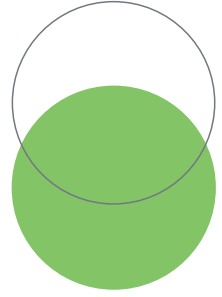


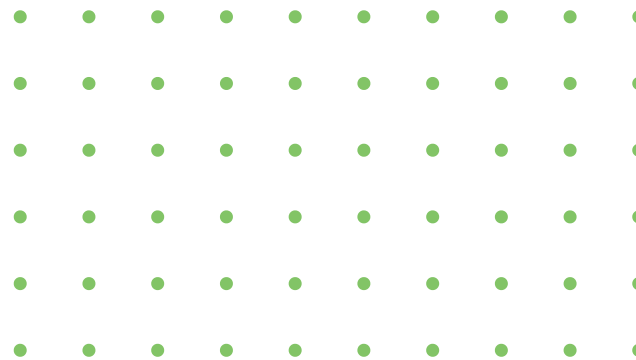


THE
LAW SOCIETY
OF HONG KONG
香港律師會



2023

Standing Committee on Practitioners Affairs



STANDING COMMITTEE ON PRACTITIONERS AFFAIRS



The Standing Committee on Practitioners Affairs considers and keeps under review matters relating to law reforms, legal practices and legal procedures, and makes relevant determinations. It receives and reviews draft statements and submissions prepared in response to consultations from the Judiciary Administration, Government departments, the Law Reform Commission (“LRC”), public bodies, and other stakeholders. It also makes recommendations at policy levels to the Council of The Law Society on matters pertinent to legislative amendments, and law-related policies of the HKSAR Government, such as those included in the Chief Executive’s Policy Address and the Government Budget.

The Standing Committee had nine meetings in 2023, with deliberations between meetings by email circulation. During the year, the Standing Committee oversaw the work on, among others, submissions prepared by the specialist committees in response to public consultations sent to The Law Society. It also helped discuss and approve draft submissions.

Overseeing the specialist committees

The Standing Committee supported the work of 30 Committees and Sub-committees, as well as nine Working Parties and a number of sub-committees and task groups. Some of these committees have set up ad hoc focus groups to help examine various issues.

The Standing Committee provided guidance and direction to the above committees, sub-committees and working parties on their administration, such as co-option, reviews of terms of reference and membership, as well as enrolment exercises.

Law reform initiatives

The Standing Committee received from its specialist committees a number of proposals on law reforms and legislative amendments which aimed to bring the relevant legislative regimes up-to-date.

There were policy discussions on law reforms held by the respective specialist committees that the Standing Committee oversaw. Some of the legislative proposals which have been considered and deliberated by the specialist committees are set out in the respective sections of those committees in this report. These legislative and policy proposals were reviewed and where appropriate endorsed by the Standing Committee.

Legislative amendments and reform initiatives

The Standing Committee examined an array of legislative amendments to ordinances, regulations and statutory codes. It took notice of, for instance, the attendances by the various specialist committees of the meetings of the Panel on Administration of Justice and Legal Services (“AJLS Panel”) of the Legislative Council (“LegCo”) and rendered assistance to those discussions.

Apart from the above, various committees had meetings with policy bureaux, government departments, law enforcement agencies, the Judiciary, the Hong Kong Bar Association, the Legal Aid Department, regulators etc. to consider different legal matters.

Use of Court Technology

Use of Court Technology continued to be one of the important initiatives the Standing Committee was closely monitoring. Among other things, the Standing Committee noted the Judiciary Administration arranged guided tours for members and their representatives to the District Court for briefing and demonstration of the Integrated Court Case Management System. The Standing Committee welcomed progress and development towards e-litigation.

Reviews of *Practice Directions*, *Guidance Notes* etc.

Several specialist committees took the initiative to review *Practice Directions* issued by the Judiciary and made recommendations thereon. The Personal Injuries Committee, for example, was reviewing *Practice Directions 18.1* while the Mental Health Law Committee took up a review of *Practice Directions 30.1*. Other specialist committees kept a review of matters within their practices.

ARBITRATION COMMITTEE

The Arbitration Committee keeps under review developments in arbitration practices, and makes recommendations thereon to the Council of The Law Society. To help with the workload, the Committee this year co-opted five members.

Legislative Developments relating to Arbitration

The Committee discussed and/or provided views on the following.

Guidance Note and Checklists for Outcome Related Fee Structures for Arbitration

The *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022* (“*Amendment Ordinance*”) and the *Arbitration (Outcome Related Fee Structures for Arbitration) Rules* came into full implementation in December 2022. Under these statutory provisions, lawyers (as defined in the *Amendment Ordinance*) in Hong Kong are allowed to enter into Outcome Related Fee Structures for Arbitration (“ORFSA”) agreement for arbitration work. In April, the Advisory Body on ORFSA (a body provided for under the *Amendment Ordinance*) set up a Working Group on ORFSA to devise a checklist to assist parties in reviewing issues before and when they are to consider entering into an ORFSA

agreement. Two members of the Committee were nominated to join the Working Group. They provided views to the Advisory Body on ORFSA on a draft guidance note and draft Checklists for ORFSA. The Department of Justice (“DOJ”) in November published the Guidance Note and Checklists for ORFSA.

Promotion of Solicitor-Arbitrators

To help promote arbitration practices in Hong Kong and the Mainland, including the Greater Bay Area (“GBA”), the Committee considered various initiatives and matters, including the following.

(a) Exploring Business Opportunities in the GBA

The Committee corresponded with various dispute resolution institutes in the GBA, exchanged views with them on The Law Society’s arbitration services, and discussed issues of mutual relevancy and explored opportunities. In May, the Chairman of the Committee led a delegation to visit the Shenzhen Court of International Arbitration (“SCIA”) in Qianhai, Shenzhen. The delegation, among other things, introduced and explained The Law Society’s Panel of Arbitrators to the SCIA. The visit was fruitful and both organisations agreed to establish a closer working relationship on the promotion and development of arbitration in Hong Kong and the GBA.

(b) Promotion to the Business Sector

With a view to promoting the use of arbitration to resolve disputes, the Committee reached out to the business community and introduced and promoted arbitration as a form of dispute resolution. With this initiative, in April, the Committee held a cocktail reception with the EMBA Alumni Association of the Chinese University of Hong Kong. Graduates of the EMBA Class who attended the reception were greeted by not only the Chairman of the Committee but also the President of The Law Society, both of whom delivered encouraging welcome speeches. Also in attendance were key personnel and/or senior management of conglomerates and companies. They expressed an interest in knowing more about the potential use of arbitration in resolving business disputes in the course of the daily business.

Review of Arbitration Practices

(a) On-line arbitration

The Committee deliberated development of arbitration practices in the post-COVID environment, including online arbitration. Online arbitration is one of the fast-growing practice areas in arbitration. Various ideas on the development and promotion of online arbitration in Hong Kong and the GBA were put up for discussion.

(b) Review of the *Hong Kong Solicitors' Guide to Professional Conduct*

Upon invitation, the Committee assisted the discussion on proposals to update the *Hong Kong Solicitors' Guide to Professional Conduct*.

Participation in Arbitration-Related Events and Activities

The Committee supported the following events on arbitration this year:

- (a) “New Arbitration Funding Options in Hong Kong – Making Your Best Informed Choice” Seminar (in February);
- (b) *CIArb (EAB) Young Members Group 4th Annual Conference* (in February);
- (c) *FDI Moot Shenzhen 2023* (in August); and
- (d) *AALCO Annual Arbitration Forum 2023* (in December).

Training Courses in Arbitration

Continual training on arbitration is essential for solicitor-arbitrators and the general membership of The Law Society. It is important for members to be made aware of and be equipped with updates on knowledge and skills for arbitration. This year, the Committee made a recommendation to the Hong Kong Academy of Law to organise a training course on ORFSA, including the newly published the Guidance Note and Checklists for ORFSA.

Arbitrators Admission Sub-Committee

The Arbitrators Admission Sub-Committee (“Sub-committee”) is established under the Committee to assist with the establishment and maintenance of the Panel of Arbitrators of The Law Society of Hong Kong (“Panel”). The Panel comprises solicitors with demonstrably strong experience in resolving various types of disputes.

The Sub-committee receives and considers empanelment applications. By the end of the year, the Panel had 29 solicitor-arbitrators.

CIVIL LITIGATION COMMITTEE

The Civil Litigation Committee met on three occasions this year and conducted the rest of its business by emails.

Consultation Papers

The Committee has been engaged in reviewing, considering and discussing with the Judiciary, the DOJ, the LegCo and other statutory/professional bodies and providing comments on various consultations. These included the following.

Proposed amendments to *Practice Directions* on Company Matters

The Committee and the Insolvency Law Committee jointly reviewed a consultation paper by the Judiciary on its proposed amendments to *Practice Directions* on Company Matters. Views of the two Committees were consolidated into a submission, which was sent to the Judiciary in March.

Practice of swearing of affidavits outside Hong Kong

The Committee in May was invited for views on the practice of swearing of affidavits outside Hong Kong for use in Hong Kong courts. Views of the Committee, together with those from other specialist committees, were relayed to the consulting body in July.

Draft *Practice Direction* on Reciprocal Enforcement on Mainland Judgments in Civil and Commercial Matters

The Committee received a consultation paper from the Judiciary on its draft *Practice Direction* on Reciprocal Enforcement on Mainland Judgments in Civil and Commercial Matters. A submission was produced and submitted to the Judiciary in December.

Proposed Legislation and *Practice Directions* for the Implementation of Integrated Court Case Management System in the Small Claims Tribunal

The Committee considered a Judiciary’s consultation paper on its proposed legislation and *Practice Directions* for the Implementation of Integrated Court Case Management System in the Small Claims Tribunal. A submission was prepared and was submitted to the Judiciary in December.

Government 2023-2024 Budget

In response to a consultation on the Government 2023-2024 Budget, the Committee provided views and assisted to prepare a written submission. The submission was sent to the Financial Secretary in February.

Policy Address 2023

The Committee offered comments on a public consultation on the Policy Address 2023. Comments of the Committee, together with those from other specialist committees, were consolidated into a submission. The submission was sent to the Chief Executive’s office in September.

