

立法會
Legislative Council

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LC Paper No. CB(2)259/11-12
(These minutes have been seen
by the Administration)

Panel on Administration of Justice and Legal Services

Minutes of meeting
held on Monday, 28 March 2011, at 4:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Dr Hon Margaret NG (Chairman)
Dr Hon Priscilla LEUNG Mei-fun (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Paul TSE Wai-chun
Hon LEUNG Kwok-hung
- Members absent** : Hon TAM Yiu-chung, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
- Non-Panel member attending** : Hon LEE Wing-tat
- Public Officers attending** : Item IV

Ms Grace LUI Kit-yuk
Deputy Secretary for Home Affairs

Mr William CHAN Heung-ping
Director of Legal Aid

Mr KWONG Thomas Edward
Deputy Director of Legal Aid / Application & Processing

Ms Alice CHUNG Yee-ling
Deputy Director of Legal Aid / Administration

Item V

Mr Peter H H Wong
Deputy Solicitor General

Ms Adeline WAN
Senior Assistant Solicitor General
(General Legal Policy)

Miss Amy CHAN
Senior Government Counsel

**Attendance by : Item IV
invitation**

Hong Kong Bar Association

Mr Ruy Barretto, SC

Mr Robert PANG

Mr Nicholas Pirie

The Law Society of Hong Kong

Mr Leslie YEUNG
Member of the Legal Aid Committee

Item V

The Law Society of Hong Kong

Mr Huen WONG
President

Mr Junius HO
Vice President and Chairman of the Working Party on
Incorporation of Solicitors' Practices

Ms Heidi CHU
Secretary General

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr KAU Kin-wah
Senior Assistant Legal Adviser 3

Miss Ivy LEONG
Senior Council Secretary (2)3

Ms Wendy LO
Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting

[LC Paper No. CB(2)1333/10-11]

The minutes of the meeting held on 24 January 2011 were confirmed.

II. Information papers issued since last meeting

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

LC Paper No. - Letter from Mr NG Shek-wai expressing
CB(2)1176/10-11(01) views on the right to sue/defend in person
under Order 5 rule 6(3) and Order 9 rule
6(3) of the Rules of the High Court

III. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1332/10-11(01) to (03) and CB(2)1342/10-11(01)]

3. Members agreed to discuss the following items at the next regular meeting to be held on 14 April 2011 -

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- (a) Criminal legal aid fees system;
- (b) Free legal advice service;
- (c) Development of mediation services; and
- (d) Mediation service for building management cases.

4. Members noted the background brief prepared by the Legislative Council ("LegCo") Secretariat on "An independent Director of Public Prosecutions ("DPP")" [LC Paper No. CB(2)1342/10-11(01)]. Members agreed that the Panel should invite the Secretary for Justice, the newly appointed DPP, Mr Kevin Paul Zervos, the former DPP, Mr Grenville Cross, legal profession and academics to join the discussion of the issue relating to an independent DPP at its regular meeting to be held in June 2011. At the Chairman's suggestion, members further agreed to invite the newly appointed DPP to brief the Panel on prosecution policy and practice, as well as any recent initiatives to improve the quality and efficiency of the work of the Prosecutions Division.

IV. Expansion of the Supplementary Legal Aid Scheme ("SLAS")
[LC Paper Nos. CB(2)1320/10-11(01) and CB(2)1332/10-11(04)]

5. Members noted the submission from the Hong Kong Bar Association ("Bar Association") which was tabled at the meeting and subsequently issued to members vide LC Paper No. CB(2)1373/10-11(01) on 30 March 2011.

6. Members also noted the paper provided by the Administration on "Legal Aid Contribution" which was tabled at the meeting and issued to members vide LC Paper No. CB(2)1363/10-11(01) on 28 March 2011.

Briefing by the Administration

7. Deputy Secretary for Home Affairs ("DSHA") briefed members on the Administration's paper [LC Paper No. CB(2)1320/10-11(01)] setting out its proposals for expanding the scope of SLAS. DSHA advised that while the Administration would not seek to expand SLAS to cover claims in relation to derivatives in the current exercise, a study would be conducted on amending the Legal Aid Ordinance (Cap. 91) ("LAO") with a view to enabling money claims in derivatives of securities, currency futures or other futures contracts ("derivative claims") be covered under the Ordinary Legal Aid Scheme ("OLAS") when fraud, misrepresentation/deception was involved at the time of

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purchase. The Administration intended to consult the Panel and the Legal Aid Services Council on the detailed proposal in the next legislative session.

