

立法會
Legislative Council

LC Paper No. CB(4) 1066/13-14

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Panel on Administration of Justice and Legal Services

**Minutes of meeting
held on Tuesday, 27 May 2014, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)
Hon Dennis KWOK (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHAN Kin-por, BBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Alice MAK Mei-kuen, JP
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan

Members Absent : Hon Starry LEE Wai-king, JP
Hon Tony TSE Wai-chuen

**Public Officers : Item III
attending**

Mr Rimsky YUEN, SC, JP
Secretary for Justice and
Chairman
The Law Reform Commission of Hong Kong

Mr Stephen WONG Kai-yi
Secretary
The Law Reform Commission of Hong Kong

Mr Byron LEUNG
Senior Government Counsel
The Law Reform Commission of Hong Kong

Item IV

Department of Justice

Ms Adeline WAN
Senior Assistant Solicitor General

Ms Mabel CHEUNG
Senior Assistant Law Draftsman (Acting)

Miss Amy CHAN
Senior Government Counsel

**Attendance by : Item IV
Invitation**

Working Party on Solicitor Corporation Rules, The Law
Society of Hong Kong

Mr Junius HO
Chairman

Mr IP Shing-hing
Member

Mr Christopher LAMBERT
Member

The Law Society of Hong Kong

Ms Vivien LEE
Director of Standards & Development

Ms Angela LI
Assistant Director of Regulation & Guidance

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (4)5

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Ms Anki NG
Senior Council Secretary (4)5

Ms Shirley TAM
Council Secretary (4)5

Ms Linda MA
Legislative Assistant (4)5

I. Information paper(s) issued since the last meeting

Members noted that the following paper had been issued since the last meeting -

(LC Paper No. CB(4)634/13-14(01) -- Judiciary Administration's paper on "Proposed Amendments to the Rules of the High Court and Rules of the District Court on Interpleader Proceedings")

II. Items for discussion at the next meeting

(LC Paper No. CB(4)692/13-14(01) -- List of outstanding items for discussion

LC Paper No. CB(4)692/13-14(02) -- List of follow-up actions)

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2. The Chairman informed members that the Judiciary Administration and the Administration had proposed to discuss the following items at the next regular meeting scheduled for 24 June 2014 at 4:30 pm –

- (a) Proposed creation of judicial posts and a non-civil service position in the Judiciary and strengthening of the directorate structure of the Judiciary Administration; and
- (b) Implementation of the measures to strengthen the governance and operational transparency of the Legal Aid Department.

3. The Chairman also informed members that the Administration would submit the progress report in June 2014 on "Further expansion of the Supplementary Legal Aid Scheme" and "Operation of the Resource Centre for Unrepresented Litigants and the two-year pilot scheme to provide legal advice for Litigants in Person". She said that members might raise questions on these two items when considering item 2(b) above.

4. Members agreed to discuss the above items.

III. Implementation of the recommendations made by the Law Reform Commission

(LC Paper No. CB(4)692/13-14(03) -- Law Reform Commission Secretariat's paper on "Implementation of the recommendations made by the Law Reform Commission"

LC Paper No. CB(4)699/13-14(01) -- Administration's response to a motion passed at the meeting of the Panel on Administration of Justice and Legal Services on 22 April 2014

LC Paper No. CB(4)692/13-14(04) -- Paper on "Implementation of the recommendations made by the Law Reform Commission" prepared by the Legislative Council Secretariat (background brief))

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Presentation by the Law Reform Commission

5. At the invitation of the Chairman, the Secretary for Justice ("SJ") who was also the Chairman of the Law Reform Commission of Hong Kong ("LRC") briefed members on the progress of the Administration's implementation of the recommendations made by LRC. Details of the briefing were set out in the LRC Secretariat's paper (LC Paper No. CB(4)692/13-14(03)).

6. SJ said that LRC had over the years published a total of 63 reports, making law reform recommendations on substantive and procedural laws, in the areas of both civil and criminal laws. By adopting the suggestion made by the Hon WONG Yuk-man in 2013, the table was re-organized so as to set out the various reports according to their implementation status. With the exception of one report recommending no change to the law, the remaining 62 reports were tabulated under the following five categories in accordance with their implementation status -

- (a) implemented fully (32 reports, 51.6% of the 62 reports);
- (b) implemented partially (7 reports, 11.3% of the 62 reports);
- (c) being considered or implemented (18 reports, 29% of the 62 reports);
- (d) rejected outright by the Administration (three reports, 4.8% of the 62 reports); and
- (e) the Administration had no intention to implement at this juncture (two reports, 3.2% of the 62 reports).