Issues on Civil Litigation Practice

Extended Pilot Scheme on Case Settlement Conference in Civil Cases in the District Court

The Committee noted the Pilot Scheme on Case Settlement Conference in Civil Cases in the District Court had been extended for a further two years from 3 January, with the introduction of Mediator-assisted Case Settlement Conference and a mechanism of party-driven Case Settlement Conference/Mediator-assisted Case Settlement Conference. An updated Guidance Note was issued by the Judiciary and took effect on 3 January.

Solicitors’ hourly rates for party and party taxation in civil proceedings

The solicitors’ hourly rates for party and party taxation (“SHRs”) in civil proceedings were reviewed once every four years. Following the conclusion of the first four-yearly review (2018-2022) of SHRs, the Judiciary Administration informed The Law Society that the SHRs should be maintained at the existing level for the next four years, i.e. until about end of 2025 when they are due for the next regular review. In January, the Committee wrote to the Judiciary and relayed views on the subject matter.

Approval time on applications for leave to issue bankruptcy proceedings

Jointly with the Insolvency Law Committee, the Committee in March relayed to the Judiciary some initial suggestions on how to improve the approval process for applications for leave to commence bankruptcy proceedings.

Apart from the above, the Committee noted, discussed, commented and/or raised suggestions on various issues pertinent to civil litigation practices, including the following:

- Vine Formula
- Proposals to improve the tax appeal system in Hong Kong
- The Law Society's information pamphlet on water seepage
- Memorandum of Understanding signed by the Supreme Court of Singapore and the Supreme People's Court of the PRC on cooperation on the management of international commercial disputes
- A Guide for Persons with Disabilities, Legal Practitioners and Parties involved in the Judicial Process, published by the Equal Opportunities Commission
- Judiciary's Consultation on the proposed amendments to *Practice Directions* on Company Matters
- Judgment of *SKA v TI* (FCMC 3496 of 2018, [2023] HKFC 176)
- Research on service of documents on the Mainland
- Judicial Remuneration Review 2023
- Proposed amendments to the *Hong Kong Solicitors' Guide to Professional Conduct*.

Attending meetings of the AJLS Panel of the LegCo

The Chair and/or the Vice-Chair of the Committee, together with office bearer(s) of The Law Society and/or other representative(s) of specialist committees, attended meetings of the AJLS Panel in respect of the following matters:

- The *Courts (Remote Hearing) Bill* (3 May)
- Court waiting time (24 July).

Circulars

The Committee issued the following circulars to assist members with the updated civil practice and procedure:

- Admission Proceedings (issued in January)
- Integrated Court Case Management System – Further Facilitation (issued in February)
- Briefing-cum-Demonstration on Key Functions of the iCMS for Law Firms (issued in March)

- Briefing-cum-Demonstration on Key Functions of the iCMS for Law Firms in June and July 2023 (issued in May)
- Applications made by Letters (issued in May)
- *Practice Directions* on Company Matters (issued on July)
- Briefing-cum-Hands-on-Demonstration on Key Functions of the iCMS for Law Firms in August and September 2023 (issued in July)
- Choice of Counsel (issued in September)
- Briefing-cum-Demonstration on Key Functions of the iCMS for Law Firms in October and November 2023 (issued in September)
- Briefing-cum-Demonstration on Key Functions of the iCMS for Law Firms in December 2023 and January 2024 (issued in November)
- Adjustments to the Mode of Registry Business at the District Court (issued in November)
- Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645) – Thematic Website of the DOJ (issued in December)
- Hong Kong Institute of Certified Public Accounts – Requests for Nomination or Appointment of CPA (issued in December)
- Bailiff’s Office – Practice and Procedure (issued in December).

COMPANY LAW COMMITTEE

The Company Law Committee considers and keeps under review matters relating to company law practices, listing rules and takeovers. It reviews consultation papers from stakeholders including The Hong Kong Exchanges and Clearing Limited and the Securities and Futures Commission (“SFC”).

In September the Committee received from the Stock Exchange of Hong Kong Limited (the “Exchange”) a Consultation Paper on “GEM Listing Reforms”. In the Consultation Paper the Exchange put out proposals on, among other things, a new streamlined transfer mechanism for eligible Growth Enterprise Market (“GEM”) companies to transfer to the Main Board, a new alternative eligibility test for companies in the high-growth segment, and removal of quarterly reporting requirements. The Committee studied the paper. Among other things, the Committee considered it was important to consider measures that would address the structural problems of GEM. If GEM was to be revitalised, the proposed measures should go beyond merely introducing the proposed new alternative eligibility criteria. These views and other comments on the Consultation Paper were set out in a submission, which was sent to the Exchange in November.

Apart from the above submission on GEM Listing Reforms, submissions were prepared this year on the following:

- *Proposals to Expand the Paperless Listing Regime and Other Rule Amendments*

- *Rule Amendments Following Mainland China Regulation Updates and Other Proposed Rule Amendments Relating to PRC Issuers*
- *Enhancement of Climate-related Disclosures under the Environmental, Social and Governance Framework*
- *Proposed Amendments to the Codes on Takeovers and Mergers and Share Buy-backs*
- *Proposed Amendments to Listing Rules relating to Treasury Shares*
- *Proposed Company Re-domiciliation Regime in Hong Kong.*

External Representation

The Law Society continued to be represented on the Companies Registry Customer Liaison Group.

COMPETITION LAW COMMITTEE

The Competition Law Committee met once this year and conducted the rest of its business by emails.

Joint dawn raids

The Committee continued its review on the practice of dawn raids conducted by the Competition Commission. Dawn raids are provided for under the *Competition Ordinance* (Cap.619). They could be carried out by the Competition Commission itself or as a joint operation with the Hong Kong Police, other law enforcement agencies and relevant organisations in appropriate cases. The Committee's attention was drawn to practices of dawn raids jointly held by the Competition Commission and other law enforcement agencies, and in April wrote to the Competition Commission to seek clarifications on issues arising from these joint operations. While in correspondence with the Commission, the Committee noted two other joint dawn raids conducted in August. The Committee was liaising with the Competition Commission for a meeting to discuss issues commonly arising from joint dawn raids.

Cross-border investigations and cooperation with other competition regulators

The Committee noted the Competition Commission on 19 July signed a Memorandum of Understanding with Guangdong Administration for Market Regulation to strengthen cooperation between two authorities in the advancement of competition policy and law in the Greater Bay Area.

Right of audience before the Competition Tribunal

The Committee took note of a decision by His Honour Judge Harris in *Competition Commission v Gray Line Tours of Hong Kong Ltd and Others* (CTEA1 of 2022, [2023] HKCT 3).

Media interview on competition law issues

The Vice-Chair of the Committee attended a media interview on competition law issues in June.

CONSTITUTIONAL AFFAIRS AND HUMAN RIGHTS COMMITTEE

The Constitutional Affairs and Human Rights Committee had three meetings this year and conducted the rest of its business via email circulation. Various matters of constitutional importance were brought to the attention of the Committee.

The Committee noted the interpretation of the *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region* (“NSL”) by the Standing Committee of the Thirteenth National People's Congress (“NPCSC”) in accordance with Article 65 of the NSL. The NPCSC issued an interpretation of Article 14 and Article 47 of the NSL (“the Interpretation”) and clarified the question as to whether an overseas solicitor or barrister not qualified to practise generally in Hong Kong could participate by any means in the handling of work in cases concerning offence endangering national security. The Committee also noted the *Legal Practitioners (Amendment) Bill 2023* issued in March which aimed to address potential national security risks associated with the participation of such lawyers in such cases, in line with the spirit of the Interpretation.

The Committee also took note of a legislative proposal to amend the *Criminal Procedure Ordinance* (Cap.221) to introduce a mechanism for appeal against acquittal by the Court of First Instance constituted by a panel of three judges for cases concerning offences endangering national security.

The Committee kept under review various matters which were of significance and/or relevancy to constitutional law and human rights issues in Hong Kong. Some examples are:

- The rights of parentage
- The rights related to same-sex marriage in Hong Kong

- Proposed measures to update and streamline the compulsory sale regime put up to expedite the redevelopment of the ageing building stocks, and to enhance protection of the private property rights of minority owners affected by compulsory sale
- EOC Consultation on Draft Guide: “Equal Access to Justice for Persons who are Deaf and Hard of Hearing”
- Various court judgments including *Q and Tse Henry Edward v Commissioner of Registration* [2023] HKCFA 4 (policy on application by a transgender person to change the gender marker on the identity card); and *Lai Chee Ying v The Committee for Safeguarding National Security of the HKSAR and another* [2023] HKCFI 1382 (refusal of leave to apply for review of a decision of the Committee for Safeguarding National Security of HKSAR and a related decision of the Director of Immigration in relation to a re-application by an overseas counsel to represent a defendant in a criminal case involving national offences).

CRIMINAL LAW AND PROCEDURE COMMITTEE

The Criminal Law and Procedure Committee considers and keeps under review matters relating to the law, procedures and practices of criminal litigation. This year, the Committee had nine meetings and discussed various issues on criminal law and practice. To cope with the workload, the Committee issued an ad hoc co-option circular in November to invite interest from the general membership.

Consultations and Reviews

The Criminal Procedure (Amendment) Bill

The Committee in January received from the DOJ a consultation paper on the *Criminal Procedure (Amendment) Bill*. The DOJ proposed statutory procedures for the prosecution to appeal against rulings of no case to answer by Court of First Instance judges. The Committee reviewed the paper and among other things, considered the Court of Appeal judgment in *Re Secretary for Justice’s Reference Nos. 1-3 of 2021* [2022] HKCA 1635. It provided comments to the DOJ in February.

The Chairman of the Committee and the office bearers of The Law Society attended a meeting of the AJLS Panel in late February and relayed to the Panel the Committee’s comments and suggestions on the above proposal.

Appeal against acquittal by the Court of First Instance for national security cases

The Committee in April received from the DOJ another consultation paper on the appeal protocol from the Panel of three judges for national security cases. The DOJ proposed to amend the *Criminal Procedure Ordinance* (Cap.221) to provide for a statutory

procedure for the prosecution to appeal by way of case stated against a verdict or order of acquittal by the Court of First Instance constituted by a panel of three judges to try a case concerning offences endangering national security without a jury.

The Committee supported the policy objective of the proposal, as public interest required that an erroneous verdict of acquittal by the panel for national security cases be corrected and there should be a proper mechanism in place for that purpose. These views, together with other comments on the legislative proposal, were sent to the DOJ in May.

The Chairman of the Committee and the office bearers of The Law Society attended a meeting of the AJLS Panel in May and briefed the Panel on the Committee's views on the above proposal.

