

立法會

Legislative Council

LC Paper No. CB(2)129/02-03

(These minutes have been seen
by the Administration)

Ref : CB2/SS/11/01

Subcommittee on Solicitors (Group Practice) Rules

Minutes of first meeting held on Wednesday, 9 October 2002 at 8:30 am in Conference Room B of the Legislative Council Building

- Members present** : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan
Hon Jasper TSANG Yok-sing, JP
Hon Audrey EU, SC, JP
- Members absent** : Hon Eric LI Ka-cheung, JP
Hon Miriam LAU Kin-ye, JP
- Public Officers attending** : Mr Stephen WONG
Deputy Solicitor General
- Ms Kitty Shuk-fan FUNG
Senior Government Counsel
- Attendance by invitation** : Representatives from the Law Society of Hong Kong
- Mr Michael LINTERN-SMITH
Vice-President and Chairman of the
Working Party on Chambers Practice
- Mr Patrick MOSS
Secretary General
- Ms Heidi CHU
Assistant Director
Regulation and Guidance

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Election of Chairman

Miss Margaret NG was elected Chairman of the Subcommittee.

II. Meeting with The Law Society of Hong Kong and the Administration

(Annex II to LS 130/01-02 for the House Committee meeting on 4 October 2002)

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Purpose of the Rules

3. Mr Michael LINTERN-SMITH briefed members on the Solicitors (Group Practice) Rules (the Rules) which provided that two or more solicitors or firms of solicitors conducting their businesses from the same address, separately but in mutual co-operation, were members of a group practice. However, members of a group practice would practise independently and would not be treated as practising in partnership except on issues of conflict of interest and confidentiality.

4. Mr LINTERN-SMITH said that members of the Law Society were generally in support of the measures introduced in the Rules, a large part of which, in fact, were proposed at the requests of solicitors. He added that about 41% of the Law Society's members were sole practitioners, and more than 90% of the member firms were small firms with five or fewer partners. The purpose of establishing this new mode of group practice was to enable solicitors to share premises, staff and facilities, and to maximise resources and efficiency in the provision of legal services to the public etc.

5. Deputy Solicitor General said that the Administration's concern was whether the Rules would have any adverse impact on the legal profession, the

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protection of the interests of users of legal services (including the public perception of the proposed change) as well as the quality of legal services. He said that the Administration had no objection to the Rules from the legal policy point of view.

Public understanding of a group practice

6. Members were of the view that the public should have an accurate understanding of the operation of a group practice, and not to confuse a group practice with a single large partnership. Members requested the Law Society to consider the following -

- (a) to issue information leaflets to inform the public of their rights and the protection given to them under group practice; and
- (b) to issue guidelines to solicitors on the operation of group practice and on the need to give proper advice to their clients. The advice might include, e.g. explanation of the liabilities of members of a group practice, professional relationship amongst solicitors within the same group practice, avoidance of conflict of interests in representing respective parties in the same case, protection of clients' interests and confidentiality etc.

Law
Society

7. On the issues of confidentiality and avoidance of conflict of interests, Mr LINTERN-SMITH advised that in cases where separate representation was required, such as divorce cases or conveyancing transactions, member solicitors or member firms of a group practice would be treated as practising in partnership and would not be allowed to act for respective parties in the same case.

Group practice management company with limited liability

8. Mr LINTERN-SMITH said that the management company was intended to serve as an appropriate vehicle through which the administration of the sharing of office premises, facilities and management of unqualified staff was to be conducted. Forming a limited liability service company to carry out the administrative functions involved in running a practice was common among law firms.

9. Mr LINTERN-SMITH added that only members of a group practice who were parties to the group practice agreement were allowed to be shareholders and directors of the management company.

Name of a group practice

10. Some members asked how the name of a group practice would be

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adopted. Mr LINTERN-SMITH and Ms Heidi CHU advised that section 6 of the Rules stipulated that the name of a group practice should be displayed on the letterhead and should appear as part of the address of the member of the group practice. The name of the member, on the other hand, should be displayed on the letterhead and should appear more prominently than the name of the group practice. It was envisaged that, for example, the name of a group practice might appear in the address as "XXX Street/Building Group Practice", separately from the name of the member solicitor or member firm, on the letterhead.

11. Some members were of the view that the expression of "事務所" in the Chinese translation of "group practice" gave rise to a misconception that a group practice was a law firm and a single partnership or an independent legal entity. Members requested the Law Society to reconsider whether the expression should be revised.

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Solicitor corporations

12. The Chairman pointed out that detailed regulations regarding the conditions under which solicitors might incorporate their practices as companies were being studied by the Administration and the Law Society. She asked whether solicitor corporations set up in the future could be members of a group practice. Mr LINTERN-SMITH and Mr Patrick MOSS replied in the negative.

Legislative timetable

13. The Chairman said that the Chairman of the House Committee would move a motion at the Council meeting on 9 October 2002 to extend the scrutiny period of the Rules to 6 November 2002.

Date of next meeting

14. The next meeting would be held on 24 October 2002 at 8:30 am.

15. There being no other business, the meeting ended at 12:20 pm.

Council Business Division 2
Legislative Council Secretariat
23 October 2002

Annex

**Proceedings of the first meeting of the
Subcommittee on Solicitors (Group Practice) Rules
on Wednesday, 9 October 2002 at 8:30 am
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000001-000028	Mr Albert HO Ms Audrey EU	Election of Chairman of the Subcommittee	
000029-000601	Chairman Law Society	Introduction of the Solicitors (Group Practice) Rules (the Rules)	
000602-000937	Admin Chairman	Administration's position on the Rules	
000938-001608	Ms Audrey EU	Operation of a group practice, possible impact on solicitors practice and public perception and understanding of the new practice	
001609-002219	Ms Audrey EU Chairman Law Society Mr Albert HO	How the name of a group practice should be expressed and possible confusion caused by the Chinese translation of "group practice"	
002220-002544	Chairman Law Society	Consultation and publicity on the Rules	
002545-004204	Ms Audrey EU Law Society Chairman Mr Albert HO	How to avoid the public being misled, in particular by the Chinese expression of "group practice", into believing that a group practice is a partnership or an independent entity, and ensure that the public get a proper understanding of the operation of a group practice	Law Society to review the Chinese translation of "group practice"
004205-004557	Chairman Law Society	Operation of a group practice where issues involving conflict of interests and confidentiality are involved	
004558-005356	Mr Albert HO Law Society Chairman Ms Audrey EU	Liabilities of members of a group practice	
005357-010559	Chairman Law Society Mr Albert HO Ms Audrey EU	Law Society should take measures to strengthen education of the public and publicity on the new practice under the Rules	Law Society to consider issuing information leaflets on the new practice and guidelines to

Time	Speaker	Subject(s)	Action required
			facilitate solicitors to give proper advice to the public
010600-011254	ALA Chairman Law Society Ms Audrey EU Mr Albert HO	Professional relationship of solicitors within the same group practice, avoidance of conflict of interests in acting for respective parties in cases where separate representation is required	
011255-011808	Ms Audrey EU Law Society	Management company with limited liability and handling of clients' accounts	
011809-012013	Chairman Law Society	Whether a solicitor corporation can become a member of a group practice	
012014-012303	Chairman Law Society	Law Society to draw the Bar Association's attention to the Rules	
012304-012454	Chairman	Date of next meeting	

Note : The audio records of the above proceedings are kept at the LegCo Library

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