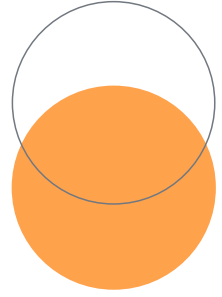


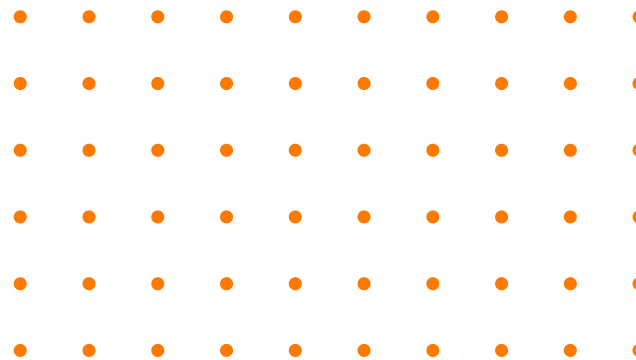


THE  
**LAW SOCIETY**  
OF HONG KONG  
香港律師會



2023

# Standing Committee on Compliance



# STANDING COMMITTEE ON COMPLIANCE

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The Standing Committee oversees The Law Society's administrative and regulatory functions, these responsibilities having been delegated to it by the Council.

The Standing Committee met eight times during the year and considered 134 agenda items (196 agenda items in 2022). A further 28 matters were dealt with by circulation of five agenda.

The Compliance Department (Conduct and Registration Sections) of the Secretariat supports the work of the Standing Committee.

## **Conduct Section**

The Conduct Section of the Compliance Department is mainly responsible for investigating allegations of professional misconduct against solicitors, foreign lawyers, trainee solicitors and employees of solicitors and foreign lawyers. In 2023, it handled 882 complaints (876 in 2022), of which 399 complaints (480 in 2022) were lodged or referred by members of the public and government organisations and 25 complaints (42 in 2022) were made by solicitors.

Particulars about the subject matters of the complaints and the nature of the alleged professional misconduct are set out in the charts below. Complaints against a respondent which involved the same subject matter and nature of professional conduct are counted as one complaint.

911 files were closed during the year, of which 449 were closed without seeking an explanation.

## **INVESTIGATION COMMITTEE**

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Investigation Committees are ad-hoc sub-committees of the Standing Committee. Three members of the Standing Committee are appointed to each Investigation Committee to consider reports prepared by the Conduct Section and to adjudicate on complaints.

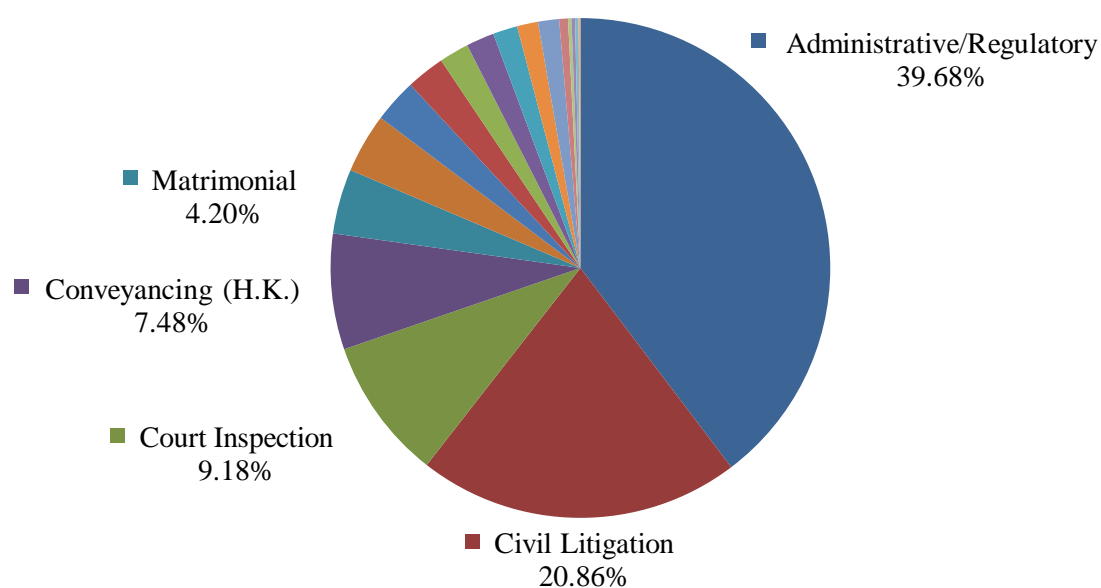
Investigation Committees may recommend to the Standing Committee to issue letters of good practice, regret or disapproval, and to submit matters to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel.

Investigation Committees considered 305 complaints by circulation of 305 agenda. (In 2022, 267 complaints were considered by circulation of 267 agenda.)

The Standing Committee reviewed two decisions of the Investigation Committees. One decision was upheld; in the other review application, the Standing Committee found that there was no case of professional misconduct on the part of the respondent and the application was rejected. (In 2022, nine decisions were reviewed.)