8. The Chairman enquired whether derivative claims could be covered under SLAS if such claims were not covered under OLAS. Director of Legal Aid ("DLA") explained that according to the existing LAO, derivative claims were not covered under OLAS. Should the scope of SLAS be expanded to cover derivative claims, a person who was legally aided under SLAS could not transfer his case to OLAS for continuation of the legal proceedings if his financial resources had subsequently reduced to an amount such that he would be eligible for legal aid under OLAS.

9. Members noted the background brief prepared by the LegCo Secretariat on the expansion of SLAS [LC Paper No. CB(2)1332/10-11(04)].

Views of the two legal professional bodies

Bar Association

10. Mr Ruy Barretto, Mr Nicholas Pirie and Mr Robert PANG presented the views of the Bar Association as detailed in its submission [LC Paper No. CB(2)1373/10-11(01)].

11. Mr Ruy Barretto said that the Bar Association had put forth in its previous submissions recommendations for expanding the scope of SLAS in a holistic package rather than a piecemeal approach. While the Bar Association was pleased with the Administration's proposals, it was of the view that there was still much room for improvement. The Bar Association did not agree with the Administration's guiding principles that SLAS was aimed at cases that carried a high chance of success with good damages to costs ratio. The legal principles and legislative intent behind the establishment of SLAS were detailed in its submission dated 22 November 2010 (paragraphs 1 to 15) [LC Paper No. CB(2)375/10-11(01)]. Mr Barretto further stressed that the recommendation of the Bar Association to increase FEL to \$350,000 for OLAS and \$3 million for SLAS was in line with the Chief Executive's statement in his 2010-2011 Policy Address that the Government had decided to increase substantially the FELs of OLAS and SLAS. However, the increase put forward by the Administration was only an adjustment in line with inflation, not a substantial increase.

12. Referring to the proposals not supported by the Administration, Mr Barretto said that the Bar Association was disappointed at the Administration's decision not to expand the scope of SLAS to cover property

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damage claims against incorporated owners of multi-storey buildings. He said that SLAS should be expanded to cover such claims to ensure better management of buildings to prevent accidents and to enforce more effectively the Deeds of Mutual Covenants or the Building Management Ordinance (Cap. 344). The Bar Association considered that granting of legal aid under SLAS would be an adjunct to the mandatory insurance of incorporated owners.

13. Mr Nicholas Pirie elaborated on the reasons why claims against independent financial consultants should be included under the expanded scope of SLAS as set out in paragraphs 11 to 12 of the Bar Association's submission. Mr Pirie said that the Bar Association could not understand why the Administration did not consider that such claims should be covered in the expanded SLAS. He said that independent financial consultants who sold futures and derivatives were subject to the same code of conduct as those insurance agents who were registered with the Insurance Agents Registration Board set up by The Hong Kong Federation of Insurers. Furthermore, all persons registered under the Securities and Futures Ordinance (Cap. 571) had been required to take out compulsory insurance since 1994. As such, there should not be any reasons to differentiate between particular classes of financial advisory professionals.

14. Mr Nicholas Pirie further said that the Bar Association welcomed the Administration's proposal for including claims against developers in sale of first-hand residential properties. The Bar Association, however, cautioned that the Administration should be very careful in order not to limit to claims against developers made by first-hand flat buyers only. Referring to the recent complaints about the residential development, The Icon, Mr Pirie considered that the Administration ought to ensure that there was an effective remedy for flat buyers who bought properties that were defective and unfinished.

15. Mr Robert PANG highlighted the following points made in the Bar Association's submission for the meeting -

- (a) employees' claims on appeal from the Labour Tribunal should be covered under the expanded SLAS and the coverage should be broadened to cover execution of Labour Tribunal awards, as a judgment debt arising from civil law suits, which was part of the remedies of the civil justice system;
- (b) there was an unmet need in the area regarding money claims in derivatives of securities, currency futures or other futures contracts as illustrated by the Lehman Brothers case. SLAS should be

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expanded to cover derivatives claims even if such claims was not currently available under OLAS;

- (c) claims against property developers by minority owners in respect of compulsory sales of building units should be covered under the expanded SLAS as minority owners usually did not have the resources to challenge the valuations of property developers. The risk of abuse by speculators did not justify excluding this type of case all together and expanding the scope of SLAS to cover such cases would provide protection for these property owners; and
- (d) SLAS should be expanded to cover simple family type trusts, in addition to substantial trusts, in order to address community need.