The Legal Practitioners (Amendment) Bill 2023

The *Legal Practitioners (Amendment) Bill 2023* put forward a regime for ad hoc admissions for overseas lawyers who are not qualified to practise generally in Hong Kong to handle cases concerning national security. The Committee had a discussion on the above *Amendment Bill* and provided views to the Government on, among other things, the drafting of the *Amendment Bill* and suggestions to help the public understand the schemes for applications under the *Amendment Bill*. These views were sent to the Government in April.

Mandatory Reporting of Child Abuse Bill

The *Mandatory Reporting of Child Abuse Bill* was gazetted on 2 June. It set out a proposal for the legislative framework for a mandatory reporting regime for child abuse cases. The Committee studied the above Bill and provided views. Comments on, for example, the drafting of the Bill, the age of the children under protection, the professionals who were mandated to report, scenarios giving rise to the reporting, the defence to be made available etc., were set out in a submission together with views of the Family Law Committee of The Law Society. The submission was sent to the DOJ in July.

Crowdfunding

The Financial Services and the Treasury Bureau ("FSTB") published a consultation paper in December 2022 on a proposal to enhance regulation of crowdfunding activities, and launched a three-month public consultation. A sub-group was set up under the Committee to study the consultation paper. The sub-group reviewed the papers and provided comments to the Committee, including a proposal to set up a Crowdfunding Affairs Office to oversee the transparency and accountability of fundraising activities, and powers of enforcement in cases of fraud, terrorism or threat to national security. These views were endorsed by the Committee. They were incorporated with comments

from other specialist committees into a joint submission, which was sent to the FSTB in March.

Courts (Remote Hearing) Bill

The Committee was consulted on the use of remote hearings for criminal trials. While the Committee in principle welcomed more use of court technology, insofar as the use of remote hearings for criminal trials was concerned, the Committee at this stage expressed reservations. The Committee considered that at the moment, there were limitations in terms of principle and practice in adopting remote hearings for all criminal proceedings. In some cases, and for some specific stages of criminal proceedings, physical presence of the defendant in court was important, and remote hearings could be ordered only in exceptional circumstances as directed by the Court.

The Chairman of the Committee attended a meeting of the AJLS Panel in May to further explain the above.

Court waiting time

The Vice-Chairman of the Committee attended a meeting of the AJLS Panel in July to express concerns on the long court waiting time. By reference to the statistics produced by the Judiciary itself, the Committee noted that the court waiting time for criminal proceedings across various levels of courts had substantially increased over the past five years. It was said that a defendant was now waiting much longer before his/her criminal proceedings could be concluded, notwithstanding the fact that *Practice Directions* on case management were issued.

Other Reviews

The Committee discussed and reviewed the following:

- A proposal to amend section 84 of the *District Court Ordinance* (Cap.336) to clarify the applicable mode of service of documents for appeals by way of case stated
- Practice of swearing of affidavits outside Hong Kong
- Legal aid assignments for solicitors and solicitor-advocates
- Legal visits to Correctional Services Department facilities
- Rule 5D of the *Solicitors' Practice Rules* (Cap.159H)
- The practice on bind-over
- Empanelment of the Examining Panel (Criminal) for the Higher Rights of Audience Assessment Board
- Public Consultation on the 2023-2024 Budget
- Consideration of a proposal similar to the Green Form Scheme in the UK, and
- Representation on the Duty Lawyer Service Council.

Criminal Legal Aid Rates

The Committee kept under consideration the biennial review of criminal legal aid rates. The biennial review aims to update the criminal legal aid fees prescribed under Rule 21 of the *Legal Aid in Criminal Cases Rules* under the *Criminal Procedure Ordinance* (Cap.221).

LegCo AJLS Panel meetings

The Chairman or the Vice-Chairman of the Committee attended meetings of the AJLS Panel for discussion of the following matters:

- (a) The *Criminal Procedure (Amendment) Bill* (27 February)
- (b) The proposed creation of a Principal Government Counsel post in the Prosecutions Division of the DOJ (3 May)
- (c) The *Courts (Remote Hearing) Bill* (3 May)
- (d) Proposal to amend the *Criminal Procedure Ordinance* by the *Criminal Procedure (Amendment) Bill* (22 May)
- (e) Report on implementation of enhancement measures to the legal aid system (22 May)
- (f) Issues related to court waiting time (24 July).

Discussions and liaison with stakeholders

The Committee held various discussions and/or meetings with various stakeholders including the Judiciary Administration, law enforcement agencies, the DOJ, the Hong Kong Bar Association, the Duty Lawyer Service, the Legal Aid Department, to discuss matters of mutual concern. These matters included administrative measures which were put in place during the COVID pandemic, as well as legal visits to detention facilities.

Two members of the Committee were on The Law Society's Working Party on Use of IT in Judicial Process and helped deliberate the use of court technology. The Chairman and a member were on the Duty Lawyer Service Council.

EMPLOYMENT LAW COMMITTEE

The Employment Law Committee conducted its business by emails. It considered and reviewed the following employment law related matters this year:

- (a) **Extreme weather conditions** – In the aftermath of Super-typhoon Saola in September, the Committee reviewed the existing legislation on guidance (if any) to employers and employees in extreme weather conditions when announced by the Government. After deliberation, the Committee in December wrote to the Labour and Welfare Bureau to propose to define the rights and obligations of employers and employees working under extreme conditions and suggested that legislative

amendments should include principles for protecting the safety and interests of both employers and employees.

- (b) ***Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022*** – The *Occupational Safety and Occupational Health Legislation (Miscellaneous Amendments) Bill 2022* was gazetted on 13 May. The Bill seeks to amend the *Factories and Industrial Undertakings Ordinance* (Cap.59) and the *Occupational Safety and Health Ordinance* (Cap.509), as well as their subsidiary legislation, to increase the penalties for occupational safety and health (“OSH”) offences so as to enhance their deterrent effect for better protection of workers’ OSH. The Bill received passage at the LegCo in June.
- (c) **Practice of lawyers and litigants in the swearing of affidavits outside Hong Kong** – The Committee in May received enquiries on the practice of lawyers and litigants in the swearing of affidavits outside Hong Kong for use in Hong Kong Courts. The Committee discussed and offered its views on the matter.
- (d) ***Designated Savings Accounts for Severance Payment and Long Service Payment Bill*** – The Bill aims to provide the legal basis for setting up a compulsory savings scheme for meeting employers’ potential severance payment and long service payment expenses, following the abolition of the offsetting arrangement under the Mandatory Provident Fund system.

FAMILY LAW COMMITTEE

The Family Law Committee met six times during the year. In addition, meetings were held with various stakeholders, including the Judiciary, Labour and Welfare Bureau, Home and Youth Affairs Bureau, the Hong Kong Bar Association, the Hong Kong Family Law Association and LegCo members, to discuss a wide range of family law related issues. The Committee conducted its business also by emails.

The Committee reviewed an array of matrimonial matters, including:

Children Proceedings (Parental Responsibility) Bill

The *Children Proceedings (Parental Responsibility) Bill* (“Bill”) represents efforts and attempts to bring forth the important concept of parental responsibility and the focus on children’s best interests. A draft of the Bill was put forward for public consultation in 2015/2016. The legislative exercise was not taken forward at that time, when there were calls from a few sectors of the community for provision of more support services for families.

The Committee maintained that the concepts of parental responsibility, domestic violence and child abuses intersect and overlap with one another. The Bill played an important role in addressing these issues. It was important that the legislation of the Bill should not be delayed. Various meetings with stakeholders were held this year to deliberate the progress of the legislative exercise of the Bill, including meetings with the Labour and Welfare Bureau and various LegCo members. In June, the Committee wrote to the Panel on Welfare Services to assist the discussion of the Panel at a meeting in July.

Family Procedure Bill

The *Family Procedure Bill* seeks to consolidate various procedural rules of the family justice system. It was gazetted in March. Upon invitation, members of the Committee attended a meeting with a LegCo member and other stakeholders in April to share views on proposals to improve court procedures for family justice system. Members of the Committee also attended a meeting of the LegCo Bills Committee on the *Family Procedure Bill*.

The Bill was passed in June, and the provisions on the establishment of the Family Procedure Rules Committee for making family-related court procedures came into effect. Two members of the Committee were nominated for appointment to the Family Procedure Rules Committee. The Committee anticipates that a set of draft *Family Procedure Rules* will be released for consultation.

Mandatory Report of Child Abuse Bill

Under the *Mandatory Report of Child Abuse Bill*, among others, certain professionals are required to report suspected serious child abuse cases. The Bill was gazetted in June. Views of the Committee on the Bill were relayed to the Criminal Law and Procedure Committee of The Law Society, which produced a submission in July.

Masters system in the Family Court

A Masters system for the Family Court was put in place in October under which the Registrar and Masters of the Family Court are empowered to take up certain case management functions of Family Judges. The Committee noted that this would alleviate the workload of the Family Judges, thereby enabling more expeditious disposal of the relevant proceedings. To help implement the system, the Committee offered comments and suggestions on the new Masters system to the Judiciary.

Proposed establishment of a Maintenance Board in Hong Kong

The Committee upon invitation had a meeting with a LegCo member in February to exchange views on defaults on maintenance payments, the problems arising therefrom, and possible impacts upon the social welfare system.

Following the release of “*Further Study on the Phenomenon of Divorce in Hong Kong*”, which was commissioned by the Home Affairs Bureau (now known as the Home and Youth Affairs Bureau) and which aimed to improve evidence-based policy making on maintenance order, the Committee in March had a meeting with the Home and Youth Affairs Bureau and discussed the proposed establishment of a maintenance board in Hong Kong.

District Court (Fixed Costs in Matrimonial Causes) Rules (Cap.336F)

Fixed costs are available for matrimonial causes under the *District Court (Fixed Costs in Matrimonial Causes) Rules (Cap.336F)*. Private practitioners can choose whether to elect fixed costs for matrimonial cases, be it a legal aid assignment or not. However, if it is a legal aid assignment, they will be routinely asked to elect fixed costs. The last review of fixed costs was in 2000. Since 2014, the Committee has liaised with the District Court Rules Committee, the Judiciary Administration, the Judiciary’s Family Court Users Committee (now known as Family Proceedings Court Users Committee) and the Legal Aid Department to propose upward adjustments of the fixed costs and to extend the fixed costs arrangement to the new family court practices.

The Committee in October noted that the Government planned to table at the LegCo amendment rules to adjust the level of fixed costs.