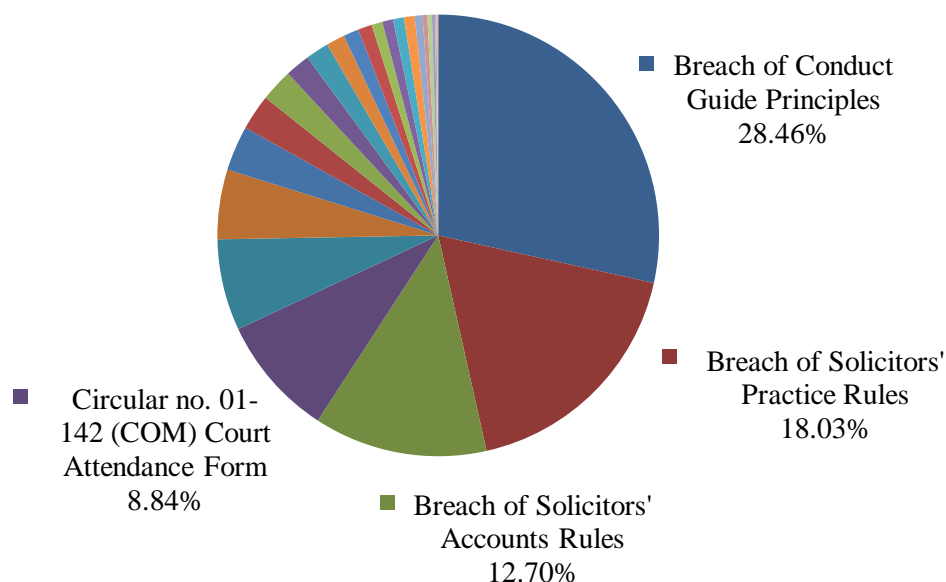
## Determination of Complaints in 2023

Figure 1: Subject matters of complaints



Subject Matters of Complaints	2023	2022	2021
Administrative/regulatory	39.68%	30.14%	38.35%
Civil litigation	20.86%	18.04%	14.68%
Court inspections	9.18%	5.94%	13.21%
Conveyancing (H.K.)	7.48%	13.58%	10.83%
Matrimonial	4.20%	4.34%	4.50%
Criminal	3.85%	6.28%	2.84%
Miscellaneous	2.83%	6.05%	3.67%
Probate	2.49%	2.74%	3.49%
Reports of purported law firms	1.93%	1.14%	1.47%
Company/commercial	1.81%	2.05%	1.65%
Bankruptcy	1.59%	1.48%	0.55%
Civil Celebrant	1.36%	4.22%	1.19%
Owners'/incorporated owners' disputes	1.36%	1.37%	1.19%
Contract	0.57%	0.68%	0.46%
Conveyancing (other than H.K.)	0.23%	0.57%	0.09%
Landlord & tenant	0.23%	1.26%	0.18%
Media/promotion	0.23%	0.11%	—
Mediation	0.11%	—	—

**Figure 2: Nature of professional misconduct**

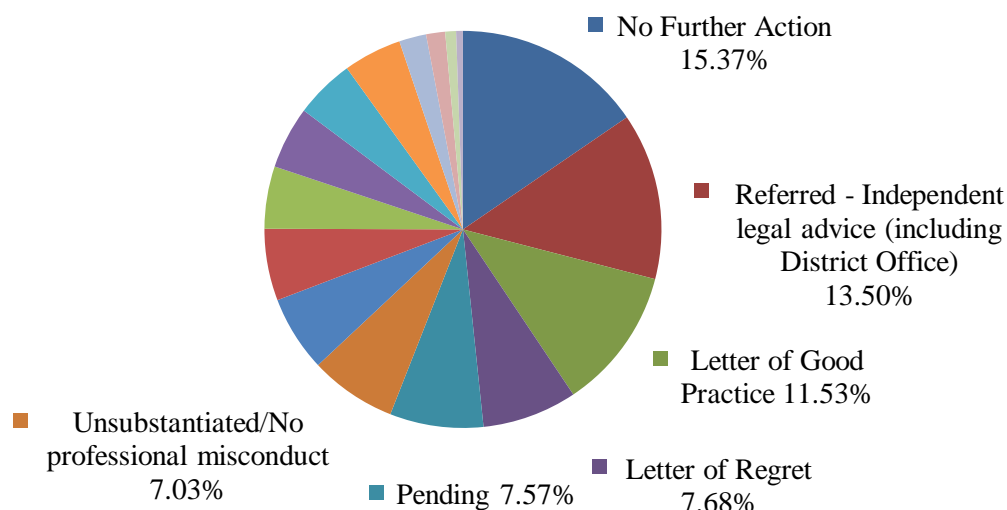


Nature of professional misconduct	2023	2022	2021
Breach of <i>Conduct Guide Principles</i>	28.46%	43.72%	31.28%
Breach of <i>Solicitors' Practice Rules</i>	18.03%	12.33%	8.62%
Breach of <i>Solicitors' Accounts Rules</i>	12.70%	13.70%	16.51%
Circular no. 01-142(COM) (Court attendance form)	8.84%	5.94%	13.49%
Miscellaneous	6.69%	5.71%	4.50%
Late submission of Accountant's Reports	5.10%	2.17%	5.87%
Failure to reply to letters on behalf of a client or to inquiries from The Law Society	3.29%	0.23%	0.37%
Misbehaviour	2.61%	1.83%	1.28%
Breach of <i>Foreign Lawyers Practice Rules</i>	2.38%	0.80%	1.01%
Unqualified persons acting or pretending to be a solicitor (ss.45-48 of the <i>LPO</i> )	1.81%	1.03%	1.56%
Overcharging	1.70%	0.80%	0.64%
Commission-taking	1.36%	3.42%	0.73%
Breach of <i>Practice Directions</i>	1.13%	0.91%	2.75%
Breach of undertaking	1.02%	1.60%	1.74%
Dishonesty	0.79%	2.97%	2.02%
Delay	0.79%	0.46%	0.09%
Inadequate service	0.79%	0.46%	0.55%
Negligence	0.79%	0.68%	1.47%
Breach of <i>Solicitors' Practice Promotion Code</i>	0.57%	0.46%	0.55%
Breach of <i>Foreign Lawyers Registration Rules</i>	0.34%	0.34%	2.75%
Non-payment of barristers' fees	0.34%	0.11%	1.19%
Conflict of interest	0.23%	0.23%	0.37%
Breach of <i>Solicitors (Professional Indemnity) Rules (general)</i>	0.11%	—	0.09%
Property fraud	0.11%	—	—
Being a partner with a conditional practising certificate (s.6(6) of the <i>LPO</i> )	—	—	0.09%

Nature of professional misconduct	2023	2022	2021
Offences in relation to foreign lawyers, etc. (s.50B of the LPO)	—	—	0.28%
Practising without a practising certificate	—	0.11%	0.09%
Touting	—	—	0.09%

“Conduct Guide” = *The Hong Kong Solicitors’ Guide to Professional Conduct* (Volume 1, 2<sup>nd</sup> and 3<sup>rd</sup> editions)  
“LPO” = *Legal Practitioners Ordinance* (Cap.159)