16. Mr Leslie YEUNG said that the Law Society of Hong Kong ("Law Society") was supportive of the Bar Association's view save that the Law Society considered that the suggestions of the Bar Association could be implemented on a more gradual basis. He further said that the Law Society welcomed the proposed injection of \$100 million into the SLAS Fund. However, the Law Society did not support the proposal for introducing an enhanced rate of application fee and contribution rate for the new types of cases to be covered under the expanded SLAS. Given that the SLAS Fund had all along been making money and there was a current credit balance of \$88 million, the Law Society considered that the existing rates of application fee and contribution should be maintained.

The Administration's response to the views of the two legal professional bodies

17. DSHA said that according to the existing LAO, legal aid was not made available for derivatives claims under OLAS. The Administration would conduct a study on amending LAO with a view to removing the exception and to making legal aid available under OLAS to cover money claims in derivatives of securities, currency futures or other futures contracts when fraud, misrepresentation or deception was involved at the time of purchase. As claims against independent financial consultants were related to whether derivatives claims should be covered under SLAS, the Administration would need to consider the types of financial products which should be included in the scheme, and it had to work in conjunction with the relevant regulatory authorities before deciding on the inclusion of such type of claims in SLAS. DSHA further said that the Lehman Brothers cases referred to in paragraph 26 of the Administration's paper had provided a hypothetical situation to illustrate that while there was a possibility of successful cases, it could also incur a lot of losses should SLAS be expanded to cover derivative claims.

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18. On whether insurance agents and brokers should be included in the professions for negligence claims, DSHA said that as the expanded SLAS would cover negligence claims arising from sale of insurance products, such claims would involve insurance companies and their agents. As regards property damage claims against incorporated owners of multi-storey buildings, DSHA said that while it was a mandatory requirement for the incorporated owners to procure insurance to cover personal injuries, there was no requirement for them to have insurance cover for damage to property. The Administration, therefore, did not propose to expand the scope of SLAS to cover property damage claims against incorporated owners.

19. Regarding employees' claims on appeals from the Labour Tribunal, DSHA said that previous discussions on expanding SLAS had all along focused on appeal cases and the execution of the Labour Tribunal awards was not included.

20. On claims against property developers by minority owners in respect of compulsory sales of building units, DSHA said that Members had diverse views on whether legal aid should be extended to cases involving compulsory sales of building units. Having considered the self-financing principle of the SLAS Fund and the fact that this type of case would not be conducive to the financial sustainability of the Fund, the Administration did not propose expanding SLAS to cover cases of minority owners in respect of compulsory sale of building units.

21. DSHA also advised that contrary to the view that the SLAS Fund had all along been making money over the past few years, the income of the Fund had relied heavily on interest on bank deposits. There had been recurrent losses in terms of the application fee and rates of contribution. If the scope of SLAS was to be expanded, the Administration had to ensure that both the application fee and contribution rate would have to be adjusted in a reasonable manner in order to allow a sufficient safety margin. Calculating on the basis of the enhanced application fee and rates of contribution, it was estimated that if the cases were doubled in the first three years when the scheme was expanded to cover the types of cases as proposed, the caseload would be depleting about \$30 million on the Fund. It was not until 2026 that the Fund would be back to its present level, i.e. the Administration would be able to recover the capital of \$100 million. The Administration, therefore, considered it necessary to increase the application fees and rates of contribution.

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Discussion

Claims against sale of goods and provision of services

22. Mr LAU Kong-wah expressed disagreement with the Administration's decision of not including claims arising from the sale of goods and provision of services under SLAS on the grounds of low success rate and high cost-to-damages ratio of these claims. In his view, the success rate should not be a consideration as all applications for legal aid had to pass the merits test. In addition, a threshold could be imposed on the amount of such claims. Referring to paragraph 38 of the Administration's paper, he considered that the Consumer Legal Action Fund was inadequate to meet the needs of the public for legal assistance in respect of claims arising out of the sale of goods and provision of services.

