

# 立法會 *Legislative Council*

LC Paper No. CB(4)1007/18-19(04)

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## **Panel on Administration of Justice and Legal Services**

**Updated background brief prepared by the Legislative Council Secretariat  
for the meeting on 24 June 2019**

### **Legal education and training in Hong Kong**

#### **Purpose**

This paper provides an account of past discussions of the Legislative Council ("LegCo"), in particular the Panel on Administration of Justice and Legal Services ("the Panel"), on legal education and training in Hong Kong.

#### **Background**

##### Present system of legal education and training in Hong Kong

2. In general, the present system of legal education and training in Hong Kong involves three stages, namely (i) an academic stage (i.e. Bachelor of Laws "LLB" or Juris Doctor "JD"); (ii) a vocational course (i.e. Postgraduate Certificate in Laws ("PCLL")) and (iii) a workplace apprenticeship (i.e. training contract or pupillage).

3. In Hong Kong, LLB and JD courses are currently offered by the law schools of the University of Hong Kong ("HKU"), the City University of Hong Kong ("CityU") and The Chinese University of Hong Kong ("CUHK") ("the three law schools"). PCLL is administered by these three law schools only. The definition of PCLL in the Legal Practitioners Ordinance (Cap. 159) refers to the PCLL programmes of HKU, CityU and CUHK, and the Trainee Solicitors Rules (Cap. 159J) provides that a person may only enter into a trainee solicitor contract if he or she passed PCLL. Thus, under the current legislative framework, it is not possible for any other institution to provide a PCLL programme which will enable its graduates to gain recognition and admission as solicitors under Cap. 159.

4. The three law schools enjoy self-accreditation status and that, empowered by statutes, they were established to run the PCLL programmes. According to the Administration, the three law schools are the exclusive course providers, and played an important role as the gatekeepers to the legal profession at two points in the process: first, at the entry point into PCLL (i.e. between stages (i) and (ii) as described in paragraph 3 above) and second, at the exit point from PCLL which is the entry point to the legal profession (i.e. between stages (ii) and (iii) as described in paragraph 3 above).

Common Entrance Examination, Law Society Examination and comprehensive review on legal education and training in Hong Kong

5. According to the submissions made by The Law Society of Hong Kong ("the Law Society") to the Panel in December 2013,<sup>1</sup> members of the legal profession expressed views that there was a lack of consistency in the PCLL examinations. Queries had also been raised as to why entrance to the profession was not administered by the profession itself since the Council of the Law Society had been given the statutory power to prescribe the admission requirements including the passing of examinations under Cap. 159. As a result, the Law Society resolved to undertake a consultation with the stakeholders (ran from 1 December 2013 to 14 February 2014) on the feasibility of implementing a common entrance examination ("CEE") as a means of admitting individuals to practice as solicitors in Hong Kong.

6. On the other hand, the Standing Committee on Legal Education and Training in Hong Kong ("SCLET")<sup>2</sup> resolved on 18 December 2013 to conduct a comprehensive review on legal education and training in Hong Kong ("the Comprehensive Review") with a view to enhancing the system to meet the challenges of legal practice and the needs of Hong Kong. The consultants appointed by SCLET to conduct the Comprehensive Review published a consultation paper in October 2015.<sup>3</sup> Amongst others, views were invited on whether CEE proposed by the Law Society might be considered as taking over

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<sup>1</sup> LC Paper No. CB(4)225/13-14(03)

<sup>2</sup> SCLET is a statutory committee established in 2005 by section 74A of Cap. 159. Its main functions include keeping under review the system and provision of legal education and training in Hong Kong and to make recommendations on such matters. Amongst others, SCLET is empowered under Cap. 159 to keep under review, evaluate and assess the academic requirements and standards for PCLL admission. SCLET comprises 17 members representing the Judiciary, the Department of Justice, the Education Bureau, the Law Society, The Hong Kong Bar Association, the three universities, the Federation for Self-financing Tertiary Education, as well as members of the public.

