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**LAW SOCIETY**  
OF HONG KONG

香 港 律 師 會

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**THE LAW SOCIETY OF HONG KONG**

Position on  
**A THIRD LAW SCHOOL**

**February 2005**



## Position on a Third Law School

### 1. The proposal by Chinese University to establish a school of law (“School of Law”)

The Chinese University, in its press release dated 10 May 2004, announced its intention to set up a School of Law in accordance with the following timetable:

- (a) LLB programme in 2006;
- (b) Doctor of Jurisprudence (JD) providing legal education for graduates in non-law subjects in 2006;
- (c) PCLL in 2007;
- (d) One-year taught LLM offering a selection of specialisations in 2007;
- (e) MPhil and PhD in 2007.

The School of Law is thus aimed at covering general education, professional education and postgraduate education in law.

### 2. General education in law

The general education in law is to be offered by the School of Law through its LLB and JD programmes. It is assumed that the two degrees are intended to qualify students to seek admission to practise in Hong Kong (“qualifying law degree”).

The Society has set out its position on the various aspects of a qualifying law degree including the aim, the entry requirements, the scope, the assessment, the staffing and the teaching and learning methods of the degree.<sup>1</sup>

#### Quality

The Society will support the offer of the LLB and JD programmes by the School of Law on the condition that they fully meet and exceed the Society’s expectations on the quality of those programmes as qualifying law degrees.

#### Structure of law degree programmes

Apart from the 4-year LLB degree as the primary model and the JD programme as the graduate law programme, the Law Society strongly encourages the School of Law to consider the alternative model of combined law degree programmes for the academic stage of legal education.

The Law Society agrees that combined law degree programmes provide law students with a broader liberal education than a pure LLB degree programme

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<sup>1</sup> Position on Legal Education and Training, The Law Society of Hong Kong, September 2001 (Annexure)



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and allow the students to gain a wider perspective of the context in which the law operates.<sup>2</sup>

Expansion of scope of law subjects

To enable the students to have a solid foundation of legal knowledge to cope with the changing demands for legal expertise in specialized areas that have arisen with the re-positioning of Hong Kong in the world market, the scope of subjects from which students can elect should be reviewed and expanded.<sup>3</sup> The impact of future liberalization of international trade and investment regimes in the Mainland and its internal legal services cannot be underestimated. The training of legal expertise must ensure that legal services of a superior and wide ranging nature are continually available in the long run to sustain Hong Kong as a commercial and financial centre in the world and as a legal service centre for the Mainland.

With the School of Law starting afresh, it will be easier for it to adapt to new ideas and structure the law programmes in such a way as to meet the future demands of the society and economy as a whole. The demands in the foreseeable future will no doubt point to a curriculum that is aligned to meet the needs of Hong Kong in providing a legal service centre for the Mainland.

Practitioners' input on the market needs in relation to the Mainland legal practice will be invaluable and involvement of practitioners in the design of the curriculum is strongly encouraged.

Numbers

Some practitioners have expressed concern that with the establishment of the School of Law, the number of law students will increase leading to an imbalance of supply and demand in legal professionals in the market.

The offer of the LLB and JD programmes by the School of Law, provided that a high standard is maintained, is not considered to be a cause for concern in terms of a potential oversupply of lawyers in Hong Kong for the following reasons:

- (a) LLB and JD degrees are qualifying law degrees only. Under the present system, holders of such degrees are required to complete the Postgraduate Certificate in Laws (PCLL) before they can enter the profession as a trainee solicitor or pupil. They do not have a direct immediate impact on the number of students eligible for admission as solicitors and barristers.

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<sup>2</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review" paragraph 7.4.4 on page 140

<sup>3</sup> Some suggestions of the topics include Telecommunications and Environmental Protection



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- (b) General education in law through a quality degree programme is recognised as an effective way to help students develop essential qualities<sup>4</sup> required for diverse careers, not only practice of law. With proper training of students through a high standard law degree, it may benefit various sectors of the community which increasingly demands employees with skills and attributes that a legally educated person is likely to possess.
- (c) Indeed, statistics show that quite a large number of recent Hong Kong law graduates have moved into a variety of careers other than the practice of law.<sup>5 & 6</sup>
- (d) Apart from obtaining a general education in law through the degree programmes in the universities in Hong Kong, there are significant numbers of students undertaking external law degrees in overseas universities either overseas or in Hong Kong through distance learning. There has never been any restriction on people obtaining general education in law through such routes. Opposing the offer of the LLB and JD programmes by the School of Law will neither reduce the number of students undertaking external law degree programmes nor address any issue on oversupply of lawyers.