23. DSHA responded that since SLAS was a self-financing scheme, any proposal for extending the scope of SLAS should not undermine its financial viability. Given the scope of sale of goods and provision of services was very broad, covering all types of goods and every service provided by any profession, there would be a lot more cases as compared to those arising from professional negligence claims. As mentioned earlier by DLA, apart from personal injuries and related types of cases which had the highest average success rates at 90%, the success rates for all other cases were less than 70%. She pointed out that the SLAS Fund had to bear the costs of both sides in a lost case. Should there be a great number of lost cases, the financial viability of the scheme would be jeopardised. Having considered that claims from sale of goods and provision of services involved small amount of claims and the litigation costs involved usually far exceed the values of the damages, and that such claims had a relatively low success rate, the Administration did not seek to expand SLAS to cover such claims, lest the SLAS Fund would run into a bankruptcy.

24. Mr LAU Kong-wah, however, considered that the core value of SLAS should be to provide legal assistance to those in need, especially to those cases with good merits. As the Administration envisaged that there would be a large caseload regarding the sale of goods and provision of services if such claims were covered under SLAS, it showed the fact that there were many aggrieved consumers in need of assistance. The Administration should therefore consider expanding SLAS to improve access to justice for consumers. On the success rates quoted by the Administration, Mr LAU sought clarification on whether claims against sale of goods and provision of services were covered under OLAS, and if so, whether the statistics as quoted applied to such claims. If not, he queried why the Administration had considered that such cases would have a low success rate and would result in the depletion of the Fund.

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25. DSHA explained that the Administration had to ensure the financial sustainability of SLAS as OLAS could be used as a safety net to provide legal assistance to the public with reasonable grounds but did not have sufficient means to take legal actions. The FELs for OLAS and SLAS would be increased to \$260,000 and \$1.3 million respectively, excluding a standard allowance for household expenditure, rent/mortgage payment of the main dwelling, salaries, etc. With the increase in FEL for SLAS, only applicants with more than \$1.3 million resources which could be used for other purposes such as litigation without causing them to suffer undue hardship would be ineligible for legal aid under SLAS. In this respect, the Administration therefore had to exercise great care and prudence in selecting cases with high success rate so that the SLAS Fund would not be depleted because of unsuccessful cases.

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26. DLA supplemented that apart from cases relating to personal injuries, there were a wide range of cases covered under OLAS, including claims against sale of goods and provision of services, the Administration did not have a detailed breakdown on the success rates of each of those categories. The statistics on hand showed that the success rates for cases other than personal injuries were below 70%. In this respect, Mr LAU Kong-wah requested the Administration to provide the actual caseload and the success rate of cases relating to sale of goods and provision of services covered under OLAS.

27. DSHA and DLA stressed that the existing SLAS only covered a limited range of cases, including claims arising from personal injuries or death, employees' compensation claims and medical, dental and legal professional negligence claims. The current proposals had indeed expanded the scope of SLAS to a large extent. The Chairman said that as the main concern of the Administration for not proposing to expand SLAS to cover claims against sale of goods and provision of services was the anticipated large number of caseload with relatively small amount of compensation involved, representative or class action could be an option to explore for this type of claims.

Claims against property developers by minority owners in respect of compulsory sales of building units

28. Mr James TO urged the Administration to reconsider expanding the scope of SLAS to cover claims against property developers by minority owners in respect of compulsory sales of building units. Mr TO considered that the issues in dispute were not only valuation matters, but also legal principles and analysis. As any successful legal applicants had to satisfy the means test and merits test, the Administration should not suspect that a minority owner was a speculator asking for a sky-high price.

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29. While welcoming the Administration's proposal for expanding the scope of SLAS so as to enhance the middle class' access to justice, Dr Priscilla LEUNG expressed concern that claims against property developers by minority owners in respect of compulsory sales of building units would not be covered. She said that as the lowering of the compulsory sale threshold to 80% had only come into effect from April 2010, a lot of disputes would arise. Moreover, many of these minority owners were in urgent need of legal support as the property involved was very often the only asset they had. She suggested that the Administration could consider imposing more stringent requirements in assessing the applications for such claims.

