

法律政策專員辦公室
律政司
法律政策科



LC Paper No. CB(2)2701/03-04(02)
Office of the Solicitor-General
Department of Justice
Legal Policy Division

Queensway Government Offices
Hong Kong

Fax: 852-2501 0371

Tel.: 852-2867 2003

香港金鐘道政府合署

圖文傳真: 852-2501 0371

電話號碼: 852-2867 2003

本司檔號 Our Ref.: LP 5004/4/9C V
來函檔號 Your Ref.:

7 June 2004

By fax : 2801 7134 & By Post

The Hon Margaret Ng
Room 116, New Henry House
10 Ice House Street
Hong Kong

Dear *Margaret,*

Review of Solicitors Professional Indemnity Scheme (PIS)

Thank you for your letter of 29 May 2004, commenting on this department's paper to LegCo's AJLS Panel on the above subject.

With respect, you appear to have misunderstood the paper. It does not rule out both options being considered by the Law Society until the establishment of a Policyholders' Protection Fund. Paragraphs 32 and 34 of the paper state that the options should not be supported unless they are backed up by a mechanism "such as a Policyholders' Protection Fund". Other mechanisms, such as "insurance on insurance", may be acceptable.

This department is fully aware that the profession considers that the present scheme is unsatisfactory and should not be maintained. However, in deciding whether a new scheme is acceptable, we are duty-bound to consider not only the views of the legal profession, but also the public interest.

As you know, the key issue is how to deal with a situation in which an insurance company providing professional indemnity cover becomes insolvent. Under the present scheme, the loss falls on the profession as a whole. That may impose too great a burden on the profession. However,

- 2 -

simply to transfer the loss to those solicitors whose liabilities are no longer covered, or to their clients, may not be an adequate solution.

In our view, it is preferable to provide a back-up mechanism whereby neither the profession, particular solicitors, or members of the public have to suffer a loss.

The Commissioner of Insurance has suggested that "insurance upon insurance" is one such mechanism. Moreover, the Law Society has kindly agreed to explore the possibility of introducing such a mechanism.

I hope you will accept that this department is playing a constructive role in the Law Society's attempt to devise a scheme that is both acceptable to the profession and in the public interest.

Yours sincerely,



(Bob Allcock)
Solicitor General

cc : Mr Michael Lintern-Smith
President, Law Society of Hong Kong (by fax : 2845 0387)

Clerk to Panel on Administration of Justice and Legal Services, LegCo
(by fax : 2509 9055)

#307680