**Figure 3: Analysis of closed files**



	2023	2022	2021
<b>No further action</b>	15.37%	22.96%	33.04%
<b>Referred – Independent legal advice (incl. District Office)</b>	13.50%	9.39%	11.92%
<b>Letter of Good Practice</b>	11.53%	16.91%	10.15%
<b>Letter of regret</b>	7.68%	10.87%	6.18%
<b>Pending</b>	7.57%	8.09%	10.89%
<b>Unsubstantiated/No professional misconduct</b>	7.03%	6.69%	6.25%
<b>Referred – relevant Authorities</b>	6.15%	2.51%	3.53%
<b>Letter of disapproval</b>	5.82%	5.39%	3.97%
<b>Referred – Tribunal Convenor</b>	5.05%	4.83%	1.91%
<b>Unpursuable</b>	5.05%	3.25%	2.87%
<b>Withdrawn</b>	4.83%	2.32%	1.40%
<b>Referred – enforcement agencies</b>	4.72%	2.60%	2.58%
<b>Strong letter of disapproval</b>	2.20%	1.86%	2.28%
<b>Referred – taxation</b>	1.54%	0.74%	1.47%
<b>Resolved amicably</b>	0.88%	1.39%	0.96%
<b>Referred – Inspection by the Monitoring Accountant</b>	0.55%	—	—
<b>Summary Disposal</b>	0.22%	—	0.07%
<b>Referred – other departments of The Law Society</b>	0.22%	—	0.07%
<b>Referred – Joint Tribunal</b>	0.11%	0.19%	0.37%
<b>Referred – others (incl. intervention agents)</b>	—	—	0.07%

## **Applications to the Chief Judge under section 9A(2) of the *Legal Practitioners Ordinance (Cap.159)* (“LPO”)**

Under section 9A(2) of the *LPO*, where a complaint is made to the Council and the Council does not submit a matter to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel (“the Tribunal Convenor”) under section 9A(1) of the *LPO* within six months after receiving the complaint, the Chief Judge may, on application by any person or on his own initiative, submit the matter to the Tribunal Convenor if he considers that the Council ought to have done so.

In 2023, there was no application made to the Chief Judge under section 9A(2) of the *LPO*.

## **Inspections and visits**

Under section 8AA of the *LPO*, the Council is empowered to appoint inspectors to verify compliance with the provisions of the *LPO* or any *Practice Direction* (“PD”) issued by The Law Society, and to determine whether the conduct of those against whom an inspection was made should be inquired into or investigated. Section 8AA of the *LPO* stipulates the powers of an inspector in making such inquiries and investigations.

In the past year, the Investigation Counsel conducted 26 visits to 18 law firms (seven visits to five law firms in 2022). In addition, three court inspections were conducted at magistrates’ courts by the Council-appointed inspectors to verify compliance with rule 5D of the *Solicitors’ Practice Rules* (“SPR”) (Cap.159H) and to monitor the proper completion of court attendance forms.

The Monitoring Accountants visit law firms to assist them to improve their accounting procedures/systems, give advice on the best use of the Manual on Solicitors’ Accounting and inspect their books and accounts to ensure their compliance with the rules relating to solicitors’ accounting. In 2023, 83 visits were made to 42 solicitors’ firms and foreign law firms; some firms required more than one visit (78 visits to 47 firms in 2022).

## **Interventions**

The Council’s power of intervention is exercised for the protection of the public and occurs when clients’ interests are at risk. The powers vested in the Council for the exercise of an intervention under section 26A, 26B or 26C of the *LPO* are set out in Schedule 2 to the *LPO*. Once a firm has been intervened, it ceases practice. Through the intervention agents, The Law Society first takes control of the office and clients’ monies of the intervened firms and takes possession of the intervened firms’ documents. If necessary, The Law Society may commence court applications to implement the Council’s resolution to intervene. The intervention agents return documents to clients who have specifically requested their return or forward clients’ documents to other firms of solicitors on the instructions of clients. The process of distributing clients’ money of the intervened firms may involve court proceedings and in order for the intervention agents to verify and determine the claims, claimants must complete a statement of truth and declaration and produce supporting documents to substantiate their claims. Documents in the possession of the Council are indexed and kept in storage in accordance with the guidelines in Law Society Circular 12-475(PA) or until there is a Court order as to disposal or destruction.



Subject to any Court order for the payment of costs, any costs incurred by the Council in the intervention shall be paid by the solicitor or the foreign lawyer whose practice was being intervened.

The Council intervened in the practice of one solicitors' firm in 2023.

During the year, The Law Society continued to give instructions and support to the Intervention Agents, organise the indexing and storage of files, make court applications and deal with taxation in relation to the interventions. In 2023, The Law Society obtained bankruptcy orders against the former principal of two intervened firms.

## **INVESTIGATION COMMITTEE ON DISCIPLINARY MATTERS**

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The Investigation Committee (Disciplinary Matters) is the only Investigation Committee with a fixed membership drawn from members of the Standing Committee. The Committee's work includes monitoring the progress of disciplinary proceedings, appeals against the orders of the Solicitors Disciplinary Tribunal and enforcement proceedings (including bankruptcy petitions), giving instructions to prosecutors and The Law Society's legal representatives, and authorising the payments of fees incurred in disciplinary proceedings, appeals and enforcement proceedings.

In 2023, the Committee considered 76 matters by circulation of 46 agenda. (In 2022, 82 matters were considered by circulation of 44 agenda.)

### **Disciplinary proceedings and summary disposals**

A Solicitors Disciplinary Tribunal is a statutory tribunal established by the *LPO*. It is independent of The Law Society which is the prosecuting body. Members of the Solicitors Disciplinary Tribunal Panel are appointed by the Chief Justice. The Chief Justice also appoints the Tribunal Convenor and the Deputy Tribunal Convenors who are responsible for appointing a panel of three or four members to sit as a Tribunal to determine applications, and who have the power to dispose of certain classes of complaint on a summary basis.

In 2023, the Council resolved to submit a total of five matters to the Tribunal Convenor under sections 8A(3) and 9A(1) of the *LPO* concerning the conduct of five solicitors (five matters concerning six solicitors and three clerks in 2022); and the Standing Committee on Compliance resolved to submit to the Tribunal Convenor (i) five matters concerning the conduct of four solicitors under section 9A(1) of the *LPO* (six matters concerning six solicitors and one clerk in 2022); and (ii) one matter concerning the conduct of one solicitor under section 9AB of the *LPO* (there was no referral made under this section in 2022).

Two matters concerning two solicitors and one clerk were submitted to the Tribunal Convenor in 2023 (six in 2022).