30. DSHA responded that the Administration encouraged the adoption of mediation to resolve matters in relation to compulsory sales of building units. While appreciating members' views on the subject, she stressed that the Administration should adhere to the self-financing principle of SLAS in considering whether or not the scheme should be expanded to cover claims by minority owners in respect of compulsory sales of building units. It should be noted that when SLAS was introduced, it was to supplement OLAS to provide legal aid to the middle class whose financial resources were higher. Given no monetary value was involved in compulsory sale cases and past results of the Lands Tribunal had shown that the chance of it granting a compulsory sale order was very high, the Administration envisaged that the chance of the aided minority owner losing the case and having to bear all the costs would be very high.

31. DLA supplemented that while a merits test had been conducted for every legal aid application, different types of cases had different success rates. The Legal Aid Department ("LAD")'s experience was that despite the same risk assessment carried out for each individual application, statistics collected since 2006 showed that personal injuries and related types of cases had the highest average success rates at 90%, whereas the success rates for medical/dental/legal professional negligence cases stood at 69% and for miscellaneous cases at 67%.

Money claims in derivatives of securities, currency futures or other futures contracts when fraud, misrepresentation/deception was involved at the time of purchase

32. Mr Albert HO was supportive of the Administration's proposal for reviewing LAO with a view to removing the exception and to making legal aid available under OLAS to cover money claims in derivatives. He said that the merits test was crucial in determining whether a legal aid application should be accepted and it should be applicable to all professional negligence cases.

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Mr HO expressed concern that if the Administration did not propose to expand SLAS to cover such claims at this stage, cases with good merits might no longer be eligible after the expiry of the six-year limitation.

33. DSHA responded that according to Schedule 2 to LAO, proceedings involving money claims in derivatives of securities, currency futures or other futures contracts were excluded from the purview of the Ordinance. The Administration had used the statistics in relation to the purchase of mini-bonds for analysis to illustrate the financial implications should such cases be included in SLAS. When the Administration had gathered statistics after the first phase of expansion of SLAS was implemented, the Administration would be in a better position to assess the financial viability of the scheme so as to consider further expansion of its scope. DSHA assured members that the Administration would consider whether SLAS should be expanded to cover derivatives claims after such claims were available under OLAS.

34. Mr LEUNG Kwok-hung considered that the principle behind the expansion of the scope of SLAS was to widen access to justice and uphold the rule of law. In his view, the Administration should not focus on economic considerations when deciding on the coverage of SLAS. In the cases of compulsory sales of building units, minority owners without legal assistance would not be able to take legal action against property developers, and the same applied to those aggrieved investors in cases of derivatives claims who would not have sufficient means to sue financial institutions. Should SLAS be expanded to cover those claims, it could help deter unfair or unscrupulous trade practices by large corporations.

35. DSHA responded that there was a difference between OLAS and SLAS. After amendments had been made to LAO, the grassroots would be provided with legal aid under OLAS for derivatives claims. SLAS, however, was a scheme aiming to provide legal aid for the middle class. The Administration had to be very prudent in the expansion of the scope of SLAS to avoid exposing the SLAS Fund to financial risk.

36. Referring to paragraph 26 of the Administration's paper about making reference to the Lehman Brothers incident to illustrate the Administration's reservation about including derivatives claims under SLAS, Dr Priscilla LEUNG said that she shared the Administration's concern that covering those cases under SLAS might risk running the fund into a deficit. She suggested that in-house legal professionals could be employed for handling cases relating to compulsory sale and Lehman Brothers-related minibonds in order to better control the costs incurred. DSHA, however, pointed out that the SLAS Fund would still have to bear the legal costs of both parties in the event of an unsuccessful case, which could involve significant sums.

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Legislative timetable and way forward

37. In response to the Chairman's enquiry on the Administration's timetable for introducing the relevant legislative proposals into LegCo, DSHA said that the Administration intended to submit the relevant legislative proposals for LegCo's scrutiny after the summer recess with a view to implementing the proposed expanded SLAS before end 2011.

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38. The Chairman advised that for early implementation of the proposed expanded SLAS, the Administration should submit the legislative proposals in October 2011 at the latest. At the Chairman's suggestion, members agreed that the Panel should monitor closely the work of the Administration in taking forward the legislative proposals and the proposal for including derivative claims under OLAS and the Administration should provide a progress report in June 2011. Members also agreed that the Panel should follow up on other proposals not supported by the Administration, particularly the proposed inclusion of claims against property developers by minority owners in respect of compulsory sales of building units and claims against sale of goods and provision of services under SLAS, in the next legislative session.