7. SJ said that there remained a number of reports which had still not been implemented (i.e. those under (c) above) whether by way of legislation or administrative measures. They were being received by the Government with constructive feedback, either in terms of considering the LRC recommendations or making headway in introducing detailed proposals, including legislative ones, within the next two to three years. Draft bills had been, or were being, produced in respect of a number of reports, including the Child Abduction Legislation (Miscellaneous Amendments) Bill 2013 and the Contracts (Rights of Third Parties) Bill 2013.

8. SJ remarked that LRC attached great importance to speedy and effective implementation of its reports. Since 2013, the progress on implementation was a standing item for discussion at each meeting of LRC and relevant information

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was regularly uploaded onto the LRC's website for easy reference by the public. Moreover, LRC kept in regular contact with the relevant Government bureaux/departments ("B/Ds") so as to obtain updates on progress of implementation. SJ assured members that he and other members of LRC would continue to monitor the progress, in collaboration with this Panel and other Legislative Council ("LegCo") Panels.

Discussion

Report No. 57 "Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap. 221)" published in February 2014

9. Some members expressed grave concerns over the principal recommendation made in Report No. 57 which sought to remove the restriction on the court's sentencing discretion by repealing the entire list of excepted offences in Schedule 3 to Cap. 221. Mr TANG Ka-piu concurred that there might be a need to empower the judge to use discretion power in sentencing, but he pointed out that repealing the entire Schedule 3, which covered serious offences such as manslaughter and rape, would be largely controversial if no immediate sentencing was imposed. He enquired about the Administration's position about the recommendation and the B/D(s) responsible for dealing with it. He suggested the Administration to consult the public, particularly women's groups, before deciding the way forward.

10. Dr Elizabeth QUAT echoed the concern. She was worried that the recommendation would send a wrong message to the community that the excepted offences in Schedule 3 were not that serious at all as imprisonment might not be imposed on the convicted person. In fact, some women's groups had voiced the need to include serious indecent conducts in the Schedule given the number of such offences was rising recently. Mr TAM Yiu-chung cautioned the Administration to consider the recommendations carefully as the judge would use the discretion from the legal points of view which might not meet the public's expectation, and hence leading to a strong controversy.

11. SJ outlined the background of Report No. 57. He said that The Law Society of Hong Kong ("the Law Society") forwarded the report of a study it had commissioned to LRC as a potential topic for consideration. Having consulted the Hong Kong Bar Association ("the Bar Association"), LRC considered the topic was worth pursuing. SJ explained that the recommendation did not intend to play down the seriousness of the excepted offences in Schedule 3. It was just, on some occasions, an excepted offence might be committed in a way not as serious as its name suggested and might not warrant imprisonment. However, under the current system, the courts'

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sentencing discretion in relation to excepted offences was restricted. Report No. 57 recommended repealing the list of excepted offences so that the court would have the full discretion to impose an appropriate and adequate sentence, immediate or suspended included, having regard to the gravity of the offence and the circumstances of the convicted person.

12. SJ said that the Administration adopted an open mind to the LRC recommendation and the Department of Justice ("DoJ") had already been exchanging views with the Security Bureau. In reply to members, SJ said that he noticed the community's grave response pursuant to the publication of the report, in the light of which the Administration was prepared to brief the Panel and receive public views, in particular those of the women's groups at a meeting to be held in July 2014 or after the summer recess, before the Administration deciding the way forward. Dr Elizabeth QUAT opined that deputations particularly women's groups should also be invited to join the discussion.

(Post-meeting note: This item was scheduled for discussion at the Panel meeting in November 2014.)

13. Mr TAM Yiu-chung suggested using alternative means to enhance judges' flexibility on sentencing, such as reviewing the Schedule and taking out those offences considered to be less serious or reduce the term of imprisonment, instead of implementing the recommendation intact. In response, SJ advised that the suggestion was one of the approaches being considered by the Administration.

Report No. 35 "The regulation of debt collection practices" published in July 2002

14. Noting that the use of 'positive credit data' proposed by Report No. 35 on debt collection practices was implemented through the Code of Practice on Consumer Credit Data 2002, Mr TAM Yiu-Chung enquired about the rationale for rejecting other recommendations on controlling debt collection practices, such as stalking, which were highly concerned by the public.

