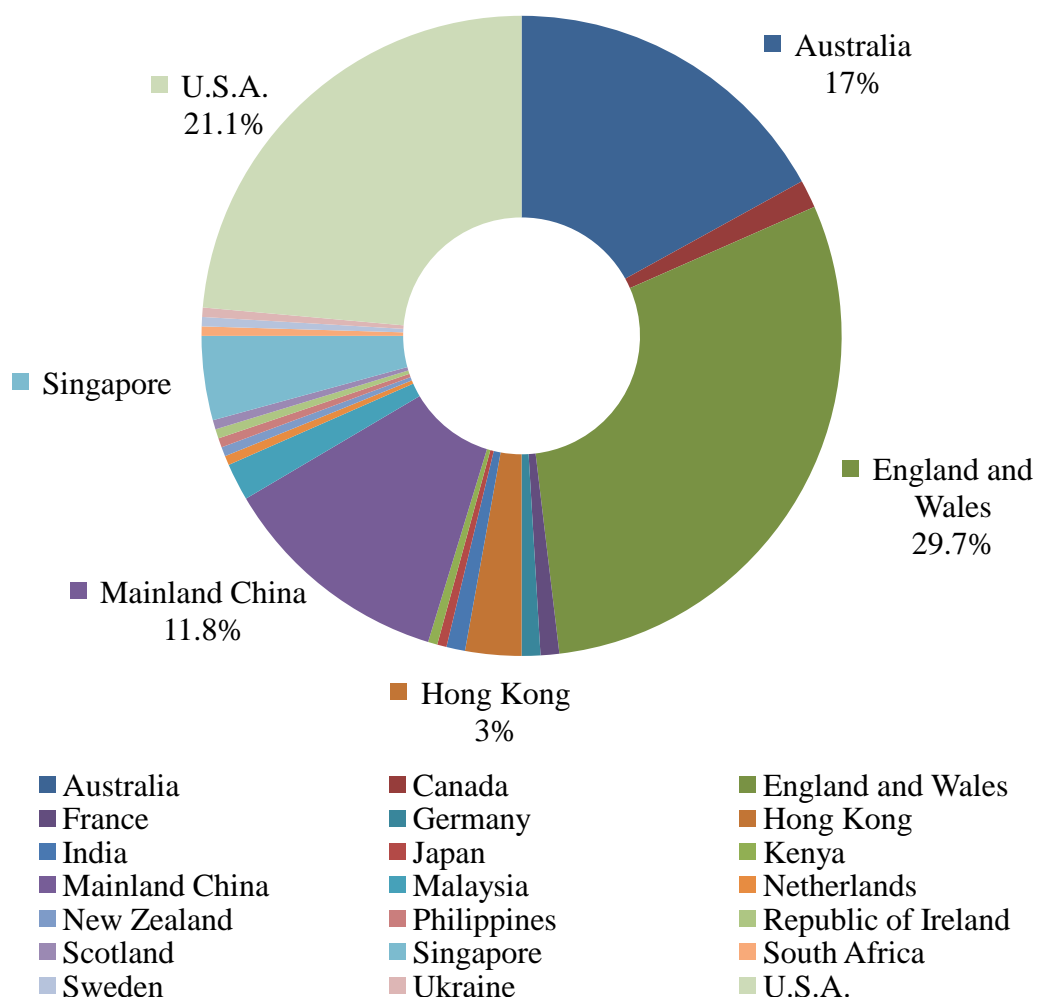


	No. of Candidates						Overall Result
	Head I	Head II	Head III	Head IV	Head V	Head VI	
<b>Pass</b>	<b>108</b>	<b>31</b>	<b>37</b>	<b>57</b>	<b>7</b>	<b>135</b>	<b>108</b>
<b>Fail</b>	<b>71</b>	<b>17</b>	<b>14</b>	<b>39</b>	<b>2</b>	<b>16</b>	<b>104</b>
<b>Total</b>	<b>179</b>	<b>48</b>	<b>51</b>	<b>96</b>	<b>9</b>	<b>151</b>	<b>212</b>

*Written Heads*  
*Oral Head*

*Head I – Head IV & Head VI*  
*Head V*

**Figure 8: Jurisdictions of the candidates**



Jurisdictions	No. of Candidates	%*	Jurisdictions	No. of Candidates	%*
Australia	36	17.0	Netherlands <sup>1</sup>	1	0.5
Canada	3	1.4	New Zealand	1	0.5
England and Wales	63	29.7	Philippines <sup>1</sup>	1	0.5
France <sup>1</sup>	2	0.9	Republic of Ireland	1	0.5
Germany <sup>1</sup>	2	0.9	Scotland	1	0.5
Hong Kong <sup>2</sup>	6	2.8	Singapore	9	4.2
India	2	0.9	South Africa	1	0.5
Japan <sup>1</sup>	1	0.5	Sweden <sup>1</sup>	1	0.5
Kenya	1	0.5	Ukraine <sup>1</sup>	1	0.5
Mainland China <sup>1</sup>	25	11.8	U.S.A.	50	23.6
Malaysia	4	1.9	<b>Total</b>	<b>212</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

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The Committee oversees 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 10 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.