<sup>3</sup> The consultation paper is available at <http://www.sclet.gov.hk/eng/pdf/cone.pdf>

PCLL as an entrance threshold into the legal profession, or whether CEE might be treated as an alternative or additional route to enter the legal profession.

7. On 6 January 2016, the Law Society announced that its Council had decided that, starting from 2021, a person might only enter into a trainee solicitor contract if that person had passed a CEE. CEE will be set and marked by the Law Society. The Law Society will require certified completion of the PCLL course but will not require any examination to be set by PCLL providers.

8. On 15 May 2018, SCLET released the final report of the consultants on the Comprehensive Review ("Final Report").<sup>4</sup> Prior to the release of the Final Report, SCLET issued a consultants' interim report in October 2017. SCLET received the Law Society's response to the interim report on 8 May 2018.<sup>5</sup> The Law Society stated that they were willing to put an immediate moratorium on the implementation of CEE, on the basis that the unified law school could in fact be established within three years. However, in the meantime, as an interim alternative entry path to those who either were not able to gain entry to PCLL or preferred to undertake some other qualified vocational training, the Law Society would "establish the 'Law Society Examination' ("LSE")" which was estimated to take effect as early as the academic year 2019-2020.

9. Subsequently, the consultants of the Comprehensive Review made observations on the Law Society's response of 8 May 2018 to their interim report, which were also uploaded to SCLET's website. The Final Report issued on 15 May 2018 comprises 38 recommendations in total, covering various aspects of Hong Kong's system and provision of legal education and training (extract in **Appendix I**). According to SCLET, it would carefully study the Final Report before it tendered its comments and recommendations on the way forward to the Administration for consideration. The Administration introduced the Final Report at the Panel meeting in June 2018.

### **Major views and concerns of Members and relevant stakeholders**

10. The Panel discussed the issues relating to legal education and training in Hong Kong at its meetings held on 16 December 2013, 27 April 2015 and 25 April 2016, 26 June 2017 and 25 June 2018. The Hong Kong Bar Association ("the Bar Association"), the Law Society, the Administration and deputations also attended the meetings to give views on the subject. In addition, the Panel also discussed, among others, the above issues at its meeting held on 26 March 2018 under the item on "Future development of the legal profession under the trend of

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<sup>4</sup> <http://www.sclet.gov.hk/eng/pub.htm>

<sup>5</sup> [http://www.sclet.gov.hk/eng/pdf/lawsociety\\_20180508.pdf](http://www.sclet.gov.hk/eng/pdf/lawsociety_20180508.pdf)

globalization, its impacts on the legal profession and legal services to the public in Hong Kong". The major areas of deliberations on the subject are set out in the ensuing paragraphs.

### Common Entrance Examination

11. Noting from the three local law schools in Hong Kong that their PCLL programmes had all along been operating smoothly, members raised concerns about the reasons for the Law Society to propose a CEE for admission as solicitors in Hong Kong.

12. The Law Society explained in December 2013 that entrants to the solicitors' profession comprised law graduates who had been examined by different examinations and tested by different standards. Although the three law schools in Hong Kong ran their self-accredited PCLL programmes subject to the benchmarks issued by the Law Society and the Bar Association, the three law schools had the autonomy to admit students and conduct their own PCLL examinations. In view of the changes that had taken place in the last decade or so,<sup>6</sup> the Law Society considered it increasingly important to ensure that solicitors possessed the necessary professional knowledge and skills, as well as to maintain consistency in the assessments and standards of entrants to the solicitors' profession. The proposed CEE would enable students from different universities to compete fairly in a single examination.

13. Some members queried whether there was concrete evidence showing that there was inconsistency in the standards of the entrants to the legal profession. The Law Society responded that the employers in different law firms had reflected their views about the inconsistent standards of law graduates from different law schools. Among others, employers had pointed out that the passing rates of the three law schools were different.