Consultation on practice of swearing of affidavits outside Hong Kong

The Committee was invited to offer views on the practice of swearing of affidavits outside Hong Kong for use in Hong Kong. Comments of the Committee, together with those from other specialist committees, were relayed to the consulting body in July.

Review on Consent Summons

With the assistance of an ad hoc task group set up under the Committee, the Committee reviewed the process and the drafting of consent summonses relating to ancillary relief and children arrangement. The review was to continue with further deliberations by the Committee.

Court waiting time

A member of the Committee, together with an office bearer of The Law Society and representatives from other specialist committees, attended a meeting of the LegCo AJLS Panel in July and offered observations on the problem of long court waiting time in the Family Court.

Other family related matters

The Committee took note of and/or considered the following:

- the Vine Formula
- *Practice Directions* 15.9, 15.11 and 15.13
- Section 33 of the *Family Law Act 1996* (UK) – Home Rights
- Judgment of *SKA v TI* (FCMC 3496 of 2018, [2023] HKFC 176)
- Public consultation on the Policy Address 2023
- Proposed training on child advocates
- Proposed seminar on private financial adjudication
- Proposed amendments to the *Hong Kong Solicitors' Guide to Professional Conduct*
- Research on service of documents on the Mainland.

Circulars

The Committee approved and issued circulars to members on the following matters:

- *Practice Directions* 15.9, 15.11 and 15.13 (issued in April)
- Further Revised *Practice Direction* 15.9 on Estimate of Costs for Family Proceedings (issued in May)
- Briefing on Master System in Family Court (issued in August)
- Implementation of a Master System at the Family Court – General Directions 1.1 and 1.2 (issued in September)
- Briefing on Family Master System (issued in October)
- Master System in Family Court Practice Issues (issued in October).

Events

- **RTHK Radio Programme Series in celebration of the 115th Anniversary of The Law Society of Hong Kong**

In March, two Committee members spoke in the RTHK Radio Programme Series known as 《法律是咁的》.

- **Training Course on Basic Understanding of Related Ordinances and Court Proceedings on Child Custody and Guardianship**

In June, two Committee members delivered a presentation for the Social Welfare Department on “Basic Understanding of Related Ordinances and Court Proceedings on Child Custody and Guardianship”.

- **Sharing Session on Domestic and Cohabitation Relations Violence Ordinance and Application for Injunction Order**

In September, two Committee members attended a sharing session for the Social Welfare Department on “Domestic and Cohabitation Relations Violence Ordinance and Application for Injunction Order”.

INSOLVENCY LAW COMMITTEE

The Insolvency Law Committee met once this year and conducted the rest of its business by emails.

Proposed amendments to *Practice Directions* on company matters

The Judiciary invited comments on its proposed amendments to various *Practice Directions* relating to court practices for cases involving company matters at the Court of First Instance. The Committee and the Civil Litigation Committee reviewed the proposed changes and made a joint reply in March.

Approval process for applications for leave to commence bankruptcy proceedings

The Committee and the Civil Litigation Committee, in February, relayed to the Judiciary their concerns on the length of time generally taken by the Court to grant leave to present a bankruptcy petition under the relevant statutory provisions. Upon receipt of a reply from the Judiciary, the two committees relayed further suggestions to the Judiciary in March on improvement to the relevant procedures.

Review on Winding Up Regime – setting aside statutory demands

The Committee was invited to render views on an apparent lack of a protocol (statutory or otherwise) to set aside winding up proceedings. The Committee produced a detailed response in June.

Public consultation on Policy Address 2023

The Committee was consulted on the Policy Address 2023. The Committee expressed views on the legislative progress of the *Companies (Corporate Rescue) Bill*. Views of the Committee, together with those from other specialist committees, were consolidated into a submission, which was sent to the Government in September.

Insolvency regime of Hong Kong

The Chairman and two members of the Committee together with an office bearer of The Law Society and two Council members, attended an exchange session on Cross-border Insolvency organised by the DOJ in October. At the exchange session, stakeholders shared views and experience on the shortcomings of the current insolvency regime of Hong Kong. A follow-up letter was sent to the FSTB in October, to urge the Bureau to follow up with the views canvassed at the exchange session. The Committee received a reply from the FSTB in November and was considering the matter further.

Circulars

The Committee issued circulars to members on the following subject matters:

- Provisional Trustees/Trustees under the Bankruptcy Ordinance and Provisional Liquidators/Liquidators under the *Companies (Winding Up and Miscellaneous Provisions) Ordinance* – Lifting of Social Distancing Measures (issued in February)
- Reasonable Time for Trustees-in-Bankruptcy to issue No Objection Letter to Discharged Bankrupts (issued in March)
- Provisional Trustees/Trustees under the *Bankruptcy Ordinance* (Cap.6) – 2023 Consumption Voucher Scheme (issued in March)
- *Practice Directions* on Company Matters (issued in July)
- *Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023* (issued in July)
- *Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023* – Commencement Notice (issued in October)
- Launch of Phase 1 of the Official Receiver’s Office Electronic Submission System (issued in December).

Attending external meetings

Two members of the Committee, as representatives of The Law Society, attended regular meetings of the Official Receiver’s Office Services Advisory Committee (“OROSAC”) throughout the year. The OROSAC helps monitor the service quality and standards of the Official Receiver’s Office.

INSURANCE LAW COMMITTEE

The Insurance Law Committee conducted its business by emails.

Consultation Papers

The Committee considered and reviewed the following:

Consultation on establishing a Policy Holders' Protection Scheme

The Committee considered a consultation paper on establishing a Policy Holders' Protection Scheme, released by the FSTB in February. The Committee produced a written submission, which was sent to the FSTB in March.

Consultation on the introduction of a company re-domiciliation regime in Hong Kong

The Committee was consulted on the FSTB's proposed introduction of a company re-domiciliation regime in Hong Kong. A briefing session by the FSTB was arranged in May. The Vice-Chair, two members of the Committee as well as the office bearers of The Law Society and members from other specialist committees, attended the briefing. The Committee reviewed the proposal and, jointly with other specialist committees, produced a submission to the FSTB in July.

Public consultation on the Policy Address 2023

Views of the Committee on the Policy Address 2023, together with those from other specialist committees, were consolidated into a submission. The submission was sent to the Chief Executive's Office in September.

Consultation on the draft *Insurance (Valuation and Capital) Rules (Cap.41R)* and the draft *Insurance (Submission of Statements, Reports and Information) Rules (Cap.41S)*

In December, the Insurance Authority released a consultation paper on the draft *Insurance (Valuation and Capital) Rules* and the draft *Insurance (Submission of Statements, Reports and Information) Rules*. The Committee was reviewing the draft rules and preparing a submission.

Other insurance law related issues

The Committee took note of the following:

- A report on “Periodical Payments for Future Pecuniary Loss in Personal Injury Cases”, published by the LRC in January
- The legislative progress of the *Insurance (Amendment) Bill 2023*, which sought to provide the legal framework to implement a Risk-based Capital regime for the Hong Kong insurance industry. The Bill was passed by the LegCo in July
- A draft proposal on licensing and related fees to be payable by insurance intermediaries from 23 September 2024 onwards, released by the Insurance Authority in October.

INTELLECTUAL PROPERTY COMMITTEE

Discussions and Reviews

The Intellectual Property Committee has constantly been working hard in engaging on discussions of a number of issues on the development of intellectual property (“IP”) law and practices in Hong Kong. Apart from an internal virtual meeting, members of the Committee in June met with the Intellectual Property Department (“IPD”) of the HKSAR Government and had extensive discussions on an array of IP matters. In addition, and from time to time, members of the Committee attended meetings of various working groups and practice groups, as well as with other stakeholders including representatives from the IPD, to exchange views. Some of the discussions are outlined below.

(a) Introduction of a Patent Box Incentive in Hong Kong

The Committee received from the Commerce and Economic Development Bureau a proposal to introduce a Patent Box tax incentive for Hong Kong sourced IP income. The proposal aimed to encourage businesses in Hong Kong to engage in more research and development and IP trading activities. The Chairman and a few members of the Committee attended an online briefing in September on this proposal and shared views. After further deliberation, the Committee provided a submission which was sent to the Government in October.

(b) Implementation of the Madrid Protocol

To prepare for the implementation of the Madrid Protocol, the Committee and other stakeholders had a number of meetings among themselves and with the IPD to consider the application of the Madrid Protocol and the Madrid Protocol Regulations and the practice of the International Bureau and the Registry under

the Madrid System. The Committee also reviewed the relevant draft rules and proposed training for IP legal practitioners in anticipation of the implementation of the Madrid Protocol. These meetings and reviews are continuing.

(c) Regulation of Questionable IP Agents’ Practices

The Committee observed that IP agents of questionable qualification are operating in Hong Kong and noted that the agents professed to have legal qualifications which were not recognised in Hong Kong or they used company names which suggested they might be law firms when in fact they were not. The Committee proposed that a basic set of regulations be introduced to regulate the conduct of IP agents. The Committee is considering the follow-up actions.

(d) Government 2023-2024 Budget

The Committee was invited to offer suggestions on the Government 2023-2024 Budget. Among other things, the Committee considered that it was important to formulate relevant policies and provide sufficient fiscal support to the IPD on the development of IP-related initiatives to help Hong Kong enhance her competitiveness in the IP landscape. A joint submission incorporating the above and views of other specialist committees was prepared and sent to the Government in February.

(e) 2023 Policy Address

Likewise, the Committee was consulted on the 2023 Policy Address of the Government. In the opinion of the Committee, the Government needed cross-bureau collaborations with educational institutions, industry bodies, public and private enterprises to devise and implement holistic policies and strategies to strengthen HKSAR’s overall IP capability to meet the new opportunities and challenges. The above views, together with views from other specialist committees, were sent to the Government in September.

(f) Proposed amendment to Chapter 1 of the *Hong Kong Solicitors’ Guide to Professional Conduct (Volume 1)* (“*Guide*”) in the context of IP practice

The Committee discussed a proposed amendment to the *Guide* regarding the introduction of a requirement for written retainers in IP practice. The Committee reviewed the proposal and provided views.

(g) Enhancing Competitiveness (Regional Intellectual Property Trading Centre)

Representatives of the Committee attended a consultation session about Enhancing Competitiveness (Regional Intellectual Property Trading Centre) chaired by the Financial Secretary in August, together with representatives of other IP groups and other stakeholders to exchange views on work which could be done to enhance, fortify and expand Hong Kong's IP trading and role in the region.