Four disciplinary proceedings were determined by the Solicitors Disciplinary Tribunal in 2023, of which two decisions are subject to appeal (four disciplinary proceedings were determined in 2022). On the two decisions not subject to appeal, all the complaints were proved and the following orders were made:



Respondent	Position	Charge(s)	Penalty	Fine
1	Solicitor	<ul style="list-style-type: none"> <li>• 5 counts of Principle 6.04 of the Guide</li> <li>• 1 count of rule 2(d) of the <i>SPR</i> and Principle 13.02 of the Guide</li> <li>• 1 count of section 8(1) of the <i>LPO</i> and rule 8(2) of the <i>ARR</i></li> <li>• 1 count of rules 2(d) and 2(e) of the <i>SPR</i></li> </ul>	<ul style="list-style-type: none"> <li>• censured</li> <li>• suspended from practice as a solicitor for 12 months</li> <li>• to pay costs</li> </ul>	HK\$20,000 in respect of Complaints 2 and 5
1	Solicitor	<ul style="list-style-type: none"> <li>• 1 count of rule 7 of the <i>SAR</i></li> <li>• 1 count of Principle 13.02 of the Guide</li> </ul>	<ul style="list-style-type: none"> <li>• to pay costs</li> </ul>	<ul style="list-style-type: none"> <li>• HK\$10,000 in respect of Complaint 1</li> <li>• HK\$8,000 in respect of Complaint 2</li> </ul>

“Guide” = *The Hong Kong Solicitors’ Guide to Professional Conduct (Volume 1, 3<sup>rd</sup> edition)*

“LPO” = *Legal Practitioners Ordinance (Cap.159)*

“ARR” = *Accountant’s Report Rules (Cap.159A)*

“SAR” = *Solicitors’ Accounts Rules (Cap.159F)*

“SPR” = *Solicitors’ Practice Rules (Cap.159H)*

## Appeals and other litigation proceedings

### Appeal proceedings

In June 2023, five Respondents lodged an appeal with the Court of Appeal against the decision of the Solicitors Disciplinary Tribunal that the complaints were proved and against the sentence imposed on them.

In December 2023, two Respondents lodged an appeal with the Court of Appeal against part of the order of the Solicitors Disciplinary Tribunal regarding the sentence imposed on them. An application for leave to appeal was also lodged with the Court of Appeal by The Law Society against the order of the Solicitors Disciplinary Tribunal regarding the sentence of the two Respondents.

### Bankruptcy proceedings

In December 2023, a bankruptcy order was obtained by The Law Society against a Respondent as a result of the disciplinary proceedings instituted against him.

### Litigation proceedings

In July 2023, an application for leave to apply for judicial review was lodged against The Law Society.

In August 2023, an application to amend the Roll of Solicitors by a change of name on the Roll of Solicitors was lodged by a solicitor and evidence in response was filed by The Law Society.

## CONSENTS COMMITTEE

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The Consents Committee is a sub-committee of the Standing Committee on Compliance.

The Consents Committee decides on applications made under the *LPO*, its subsidiary legislation and The Law Society’s *PD* for (i) registration by solicitors; (ii) registration as a (a) trainee solicitor, (b) foreign lawyer and (c) foreign law firm; and (iii) consent and waiver.

The Committee met 21 times during the year and considered 430 items (22 meetings and 477 items in 2022). A further 45 matters were dealt with by circulation of three agenda (23 matters by circulation of two agenda in 2022).

The Standing Committee on Compliance reviewed two decisions of the Consents Committee; both decisions were upheld.

### Registration Section

The Registration Section of the Compliance Department processes applications and handles applications considered by the Consents Committee.

As with previous years, in conjunction with the Conduct Section, the Registration Section reviewed, processed and filed the “employees’ returns” submitted by all solicitors’ firms and foreign law firms in January of each year, and the Notification of Changes to a Practice on firms’ particulars submitted by solicitors’ firms and foreign law firms throughout the year.

### Nature of applications

Applications considered by the Consents Committee and those processed by the Registration Section during the year included:

Nature of applications	2023	2022	2021
Admissions	654	792	633
Certificates of eligibility for admission	653	617	695
Practising certificates:	11,589	11,457	10,790
Practising certificates – removal of conditions under s.6(6) <i>LPO</i> (solicitors)	234	200	207
Membership	13,234	13,144	12,795
First registration as a foreign law firm	2	3	4
First registration as a foreign lawyer	251	222	256
Renewal of registration as a foreign lawyer	1,502	1,500	1,606
Removal of conditions on certificates of registration (foreign lawyers)	102	84	81
Registration as an Association	5	4	2

<b>Nature of applications</b>	<b>2023</b>	<b>2022</b>	<b>2021</b>
Removal of name from the Roll of Solicitors	6	7	3
Restoration of name to the Roll of Solicitors	-	1	2
Qualifications for admission s.4(1A) <i>LPO</i>	46	74	82
Employment of staff: s.53(1) <i>LPO</i>	6	1	4
s.53(3) <i>LPO</i>	7	2	7
Practising certificates – removal of conditions under s.6(6A) <i>LPO</i>	25	29	37
Practising certificates – Special Conditions	10	1	31
Registration of first trainee solicitor contracts	546	556	686
Registration of subsequent trainee solicitor contracts	93	131	114
Special leave to employ trainee solicitors	12	10	22
Other trainee solicitor matters (e.g. rules 8, 9, 9A, 11 <i>TSR</i> )	186	151	109
Law costs draftsmen	1	2	5
Accountant’s report – solicitors’ firms	939	949	950
Accountant’s report / statutory declaration – foreign law firms	79	89	93
Firm name and letterhead	16	10	15
Waiver applications – under <i>SPR</i>	2	5	8
Waiver applications – under <i>PD</i>	2	2	1
Registration of new associate member	3	4	—
Certificates of standing for solicitors or foreign lawyers	1,253	1,227	1,403
Certificates of standing for solicitors’ firms or foreign law firms	20	15	20
Letters regarding employment or training visas	214	217	186
Authorised solicitors’ clerks	24	37	35