14. The three law schools did not subscribe to the justifications for introducing a CEE which would bring major change to the existing system. They considered that the PCLL programmes had been running for years and the law schools were not aware of any major criticism on the quality of the programmes. To address the concern about the inconsistent criteria adopted by the three law schools, School of Law of CityU suggested that consideration could be given to requiring PCLL applicants to pass a common test set by the three law schools.

15. In the view of the Bar Association, CEE could only test the theoretical knowledge of the candidates and could not replace the training of PCLL which

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<sup>6</sup> For instance, increase in the number of providers of the PCLL programmes, possession of more diversified qualifications by PCLL applicants, widening of scope of services provided by solicitors and growing presence of foreign lawyers in Hong Kong.

also covered some very practical aspects in preparation for the students to enter into the profession. The Law Society stressed that it was not the intention of CEE to abolish or replace the existing PCLL programmes, nor to create an additional hurdle for entry to the legal profession.

16. Some members considered that the proposed CEE was worth pursuing, as it might provide an additional route for young people to pursue a career in the legal profession in Hong Kong. They pointed out that law graduates who failed to get admitted to the PCLL programmes for not attaining a good second class honour law degree would unlikely succeed in any second attempt to apply for admission to the PCLL programmes number of PCLL programmes. Some members considered that the law schools should not be the "gatekeeper" to select new entrants to the legal profession but instead the legal profession itself should have the final say on whether to accept a person as a member of the profession or not.

17. Hong Kong Shue Yan University Alumni Association considered that similar to other professions, a CEE should be introduced to provide as an alternative route for law graduates to qualify as lawyers in Hong Kong and no ceiling should be set on the number of times a law graduate could sit for CEE until he/she passed CEE. Law Students' Society of the CityU Students' Union and the Business and Professionals Alliance for Hong Kong also considered that, apart from increasing PCLL places, the feasibility of implementing a CEE as an alternative route for entering the legal profession should be explored.

18. The Law Society advised that under the original design of CEE intending trainee solicitors would still have to go through with PCLL or pass relevant examinations and complete relevant courses as might be prescribed by the Law Society.

19. At the Panel meeting on 25 June 2018, some members supported CEE but considered that the Law Society should address the worries of law students about the finalized format and requirements, and there was no need for a rush to implement the examination.

20. At the Panel meeting on 25 April 2016, members noted that the Law Society was proposing a CEE in the format of a centralized assessment so that PCLL students of the three universities did not have to take two sets of examinations. The Law Society advised that it would consult the three universities as well as the Bar Association after it had come up with the details on implementing CEE. In the course of considering all matters relating to CEE, the Law Society would also consider the model of "Commonly Recognized Assessments" proposed by the three law schools and the findings and recommendations of the Comprehensive Review.

21. Members were concerned about the implications of the proposed CEE on the barrister branch of the profession. Expressing great reservation on the introduction of CEE, the Bar Association advised that its greatest concern was that if the examination papers of all core PCLL subjects were set and marked by the Law Society, students intending to become barristers would also have to sit for examinations which were set and marked by the Law Society.

22. The Law Society advised that, as it was not proposed to abolish PCLL qualification, CEE would not affect the entry to the barrister branch of the profession.

### Law Society Examination

23. At the Panel meeting on 25 June 2018, some members and deputations were very concerned about the new LSE proposed by the Law Society in May 2018. The Law Society explained that the proposed LSE was intended to provide an additional pathway for entering the solicitors' profession for qualified law graduates, including some intending solicitors who got good academic degrees from overseas universities but failed to secure a PCLL place in the three universities. It also provided those who failed in previous PCLL examinations a second opportunity for entering the profession. However, the Law Society stressed that the standard required for passing LSE would be on par with that for PCLL.