**3. Professional education in law**

The Society has set out its position in relation to the vocational stage of legal education. The preferred model remains a profession-run Legal Practice Course.

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<sup>4</sup> Qualities include:  
(i) the construction of logical argument  
(ii) the capacity for abstract manipulation of complex ideas  
(iii) the systematic management of complex factual information  
(iv) intelligent, critical reading of texts  
(v) the use of the English language and the Chinese language (where applicable) at all times with scrupulous care and integrity  
(vi) the related ability to communicate orally and in writing in a clear, consistent and compelling way  
(vii) competence in retrieving, assessing, analyzing and using texts and information, including information technology skills.

(Derived from the Position on Legal Education and Training, The Law Society of Hong Kong, September 2001, footnote 3, page 3)

<sup>5</sup> Derived from the Report of the Consultants on “ Legal Education and Training in Hong Kong: Preliminary Review” paragraphs 2.3.2 and 2.3.3 on page 27, paragraph 5.4.2 on page 83

<sup>6</sup> Of the 576 people who completed their academic law qualifications in 1996 (at the two Hong Kong law schools, through SPACE or at the University of London, the University of Wolverhampton or the Manchester Metropolitan University, 133 or 23% did not proceed on to the PCLL.





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In order to ensure suitably high standards, the assessment standards and methods used in the Legal Practice Course should be applied rigorously.

Some practitioners strongly support the setting up of a Professional Qualifying Examination as a means to ensure that those entering the profession have attained the required high standard.

While the Law Society does not rule out the possibility of setting up a Professional Qualifying Examination, it takes the view that assessment should not be only by way of a final examination. There should be other continual assessment methods which test the ability to conduct transactions and intellectual and work management skills, that is, to properly reflect the emphasis on teaching lawyering skills.<sup>7</sup>

With the existing model of the PCLL which leads to a common qualification for both branches of the profession, the Society finds “streaming” (that is, requiring students at the PCLL to opt for either of the two streams, one for intending solicitors and the other for intending barristers) an unsatisfactory structure and will discourage the School of Law from adopting such a structure, if it is to set up a PCLL.

**4. Postgraduate education in law**

The postgraduate education in law is to be offered by the School of Law through its LLM, MPhil and PhD programmes.

As one of the major legal centres in the world, the legal work done in Hong Kong requires lawyers with specialist legal knowledge and skills. Further, legal research into the operation and effects of specific legal issues is essential to necessary reforms and changes in the law to maintain with the pace of the society’s development.

As in the case of the LLB and JD programmes, the Society will support the offer of the postgraduate programmes by the School of Law on the condition that they meet up with the Society’s expectations on the quality of those programmes.

**5. Standard in general**

The maintenance of a high standard is of paramount importance. The School of Law must satisfy the Society that:

- (a) its criteria on student admission will measure up to the standards set by the Society with a view to attract more graduates with degrees in other disciplines;

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<sup>7</sup> Position on Legal Education and Training, The Law Society of Hong Kong, September 2001



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- (b) in its recruitment of teaching staff, it will open up and utilise such resources within and outside Hong Kong so as to ensure that it will not dilute the existing pool of legal academics leading to a general lowering of standards of teachers;
- (c) the teaching staff recruited must be of high quality with the appropriate legal knowledge and practical experience and skills.

The Law Society is represented on the Chinese University's Planning Committee in respect of the establishment of the School of Law. Its views therefore can be reflected to the Chinese University effectively and efficiently through a proper channel.

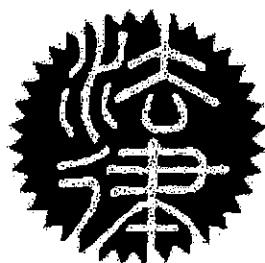
To continue the useful exchange of views and to ensure input from the profession in the vocational stage of legal education, the Law Society will actively seek representation on the future Faculty Board of the School of Law or equivalent body in the Chinese University.

Provided that the Chinese University meets the standards required by the Society, the Society will encourage its members to actively co-operate with the Chinese University in the design and teaching of its law programmes.



