

Meeting of the Panel on Administration of Justice and Legal Services
on Monday, 27 April 2015 at 4:30 p.m.

**Submissions of the Law Society of Hong Kong on
“Legal Education and Training in Hong Kong”**

1. The Law Society of Hong Kong (“Society”) is one of the stakeholders represented on the Standing Committee on Legal Education and Training (“Standing Committee”).
2. The Standing Committee is proposing to conduct a comprehensive study on legal education and training in Hong Kong. The Society has no objection to the proposed terms of reference of the study, which are attached in **Appendix 1**, and the proposed appointment of Mr. Justice Suffiad, former Judge of the Court of First Instance of the High Court of Hong Kong, Professor Julian Webb of Melbourne Law School, Australia, and Professor Tony Smith, Pro Vice-Chancellor of Victoria University of Wellington, New Zealand as consultants to conduct the study.
3. The Government has provided HK\$1.5 million to fund the study. The Standing Committee seeks contribution from other stakeholders. The Society has no objection to contribute to any costs of the study in excess of the HK\$1.5 million subject to the condition that City University of Hong Kong, the Chinese University of Hong Kong, The University of Hong Kong, and Hong Kong Bar Association will share equally in any such excess.
4. A company, SCLET Ltd., has been established to hold the funds for the study and to pay for the expenses incurred.
5. The Society is Secretary to the Standing Committee and will provide secretarial support to the study. Such secretarial support includes but is not limited to the following:
 - (i) Co-ordination between the consultants appointed to conduct the study and SCLET Ltd, the Standing Committee, and other stakeholders;
 - (ii) Maintenance of records of receipts, invoices, and other supporting documents for payment of expenses arising from the study;
 - (iii) Co-ordination between SCLET Ltd. and the auditors for the preparation of the audited accounts of the study;
 - (iv) Secretarial support to the Working Group established by the Standing Committee to oversee the study, including arranging and attending meetings of the Working Group, monitoring the Government funding, preparation and

submission of progress reports to the Government and the Standing Committee;

- (v) Liaison with the Government on matters relating to the study;
 - (vi) Provision of logistical support and administrative assistance throughout the study and in particular during the visits of the 2 overseas consultants to Hong Kong;
 - (vii) At the request of the consultants and/or the interviewees, and subject to availability, provision of office space for meetings of the consultants and/or interviewees and other stakeholders.
6. In addition to the study proposed by the Standing Committee, the Society is considering a proposal for a common entrance examination ("CEE").
 7. The Society previously attended a meeting of the Panel on Administration of Justice and Legal Services on 16 December 2013 to explain the purpose and the rationale of a consultation conducted on CEE. The Submissions of the Society setting out the rationale and purpose of the CEE consultation are set out in LC Paper No.CB(4) 225/13-14(03).
 8. The Society conducted the CEE consultation between December 2013 and February 2014. Two fora, one in January 2014 to hear the views of practitioners and academics, and another in February 2014 to hear the views of the students were held. 104 responses were submitted in response to the CEE consultation and 11 interviews were conducted with stakeholders. The Society is still reviewing the responses, and will conduct a meeting with the CEE consultants in due course to discuss the responses.
 9. 2 representatives of the Society sit on the Standing Committee and save as are provided in these Submissions, the 2 representatives have nothing further to add.

15 April 2015

BACKGROUND AND TERMS OF REFERENCE FOR REVIEW RECOMMENDED BY THE WORKING GROUP

Developments since the Redmond Roper Report

1. There have been some developments since the publication of the Redmond Roper Report in August 2001. They are:
- (1) A new law school was set up at CUHK providing programmes for LLB, JD and PCLL. There are now 3 law schools (HKU, City U and CUHK) offering programmes which lead to professional qualifications to practise law in Hong Kong.
 - (2) HKU has expanded its double degree programmes (conferring an LLB and some other first degrees). Graduates of these programmes are eligible to enroll in the PCLL programme by virtue of their LLB degree.
 - (3) City U was the first to introduce its JD programme. This was followed by CUHK. HKU just started this programme a few years ago. CUHK has expanded its JD programme in recent years. JD programmes are now available at all 3 universities. The total number of JD graduates each year has now exceeded LLB graduates.
 - (4) The Conversion Examination was established to ensure that overseas law graduates have the requisite knowledge of certain areas of the local law. Through this examination, overseas law graduates are now able to become eligible to enroll in the PCLL programme at any of the 3 universities.
 - (5) Although the Government (through the UGC) has provided funded places for the PCLL programmes at all 3 universities, in view of the demand for PCLL places, these universities are allowed to provide self-funded places. The cost for self funded places is 3 times or more of that for the funded places. The total number of self funded places now almost matches the number of funded places.
 - (6) Since September 2004, LLB became a 4 year programme although programmes for other general degrees were 3 years. Two years ago, the Government has changed the secondary curriculum from 7 years (5 + 2) to 6 years (3 + 3) in September 2012. Since the change of secondary curriculum, all other general degree programmes have increased to 4 years. The 3 universities have decided to retain the LLB programme as one of 4 years and the double degree programmes at HKU have remained at 5 years (when it normally requires 8 years to do two degrees).
 - (7) The Government has entered into agreement with the authorities in the Mainland through the CEPA arrangements to enhance the provision by lawyers qualified in Hong Kong of Hong Kong legal services in various parts of the Mainland. Many

local and overseas firms have set up offices or entered into co-operation with Mainland law firms.

- (8) More and more overseas law firms including those from the Mainland have established offices in Hong Kong practising foreign law in Hong Kong.
- (9) There has been an increase in the number of candidates taking the Overseas Lawyers Qualification Examination which is set up for those who are qualified overseas and wish to practise Hong Kong law in Hong Kong.