15. SJ replied that the number of complaints relating to debt collection practices had dropped. The Administration also considered that there were some operational difficulties in implementing the recommendations, and there were already other legislative provisions in place to combat abusive practices employed by debt collection agencies. Hence, the Administration rejected other recommendations of the report.

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Report No. 55 "Class actions" published in May 2012

16. Mr CHAN Kin-por enquired about the way forward and the position taken by the Administration as regards Report No. 55 on class actions. Noting there was a grave concern in the business sector on the concerned recommendations, he also asked whether the Administration would conduct any public consultation on this subject. In response, SJ pointed out that there were divergent views among different sectors of the community about whether class action procedures should be implemented and whether the scope should cover only consumers or more parties. For example, the local business sector was very concerned about potential abuse of the class action procedures with reference to the abuse cases in the insurance and pharmaceutical industries in the United States. SJ remarked that LRC studied the subject of class actions at the recommendation arising from the Judiciary's Civil Justice Reform a few years ago. To work out a balanced point of views, a cross-sector Working Group comprising members from legal and business sectors had been established under DoJ to study the proposals of the report. The Working Group had consulted relevant stakeholders, including trade organizations, and it would continue to gauge views from different parties on this subject.

17. At Mr CHAN Kin-por's further enquiry, SJ advised that the Administration would map out the way forward in light of the recommendations to be made by the Working Group. The Administration would also set out the considerations for its decision on whether to take forward the LRC recommendations on class actions.

Progress of implementation

18. Mr Dennis KOWK and Mr WONG Yuk-man expressed concern that the Administration had spent a long time in considering the LRC recommendations on various reports and they would become out of date due to the lapse of time. As cited by Mr WONG, the Security Bureau was still reviewing some of the proposals under Report No. 33 "Arrest" published about 22 years ago with a view to determining the way forward. Mr WONG was also very concerned that the Administration had failed to incorporate the proposals of Report No. 40 "Insolvency – Part 2: Corporate rescue and insolvent trading" into the new Companies Ordinance (Cap. 622) during the lengthy scrutiny period of it that lasted some 16 months. He also cast doubt on the Administration's plans to introduce an amendment bill into LegCo in the 2014-2015 legislative session for Report No. 34 "Insolvency – Part 3: Winding-up provisions of the Companies Ordinance" published in July 1999 and to complete its work before the end of 2014 on a comprehensive examination of the recommendations in relation to Report No. 44 "Contracts for the supply of goods" published in February 2002.

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Mr Albert HO was worried that the delay in implementing those recommendations would hinder the local legislation system from keeping up with the global trend as well as the system's overall development. Besides, he considered that the time spent by LRC from identifying potential topics for further study to publishing reports was excessively long.

19. SJ responded that the Administration had followed up concerns on the need to expedite the implementation process and LRC also attached importance to monitoring the progress on implementation which had been made a regular item of the LRC meetings. However, in the light of the policy and practical implications of the issues involved, the Administration encountered various difficulties in implementing some of the recommendations. For example, in the case of Report No. 40, he recalled that different sectors of the community had divergent views on the scope of the Companies Bill, thus making it difficult to use the Bill to take forward LRC recommendations concerned. In respect of Report No. 48 "Guardianship and custody – Part 4: Child custody and access", local women groups supported the legislative approach to implement relevant recommendations when the report was published in 2005, but since then some jurisdictions (like Singapore) had decided to rely on administrative measures. SJ highlighted that to alleviate differences among stakeholders on a particular LRC proposal such as this one, the responsible B/Ds had been keeping continuous dialogues with the stakeholders concerned. In this connection, the Chairman also highlighted the divergent views she received from women groups on the issue of child joint-custody.

20. As regards the concern on the efficiency of LRC, Mr Dennis KWOK enquired whether SJ would consider seeking more resources to employ more full-time LRC members and/or researchers. In response, SJ advised that since he took office on 1 July 2012, he had discussed with various parties the resources and the efficiency of LRC with a view to formulating measures to expedite the LRC's work. This issue would be further considered by LRC.

The work of the Law Reform Commission

21. Given that three LRC reports were rejected by the Administration, Dr CHIANG Lai-wan enquired the procedures for making such decision. In response, SJ advised that the Administration would discuss with relevant stakeholders when considering the proposals, and it might accept or reject the proposals having regard to the policy and practical considerations or the relevant latest developments following the issuance of the concerned LRC report. In reply to Dr CHIANG's further enquiry, SJ advised that in addition to this annual report, relevant Panels of LegCo might also be briefed on the LRC recommendations, and any subsequent amendment of relevant legislation would

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be scrutinized by LegCo. SJ pointed out that the Administration would be prepared to brief the relevant Panel on LRC reports which were of interest to members, and this arrangement could also facilitate the Administration to gauge views from Members and deputations.