# **Annexure**





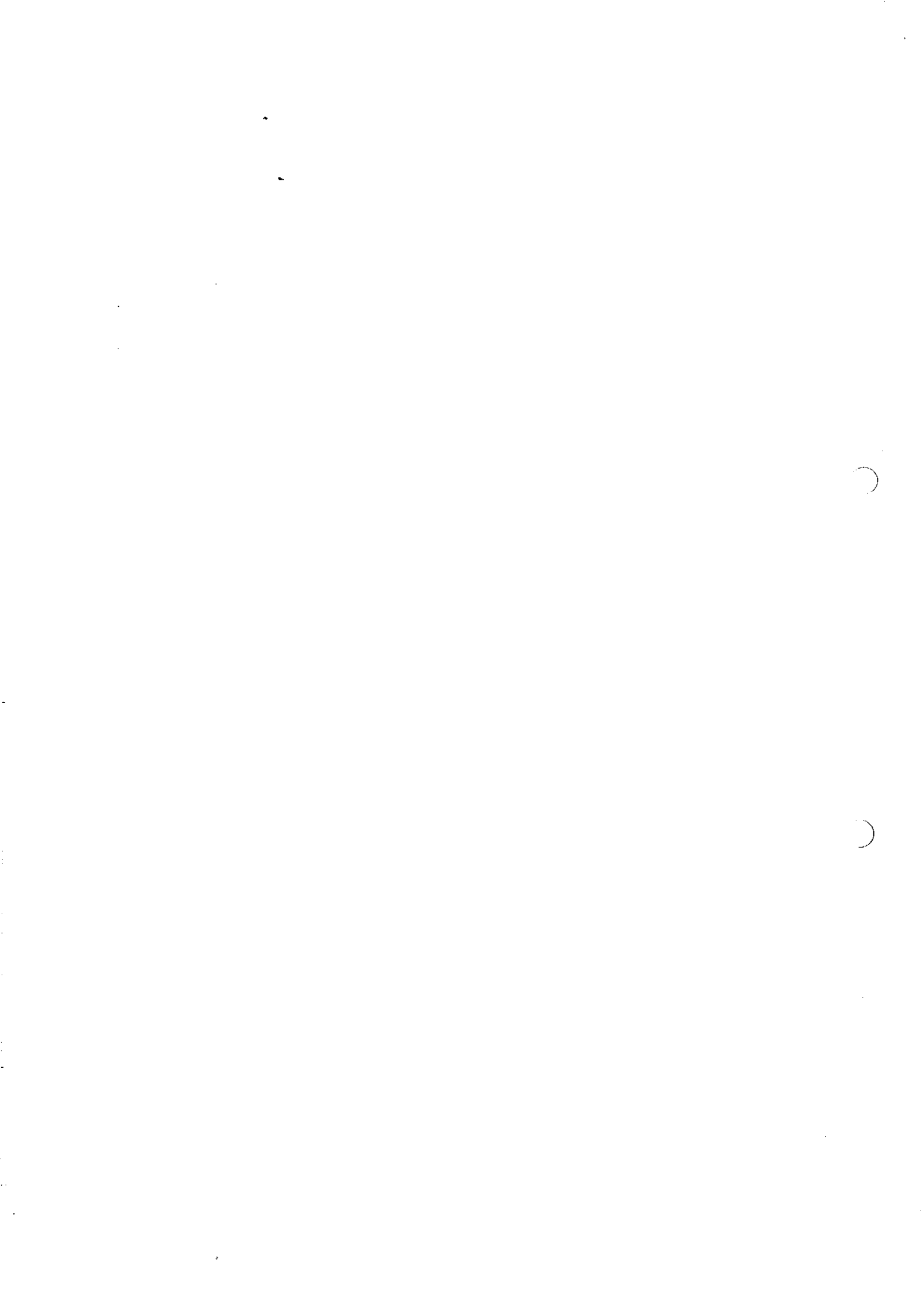
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September 2001





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## Preamble

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The quality of the services provided by solicitors to the community is, to a significant degree, the product of their legal education and training.

The Law Society, therefore, is vitally concerned to ensure that all those entering the profession have received legal education and training of the high standard necessary to ensure that Hong Kong solicitors are equipped to meet the needs of their clients, the profession and society, both now and well into this century.

This document contains the Law Society's position on legal education and training. It specifies the standards which the Law Society believes are appropriate for the various stages through which a person passes, both before and after admission to practice. These standards are the benchmarks against which the Law Society evaluates existing arrangements for legal education and training in Hong Kong, and against which it will evaluate future developments.