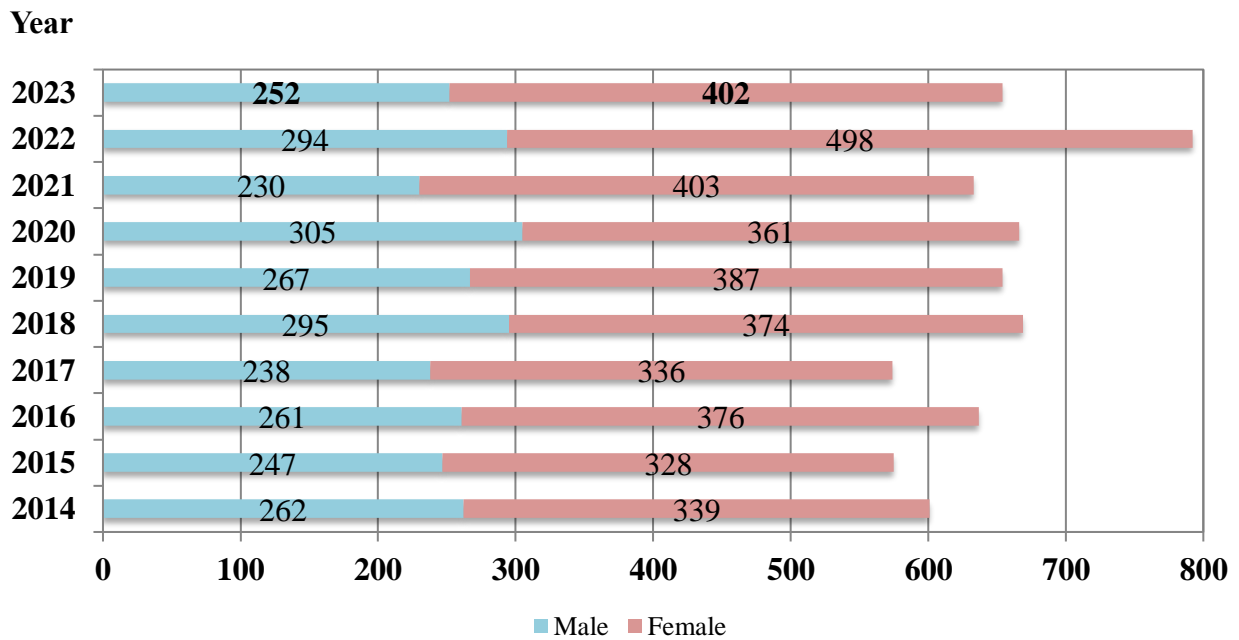
“*LPO*” = *Legal Practitioners Ordinance* (Cap.159)

“*SPR*” = *Solicitors’ Practice Rules* (Cap.159H)

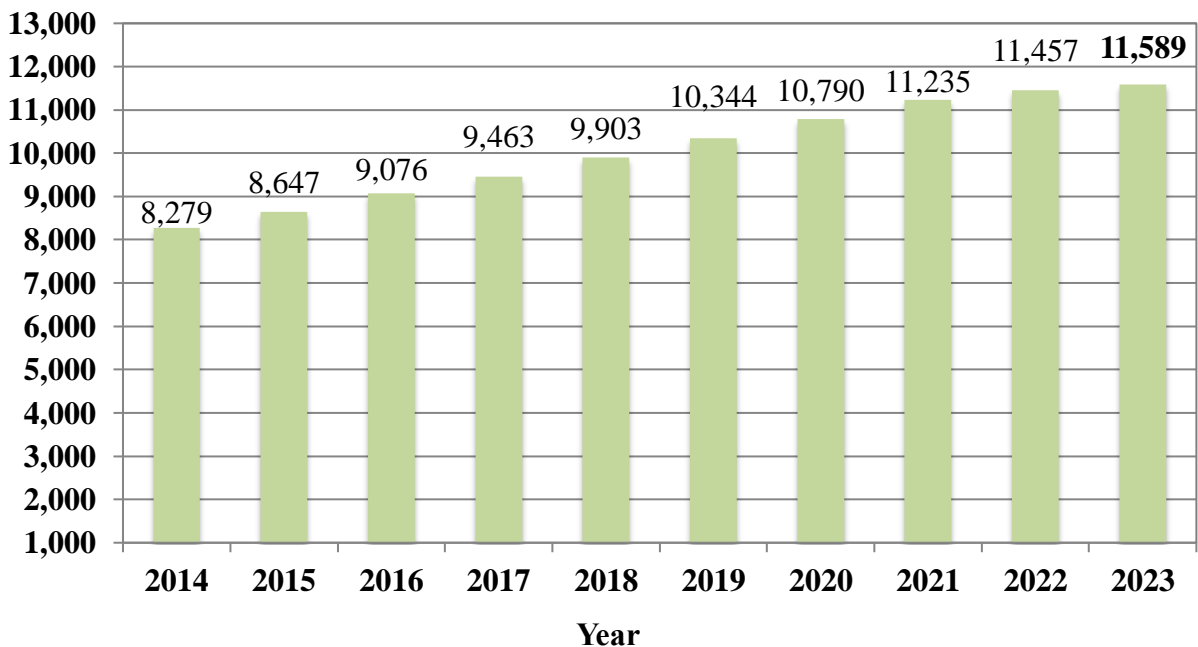
“*TSR*” = *Trainee Solicitors Rules* (Cap.159J)

“*PD*” = *The Law Society’s Practice Directions*

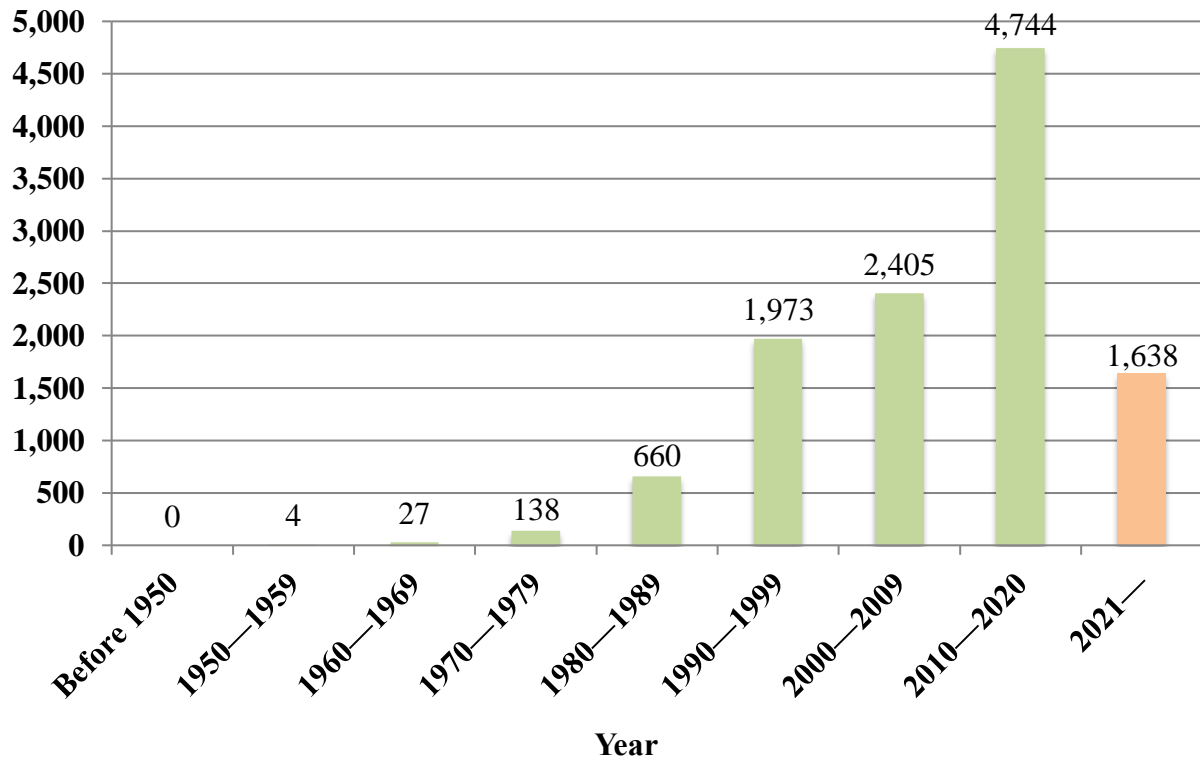
**Figure 4: Admission of solicitors 2014 – 2023**