24. Some deputations expressed the concern that entry to the solicitors' profession might be monopolized if CEE or LSE was to be implemented. Representatives of the three universities considered that neither CEE nor LSE was necessary as efforts had been made to increase the PCLL places, system had been in place to ensure the quality standards of respective PCLL programmes, and there would be possible confusion which might cause to law graduates in deciding which routes to take for entering the legal profession.

25. Some members considered that the Law Society had not provided basic facts and information regarding the proposed LSE, such as the estimated demand for LSE places, admission requirements, etc. so that stakeholders could not assess its impact on the current legal education system and the legal profession as a whole.

26. Some members, however, supported the idea of LSE and considered that it would benefit those law graduates who had failed to gain admission into the PCLL programmes due to their limited places. It would also provide a chance to those law graduates who were working in the legal field but without the required professional qualification.

## Postgraduate Certificate in Laws programmes

27. Members had been raising concerns over the adequacy of PCLL places in Hong Kong. At the Council meeting of 23 October 2013, a Member raised a question on the respective numbers of LLB and JD graduates from local and overseas universities applying for and being admitted or not admitted to the PCLL programmes run by the three universities and their success rates.

28. The Administration advised that the percentage of successful applications for the PCLL programmes received by the three law schools had been quite stable over the three academic years from 2010-2011 to 2012-2013, ranging from 41% to 46% in respect of students with local qualifications and 42% to 43% in respect of students with non-local qualifications. Given that law graduates could lodge multiple applications for PCLL admission, the actual "success rate" of applicants should be even higher.

29. Members were concerned about the measures to be taken by the three law schools to address the general call for more PCLL places. The Administration advised that the current provision of government funding for the PCLL programmes was already an exception to the Government's general policy of only funding the undergraduate programmes. There was also, strictly speaking, no restriction on the number of PCLL places to be offered each year since the law schools could admit self-financed students. The relevant consideration was the availability of facilities, accommodation and experienced teaching staff.

30. However, Faculty of Law of HKU advised that the quality of the students admitted into the PCLL programmes would be lowered should the PCLL places be significantly increased. In addition, the market for legal services might well be unable to absorb the additional PCLL graduates. Faculty of Law of CUHK also pointed out that there were constraints on the number of PCLL students which the law schools could admit, as the PCLL programme, being a hands-on and skill-based programme, was labour-intensive.

31. At the Panel meeting on 25 June 2018, representatives of HKU and CityU respectively reported that their law school had increased the PCLL places for the double cohort arising from the implementation of the new academic structure in previous years. Although there would no longer be two separate cohorts of students studying at the same time in the coming academic years, the universities would maintain the current number of PCLL places. Representative of CUHK said that its law school had increased the PCLL places from 150 from the start to the present number of 170. The faculty had put forward a proposal to the CUHK's authority to further increase the number of places by 30.

32. Representative of the Bar Association considered that an increase in the PCLL places would not change the ratio of PCLL graduates who could

successfully get a trainee solicitor contract because those who failed to enter into a trainee solicitor contract would shift to the barrister stream. As a result, the quality and quantity of entrants to the Bar might be compromised.

33. As the PCLL programme was the only route for law graduates to become lawyers, some members urged the three law schools to consider admitting those law graduates who failed to gain admission into the PCLL programme in the past but had subsequently attained certain number of years of legal work experience or, alternatively, requiring these law graduates to pass an open examination administered by the law schools. The Bar Association was also in favour of widening the pool of students for admission to PCLL.

34. At the Panel meetings in April 2016 and June 2018, Faculty of Law of HKU advised that HKU would provide interview opportunities for those applicants whose academic results were marginally below the admission requirement.

35. At the Panel meeting in April 2016, Faculty of Law of CUHK advised that the Faculty had a task force looking at providing an alternative route for those who did not succeed on the basis of academic performance for admission into its PCLL programme. The School of Law of CityU advised that it had set aside a few places for those applicants who had failed in their first-time application to the PCLL programme by taking into account, in particular, their working experience. It would review how the admission policy to the PCLL programme should be further revised.