By publishing this policy the Law Society wishes to ensure that its position on these matters is clear, consistent and fair.

The document represents the Law Society's current position and will be subject to further review from time to time.

## Underlying principles

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The Law Society's policy on legal education and training is based on the following principles:

- that a commitment to education and training is a defining characteristic of a profession;
- that legal education is a lifelong process;
- that each phase of the process of legal education (the undergraduate law degree, the legal practice course (LPC), the trainee solicitor contract and continuing professional development) must be provided to the highest possible standards;
- that solicitors acquire knowledge and skills in both the day to day practice of law and through formal educational activities; and
- that this policy, and the provision of the various phases of legal education and training, should be reviewed periodically in order to ensure the maintenance and improvement of standards.

The Law Society's policy is that legal education and training must reflect:

- that the legal system in Hong Kong is a common law system;
- that Hong Kong has a special situation whereby, although English and Chinese are the official languages of the legal system, English remains the predominantly used language in legal practice, although it is to be expected that this will change;
- that Hong Kong is one of the major commercial and financial centres of the world; and
- that Hong Kong is commercially, and in other ways, a gateway both to mainland China and from China to the rest of the world.

As such, it is vital and essential that high standards be achieved by those engaged in all phases of the legal education and training process, so that the standards of legal service offered by Hong Kong solicitors are comparable to the world's best.

The aim of education and training is to produce lawyers who:

- uphold legal, professional and ethical values;
- can think through and solve problems;
- are knowledgeable in the law; and
- have the necessary linguistic and communication skills.

# 1 The academic stage of legal education – the law degree

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## 1.1 Aim of the degree<sup>1</sup>

A law degree which qualifies students to seek admission to practice in Hong Kong (a “qualifying law degree”) should enable students to acquire through study in depth of substantive areas of law, and by using primary sources<sup>2</sup> and the study of some subjects from the humanities, social sciences and sciences:

- (a) general transferable intellectual skills<sup>3</sup>;
- (b) knowledge and understanding of the general principles, nature, and development of law, and of the making and interpretation of common law and legislation<sup>4</sup>;
- (c) legal values, including a commitment to the rule of law, justice, fairness and high ethical standards;
- (d) knowledge and understanding of the contexts in which law operates; and
- (e) a knowledge and understanding of the legal system of China.

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<sup>1</sup> These aims are an adaption of a statement of outcomes of a qualifying law degree in England and Wales as proposed in the *First Report on Legal Education and Training* published by the Lord Chancellor’s Advisory Committee on Legal Education and Conduct in April 1996.

<sup>2</sup> Cases and legislation

<sup>3</sup> This includes: (i) the construction of logical argument; (ii) the capacity for abstract manipulation of complex ideas; (iii) the systematic management of complex factual information; (iv) intelligent, critical reading of texts; (v) the use of the English language and the Chinese language (where applicable) at all times with scrupulous care and integrity; (vi) the related ability to communicate orally and in writing in a clear, consistent and compelling way; and (vii) competence in retrieving, assessing, analysing and using texts and information, including information technology skills.

<sup>4</sup> This includes: (i) the ability to handle judicial decisions through reading and analysis of cases; and (ii) the ability to handle Hong Kong SAR legislation through reading and analysis of statutory and other relevant materials.

## **1.2 Entry to a qualifying law degree in Hong Kong**

Students should be accepted into a qualifying law degree at a Hong Kong university only if their academic qualifications are of a high standard, comparable to those required for entry to major law schools in other common law jurisdictions.

Generally, Hong Kong students should have attained not less than two Bs and one C in their A level examinations.

The Law Society acknowledges that the minimum entry standards for law degrees in Hong Kong are not within its control and are not always met. Nevertheless, the Law Society believes that its policy reflects a position which is highly desirable. The Society notes that in comparable common law countries where school leavers proceed direct to a law degree, such as Britain, New Zealand or Australia, a high standard in A level examinations, or their equivalent, is the norm. Nonetheless, the Law Society recognises that there may be some justifiable exceptions to this principle, for example, mature students, which may be catered for by special entry schemes.

All law students should be assessed at the end of the first year as to their capacity to continue with legal studies.