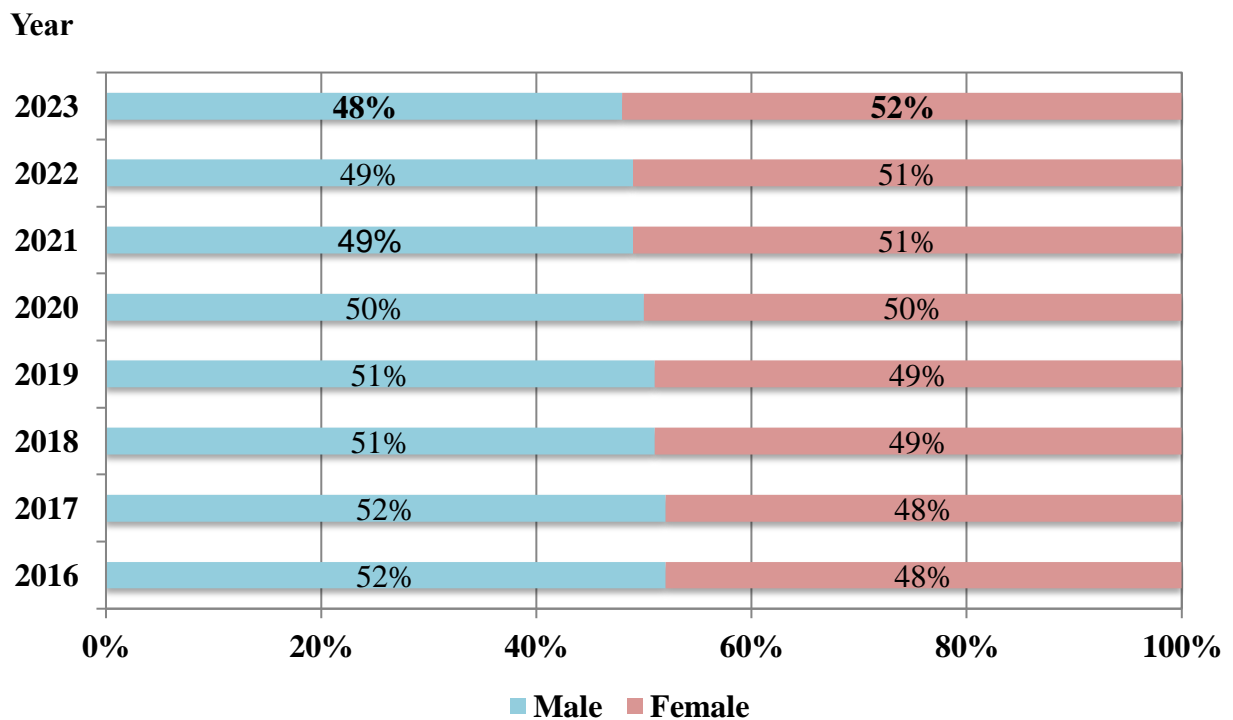
**Figure 5: Solicitors holding practising certificates 2014 – 2023**



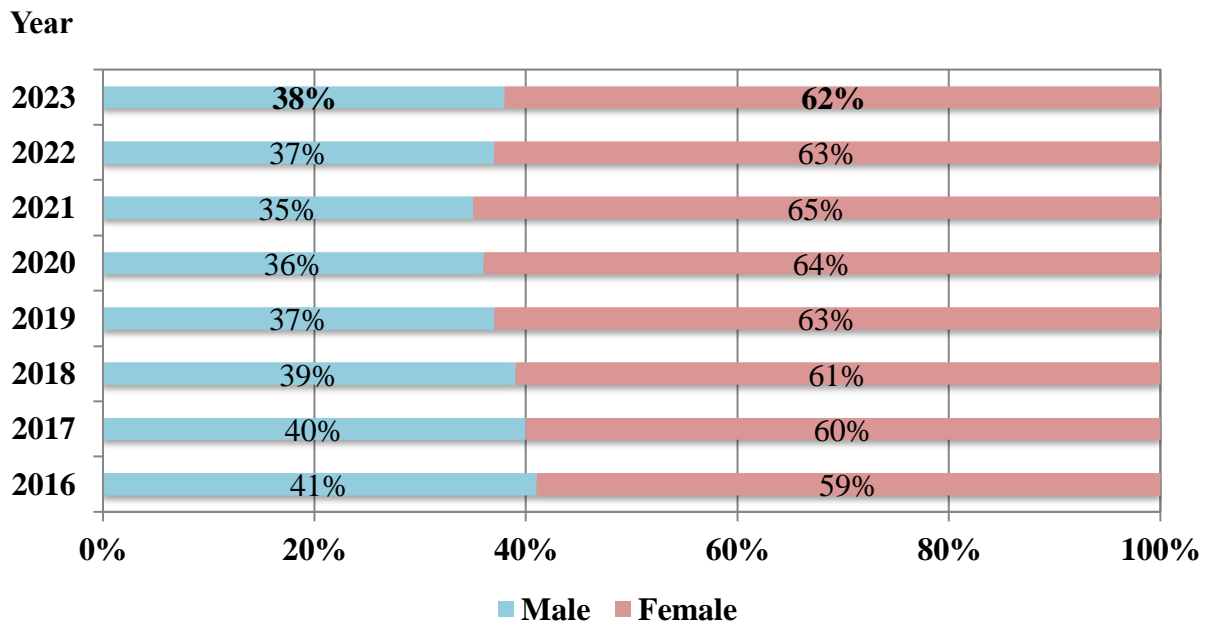
**Figure 6: Years of admission – solicitors holding a 2023 practising certificate**