36. At the Panel meeting on 25 June 2018, some members considered it worthy of studying the feasibility of setting up a mechanism to recognize the experience of those experienced legal executives who might not have legal qualifications and providing them with opportunities to become a lawyer.

#### Training relating to application of technology to legal profession and legal services and laws applicable in the Greater Bay Area

37. At the Panel meeting on 26 March 2018, some members suggested that, in view of the impacts of the development of advanced technology on the legal profession in Hong Kong in future, the Administration, universities and law students, as well as relevant stakeholders should be well-equipped with knowledge about the application of technology to legal profession with a view to addressing new challenges and capitalizing on the opportunities.

38. When the Panel discussed the item on opportunities for Hong Kong's legal and dispute resolution services in the Greater Bay Area on 25 March 2019, some members suggested that law schools should consider including education on the legal services and laws applicable in the Greater Bay Area to respective curricula



and arranging more exchange activities with the relevant parties on the Mainland to better equip students with necessary knowledge.

### **Latest position**

39. At the work plan meeting on 30 October 2018, Dr Hon Priscilla LEUNG and Hon Dennis KWOK proposed that the Panel should review the subject on legal education and training in Hong Kong. The Department of Justice also proposes to discuss at the Panel meeting in June 2019 the development since the Final Report was discussed in June 2018.

### **Relevant papers**

40. A list of the relevant papers is in **Appendix II**.

Council Business Division 4  
Legislative Council Secretariat  
19 June 2019

**Extract of the Final Report of the Consultants on the Comprehensive Review of  
Legal Education and Training in Hong Kong released by  
the Standing Committee on Legal Education and Training on 15 May 2019**

**8.4. Compilation of Recommendations**

In this final section we present a complete list of the final recommendations made by this report, including two recommendations arising from the discussions in sections 8.2 and 8.3. Recommendation numbers reflect the sections of the report in which each recommendation is initially discussed. Explanatory notes included in the original locations are not replicated in this summary.

Recommendation 2.1

That consideration be given to the establishment of a Standing sub-committee of the SCLET to oversee the development of an appropriate mechanism for oversight of the operation of the PCLL in each of the universities. The Committee should oversee in particular: matters relating to admission to the course; the contents of the courses; the extent to which there is any substantial overlap between the substantive law content in that degree and in the undergraduate law courses, and the practices and standards of assessment.

Recommendation 2.2

That consideration be given to the desirability of establishing a separate Secretariat for the Standing Committee on Legal Education and Training rather than, as is the case at the time of writing, in March 2018, by the Department of Justice.

Recommendation 4.1

That in the context of the discussion and trends identified in this Report, additional work is undertaken by the law schools, in association with SCLET and associated stakeholders, to determine whether subject-based prescription should be replaced by an outcome-based statement or set of benchmarks for the LLB and JD respectively. We do not preclude either that (i) such a statement be devised in a form that binds all law schools to deliver a common set of core outcomes, or (ii) such statement provides standards and guidance to the law schools as to the appropriate nature and range of outcomes that each school should devise for itself.

#### Recommendation 4.2

In the context of the recommendations above or any other relevant process, significant steps are taken to reduce the scope of the compulsory academic curriculum in order to create greater room for choice and innovative offerings. Consideration also needs to be given to how, within the compulsory curriculum (however defined), law degrees can better prepare students to understand and engage with law and legal practice in a rapidly changing, globalised, and technologically-enabled world (noting, eg, the examples in section 4.5.4).

#### Recommendation 4.3

That principles of legal ethics and professionalism are introduced at the academic stage. We do not consider that this requires a full subject of professional legal ethics, but encourage the universities to consider how they might integrate ethics into programmes, as part of a subject or subjects, or pervasively across the core curriculum.