V. Solicitor Corporation Rules

[LC Paper Nos. CB(2)1332/10-11(05) to (06)]

Briefing by the Law Society of Hong Kong

39. Mr Huen WONG, President 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(2)1332/10-11(05)]. Members noted the latest set of the draft Solicitor Corporation Rules ("the draft Rules") and a set of Solicitors' (Professional Indemnity) (Amendment) (No.2) Rules 2010 which provided for matters relating to approval of company as solicitor corporation. Members also noted the background brief prepared by the LegCo Secretariat on the subject [LC Paper No. CB(2)1332/10-11(06)].

40. The Chairman informed members that the draft Rules were last discussed at the Panel's meeting held in March 2005. The Rules, however, had not yet been brought into force, albeit amendments to the primary legislation on solicitor corporations had been enacted in 1997. She sought the Administration's view on the draft Rules prepared by the Law Society.

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41. Deputy Solicitor General ("DSG") of Department of Justice ("DoJ") informed members that DoJ was supportive of the draft Rules. If necessary, DoJ would further discuss with the Law Society and the Judiciary on minor textual changes to fine-tune the draft Rules.

Discussion

42. Ms Audrey EU asked whether publicity work would be arranged to educate the public of the impact of the implementation of the Rules and whether cooperation with the Consumer Council would be considered in that area of work.

43. Mr Junius HO, Vice President and Chairman of the Working Party on Incorporation of Solicitors' Practices of the Law Society, advised that a task force of the Working Party would follow up on the practical operation of the Rules. The task force would also prepare guidelines to educate the public on the impact of the implementation of the Rules under which solicitors would be allowed to incorporate their practices with limited liability in the form of solicitor corporations and the requirement of a solicitor corporation to provide \$10 million insurance coverage for the protection of consumer under the Solicitors (Professional Indemnity) Rules.

44. In response to Ms Audrey EU's enquiry on when the Rules would be put into operation, Mr Junius HO advised that it was estimated that the Rules would be finalized by July 2011. Having considered that the Rules should preferably be implemented concurrently with limited liability partnerships for legal practice ("LLP") and that some minor amendments would have to be made to the Rules along the line of relevant proposed provisions in the Companies Bill which was being scrutinized by LegCo, the Law Society envisaged that the Rules could be brought into operation by 2012 at the earliest.

45. Mr Huen WONG said that it was the plan of the Law Society to roll out the Rules and LLP together and carry out public education work at the same time. The Chairman agreed that the two schemes should be implemented concurrently and considered that the public should be kept well-informed of the consumer protection afforded under the two schemes and the differences between the two schemes i.e. 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. She pointed out that since the Bill to introduce LLP for law firms in Hong Kong was still under the scrutiny of LegCo, the Law Society should be mindful of when to implement the Rules.

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46. Regarding Ms Audrey EU's concern about the amendments to the Rules and the Companies Ordinance, the Chairman referred members to the letter of the Law Society which explained that the Law Society had carved out the discretion of the Council of the Law Society to grant a waiver in respect of the requirement that the memorandum and articles of association of a solicitor corporation must comply with the Companies Ordinance. DSG advised that in order to bring the Rules into operation as soon as possible, the Law Society could consider making further amendments to the Rules at a later stage after the enactment of the Companies Bill. Senior Assistant Legal Adviser 3 ("SALA3") advised that as an alternative, corresponding amendments could be made to the Rules as consequential amendments of the Companies Ordinance at a later stage.

47. SALA3 enquired whether a solicitor corporation was allowed to form a partnership with any other solicitor corporation. Mr Huen WONG replied that the existing draft Rules did not provide for such a formation. Ms Heidi CHU, Secretary General of the Law Society, supplemented that under the existing draft Rules, a member of a solicitor corporation was not allowed to act as an employee of any other solicitor corporation without the prior written consent of the Law Society. At the request of the Panel, the Law Society was required to clarify in writing whether a solicitor corporation would be allowed as a matter of policy to join a partnership.

The Law
Society

VI. Any other business

48. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 2
Legislative Council Secretariat
8 November 2011