22. Noting that the LRC's remit was to consider for reforming those aspects of the law which were referred to it by SJ, the Chief Justice ("CJ") or jointly by SJ and CJ while LRC members were mostly from the legal profession appointed by the Chief Executive, Mr WONG Yuk-man opined that the general public might have doubts about the independence and impartiality of LRC, and the topics of study might be subject to Government's interference. He considered that as DoJ had its own legal research division, it should not interfere with the work of LRC. He expressed concern that under the framework of the Basic Law, all law-related proposals were now initiated by the Administration. Mr WONG remarked that LegCo Members should have the same right to refer those aspects of the law to LRC for study. SJ responded that in addition to the formal referral mechanism, he welcomed LegCo Members, the academic sector as well as the public to propose any topics which might merit LRC consideration for law reform.

23. Mr Albert HO suggested regularly reviewing certain topics for law reform, such as the damages for bereavement under the Fatal Accident Ordinance (Cap. 22). He pointed out that the damages were currently maintained at HK\$150,000, which was proposed by him under a member's motion in 1996. That meant the level of damages had not been increased along with inflation for almost two decades. In response, SJ said that he would look into the issue.

24. Concluding the discussion, the Chairman highlighted that the Panel meeting was a useful platform for members and the Administration to exchange views on LRC reports and other areas of the law that may merit consideration for reform. She also suggested two topics for LRC consideration for law reform including tackling disputes over property management through arbitration and the jury system. Meanwhile, members agreed that all other Members would be invited to attend future briefings of LRC annual report.

Other issues

25. At the same meeting, members noted that the Judiciary Administration had provided its written response to the Panel's proposal to provide screen to victims of sexual offence cases during court proceedings, advising that the matter was under consideration within the Judiciary.

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IV. Draft Solicitor Corporation Rules and consequential amendments to Legal Practitioners Ordinance (Cap. 159)

(LC Paper No. CB(4)692/13-14(05) -- Paper on "Solicitor Corporation Rules and consequential amendments" in the form of a letter provided by The Law Society of Hong Kong (English version only)

LC Paper No. CB(4)692/13-14(06) -- Extract of minutes of meeting of the Panel on Administration of Justice and Legal Services held on 28 March 2011)

Briefing by The Law Society of Hong Kong

26. At the invitation of the Chairman, Mr Junius HO, Chairman of the Working Party on Solicitor Corporation Rules of the Law Society briefed members on the progress of drafting the rules for the implementation of solicitor corporations by the Law Society as detailed in its letter [LC Paper No. CB(4)692/13-14(05)]. Members noted the latest set of the draft Solicitor Corporation Rules ("the draft Rules") which provided for matters relating to approval of company as solicitor corporation.

27. Mr Junius HO advised that CJ had granted his approval-in-principle to the draft Rules and consequential amendments to the Legal Practitioners Ordinance (Cap. 159). CJ had asked the Law Society to consult the Panel on two issues relating to solicitor corporations, namely, whether solicitor corporations should be required to take out any top-up professional indemnity insurance and notify clients of the identity of the supervising partners.

Top-up professional indemnity insurance

28. Mr Junius HO considered that the protection for the public provided by the existing mandatory Professional Indemnity Scheme ("PIS") of the Law Society was already sufficient. He explained that to administer PIS, the Solicitors Indemnity Fund ("the Fund") was established to provide indemnity cover to all members of the Law Society up to the limit of HK\$10 million for each and every negligence claims made by the public against members. There was no statistical evidence to suggest that the present PIS limit was inadequate. In addition, the Legal Services Legislation (Miscellaneous Amendments)

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Ordinance 1997 which sought to introduce the solicitor incorporation had been passed by LegCo and the Administration without imposing a requirement for solicitor corporations to purchase any top-up indemnity insurance. He also drew members' attention to the recent proposal of the United Kingdom ("UK") to reduce the minimum professional indemnity cover from £3 million per claim to £500,000 per claim while Singapore maintained a lower level of professional indemnity cover than that of Hong Kong. In this regard, the Law Society considered that it was not necessary to implement a top-up professional indemnity insurance for solicitor corporations.