## **1.3 Scope of a qualifying law degree in Hong Kong**

The qualifying law degrees in Hong Kong should be 4 years in duration and should also be available in true part-time mode. However, the Law Society does not want to see this additional year filled purely with the study of further aspects of the law. Rather, the Law Society expects that the law course would, thereby, more rigorously develop general transferable intellectual skills such as critical thinking and analysis, contextual analysis, problem solving, the development of arguments and solutions and clear and effective writing. It should also allow more emphasis to be placed on the development of research skills and enhanced English language skills.

The qualifying law degree must provide the intellectual foundation on which further knowledge, skills and experience can be assembled. The introduction of some subjects from the humanities, social sciences and sciences should be incorporated in the degree in order to allow students to gain a wider perspective of the context in which the law operates and to assist in the development of the generally transferable intellectual skills and competencies common to most university education in the humanities, social sciences and sciences<sup>5</sup>.

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<sup>5</sup> This policy is partly derived from the recommendations of the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review", August 2001.

The course of study requires, as a minimum, an understanding of the following areas of knowledge:

- Constitutional Law and Administrative Law
- Evidence and Procedure<sup>6</sup>
- Law of Contract
- Law of Torts
- Criminal Law
- Property Law
- Equity and Trusts
- Company Law
- Legal System of the People's Republic of China

in the context of an overall course of study which provides:

- a well-rounded education in law;
- a level of scholarship usually associated with a course leading to an undergraduate degree; and
- a good grounding in the research, analytical, communication and other skills required of a legal practitioner in modern society.

To the extent that practical legal skills will contribute to a better understanding of the core subjects, practical legal training should be brought into the LLB curriculum<sup>7</sup>.

## 1.4 Assessment in the law degree

In order to ensure suitably high standards, the assessment standards and methods used in the law degree should be applied rigorously.

The professional bodies must be satisfied that the examinations and other methods of assessment used during each year in the degree, in particular in the first year, rigorously assess whether each student is capable of proceeding on to the next year of the degree and finally being awarded the degree<sup>8</sup>.

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<sup>6</sup> To encompass evidence and civil and criminal procedure, and to be taught as a whole subject.

<sup>7</sup> Probably a formula of 80% substantive law 20% skills

<sup>8</sup> The Society is not convinced that the current external assessment mechanism employed by the tertiary institutions is effective in assuring quality in the LLB or the PCLL.

A student's participation in class should be part of the assessment scheme of each LLB subject and there should be a compulsory requirement for students to complete a substantial writing exercise as part of the assessment for at least one law subject<sup>9</sup>.

One of the criteria for assessment of all oral and written assessable work in the LLB degree should be English language ability appropriate to the work being assessed, and this criterion should be assessed rigorously, to the point where work could be failed on that basis alone<sup>10</sup>.

In seeking rigorous assessment standards, the Law Society expects that examiners must fail students who have not met appropriate levels of performance in examinations and other forms of assessments.

## 1.5 Staffing of a law degree course

Teachers in a law degree course should:

- have appropriate knowledge and understanding of the area/s of law being taught by them; and
- have the necessary teaching skills<sup>11</sup>.

A law degree course should have a ratio of teaching staff to students that facilitates individual instruction and feedback.

## 1.6 Teaching and learning methods

The process of active learning in the teaching of law should include a strong and rigorous emphasis on the use of English.

The lecture and tutorial method should be discarded as the primary mode of instruction and should be used only exceptionally. Interactive teaching in medium sized class groups based on pre-assigned and pre-read material should become the norm of instruction, where the role of the teachers is primarily that of stimulators, facilitators and modellers of analytical, critical, creative and deep thinking<sup>12</sup>.

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<sup>9</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review". The Society also endorses recommendations 64 to 73 of the Report on "Assessment".

<sup>10</sup> Ibid.

<sup>11</sup> Lecturers and tutors should be assessed periodically and evaluated by persons qualified to do so in order to ensure that they possess the necessary teaching skills.

<sup>12</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".



Teaching methods should be more interactive and devised in such a way as to encourage students to become active learners, to contribute to critical analysis during tutorials, to undertake further research beyond the materials supplied to them, to enable them to think logically, critically and creatively and to have the capacity to evaluate and to analyse legal problems and issues<sup>13</sup>.

The tertiary institutions should provide their teachers with adequate training and guidelines on the most appropriate, effective and up-to-date teaching methods and should be adequately funded with the resources to do so<sup>14</sup>.

