

FAQ on Intervention

What is an Intervention?

1. An intervention into the practice of a law firm by the Law Society means that the Law Society exercises its statutory power to close down the practice of the law firm for the protection of the interests of the clients of the law firm and the public.
2. The law firm will cease practice immediately upon the commencement of an intervention.

Why intervene?

3. The Law Society is the professional body of solicitors in Hong Kong with statutory powers to regulate the professional conduct of solicitors, trainee solicitors and foreign lawyers.
4. The law empowers the Law Society to intervene into the practice of a law firm under specific circumstances for protection of the interests of the public and clients of the law firm.
5. These specific circumstances include, for example, where the Council of the Law Society had reason to suspect dishonesty on the part of a solicitor or his or her employee(s), where a solicitor has breached the Solicitors' Accounts Rules or the Solicitors (Professional Indemnity) Rules; where a solicitor has become bankrupt or where a solicitor has abandoned his or her practice, etc.
6. The detailed provisions are set out in section 26A of the Legal Practitioners Ordinance (Cap 159).

What will happen in an intervention?

7. Once a law firm has been intervened, it ceases practice. No one from the intervened firm can continue working on any matter on behalf of any former client of the intervened firm.
8. The Law Society appoints a law firm as Intervention Agent ("IA") to handle the intervention. The name and contact details of the IA will be publicized by notices published in newspapers and in statements of the Law Society widely distributed to the media and posted on the Law Society website.
9. The intervened firm is required to deliver all documents in its possession in connection with its practice to the IA.
10. The client accounts, positive balances of the office accounts and all sums of money held by the intervened firm in connection with its practice will be placed in the control of the Council of the Law Society.

11. The role of the IA is to
 - (a) identify and seize files and records of the intervened firm;
 - (b) serve notice on the intervened firm's bankers to preserve the funds of the intervened firm;
 - (c) assess the relative urgency of the files of the intervened firm;
 - (d) prioritize the handling of those files;
 - (e) liaise with former clients of the intervened firm and those clients' new solicitors to hand over the files;
 - (f) handle the return of client money.
12. The IA's role is not to give legal advice to or to continue to act for former clients of the intervened firm.

What should clients of an intervened firm do?

13. Clients of an intervened firm should:
 - (a) contact the IA;
 - (b) provide particulars of the file(s) with intervened firm;
 - (c) collect the file(s) from the IA;
 - (d) instruct new solicitors to continue working on the file(s) where necessary;
 - (e) follow the procedure as announced by the IA in lodging a claim for return of client money paid to the intervened firm, including the completion and submission of a formal claim form in due course.
14. To facilitate instructions of new solicitors by clients of an intervened firm, a list of solicitors' firms interested in assisting those clients will be posted on the Law Society website.
15. The claims for return of client money paid to an intervened firm are subject to verification by the IA. In particular circumstances, for example, where dishonesty is involved or where the intervened firm's records are incomplete, the manner of release of client money will be subject to authorisation by a court order.
16. The IA will use its best endeavours to handle the process efficiently. Every effort is being made to prioritise matters such as in the case of conveyancing matters, by the completion date of a transaction. However, clients should expect that the process for release of client money will take some time.
17. Pending completion of the process, taking into account their particular circumstances, clients should make their own financial and other arrangements to facilitate continuation of their transactions.

Can clients claim against Solicitors Professional Indemnity Scheme ("PIS")

18. Enquiries have been raised by clients affected by an intervention about making claims under the Solicitors Professional Indemnity Scheme ("PIS"). Clients of an intervened firm should note that:

- (a) Generally speaking, the PIS covers claims made against the indemnified (as defined in rule 2 of the Solicitors (Professional Indemnity) Rules (“Rules”), which includes the firm, its principals and employees) in respect of civil liability whatsoever incurred in connection with the Practice (as defined in rule 2 of the Rules).
- (b) The PIS will not cover losses arising out of any claim brought about by, among others,
 - (i) the dishonesty, fraudulent act or fraudulent omission of a principal i.e. partner / sole practitioner (Paragraph 1(2)(c)(iii) of Schedule 3 to the Rules); or
 - (ii) the dishonesty, fraudulent act or fraudulent omission of an employee unless the firm can show that the dishonesty, fraudulent act or fraudulent omission did not occur as a result of recklessness or dishonesty or fraudulent act or fraudulent omission on the part of a principal in the conduct or management of the Practice (Paragraph 1(2)(c)(iiia) of Schedule 3 to the Rules).
- (c) Further, only an "indemnified" as defined in rule 2 of the Rules can notify and make a claim under the PIS. It follows that disgruntled clients or other third parties who do not fall within the definition cannot notify and make a claim under the PIS.