Notification to the clients of the identity of supervising partners

29. On the requirement for solicitor corporations to notify clients of the identity of the overall supervising partners, Mr Junius HO pointed out that a mechanism had been established under limited liability partnership ("LLP") whereby the responsible managing partner of the firm was made known to the clients and this requirement was also set out in the Hong Kong Solicitors' Guide to Professional Conduct for law firms. With reference to this good practice, the Law Society agreed to add the provision to the draft Rules for notifying clients of the identity of the overall supervising partners for solicitor corporations.

Views of the Department of Justice

30. Senior Assistant Solicitor General ("SASG") welcomed the Law Society's agreement to add a provision to the draft Rules requiring a solicitor corporation to notify its clients the identity of the overall supervising partners of the client-matter. She considered that it was an important safeguard for the clients. In regard to the issue on the top-up professional indemnity insurance, SASG pointed out that the Administration was concerned about the need for protecting consumers' interests while providing solicitors with a viable alternative model for operating their business. She pointed out that since the enactment of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997, the issue of top-up professional indemnity insurance had been discussed several times including at the Panel meetings held in early 2000s. She highlighted that it had been more than a decade since the Administration advised the Panel in November 2003 that it would not insist on the requirement of top-up insurance for solicitor corporations having regard to the then circumstances. In addition, during the scrutiny of the Legal Practitioners (Amendment) Bill 2010 in 2012, which sought to introduce LLP for the law firms in Hong Kong, the Administration required LLPs to take out top-up insurance to provide indemnity coverage of another HK\$10 million per claim in addition to PIS. In these circumstances, the Administration would welcome any measure that could

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enhance protection for consumers of legal services. However, given that imposing a requirement of top-up insurance at this stage might further delay the implementation of the solicitor corporation scheme and any such delay would deprive practicing solicitors in the interim a viable alternative model for operating their business, the Administration was prepared to monitor the operation of solicitor corporations and review the need for top-up indemnity insurance after the commencement of the draft Rules.

Discussion

31. Mr Dennis KWOK enquired about the difference between LLP and solicitor corporations. Mr Junius HO explained that solicitor firms constituted of a sole practitioner could incorporate their practices in the form of solicitor corporations whereas solicitor firms with not less than two partners could choose to be registered as LLPs. While overseas experience showed that large solicitor firms would tend to incorporate as LLPs, sole practitioner accounted for about 30% to 40% of some 800 practicing firms in Hong Kong. Mr HO said he hoped that the legislative amendments relating to LLP and solicitor incorporations could be tabled at LegCo for negative vetting in tandem.

Top-up professional indemnity insurance

32. Mr Dennis KWOK opined that the top-up indemnity insurance was not necessary in view of the healthy financial condition of the Fund and the decreasing number of claims against solicitors. He supported expediting the implementation of the draft Rules without the requirement of top-up indemnity insurance.

33. Noting that the statutory indemnity cover under PIS for both large and small solicitor firms was set at the same level, i.e. up to a limit of HK\$10 million for each and every claim, Dr CHIANG Lai-wan doubted whether the cover was enough for large firms which usually handled more complex cases with higher risk. In response, Mr Junius HO pointed out that in addition to the statutory HK\$10 million insurance coverage for each and every claim made by clients, it was not uncommon for some larger solicitors firms to take out additional indemnity insurance depending their individual situation and commercial consideration. He also stressed that from 1995-1996 to 2012-2013 indemnity years, there had been 3 888 claims on the Fund and out of which, only 65 claims (i.e. 1.67%) had sought HK\$10 million or more. Among the 65 claims, 17 were paid HK\$10 million and seven open claims were with payout anticipated to reach HK\$10 million. He also briefed members on other relevant claims statistics as detailed in Annex 4 to the Law Society's paper [LC Paper No. CB(4)692/13-14(05)].

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34. Having regard that the UK was proposing to reduce the level of professional indemnity cover for solicitor firms, Dr CHIANG Lai-wan enquired more information about the proposal. In response, Ms Vivien LEE, Director of Standards and Development of the Law Society briefed members about the recent proposals of the Solicitors Regulation Authority ("SRA") of England and Wales on the mandatory professional indemnity cover which solicitor firms and incorporated practices were required to purchase. Currently, the minimum professional indemnity cover required to be taken out by solicitor firms and incorporated practices in England and Wales were £2 million per claim and £3 million per claim respectively. Ms LEE added that SRA was proposing to reduce the minimum limit of indemnity per claim for all types of firms to £500,000 starting from 1 October 2014. The reasons for the reduction were that many firms in England and Wales were sole practitioners with low turnover and the mandatory cover of £2 million or £3 million per claim was far above what was needed. In addition, high indemnity cover would increase the operating cost of the firms and the cost would be passed onto their clients.