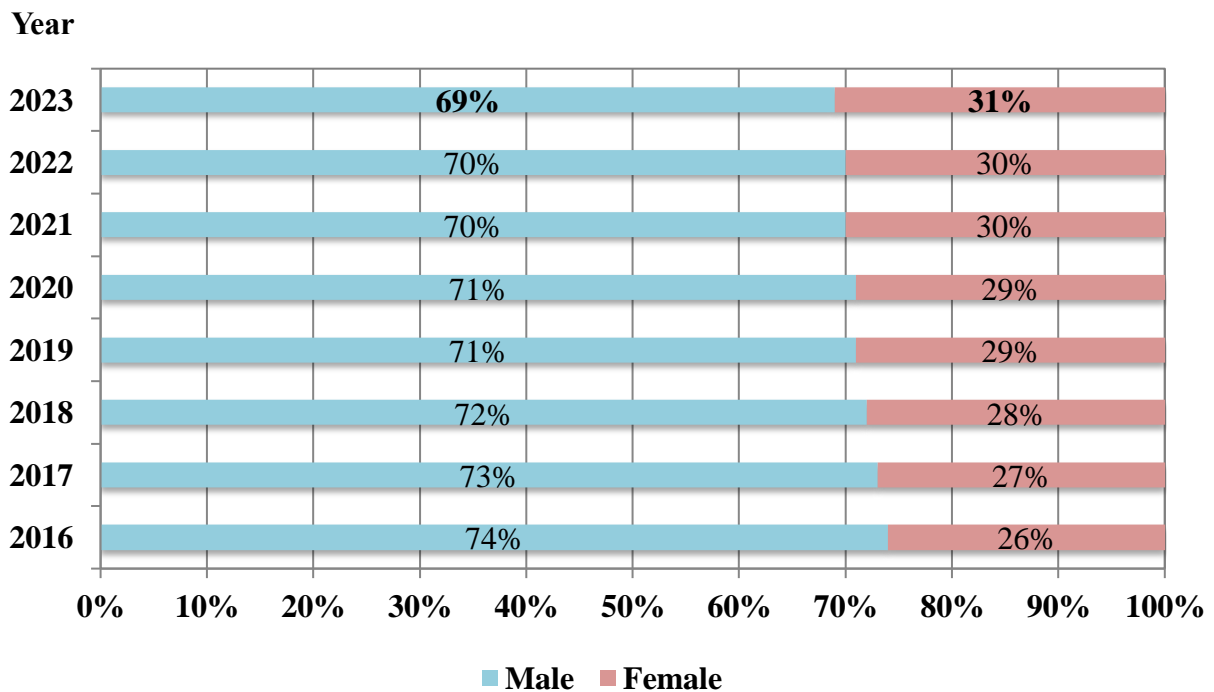
**Figure 7a: Gender ratio – Solicitors holding a practising certificate (2016 – 2023)**



**Figure 7b: Gender ratio – Trainee solicitors 2016 – 2023**



**Figure 7c: Gender ratio – Partners 2016 – 2023**





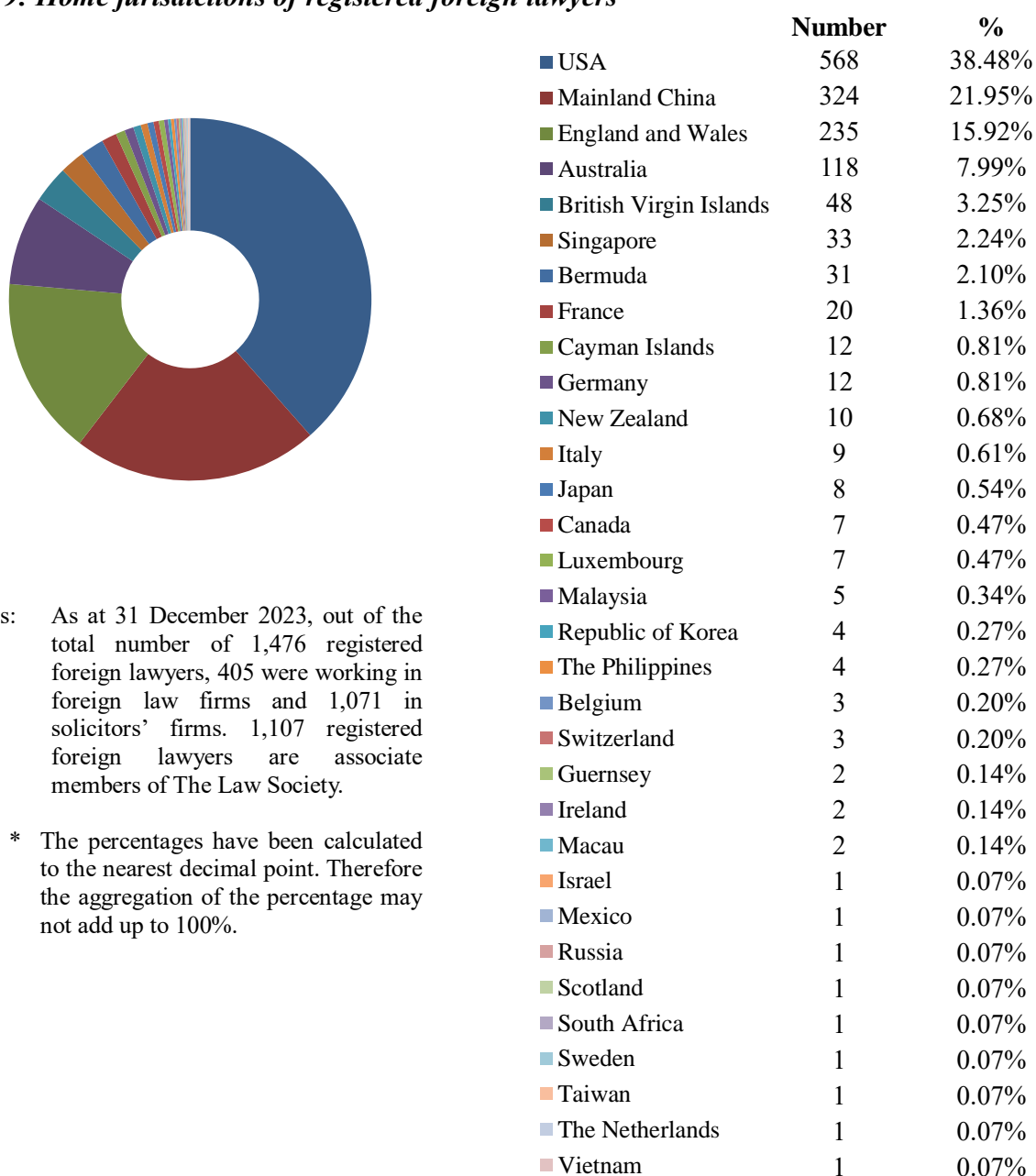
**Figure 8: Size of solicitors' firms and number of trainee solicitors in 2023**