#### Recommendation 4.4

That as part of the process described in the 2.1 recommendations above, the Universities should each review their academic offerings annually, with a view to ensuring that students undertaking the PCLL courses are not required to learn (and be examined upon) significant amounts of substantive law in the vocational stage already studied at the academic stage. Better procedures should be put in place by the universities to control curriculum drift and unnecessary duplication between the academic stage and PCLL. This might be achieved (eg) by periodic meetings between programme directors and/or cognate subject convenors of the relevant academic and PCLL subjects, with a view to reporting to the sub-committee recommended in 2.1.

#### Recommendation 4.5

We invite legal executive training providers to investigate with the law schools and the profession, the feasibility of developing a more advanced legal executive qualification, leading to direct entry to the PCLL, and would encourage the Law Schools to be receptive to any initiatives in that respect.

#### Recommendation 5.1

We retain concerns about the risks and costs of moving to a wholly marketised system of admission to the PCLL, and do not recommend liberalisation on that scale. We do welcome providers' agreement to facilitate another moderate increase in PCLL capacity in the short term, and encourage providers to consider what additional steps should be taken to increase access to the PCLL (see Section 5.2) ,

#### Recommendation 5.2

That PCLL providers work together to increase the transparency of the admission process, and to develop consistent admission criteria across all three institutions. Revised admission criteria should reflect the factors identified in section 5.3.2, and would be the subject of reporting to the SCLET sub-committee as recommended.

#### Recommendation 5.3

That the Conversion Examination Board be invited to consider the adoption of a system of public grading of the Conversion Examination, in order better to facilitate the comparison of home and overseas students in the admission process.

#### Recommendation 5.4

That the professional bodies work with the law schools to construct a proper, uniform, statement of outcomes and written standards for the PCLL. These steps should include reference to the matters discussed in section 5.4.2, and proper consideration of the (uniform) competence standard or level for the course.

#### Recommendation 5.5

That the system of PCLL quality assurance be strengthened to include a quinquennial review of the course (Section 5.4.3), including a requirement that providers report formally to SCLET as to the steps taken to meet any conditions or recommendations of the review. New regulation should be introduced to enable de-accreditation of a provider, including an independent appeal process against a recommendation of de-accreditation.

#### Recommendation 5.6

That (i) key stakeholders when devising the outcomes and written standards, and (ii) the PCLL providers more generally when developing electives, or considering the scope of the informal (non-mandatory) curriculum, or delivery of student support, identify and address a range of future needs/priorities for training. These include: education in professionalism; commercial awareness; understanding of new modes and technologies of legal practice; developing greater proficiency in Putonghua; developing lifelong learning/reflective practice capabilities; the need for enhanced careers advice and support. As noted in section 4, this may be best achieved in the context of a larger re-evaluation of the outcomes of, and fit between, the PCLL and the academic stage.

#### Recommendation 6.1:

That a moratorium be called on current CEE development while (i) a further Benchmarking exercise for PCLL is completed (see Recommendations 5.4 and 5.5), and (ii) agreement is established between the Law Society, Bar and PCLL providers to progress any PCLL-associated CEE model (either as an interim or continuing solution).

#### Recommendation 6.2

If the key stakeholders (Law Society, Bar and PCLL providers) agree that an element of common assessment is desirable, that a cross-stakeholder working group under the auspices of SCLET should be convened to oversee the development. Membership of the group should include equal representation from the Law Society, Bar and PCLL providers, and at least one educationalist from outside the PCLL, with experience of high stakes professional assessment design. The chair of the group should also be independent of the above key stakeholders.

### Recommendation 6.3

That any working group created under Recommendation 6.2 shall be charged with developing a model or models for the purposes of stakeholder consultation, revision and implementation. Without unduly constraining the terms of reference of the group, any model devised should include a basic risk analysis. It should also include worked arrangements for setting and review of common papers, examining arrangements and recommendations as to the structure and powers of any examining board. It will be for the working group to agree any revised implementation date for the scheme of common assessment.

### Recommendation 6.4

That, if any system of common assessment is adopted, PCLL providers must be involved in paper setting and examination arrangements. A joint examination board of all PCLL providers, together with Law Society and Bar Association external examiners, should be devised to oversee results and report on assessment processes.