Promotion of IP

(a) Business of Intellectual Property (“BIP”) Asia

The Law Society continued to be the supporting organisation to the BIP Asia Forum. The Forum was jointly organised by the Hong Kong SAR Government and the Hong Kong Trade Development Council. It brought together IP professionals and business leaders from around the world to discuss the latest developments in the IP world and to explore business collaboration opportunities. This year, the Forum was themed “IP & Innovation: Steering New Economic Growth” and was held on 7 and 8 December.

The Committee again rendered support to the Forum. The Chairman chaired the plenary session “Underpinning Brand Success: IP Strategies in the Digital Era”. The Vice Chairlady spoke on “Basic Concepts of IP Trading”. Members of the Committee also spoke at the Forum, including the Breakout Session which was co-hosted by The Law Society and other IP stakeholders.

(b) IP Manager Scheme PLUS - IP Audit & IP Due Diligence

The IP Manager Scheme was first launched by the IPD in 2015 to assist, especially, small and medium enterprises (“SMEs”) in Hong Kong to build up their IP manpower capacity. The Scheme was subsequently enhanced to become the IP Manager Scheme PLUS to provide greater breadth and depth to the contents of the training programme in order to cater for specific career needs of IP managers.

Under this PLUS Scheme, The Law Society co-organised two seminars with the IPD on IP Audit and IP Due Diligence in November. They were very well attended with excellent feedback.

(c) IP Consultation Sessions

The IP Consultation sessions arranged by the IPD continued to receive support from the Committee. These IP sessions provided free preliminary views on IP-related matters to SMEs to help them raise their awareness of IP. In view of the

continual demand for the consultation sessions, the Committee helped to recruit more volunteers from the general members of The Law Society and extended the duration of each session from 30 minutes to 45 minutes. It also discussed with the IPD to expand and to improve the service.

(d) World Intellectual Property Day Reception

The Committee on 25 April attended the World Intellectual Property Day Reception organised by the IPD.

(e) 2023 Guangdong/Hong Kong Seminar on Intellectual Property and Development of Small and Medium Enterprises (Huizhou)

Since 2004, The Law Society has supported Guangdong/Hong Kong Expert Group on the Protection of Intellectual Property Rights in organising an annual symposium in a city of the Guangdong Province to promote IP protection, management, exploitation and trading to Guangdong/Hong Kong SMEs in the region. The Chairman of the Committee supported this year's event in Huizhou held in September and delivered a presentation about IP services offered by Hong Kong lawyers.

(f) IP Ambassador Programme

This is a programme organised by the IPD and the three local universities which offer law degree courses to invite interested law school students to be IP ambassadors to participate in IP-related activities such as school visit programmes, conferences, lectures, seminars, exchange programmes and networking with IP practitioners. The Committee members supported this initiative and attended a meeting with outgoing and incoming ambassadors in November, to interact with the students and share their views and experiences.

Meetings

(a) Meeting with the IPD

The Committee met with the IPD and other stakeholders in March, and had another meeting in June to discuss a wide range of IP-related matters, including the original grant patent system, patent practices, implementation of the Madrid Protocol in Hong Kong and further review of the local copyright regime.

(b) Briefing on Proposed Amendments to the *Rules of the High Court* and IP Subsidiary Legislation

The Committee attended a briefing by the IPD on 16 June on the “Proposed Amendments to the *Rules of the High Court* and IP Subsidiary Legislation”.

Publications

The Chairman of the Committee updated two publications respectively on “Intellectual Property Licensing” and “Intellectual Property Audit and Due Diligence”, which were authored by him and jointly published by the IPD and The Law Society. They aim to provide basic information to the public on IP licensing, IP audit and due diligence. These two publications have been placed onto the Public Zone of the Law Society website.

External Representation

The Committee continued to be represented on the BIP Asia Steering Committee. The Committee also had representatives on the Focus Group on Review of the Patent System in Hong Kong of the IPD.

INVESTMENT PRODUCTS AND FINANCIAL SERVICES COMMITTEE

The Investment Products and Financial Services Committee considered a few consultations from the Government and the Securities and Futures Commission (“SFC”). During the year, submissions were made on the following:

- *Regulation of Crowdfunding Activities*
- *Proposed Regulatory Requirements for Virtual Asset Trading Platform Operators Licensed by the Securities and Futures Commission*
- *Proposed Subsidiary Legislation for Implementing an Uncertificated Securities Market in Hong Kong*
- *Proposed Guidelines for Market Soundings.*

LAND USE PLANNING & ENVIRONMENTAL LAW COMMITTEE

The Land Use Planning & Environmental Law Committee receives and reviews legislative proposals and consultation papers affecting land use planning and environmental protection in Hong Kong. It met once this year and conducted other business by emails. To cope with the workload, the Committee co-opted two members.

The Committee reviewed the legislative amendments proposed in the *Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Bill 2022*. Covering six pieces of primary legislation, the Bill aimed to streamline various development-

related statutory procedures including town planning, land resumption, reclamation, roads and railway works, etc., and to introduce measures to expedite the development process, such as simplifying procedures relating to plan-making under the *Town Planning Ordinance* (Cap.131) to shorten the planning process, and offering compensation or assistance early to the affected parties to respond to their aspirations so that the resumption and clearance procedures could be accelerated. The Committee studied the Bill and provided a submission. The Bill was passed and took effect in September.

The Committee also reviewed and prepared a submission in response to the *Product Eco-responsibility (Amendment) Bill 2023*. The Bill provided a framework for the regulation of disposable plastic tableware, other plastic products and articles including glass beverage containers and enhanced the producer responsibility scheme on waste electrical and electronic equipment. The Bill was passed in October.

The Committee received and considered other consultations, such as the consultation on the proposed review of the *Protection of the Harbour Ordinance* (Cap.531), the proposals to streamline the arrangement for the extension of land leases and the proposed measures to update and streamline the Compulsory Sale Regime, and provided views. It also took notice of and where relevant assisted discussions on ESG-related matters.

In addition, the Committee attended information sessions arranged by the Development Bureau on respectively the Kau Yi Chau Artificial Islands and the Northern Metropolis Project.

LEGAL AID COMMITTEE

Legal aid plays an important role in enhancing access to justice and upholding the rule of law in Hong Kong. This year the Legal Aid Committee continued to keep a close watch on the legal aid system of Hong Kong.

Financial eligibility limits and the First Charge of the Director of Legal Aid

The financial eligibility limits (“FELs”) under the legal aid schemes and the First Charge of the Director of Legal Aid under the *Legal Aid Ordinance* (Cap.91) (“*LAO*”) are reviewed annually. The Committee noted that in March, an upward adjustment of the FELs and the two specified amounts of Director’s First Charge under section 18A(5) and the proviso to section 19B(1)(a) of the *LAO* by 3.0% was made effective. In December, the Government completed the 2023 annual review of both the FELs and the two specified amounts of Director’s First Charge, and proposed an upward adjustment by 1.8%.

Implementation of enhancement measures to the legal aid system

The Vice-Chairman of the Committee, together with the office bearers of The Law Society and the Past President, attended a meeting of the AJLS Panel of the LegCo on 22 May. The Panel discussed the “Report on Implementation of Enhancement Measures to the Legal Aid System”. Observations and comments on, among other things, the reduction in the overall civil case assignment limits, the setting up of new assignment limits for Judicial Review cases, the drop in the number of legal aid applications and the number of legal aid certificates granted and assignment of panel lawyers by the Legal Aid Department in criminal cases, were shared with the AJLS Panel.

Circulars

The Committee issued circulars to members on the following subject matters:

- Arrangements for Legal Aid Appeal Hearings and Legal Aid Review Hearings When Tropical Cyclone Warning Signal or Rainstorm Warning Signal in Hoisted or Announcement of “Extreme Condition” (issued in January)
- Revised Manual for Legal Aid Practitioners (issued in July)
- Legal Aid Assignments (issued in November)
- Revised Manual for Legal Aid Practitioners (issued in November).

MEDIATION COMMITTEE

The Mediation Committee keeps in view mediation-related matters and makes recommendations thereon for consideration by the Council of The Law Society. It puts forwards initiatives to help the promotion of mediation practice, and the expansion of work opportunities for solicitor-mediators and solicitor-mediation advocates. The Committee also assists Council with discussion and policy formulation on mediation-related matters and studies, and responds to various consultations. Members of the Committee attend external meetings (for example, LegCo meetings) to help with discussions.

The Committee this year conducted its business by emails. An ad hoc working group was set up to help review the relevant paragraphs/commentaries of the *Hong Kong Solicitors’ Guide to Professional Conduct* (“Guide”). The working group had a meeting in November.

Consultations and Reviews

The Committee considered and/or provided views on the following matters.

Government 2023-2024 Budget

The Committee was consulted on the Government 2023-2024 Budget. Members considered that support in the development and promotion of mediation in Hong Kong continued to be important, and advocated continual policy attention on the development of mediation and other dispute resolution models in Hong Kong. These comments were submitted to the Government in February.

Draft *Practice Direction* on Alternative Dispute Resolution in Family Proceedings

In December, the Judiciary invited the Law Society to provide views on the draft *Practice Direction* on Alternative Dispute Resolution in Family Proceedings (“PD”). The PD aimed to, among other things, assist parties in matrimonial disputes to use Alternative Dispute Resolution procedures in the course of court proceedings. The Committee studied the draft PD and provided views to the Family Law Committee of The Law Society for the preparation of a joint submission to be sent to the Judiciary.

Assistance in the Development of Mediation Practices

The Committee deliberated various arrangements and measures in order to assist solicitor-mediators and also the general membership of The Law Society in the development of their mediation practices.

(a) Development of Mediation in the GBA

The development of mediation in the GBA continued to be one of the focused areas for discussion by the Committee this year. Among other things, the Committee noted and reviewed the GBA Mediator Accreditation Standards and GBA Mediator Code of Conduct Best Practice, which governed the accreditation of mediators and mediation practice in the GBA. They were endorsed at the 3rd Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference held in December 2021.

(b) Promotion of Mediation in the Mainland

In August, members of the Committee joined a delegation to Chengdu and attended the Legal Services Forum. The Forum aimed to promote Hong Kong’s legal services to the Mainland stakeholders. The delegation, led by the Secretary for Justice, shared with the participants views on various practice areas including mediation and dispute resolution. At the Forum, the Committee assisted with a mock mediation in facilitative mediation and attended a panel discussion. Members of the Committee also exchanged with participants views on, among other things, the advantages of involving/engaging solicitors as mediators and mediator-advocates.