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<sup>13</sup> Derived in part from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>14</sup> Ibid. The Society also endorses recommendations 52 to 63 of the Report on "Teaching and learning methods".

## **2 The first part of the vocational stage of legal education - the legal practice course (LPC)**

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### **2.1 Aim of an LPC course<sup>15</sup>**

A legal practice course (LPC) should orientate students from their academic studies in the law degree to the actual practice of the law. It should thus:

- (a) prepare students for general practice by equipping them with the basic skills to perform with competence legal work in specified fields; and
- (b) provide students with a general foundation for subsequent practice by equipping them with basic skills to develop new competencies in response to employer and client needs.

### **2.2 Governance of an LPC course**

The LPC should be conducted by a free-standing institution in its own premises established under the Legal Practitioners Ordinance, its own ordinance, as a company or in some other way, and governed by a board which would consist of all stakeholders in legal education (ie. the judiciary, government, the universities and the wider community) but with dominant representation by both branches of the profession on an equal basis. Ultimately, the LPC could be conducted by the proposed Academy of Law<sup>16</sup>.

An establishment grant should be provided to set up premises for the course and to recruit the initial staff and to design and plan the course. The course should be supported by UGC funding to the fullest extent possible. Although the profession's own training body, the institution would be required to conduct its affairs in a transparent way<sup>17</sup>.

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<sup>15</sup> The PCLL should be discontinued.

<sup>16</sup> Derived largely from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>17</sup> Ibid.

## 2.3 Entry to an LPC course

Students should be accepted into an LPC course only if they have obtained:

- a qualifying law degree (not lower than a 2:2)<sup>18</sup> from a university in Hong Kong;
- an equivalent law degree from an approved non-Hong Kong university; or
- a non-law degree (not lower than a 2:2) from an approved university and passed the Common Professional Examination of England and Wales (CPE) or the Common Professional Examination of Hong Kong (CPEC).

There should be no numerical quotas for entry to an LPC. Entry should be based solely on academic merit and language ability.<sup>19</sup>

## 2.4 Scope of an LPC course

There should be more emphasis on the teaching of skills than the teaching of substantive law<sup>20</sup>. The curriculum should be based on a conceptual framework of how legal work is done rather than structured around subject areas of law. It should take the form of practical training in transactions and skills within a strong ethical context<sup>21</sup>.

The preferred option for the LPC is a common course for both branches of the profession but the Society would accept the option of a common core of instruction for both branches of the profession, but with electives provided. Included in those electives should be a course on dealing with transactions in Chinese law, to be conducted in Chinese.

Students should be able to develop basic competence in those intellectual and practical skills necessary to carry out the tasks in the areas of practice dealt with in the course, such as:

- problem solving
- communication - writing, drafting, advising, interviewing, counselling
- fact investigation and analysis

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<sup>18</sup> If the Law Society is not satisfied that the institutions are awarding bona fide 2:2 degrees then the Society will revise its policy in this respect to require not less than a 2:1 degree.

<sup>19</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>20</sup> Probably a formula of 80% skills 20% substantive law.

<sup>21</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

- litigation and alternative dispute resolution procedures
- negotiation
- practical legal research and analysis (including computer-aided)
- organisation and management of legal work (work and file management, office and personal management (including computer-aided))
- recognising and resolving ethical dilemmas and ethical formation
- intellectual skills

The areas of practice to be studied in an LPC course shall embrace all or most of the following<sup>22</sup>:

- conveyancing (including landlord & tenant) law and practice;
- wills, probate and administration;
- civil and criminal procedure;
- commercial law and practice<sup>23</sup>;
- advocacy;
- professional conduct and practice<sup>24</sup>;
- accounts and financial management (including basic bookkeeping, profit and loss accounts and analysis of financial statements); and
- China law practice

## 2.5 Staffing of an LPC course

Teachers in an LPC course should:

- have an appropriate background and experience in the practice of law and the area/s of practice being taught<sup>25</sup>; and
- have the necessary teaching and other skills to teach knowledge and skills<sup>26</sup>.

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<sup>22</sup> Revenue law and practice, currently included in the PCLL, should be an elective subject in the LLB.

<sup>23</sup> This includes company law.

<sup>24</sup> This subject should include: the nature of professionalism; the fiduciary obligations of professional lawyers to their clients; the rule of law; representing clients without fear or favour; equality of opportunity; provision of competent representation; striving to promote justice, fairness and morality; striving to improve the profession; professional self-development; and client services and care.