#### *7.8.1 General recommendations in respect of the regulatory framework*

### Recommendation 7.1

That the Law Society and Bar each take steps to devise a proper set of outcomes for the final stage of training. These should build developmentally on the outcomes devised for the PCLL, and focus on the generic knowledge and skills required to demonstrate competence to practise (see Section 7.5).

The standard to be achieved through the training contract or pupillage should be set at the level expected of a 'day one' practitioner, ie, the standard expected of a newly admitted solicitor, or a barrister who has successfully completed the required period of limited practice.

### Recommendation 7.2

We commend the work both professions have done in introducing trainee-specific continuing professional development/advanced legal education. Nonetheless, we recommend that, in the light of the revised outcomes established under recommendation 7.1, each professional body should review the scope and hours of trainee-specific training required to ensure a good fit with the desired outcomes.

### Recommendation 7.3

That the Law Society undertakes a review of its regulation to determine whether there is scope to reduce the regulatory burden on training organisations, including:

- The need to maintain and register training contracts in standard form as currently prescribed by Trainee Solicitor Rules, Rule 8 and Practice Direction E2
- Whether the five year continuous practice rule for training principals should be retained, reduced, or eliminated [Legal Practice Ordinance, s.20(1)]
- The extent of reduction to the duration of the training contract permitted under Trainee Solicitors Rules, Rule 9A
- Secondment requirements for those undertaking a training contract in-house
- Regulation of secondments to law firms outside Hong Kong [Rule 9(4)]

#### Recommendation 7.4

That the Bar Council undertakes a review of regulation to determine whether there is scope to reduce the regulatory burden on barristers and chambers, including:

- Extent of restrictions on periods of approved pupillage [Section 10, B(QAP) Rules]
- The necessary minimum qualifying requirement for taking pupils
- Simplification of the duties of pupil masters [Rules 11.9-11.10, *Code of Conduct*]
- Pursuant to the move to outcomes, removal or substantial redrafting of the suggested minimum pupillage requirements (*Code of Conduct*, Annex 13, Pt 2)

#### Recommendation 7.5

That the professional bodies publish clearer information on their websites regarding their role in the authorisation and monitoring of training, including overview reports of monitoring activity undertaken, and identification of procedures for trainees to raise concerns with the relevant body regarding the conduct or adequacy of their training.

#### Recommendation 7.6

We recommend that the Law Society and Bar Association, in the light of any changes made in the wake of recommendations 7.8, 7.9 and 7.12, respectively, identify any additional steps that should be taken by them in order to ensure that monitoring of both the process and outcomes of the training contract or pupillage stage is adequate.

#### Recommendation 7.7

That the OLQE and the BQE should be brought within the reporting requirements and oversight of SCLET (or any successor body).

#### *7.8.2 Specific recommendations in respect of the training contract*

#### Recommendation 7.8

That the Law Society take steps to introduce a more structured training portfolio for the training contract stage, along the lines identified in section 7.6. Some increased process regulation is likely to be required, particularly enhanced monitoring of the ability of training organisations to meet the training outcomes.

#### Recommendation 7.9

That the conduct of formal periodic (eg quarterly) training reviews is made a condition of any training contract. An agreed progress report from each periodic review should form part of the training record.

#### Recommendation 7.10

That the Law Society investigate the feasibility of introducing and maintaining an online portfolio template and training record for use by all trainees

### *7.8.3 Recommendations in respect of pupillage*

#### Recommendation 7.11

The Hong Kong Bar remains too small to warrant the introduction of any centralised clearing house system for pupillage applications (as operates, for example, in England and Wales). Nonetheless, we have some concerns as to the equity implications of the current, often informal arrangements.

We therefore recommend that, as a principle of good practice, chambers should be encouraged to advertise pupillage vacancies for an appropriate period on the Hong Kong Bar Association website. This may have the incidental benefit to chambers of reducing the number of speculative enquiries to which they must respond.