Concerns over standards of entrants to the legal profession

2. The following features can be noted in the present system:

- (1) PCLL is the only route to legal qualification. This is left in the hands of the 3 universities which are the providers of this programme. They control (i) admission into the programme; (ii) training of the students; and (iii) assessment of the graduates. In other words, they are entrusted by statute, with the agreement of the two branches of the legal profession, to undertake the training and admission of lawyers into the legal profession (except foreign lawyers who pass the OLQE).
- (2) The 3 universities run their courses separately and have their own assessments and examinations. But the courses provided by the 3 universities are regarded as the same since they are required to teach the same curriculum over which the two branches of the profession have a say and they share a common external examiner who is jointly appointed to oversee the results of their separate examinations.
- (3) Although the admission criteria are generally based on the degree honours and GPA scores of the applicants, there are different classes of applicants into the PCLL programmes run by the 3 universities:
 - (i) local LLB graduates who have completed a 4 year course at any one of the 3 universities;
 - (ii) local double degree graduates who have completed a 5 year course at HKU;
 - (iii) local JD graduates who have completed a 2 year course at HKU, at CUHK, (where the course may run onto 3 years at the option of the students or on requirement by the university), and at City U;
 - (iv) local holders of a 2 year part-time CPE programme operated by HKU SPACE;
 - (v) local external LLB graduates (on a part time basis) run by the London University in conjunction of HKU SPACE (the length of the curriculum is usually 3 to 4 years but this may be extended);
 - (vi) overseas law graduates who have completed a 3 year course in a recognized UK university (or 5 year double degree course at an Australian university); and

- (vii) local secondary school leavers who were admitted to do law in the UK after they had completed the new DSE (under the 3 + 3 secondary scheme) and who have completed a 3 year course in a recognised UK university.

3. There are the following concerns arising from the above features in the system, especially paragraph (3) above:

- (1) some are concerned that the standards of the PCLL graduates at the 3 universities may be different, notwithstanding that the 3 programmes are monitored by the two branches of the legal profession and share a common external examiner. Whatever the standards of the graduates may be, the perception that there may be a difference in the standards of the graduates cannot be ignored;
- (2) law graduates who have completed any of the law courses (mentioned in the preceding paragraph) but who are not admitted into the PCLL programme in any one of the 3 universities in the first time round will for almost all practical purposes be unable to become a lawyer in Hong Kong as the chances of admission in the following year are considered minimal. This may not be regarded as fair as the reason for failing to get a PCLL place may be due to keen competition and the limited number of PCLL places. A student's future career may also depend on the general standard of the students in a particular year;
- (3) the perception of unfair competition may also be caused by the differences in the GPA scores (i) between LLB graduates and JD graduates; (ii) between local graduates and graduates from overseas universities; and (iii) the criteria adopted by the 3 universities in recognizing overseas universities and their GPA scores;
- (4) the dilemma of students (and their parents in supporting them) in choosing whether to do a law degree or a non law degree followed by a JD and whether to do their first law degree overseas or in Hong Kong as these degrees take different periods to complete and may have an effect on their chances of getting admitted into PCLL programmes;
- (5) the preference of law firms in taking JD graduates as they may be considered as more mature and possibly better lawyers. If this impression proves to be generally true, consideration should arguably be given to making the law degree a second degree. This will also have an effect on the policy of Government funding of undergraduate studies and PCLL programmes.

New Demands of the Legal Profession

4. During recent years, there are new demands on the services to be provided by the lawyers in Hong Kong. There are two main reasons for this.

- (1) The Government's on-going policy to develop and promote Hong Kong as an international legal services and dispute resolution centre in Asia Pacific. The main objectives of the Department of Justice (DOJ) are to strengthen Hong Kong's status as a regional centre for legal and arbitration services, by inter alia, enhancing the statutory framework, facilitating the establishment and growth of world class dispute resolution and law related organizations; and promoting Hong Kong's legal and dispute resolution services in the Mainland and in other countries.
- (2) The Law Society has identified changes in the market for legal services, including:
 - (i) globalization of the legal services sector giving rise to the growth of global law firms and internationalization of legal activities and services;
 - (ii) the advancement of modern technology enabling legal services to be expedited through unconventional methods;
 - (iii) the development of the CEPA and the Mainland opening up its market for legal work which is Mainland related; and
 - (iv) emerging problems involving human rights and legal issues relating to the environment, privacy, immigration and international justice.

5. These demands have the effect of transforming the nature of legal work and legal services, raising the expectations of the public and the legal profession and aspirations of law graduates.

Terms of Reference of the review

6. The proposed terms of reference are as follows:
- (1) To review critically the present system of legal education and training in Hong Kong including its strengths and weaknesses;
 - (2) To advise on the requirements of a legal education and training system which is best capable of meeting the challenges of legal practice and the needs of Hong Kong society;
 - (3) In the light of the findings in (1) and (2) above, to make recommendations, including making proposals to improve the existing system or introducing an alternative model of legal education and training system, to ensure that such improved or alternative system is best capable of meeting those challenges and needs;
 - (4) To examine the present curricula of the various law programmes offered by the

three universities and to make recommendations on such curricula to ensure that those entering the legal profession are best capable of meeting those challenges and needs;

- (5) To advise on the feasibility of setting up a mechanism for measuring the quality and standard of legal education and training in Hong Kong so as to ensure that those entering the legal profession receive the best legal training for the maintenance or improvement of professional standards;
- (6) To consider the current arrangements for the pre-qualification vocational training of trainee solicitors and pupils and to advise on the need (if any) and the ways to improve such vocational training.