(c) Mediate First Pledge

The Mediate First Pledge (“Pledge”) is an initiative of the Government to promote the use of mediation as an effective tool for resolving commercial disputes in Hong Kong. Pledgees of the Pledge are to first explore the use of mediation to resolve disputes, before pursuing other dispute resolution processes or litigation. The Committee had a discussion on the Pledge, vis-à-vis The Law Society’s regulatory roles or relevant statutory duties. Upon the basis that mediation would not prejudice the aforesaid, The Law Society formally signed the Pledge in May.

(d) Proposed amendments to the *Guide*

To update members on practices relating to mediation, the Committee set up an ad hoc Working Group to review the amendments proposed to the *Guide*. The views and recommendations of the Working Group would be provided to the Committee in due course.

(e) Publication of Sample Mediation Documents

In order to assist mediation practitioners and members in addressing and overcoming difficulties commonly encountered in various stages of the mediation process, the Committee prepared various samples and templates for use of mediation, such as Sample Agreement to Mediate, Mediation Rules, etc. These sample documents are put on the website of The Law Society for members and the general public.

(f) Participation in Mediation-Related Events and Activities

As part of its continual efforts to promote mediation services, the Committee proposed mediation-related CPD activities for the general membership. In September, a sharing session on “The Beauty of Mediation: Why and How It Works?” was held. An RME Course and another sharing session were being planned.

Additionally, the Committee this year participated and/or supported the following events relating to mediation:

- (i) Opening Reception for HKMAAL Office (17 January)
- (ii) Mediate First Pledge 2023 (5 May)
- (iii) Mediator-assisted Case Settlement Conference (27 October and 3 November)
- (iv) Mediation Advocacy Training Workshop 2022 (14 and 21 October).

(g) Other Promotion for the Solicitor-mediators

Other efforts to promote solicitors' mediation practices by the Committee included:

- reviewing policies on solicitors' practice in Mediation and Parenting Co-ordination ("PC")
- CPD activities organised on mediation, PC and related subjects
- liaising with stakeholders (both in Hong Kong and in other jurisdictions) on mediation matters; and
- updating solicitors on the latest developments of mediation, PC and other dispute resolution practices such as Early Neutral Evaluation.

(h) Information Leaflet – Water Seepage

It is important to enhance public awareness on mediation as an effective tool for resolving various civil disputes, including disputes arising from water seepage. In October, the Committee and the Civil Litigation Committee jointly published an information leaflet on water seepage for the general public. The leaflet, titled *Water Seepage*, provides suggestions on ways to handle disputes arising from water seepage, including mediation. The leaflet is made available (together with other information leaflets on common legal issues) on the website of The Law Society.

Provision of Mediation Services

The Committee assisted The Law Society in providing the following mediation services to the general public:

(a) Mediators Nomination Scheme

The Committee continued to provide nomination services for mediation to the public. Under the arrangement for the services, parties who have agreed to mediate their disputes but cannot agree on the choice of the mediator, can jointly request The Law Society to nominate a solicitor-mediator to mediate their disputes.

(b) Pilot Scheme on Mediation Helpline

The Law Society's Mediation Helpline was launched in November 2014. The Helpline, under the supervision of the Committee, arouses public awareness and understanding of mediation. It also helps promote mediation and solicitors' mediation practices in Hong Kong. The Helpline was initially launched for a trial period of six months. Under the arrangement, a panel of Solicitor-Mediators, with the assistance of the Secretariat of The Law Society, provided information on mediation and mediation services to the public. The Helpline received encouraging feedbacks and the trial period of the Helpline was repeatedly extended.

MENTAL HEALTH LAW COMMITTEE

The Mental Health Law Committee considers policy proposals for the reform of the mental health law regime in Hong Kong. It met four times this year, in addition to a meeting with the Labour and Welfare Bureau, various task group meetings and email communication. The Committee also communicated with the Judiciary on mental health law and relevant practice directions. In addition, the Committee made recommendations on mental health law matters and training to other committees and the Academy of Law.

Review of the *Mental Health Ordinance*

The Committee continued its review of the *Mental Health Ordinance* (Cap.136) (“*MHO*”). Task groups were set up under the Committee to review *Practice Direction 30.1* and its annexures. The task groups met on various occasions to deliberate, among other things, the requisite updates on mental health law practices under the *MHO*, and they rendered recommendations to the Committee.

Practice Direction 30.1

Apart from reviewing the *MHO*, the Committee, with the assistance of the task groups and the Official Solicitor’s Office (“OSO”), reviewed *Practice Direction 30.1* (on applications under Part II of the *MHO* and proposed amendments to enhance the relevant practices of the Court in hearing *MHO* applications), the legal profession and the general public. The Committee received helpful comments from various stakeholders and was in the process of refining its proposals for *Practice Direction 30.1*.

Conditional Discharge Regime Under the *MHO*

The Committee was engaged in a review of the Conditional Discharge (“CD”) mechanism under the *MHO* and on Conditional Community Treatment (“CCT”). The Committee deliberated whether the current CD mechanism should be replaced by or be in tandem with the proposed CCT mechanism and whether voluntary admission would be caught under either of the mechanisms. Discussions are still ongoing.

Continuing Power of Attorney

The Committee continued its efforts to advocate a review of the current Enduring Power of Attorney regime and the introduction of Continuing Powers of Attorney. Among other things, the Committee in May wrote to the Labour and Welfare Bureau for progress of the *Continuing Powers of Attorney Bill*.

Policy Address 2023

In its submission to the Policy Address 2023, the Committee again raised the concern/challenges of the ageing population in Hong Kong and reiterated the need to expedite the legislative process on Continuing Powers of Attorney. The Committee proposed that a roadmap on mental health law issues ought to be made available to the public. In the same submission, the Committee also alerted the Government to reported cases of mentally incapacitated persons/persons lacking mental capacity from financial or other abuse and suggested increasing public education and legal training for professionals.

Government 2023-2024 Budget

The Committee considered a submission on the Government 2023-2024 Budget and consolidated its views with those of other specialist committees.

Professional Practice

The Committee rendered support to the MIP Care Resources Connect Symposium 2023 which was held in March. It also made recommendations to the Academy of Law to organise CPD courses in relation to the *MHO* and related topics.

The Committee is also working with other committees of The Law Society to keep in view issues of unethical touting and companies offering “assistance” to the public in drafting wills to help protect the interests of members and the public.

PERSONAL INJURIES COMMITTEE

The Personal Injuries Committee continued its discussions on various personal injuries-related issues this year. Apart from internal discussions and meetings, the Committee met with the Legal Aid Department, the Home Affairs Department, and the personal injuries committee of the Hong Kong Bar Association, to discuss matters pertaining to personal injuries practice, legal aid assignments and relevant legislative amendments.

Single Joint Experts

The Committee noted the judgment in *Rai Chandra Kala v LA Creperie 8 Ltd and another* (DCPI 244 of 2019, [2023] HKDC 671) (19 May 2023) and took on board the Court’s views on the practice on the use of Single Joint Experts for personal injuries and medical negligence claims. Further to its deliberation, the Committee prepared template letters on engagement of the experts in personal injuries litigation. The templates were issued to the general members in October by way of a Circular.

Levels of compulsory insurance for buildings

The level of third-party risk insurance for buildings is laid down in Regulation 4 of the *Building Management (Third Party Risks Insurance) Regulation* (Cap.344B). The figure of \$10 million insurance set out in the Regulation has not been reviewed in the past 15 years. This coverage is seriously outdated and no longer provides sufficient protection for owners of private flats facing potentially large third-party claims. A spate of accidents arising from fallen debris/dilapidated concrete slabs of old buildings in various districts of Hong Kong, as well as the remarks by the Secretary for Development on 9 August (who openly appealed for attention from property owners on their own civil liabilities in case of personal injuries or death), accentuated the need for a policy review of the level of compulsory insurance for buildings. Following the above, the Committee wrote to the Home and Youth Affairs Bureau on various occasions and raised concerns. In response, a meeting with the Home Affairs Department was agreed and was arranged in October. The Committee at the meeting exchanged views with the Department on the matter.

Meeting with stakeholders

Apart from the above meeting with the Home Affairs Department, the Committee also had a meeting with the personal injuries committee of the Hong Kong Bar Association (in May) and the Legal Aid Department (in September), to discuss issues and practices on personal injuries litigation.

Bereavement awards

The Committee has been advocating increases in bereavement awards in order to meaningfully reflect the nature of this award. It took the view that there should be a better methodology of assessing the award, and wrote to the DOJ accordingly. On the other hand, it noted that the Government has moved a resolution at the LegCo to increase the statutory sum to be awarded as damages for bereavement under the *Fatal Accidents Ordinance* (Cap. 22) from \$231,000 to \$242,500. The resolution was passed on 3 May and came into operation on its gazettal date (5 May).

Legislative amendments

The Committee took notice of a resolution by the LegCo on 15 March to increase the amounts of nine compensation items under the *Employees' Compensation Ordinance* (Cap.282) with effect from 13 April. The resolution was gazetted on 17 March.

Amendments to *Practice Directions*

The Committee continued its review of the draft amendments proposed respectively to *Practice Direction 18.1* and *Practice Direction 30.1*, and has been having discussions with, among others, the Mental Health Law Committee of The Law Society, to exchange ideas on the various amendments.

Other consultation and discussions

The Committee assisted other committees and Council of The Law Society in deliberating various issues, and also took notice of relevant matters, including the practice of swearing of affidavits outside Hong Kong, court waiting time, the Equal Opportunities Commission's Consultation on its Guide on "Equal Access to Justice for Persons who are Deaf and Hard of Hearing", the LRC's report on Periodical Payments for Future Pecuniary Loss in Personal Injury Cases, and the proposed amendments to the *Hong Kong Solicitors' Guide to Professional Conduct*.

PROBATE COMMITTEE

The Probate Committee met five times this year and conducted the rest of its business by emails. A new member was co-opted this year to help with the workload.

The Committee considered various matters on probate law and practices and offered views to the general members and the Probate Registrar on the following:

- *Practice Direction 20.1* on Non-Contentious Probate Practice
- Inheriting Properties – same-sex partners
- Form No. 52 in Appendix A of the *Rules of the High Court* (Cap.4A)
- Surety guarantee
- Central Depositary of Will
- Probate Registry Practice
- Service of documents on the Mainland.