35. Dr CHIANG Lai-wan expressed concerns on the competitiveness of small solicitor firms which might not able to afford indemnity cost of PIS. She suggested setting up a pool such as a compensation fund to protect the interests of consumers while maintaining the competitiveness of legal firms in a balance way. Mr Junius HO replied that the Law Society would review from time to time measures to facilitate the operation of solicitor firms. He would bring Dr CHIANG's suggestion for the consideration of the Law Society.

36. Mr LEUNG Kwok-hung shared the concern on the competitiveness of small solicitor firms which however might be affected by high rentals rather than indemnity cost. Mr LEUNG expressed concern that the practitioners should use alternative means to solve the issue of high operating cost rather than relying on Government's waiving the statutory indemnity insurance requirement.

37. In response, Mr Junius HO concurred that the best way of business operation was to avoid passing the operating cost onto clients by controlling the operating cost, and this was always the strategy adopted by the Law Society's members. Given that every practicing solicitor was statutorily required to have insurance cover on professional indemnity, the Law Society had established a well-designed Fund which had primary liability but had reinsured its obligations with a number of re-insurers to provide a cushion effect against the risk taken.

38. Noting that the Law Society had reduced the contributions payable by solicitor firms to the Fund as a result of its adequate reserves to cover PIS claims, Mr Dennis KWOK enquired about the estimated extent of reduction in

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this regard as this might affect the competitiveness of small solicitor firms. Mr Junius HO explained that the Law Society reviewed annually whether there could be any reduction on the contributions payable by law firms to the Fund according to the provisions of the statutory requirement. In the past three years, the amount reduced was about one-third of the total contributions paid by law firms according to the statutory formula. That said, the premium payment for each solicitor used to be around HK\$45,000 to HK\$50,000 and the reduction per head was over HK\$10,000. He added that the contributions payable by solicitor firms were expected to be further reduced as a result of the increasing number of law firms and solicitors sharing out the cost of reinsurance.

Protection for consumers

39. Dr CHIANG Lai-wan enquired about the measures to protect consumers against malpractice of solicitors in providing legal services, for example, dealing with conveyance transactions. Mr Junius HO highlighted that the quality standard of local solicitors was high and cases of malpractice of the profession were rarely heard. The practice of keeping clients' money for conveyance transactions by solicitor firms had been operated satisfactorily. There was also an established mechanism in the Law Society for its monitoring accountants to randomly inspect the accounts of solicitor firms. In addition, the profession was also concerned about the conduct of its practitioners and individual solicitor firms would set up their own monitoring scheme to avoid any internal malpractice which might affect the public interest. Furthermore, he pointed out that implementing the draft Rules would also help to increase the competitiveness of small solicitor firms through reducing their operating costs and protecting consumers' interests.

Introduction of limited liability partnership

40. Mr Dennis Kwok reiterated his concern about the progress of submitting relevant subsidiary legislation for LLP for LegCo's scrutiny. In response, SASG advised that there were two sets of subsidiary legislation for LLP, one for introducing the top-up indemnity insurance required of LLP and the other for specifying the procedures for legal actions by or against LLP firms. The latter would involve amendments to Order 81 of each of the Rules of the High Court (Cap. 4A) and the Rules of the District Court (Cap. 336H). The Administration had consulted the Bar Association and the Judiciary both of which had expressed support for the proposal. The first draft of the Amendment Rules in question was ready and would be circulated to the Law Society, the Bar Association and the Judiciary for comments. The Administration would then seek approval from the Rules Committees of the High Court and the District Court on the relevant amendments to Cap. 4A and

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Cap. 336H. SASG said she was keen to see that the Amendment Rules could be tabled for LegCo's scrutiny in October 2014 for negative vetting.

41. On the subsidiary legislation for introducing the top-up indemnity insurance under LLP, Ms Vivien LEE informed members that the Law Society had appointed an outside solicitor firm to draft the relevant legislative amendments to which CJ had given his approval. SASG remarked that as she recalled, CJ had given his in-principle approval to the Law Society's legislative amendments, subject to further clarifications on a few points. In response, Ms LEE advised that the appointed solicitor firm would revert on the clarifications. Mr Dennis KWOK requested the Law Society to provide a written response on the timetable of tabling legislative amendments in respect of top-up indemnity insurance for LLP before the Council.

Law
Society

V. Any other business

42. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 4
Legislative Council Secretariat
23 September 2014