Size of firm	No. of firms		No. of trainee solicitors	
	2023	2022	2023	2022
Sole practitioners	430	436	66	80
2 – 5 partners	384	386	276	321
6 – 10 partners	51	48	174	179
11 – 20 partners	45	47	287	308
Over 20 partners	16	14	245	237
<b>Total</b>	<b>926</b>	<b>931</b>	<b>1,048<sup>#</sup></b>	<b>1,125<sup>*</sup></b>

<sup>#</sup> excluding 26 in government and 4 working “in-house”

<sup>\*</sup> excluding 24 in government and 4 working “in-house”

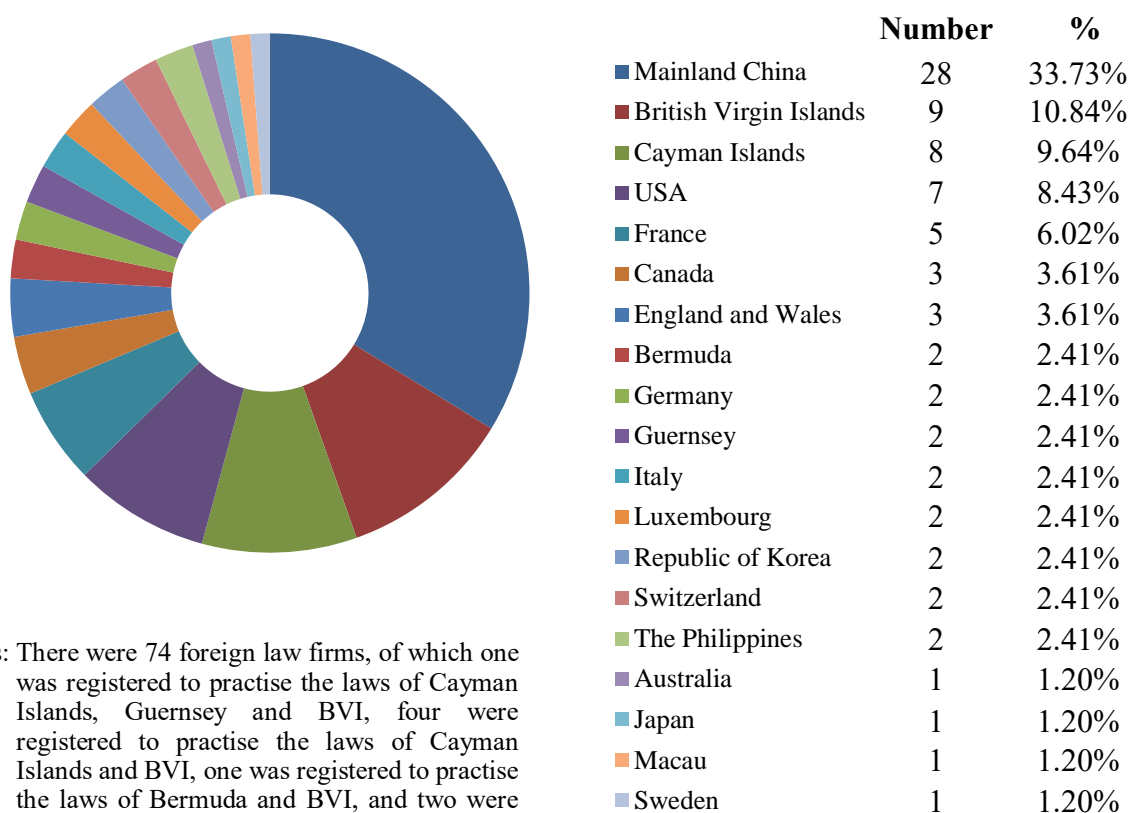
**Figure 9: Home jurisdictions of registered foreign lawyers**



Notes: As at 31 December 2023, out of the total number of 1,476 registered foreign lawyers, 405 were working in foreign law firms and 1,071 in solicitors' firms. 1,107 registered foreign lawyers are associate members of The Law Society.

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

**Figure 10: Home jurisdictions of foreign law firms**



Notes: There were 74 foreign law firms, of which one was registered to practise the laws of Cayman Islands, Guernsey and BVI, four were registered to practise the laws of Cayman Islands and BVI, one was registered to practise the laws of Bermuda and BVI, and two were registered to practise the laws of England and Wales and USA. (In 2022, there were 77 foreign law firms.)

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

There were 33 Associations registered between foreign law firms and solicitors' firms (36 in 2022). Two new foreign law firms commenced practice (two in 2022). Five foreign law firms were closed, four of which established local practice. (In 2022, nine foreign law firms were closed, three of which established local practice.)

There were 14,769 unqualified staff members employed by solicitors' firms at the end of 2023 (15,215 at the end of 2022). In addition, there were 658 unqualified staff members employed by foreign law firms at the end of 2023 (672 in 2022).

The Standing Committee oversees the work of the Conduct Section in administering the authorised solicitors' clerks scheme and has delegated its power to the Consents Committee to consider applications. By December, there were 629 authorised solicitors' clerks (653 in 2022).

The Law Society continued to waive subscription fees for student members in 2023. By the end of the year, there were 405 student members registered with The Law Society (228 in 2022).

At the end of December, the number of Law Society Approved Law Costs Draftsmen was 38 (41 in 2022).