Members' circulars where appropriate were issued on the above.

The *Continuing Powers of Attorney Bill* continued to receive attention from the Committee. Among other things, the Committee noted the discussion of the Bill at the AJLS Panel of the LegCo on 27 November. On the other hand, the Committee held discussions with other specialist committees on the Bill as well as other probate-related matters.

To help members better manage their risk exposure in probate practices, the Committee presented an RME course on "Risks and Common Mistakes in Will Drafting and

Probate Practices” in September. The course was over-subscribed and received good responses from over 280 participants.

In August and September, a member of the Committee, upon invitation by the Academy of Law, spoke to the general members on the topic of Intestate and Testate Succession.

In March and in October, the Committee helped with community talks on matters relating to wills and probate, advance directives and enduring powers of attorney.

About 4,401 will search enquiries were received this year and processed by The Law Society for publication in the weekly *Enquiries from Solicitors on Wills, Codicils and other Testamentary Dispositions*. Of these will search enquiries, some required close examination on probate laws and practices. The Committee assisted and deliberated these enquiries and helped process these applications.

PROPERTY COMMITTEE

The Property Committee received and reviewed various legislative proposals and consultations on property law and conveyancing practices. It continued engaging with key stakeholders such as the Land Registry, the Government, the Hong Kong Association of Banks and the Judiciary to discuss various property-related issues. In addition to the routine monthly meetings, the Committee also discussed conveyancing practices and related matters by email circulation.

The Committee and its working parties from time to time received applications from general members for waivers of Deed of Mutual Covenant Guidelines as well as applications for exemptions/deviations from forms of Agreement for Sale and Purchase, as approved under Rule 5C of the *Solicitors Practice Rules* (Cap.159H).

Where relevant, members’ circulars were issued on various subject matters.

Some of the matters considered by the Committee this year are summarised below.

Land Titles Ordinance

The *Land Titles Ordinance* (Cap.585) (“LTO”) aims to replace the present deeds registration system under the *Land Registration Ordinance* (Cap.128) (“LRO”) with a title registration system under which the title register will be conclusive evidence of the title to and the interests in registered land. The LTO has not been put into effect, and deliberation by the Committee on issues relating to the implementation of the LTO continued this year. The Committee had been discussing with the Land Registry on matters such as the documentation required for the LTO, and any consequential and other legislative amendments to be required for the implementation of the LTO. Lengthy

internal discussions had been held and queries were raised with the Land Registry on for instance the practices and procedures proposed for and required under the *LTO*. The discussion of the Committee with the Land Registry on *LTO* was ongoing.

Legislation on extension of Government leases

The Committee was advised of a legislative proposal by the Government to extend upcoming expiring land leases in a batch-by-batch manner, which it was said would save individual lot owners from dealing with the procedures in executing lease extension documents. For the lease extension under the proposal, the Committee understood that the Government would introduce a new primary legislation to establish a statutory mechanism. The new legislation would be applicable to all non-renewable general-purpose leases, excluding short-term tenancies and special purpose leases. The Committee together with the Land Use Planning and Environmental Law Committee of The Law Society studied the legislative proposal and in August rendered views to the Development Bureau.

In December the Government published the *Extension of Government Leases Bill* formally setting out the above legislative proposal. The Bill was brought to the attention of the Committee.

Property frauds

Property frauds received continual attention from the Committee. The Committee had lengthy and continual discussions with key stakeholders to deliberate proposals to try to address the problems arising from property frauds. Drafts and various proposals were put up and views were exchanged. The Council of The Law Society was kept advised of the matter and, to support the discussion of the Committee, in August resolved to set up a Task Force to make, in consultation with the Committee, recommendations to the Council of The Law Society. The Task Force comprised office bearers of The Law Society and various Council members. It met in September to discuss and offer suggestions and comments on the matter.

Use of information technology

The Committee kept itself advised of the development of information technology in conveyancing practices. Among other things, the Committee discussed with the Land Registry its proposal on e-lodgement under the *Land Registration Ordinance*. In July the Committee attended a briefing session on e-lodgement by the Land Registry and offered views on the proposal.

Deed of mutual covenants under land grant

The Legal Advisory and Conveyancing Office of the Lands Department (“LACO”) drew up a set of standard clauses and revised guidelines for Deeds of Mutual Covenant (“DMC”) under conditions of the land grant. In parallel with and in consequence to the above promulgation, the Committee and a dedicated working party reviewed The Law Society’s own DMC Guidelines and, where appropriate, proposed changes to The Law Society’s guidelines for the drafting of the DMC under the Non-Consent Scheme. They also considered the standard waiver letter(s) for the drafting of the DMC Guidelines under the Non-Consent Scheme from time to time and suggested amendments thereto.

Non-Consent Scheme

The Committee worked closely with its Working Party on Review of Non-Consent Scheme Forms to review the proposed revision by the LACO to the guidelines for the drafting of the DMC under the Consent Scheme. The Committee considered and, where appropriate, recommended changes to The Law Society’s guidelines for the drafting of the DMC under the Non-Consent Scheme. The Committee and a dedicated working party studied various revised DMC Guidelines drawn up by LACO. It also reviewed the standard waiver letter(s) for the drafting of the DMC Guidelines under the Non-Consent Scheme from time to time and suggested amendments thereto.

Reviews

The attention of the Committee was drawn to various property-related matters throughout the year. These matters included the *Building Management (Amendment) Bill 2023*, the Kau Yi Chau Artificial Island, the Northern Metropolis project, the study by the Consumer Council on property management fees, and issues arising from stopped deeds upon registration with the Land Registry.

Other property-related issues

The Committee considered various practice-related matters and where appropriate issued circulars to general members on, among other things, the latest practice notes issued by the Buildings Department, the Lands Department, the Planning Department and the Land Registry.

Examples of the circulars issued included:

- the Lands Department Practice Notes
- LACO Circular Memorandum
- Land Registry Circular Memorandum
- Residential Properties (First-hand Sales) Ordinance – Practice Note on Financing Plans Offered by Vendors or Vendors’ Designated Financing Companies
- Revised Guidelines for Drafting of DMCs and Sub-DMCs

- Hong Kong Housing Authority – Home Ownership Scheme Secondary Market Scheme
- *Stamp Duty Ordinance* (Cap.117)
- Hong Kong Housing Authority – New Administrative Fees for Approval of Legal Documents by The Hong Kong Housing Authority
- Buildings Department – Company Use Registration in Building Records Access and Viewing Online (BRAVO)
- Sale and Purchase of Property – Payment of Rates and Government Rent
- Land Registry – Registration of *Lis Pendens* and Court Order
- Hong Kong Housing Authority – Home Ownership Scheme Secondary Market Scheme Updated documentation
- Hong Kong Housing Society’s Flat-For-Sale-Scheme
- *Residential Properties (First-hand Sales) Ordinance* (Cap.621) – Revised Annex D of the Guidelines on Sales Brochure and Practice Note on Sales Brochure
- Rule 5C of the *Solicitors’ Practice Rules* (Cap.159H) – Update and Reminder.

External Work

Land Registry

The Chairperson of the Committee sat on the Land Titles Ordinance Steering Committee. The Steering Committee oversaw an *LTO* Review Committee and a Title Registration Education Committee. The Law Society was also represented on the above two committees.

Land Registry Joint Standing Committee

Two Committee members sat on the Land Registry Joint Standing Committee and maintained liaison with the Land Registry on the day-to-day issues relating to land registration matters and the Land Registry’s services.

Land Registry Customer Liaison Group

A member of the Committee and representatives from law firms sat on the Land Registry Customer Liaison Group to share views on operational and service delivery issues with the Land Registry.

Taskforce on Alternative Payment Solutions for Property Transactions

The Chairperson and five members of the Committee sat on a Taskforce on Alternative Payment Solutions for Property Transactions set up by the Hong Kong Association of Banks, to discuss alternative payment methods for property transactions.

Urban Renewal Authority

The Urban Renewal Authority set up a Registration Panel, and an Appeal Panel of Building Rehabilitation Company Registration Scheme of Hong Kong Building Rehabilitation Facilitation Services Limited started to operate in 2022. The Registration Panel considers and endorses the registration of the service providers and the Appeal Panel makes decisions and conducts final resolution judgment in complaints, appeals/disputes relating to any application. The Law Society was represented on these panels.

The Law Society was also represented on the Service Providers Committee and the Promotion Committee under the Urban Renewal Authority.

RETIREMENT SCHEMES COMMITTEE

The Retirement Schemes Committee conducted its business by emails.

There were various updates and amendments on the Mandatory Provident Fund (MPF) schemes throughout the year. These were noted by the Committee which issued circulars to general members to draw their attention thereto. Six circulars were issued covering about 30 updates and amendments made to the Guidelines this year. On the other hand, the Committee considered issues relating to the disclosure on the monetary and non-monetary benefits receivable by Registered Intermediaries.

External Representation

The Committee continued to be represented in the Guidelines Committee of the MPF Schemes Authority.

REVENUE LAW COMMITTEE

The Revenue Law Committee conducted its business by emails.

Consultation on Potential Tax Treaty Partners for Hong Kong

The Committee considered a consultation paper on Potential Tax Treaty Partners for Hong Kong and offered comments on jurisdictions which should receive priority in commencing negotiations on Comprehensive Avoidance of Double Taxation Agreements. A submission was made to the Government in January.

Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022

The *Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022* sought to amend the *Inland Revenue Ordinance* (Cap.112) to provide profits tax concessions for (a) eligible Family-owned Investment Holding Vehicles (FIHVs) managed by eligible Single Family Offices in Hong Kong; and (b) Family-owned Special Purpose Entities (FSPEs). The Bill provides, among other things, that only the assessable profits of FIHVs and FSPEs arising from qualifying transactions and incidental transactions would be eligible for profits tax concessions, and those would apply in respect of a year of assessment commencing on or after 1 April 2022. The Committee and the Working Party on Charities and Trust reviewed the Bill and jointly produced a submission. The submission was sent to the LegCo Bills Committee of the above Bill in February.

Consultation on Proposed Refinements to Hong Kong’s Foreign-sourced Income Exemption (“FSIE”) Regime for Foreign-sourced Disposal Gains

The Committee, in April, received from the Government a consultation paper on the proposed refinements to Hong Kong’s FSIE Regime for Foreign-sourced Disposal Gains, and the Chairman of the Committee attended a briefing session on the legislative proposals.