#### Recommendation 7.12

That the Bar take steps to enhance the consistency of pupillage outcomes by introducing a proper training portfolio requirement as per Section 7.6. This system would be supported by other regulatory enhancements, itemised in the following recommendations.

#### Recommendation 7.13

That chambers should identify within chambers an appropriate person (who may be the Head of Chambers) to address internal concerns or complaints regarding the adequacy of training provided. We see this primarily as a consolidation and regulatory recognition of existing best practice rather than a major innovation.

#### Recommendation 7.14

That the Bar investigates the feasibility of introducing and maintaining an online portfolio template and training record for use by all pupils to record their training.

#### Recommendation 7.15

That the conduct of formal periodic (eg quarterly) training reviews is made a condition of pupillage. An agreed progress report from each periodic review should form part of the training record.

#### Recommendation 7.16

That the Bar *Code of Conduct* (Rule 11.20) is revised so that the existing requirement that training logs are completed at the end of periods of pupillage should become a continuing requirement to maintain a training log and portfolio/diary throughout the duration of pupillage.

### *7.8.4 Recommendations in respect of the OLQE/BQE*

#### Recommendation 7.17

That the format of the OLQE be substantially revised as discussed in section 7.7.1. Our preferred solution would be that, as a minimum, a substantial majority of the knowledge-based component should be conducted by standardised objective testing (multiple choice tests).

We take the view that, ideally, some element of skills-based assessment, akin to the English QLTS, would also be desirable as that would equate the OLQE more clearly to the range of competencies tested in the case of domestic trainees. We do not make an express recommendation to that effect but encourage the Law Society to investigate whether this would be economically feasible, given the numbers involved.

#### Recommendation 7.18

That consideration be given to an equivalent approach for the BQE, though we seriously doubt that this would be economically or administratively viable on the numbers involved. We invite the Bar to consider the possibility of some element of joint assessment with the OLQE, given that there is substantial knowledge overlap between the two examinations.

#### Recommendation 7.19

Whether or not recommendation 7.18 is implemented, we recommend that steps are taken to improve the quality of information surrounding the BQE, including:

- Some narrowing or refinement of the focus of syllabi
- Additional guidance on core topics and reading materials
- Publication of annual examiners' reports, including short outline answers to questions.

#### Recommendation 8.1

That (over and above enhanced arrangements for operational oversight of the PCLL – Recommendation 2.1), the Standing Committee's oversight function be extended to enable it to undertake a more substantive quality assurance role as identified in section 8.2 of this Report.

#### Recommendation 8.2

In the wake of developments in mature continuing professional development schemes in the UK, Canada and New Zealand, (per Section 8.3), that the Law Society be invited to initiate a review specifically into its methods of regulating and monitoring continuing professional development.



## Updated background brief on legal education and training in Hong Kong

## List of relevant papers

| Meeting   | Date                           | References  |
|---|--------------------------------|---|
| Panel on Administration of Justice and Legal Services | 16 December 2013<br>(Item III) | <u>Agenda</u><br><br><u>Minutes</u>   |
|   | 27 April 2015<br>(Item III)    | <u>Agenda</u><br><br><u>Minutes</u>   |
|   | 25 April 2016<br>(Item III)    | <u>Agenda</u><br><br><u>Minutes</u>   |
|   | 26 June 2017<br>(Item III)     | <a href="#">Agenda</a><br><br><a href="#">Minutes</a>                                     |
|   | 26 March 2018<br>(Item III)    | <a href="#">Agenda</a><br><br><a href="#">Minutes</a>                                     |
|   | 25 June 2018<br>(Item III)     | <a href="#">Agenda</a><br><br><a href="#">Minutes</a>                                     |
| Council meeting                                       | 23 October 2013                | <u>Administration's reply to an oral question raised by Hon Abraham SHEK (Question 1)</u> |