Five Module 1A, five Module 1B, five Module 2A and five Module 2B of principals' core courses, two Module 1 and two Module 2 of non-principals' core courses, eight Module 1 and eight Module 2 of registered foreign lawyers' core courses, 22 Module 1 and 22 Module 2 of trainee solicitors' core courses, 20 compulsory first elective courses for trainee solicitors, and 152 elective courses 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 those participants 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 also been offered by the Academy to all trainee solicitors since 1 November 2009. Since 1 November 2014, subject to certain exceptions, all courses within the *RME Programme* have been offered free to participants.

RME courses are generally conducted in English. However, since 2010 the Academy has offered RME core courses in Putonghua to registered foreign lawyers.

The Committee convened two meetings during the year. Matters considered by the Committee in the meetings and by paper circulation included:

- (a) membership of the Committee;
- (b) progress of the review of the *RME Programme*;
- (c) development and approval of new RME electives;
- (d) amendments to the *RME Information Package*;
- (e) applications for exemption from complying with the RME requirements;
- (f) train-the-trainer courses;
- (g) recruitment of part-time tutors;

- (h) practice management course;
- (i) procedures for accreditation of committee work;
- (j) export of the *RME Programme*;
- (k) international recognition of the *RME Programme*;
- (l) evaluation forms for RME courses.

The Committee considered 74 applications for exemption from complying with the RME requirements pursuant to rule 8A of the *Legal Practitioners (RME) Rules* by email circulation and in the Committee meetings.

## **RME ACCREDITATION SUB-COMMITTEE**

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The Sub-Committee is tasked with the responsibility of reviewing applications for accreditation of RME course providers, courses and activities in accordance with the accreditation criteria.

96 applications for accreditation were processed, out of which 51 elective courses offered by law firms and other institutions and 36 elective courses offered by commercial providers were accredited.

Course provider accreditation for RME elective courses was introduced in 2007. 13 law firms accredited as RME elective course providers offered 117 elective courses in-house and 12 elective courses to the general membership of The Law Society during the year.

The Sub-Committee also considered two applications for conducting legal research and one application for participation in committees for accreditation as RME elective activities.

## **WORKING PARTY ON PRACTICE IN SERVICE CENTRES, AT HOME, IN DOMESTIC PREMISES OR BY VIRTUAL OFFICES**

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The Working Party held one meeting and continued to review the existing *PD*, rules and regulations which restrict a law firm's practice in a service centre, at home, in domestic premises or by virtual office.

The Working Party noted the factors which would be considered by the Consents Committee in determining applications for waiver of *PD D5* and rule 7 of the *Foreign Lawyers Practice Rules* relating to the prohibition against sharing of premises, staff and facilities. It agreed that any amendment to the existing *PD*, rules and regulations must address the concerns of preservation of clients' confidential information. The Working

Party would formulate a list of guidelines for the Consents Committee to deal with these applications.

To facilitate continual discussion of the relevant issues, the Working Party also exchanged substantive views through email correspondences. After the Working Party has completed the review, its recommendations will be submitted to the Standing Committee for further consideration.

## **WORKING PARTY ON THE PRACTISING CERTIFICATE (SPECIAL CONDITIONS) RULES (“SPECIAL CONDITIONS RULES”)**

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The Working Party held two meetings.

The Working Party considered the judgments of Roderick Miller (HCMP 3269/2013), Cheung Yick Hung (HCMP 1304/2016) and Chung Sze Yuen (HCMP 1305/2016) relating to the application of the *Special Conditions Rules*. The Working Party discussed the power of The Law Society to:

- (a) impose special conditions on a solicitor’s practising certificate in view of his financial circumstances;
- (b) suspend a solicitor’s practising certificate in the event of intervention;
- (c) amend an already issued practising certificate by adding such conditions as may be prescribed by the Council;
- (d) impose restrictions on employment of an unqualified person who was previously employed by an intervened firm;
- (e) deal with an application for a practising certificate under rule 5 of the *Special Conditions Rules*;
- (f) remove the special conditions imposed on a solicitor’s practising certificate.

The Working Party would propose amendments to the *LPO* and the *Special Conditions Rules*. Upon completion of the legislative drafting exercise in consultation with DOJ, The Law Society will apply to the Chief Justice for his final approval of the proposed amendments.

## **TRAINEE SOLICITORS COMMITTEE**

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The Committee considered and resolved the following matters by paper circulation:

- (a) Reply to the enquiries of a member on the *Recruitment Code*;
- (b) Minimum wages prescribed by The Law Society for trainee solicitors;
- (c) Amendments to the *Recruitment Code*;
- (d) Minimum wage prescribed by the *Minimum Wage Ordinance Cap. 608*.

## SAR COMMITTEE

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The Committee is responsible for reviewing and overseeing the implementation of the *SAR*, handling enquiries arising from the *SAR*, and formulating a set of FAQs and answers on the *SAR*.

It held two meetings and considered the:

- (a) UK Solicitors' Accounts Rules and Practice Note of the UK Solicitor Regulation Authority relating to the measures taken by law firms to prevent the incidence of dormant balances in accounts;
- (b) application of rule 8(2) of the *SAR* in the event of cessation of practice;
- (c) meanings of "client money" and "office money" in the *SAR*;
- (d) enquiries raised by the participants during the *SAR* seminars.

The Committee prepared a list of FAQs. Upon approval by the Standing Committee, the list of FAQs was posted on the website of The Law Society on 20 November.