In October, the *Inland Revenue (Amendment) (Taxation on Foreign-sourced Disposal Gains) Bill 2023* (“the FSIE Bill”) was introduced into the LegCo. A member of the Committee attended a briefing session on the FSIE Bill.

Consultation on introduction of a Company Re-domiciliation Regime

The Committee, in May, reviewed a consultation paper on introduction in Hong Kong of a Company Re-domiciliation Regime. Views of the Committee, together with those from other specialist committees of The Law Society, were consolidated into a submission, which was sent to the Government in July.

Consultation on the Implementation of Global Minimum Tax and Hong Kong Minimum Top-up Tax

The Committee, in December, received a consultation paper on the Implementation of Global Minimum Tax and Hong Kong Minimum Top-up Tax. The consultation paper explained the concepts of the global anti-base erosion rules promulgated by the Organisation for Economic Co-operation and Development for implementing the global minimum tax, as well as the Hong Kong minimum top-up tax, and sought views on the specific implementation issues including the tax compliance and administration framework.

Other revenue law related issues

The Committee took note of the following:

- Proposed introduction of Patent Box tax incentive in Hong Kong
- *Stamp Duty (Amendment) (Stock Transfers) Bill 2023* gazetted on 25 October
- “FO Clients Feedback Workshop: Collaborating with Family Office Network Service Providers – Legal Session”, organised by the FamilyOfficeHK/InvestHK in December
- Public consultation on the 2024-2025 Budget.

Joint Liaison Committee on Taxation

Two committee members, as representatives of The Law Society, attended regular meetings of the Joint Liaison Committee on Taxation (“JLCT”) throughout the year. Views from other specialist committees on, amongst others, (i) the relocation of the Stamp Duty Office to Kai Tak; and (ii) a proposal to improve the tax appeal system, were collated and relayed to the JLCT.

SPORTS LAW COMMITTEE

The Sports Law Committee was set up to, among other things, keep under review developments in members’ practices relating to various legal aspects arising from and relating to sports and e-sports, including dispute resolution for sports and e-sports in Hong Kong and other jurisdictions. It makes recommendations thereon to the Council of The Law Society.

An ad hoc working group was set up under the Committee to consider sports dispute resolution.

Consultation Relating to Sports Law

The Committee has considered and/or provided views on the following matters.

Talent List Hong Kong

The Committee (and other specialist committees of The Law Society) received an invitation for views on the “Talent List Hong Kong” put forward by the DOJ. The Committee reviewed the Talent List and proposed to add sports law talents as a new category to the Talent List.

2023-2024 Budget

The Committee was consulted on the Government –2023-2024 Budget. Members considered that support in the promotion of sports law, including sports dispute resolution, was important to Hong Kong. It advocated policy attention on the development of sports law in Hong Kong. These views, together with comments from other specialist committees, were submitted to the Government.

Establishment of a sports dispute resolution centre in Hong Kong

The Committee received a proposal for the HKSAR Government to set up a specialised dispute resolution centre for sports disputes in Hong Kong. An ad hoc working group was established to study the proposal and it also received views on the matter from the Arbitration Committee. In July, the DOJ proposed to set up a Preparatory Group on Sports Dispute Resolution (“Preparatory Group”) under the DOJ to explore feasible options for the development of sports dispute resolution in Hong Kong. The DOJ invited The Law Society, the Hong Kong Bar Association and other relevant bureaux/departments and sports organisations to nominate representatives to sit on the Preparatory Group. The Chairperson and Vice-chairperson of the Committee were nominated to represent The Law Society to sit on the Preparatory Group and they offered views on the development of sports dispute resolution in Hong Kong.

TRANSPORTATION AND LOGISTICS COMMITTEE

The Transportation and Logistics Committee met on two occasions this year and conducted its business by emails.

United Nations Convention on the International Effects of Judicial Sales of Ships

The Committee took note that the *United Nations Convention on the International Effects of Judicial Sales of Ships* (“Convention”) was open for signature in Beijing on 5 September. The *Convention* establishes a harmonised regime for giving international effect to judicial sales, while preserving domestic law governing the procedure of judicial sales and the circumstances in which judicial sales confer clean title. By ensuring legal certainty as to the title that the purchaser acquires in the ship as it navigates internationally, the *Convention* is designed to maximise the price that the ship is able to attract in the market and the proceeds available for distribution among creditors, and to promote international trade. China is one of the first 15 States which signed the *Convention*.

Recognising the importance of the *Convention*, the Committee in October wrote to the DOJ to highlight the need to have an early application of the *Convention* in Hong Kong.

Maritime Services Traineeship Scheme – Legal

The Committee noted the Government in September launched the Maritime Services Traineeship Scheme – Legal under the Maritime and Aviation Training Fund. A circular with details of the scheme was issued in the same month. The Committee, on the other hand, discussed possible ways to nurture homegrown maritime legal talents.

Public Consultation on Policy Address 2023

The Committee, jointly with other specialist committees, prepared a submission on the Policy Address 2023. The submission was sent to the Chief Executive’s office in September.

UNCITRAL Model Law on Electronic Transferable Records

The Committee in November wrote to the DOJ to enquire of any plan by the HKSAR Government to adopt the *UNCITRAL Model Law on Electronic Transferable Records*, or similar legislation to enable use of electronic bills of lading and other documents of title. The Committee received a reply in December and was deliberating the matter.

Other transportation and logistics issues

The Committee took note of the following relevant to transportation and logistics matters:

- Public consultation on Government 2024-2025 Budget
- The Northern Metropolis Project
- Proposed Kau Ki Chau Artificial Islands
- Action Plan on Maritime and Port Development Strategy promulgated by the Government.

Conferences

“RESOLVE2WIN” Campaign (Thailand 15-17 March)

The Chair and two members of the Committee joined The Law Society’s delegation to Bangkok, between 15 to 17 March. The delegation participated in a promotion campaign co-organised by the DOJ and Hong Kong Trade Development Council, entitled “Resolve2Win”, to promote Hong Kong’s legal and dispute resolution services.

Singapore-China International Commercial Dispute Resolution Conference (Singapore, 20 October)

A member of the Committee spoke at the Singapore-China International Commercial Dispute Resolution Conference as The Law Society's representative.

Hong Kong Legal Week 2023 (Hong Kong, 10 November)

The Chairman of the Committee spoke at the Hong Kong Legal Week 2023 Panel on Rule of law: A Core Pillar of Support for the "8 Centres" under the National 14th Five-Year Plan – Quality Legal Support for the Development of Maritime and Aviation Industry in Hong Kong.

WORKING PARTY ON CHARITIES AND TRUST

The Working Party on Charities and Trust met once this year and conducted the rest of its business by emails.

Inland Revenue (Amendment) (Tax Concessions for Family-Owned Investment Holding Vehicles) Bill 2022

The Working Party reviewed the *Inland Revenue (Amendment) (Tax Concessions for Family-Owned Investment Holding Vehicles) Bill 2022* and provided comments on charities and trust aspects. A submission, jointly prepared by the Working Party and the Revenue Law Committee, was sent to the LegCo Bills Committee of the above Bill in February.

Consultation Paper on Regulation of Crowdfunding Activities

The Working Party considered a Government consultation paper on regulation of crowdfunding activities. Written comments of the Working Party, together with those from other specialist committees, were consolidated into a submission, which was sent to the Government in March.

Consultation on Proposed Company Re-domiciliation Regime in Hong Kong

The Working Party received a consultation paper on Proposed Company Re-domiciliation Regime in Hong Kong. A member of the Working Party attended a briefing session on the proposal, arranged by the FSTB, in March.

Public Consultation on 2024-2025 Budget

The Working Party responded to the public consultation on the 2024-2025 Budget and provided comments on the Government's family office strategy.

Family Offices in Hong Kong

The Working Party took note of an invitation from the FamilyOfficeHK/InvestHK to a “*FO Clients Feedback Workshop: Collaborating with Family Office Network Service Providers – Legal Session*” held in December. Among other things, the Working Party drew the attention of the FamilyOfficeHK/InvestHK to the submission the Working Party previously prepared (in 2022). The submission set out various proposals which The Law Society invited the Government to carefully consider in order to attract more family offices to Hong Kong.

WORKING PARTY ON REVIEW OF NON-CONSENT SCHEME FORMS

The Working Party on Review of Non-Consent Scheme Forms keeps in view, among others, developments and updates on law and practices in conveyancing as well as agreement forms and amendments issued by the Legal Advisory and Conveyancing Office of the Lands Department (“LACO”) on agreements for sale and purchase of residential and non-residential properties under the Consent Scheme. The Working Party also reviews the agreement forms for the use of the Non-Consent Scheme with reference to the amendments by LACO on the forms prescribed under the Consent Scheme.

The Working Party held a meeting via Zoom this year and conducted the rest of the business by email circulation.

The Working Party completed its review of the following draft agreement forms for the Non-Consent Scheme: (a) the agreement forms for sale and purchase of residential property for uncompleted and completed developments; and (b) the sub-sale and sub-purchase agreements of residential property for uncompleted and completed developments. It was working on another set of draft agreement form for the sale and purchase of non-residential properties for uncompleted development and the statutory declaration for the Non-Consent Scheme.

WORKING PARTY ON REVISED DMC GUIDELINES

The Working Party on Revised DMC Guidelines was set up to, among other things, review the proposed revision by the Legal Advisory and Conveyancing Office of the Lands Department to the guidelines for the drafting of the DMC under the Consent Scheme.

The Working Party held a meeting in February and conducted its business via emails. The Working Party continued to consider amendments to standard waiver letters following the amendment made to The Law Society’s Guidelines for DMCs and Sub-DMCs earlier this year. Recommendations on the proposed amendments to the standard waiver letters were relayed to the Property Committee and were approved.

WORKING PARTY ON USE OF IT IN JUDICIAL PROCESS

The Working Party on Use of IT in Judicial Process is tasked, among others, to consider and discuss the use of information technology (IT) for courts and the court users, including remote hearings, electronic filing and other IT matters for court process. It conducted its business by emails.

Various technology-related matters were brought to the attention of the Working Party. Its attention was drawn, for instance, to a consultation paper on the proposed legislation and *Practice Directions* for the implementation of the Integrated Court Case Management System in the Small Claims Tribunal, released by the Judiciary in November. It also took note of the discussions of the LegCo AJLS Panel on “technological advancement in the judicial process” at the Panel meeting on 27 November.