<sup>25</sup> Teachers should have recent and relevant practical experience at the time of their appointment, but it is not necessary that such experience should have been gained in Hong Kong.

<sup>26</sup> Teachers should be assessed periodically and evaluated by persons qualified to do so in order to ensure that they possess the necessary teaching skills.

An LPC course should have a ratio of teaching staff to students that facilitates individual instruction and regular feedback<sup>27</sup>.

The Law Society encourages practitioners, so far as they are able, to meet the requests of the LPC institution to assist in lecturing.

## 2.6 Assessment in an LPC course

Students should be assessed as to whether they “could do”<sup>28</sup>.

In order to ensure suitably high standards, the assessment standards and methods used in an LPC course should be applied rigorously. In particular, the standard of work required for a pass should meet all of the aims and objectives of the course.

There should be no closed book examinations as this encourages rote learning. Other assessment methods should also be used which test the ability to conduct transactions and intellectual and work management skills, that is, to properly reflect the emphasis on teaching lawyering skills. Assessment should be continual, not only by way of a final open book examination.

## 2.7 Teaching methods

Emphasis should be placed on teaching methods which discourage memorising and rote learning and encourage active learning and independent and critical thinking. To this end, innovative teaching methods should be employed, including “learning-by-doing”<sup>29</sup>.

## 2.8 Delivery and duration of an LPC

Provided that the scope of the LPC is covered, there can be flexibility in the way the course is undertaken eg by way of modularisation, or on a part-time basis, or by the inclusion of some distance learning approaches<sup>30</sup>.

An LPC should be of at least 4 to 6 months in duration<sup>31</sup>. The course should be modularised,

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<sup>27</sup> For small group/skills related teaching the ratio of teaching staff to students should not exceed 1:12.

<sup>28</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>29</sup> Derived in part from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.

<sup>30</sup> Ibid.

<sup>31</sup> The Society does not, at this stage, wish to be dogmatic about the duration of the LPC as this will

enabling students to undertake all of the course immediately prior to pupillage or the training contract, or spread throughout the vocational stage<sup>32</sup>.

## 2.9 Monitoring of an LPC

The LPC would be governed by a Board comprising all stakeholders in the provision of legal education in Hong Kong and would be responsible to that Board<sup>33</sup>.

The role of the external examiner is vitally important in ensuring high standards through rigorous assessment. Examiners should scrutinise a greater sample of examination scripts than is currently scrutinised. Moreover, the Law Society expects that any external examiner will not verify a "pass" grade to students whose performance in the examinations and assessments indicates they have not achieved the prescribed standards, aims and objectives of the course.

It is acknowledged that external examiners do not have the time and manpower to exercise a closer and constant supervision of the courses. Therefore, in order to improve the supervision of an LPC course, in both the training and assessment programmes, it is proposed that two monitoring teams be created - one to monitor the training programmes and the other (a team of examiners) to scrutinise the examinations and assessments. A key element of the proposals is the appointment of a course monitor to assist in the supervision of the courses.

Any team of external examiners should comprise persons with suitable qualifications and who have sufficient time to scrutinise a greater sample of examination scripts over a short period.

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depend upon the outcome of the detailed planning of the course.

<sup>32</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>33</sup> Ibid.

## 4 Language

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### 4.1 General principle

Because of Hong Kong's status as an international commercial and financial centre and the nature of the legal system and of legal work in Hong Kong, it is essential that all those undertaking legal education and training have a high standard of English, and it is desirable that those who have the capabilities are provided with opportunities to be trained to use Chinese to a high standard.

### 4.2 Entry to the law degree

Students should be accepted into a qualifying law degree only if they have obtained a minimum grade of C5 in the Use of English Examination (UEE), although the Law Society considers that a grade B is more desirable.

The Law Society has been prepared to lower its expectations from Grade B to Grade C5 only in view of the complementary strategies to improve the English language standard recommended in the Consultants' Report on the Review of Legal Education and Training in Hong Kong, as adopted in this Position Paper. If these other strategies are not implemented, the Law Society will adhere to its previous position that a minimum grade B in the UEE is necessary for students to be accepted into a qualifying law degree programme.

### 4.3 During the law degree

There should be a new test, the Use of English in Law Test (UELTL), for testing English language ability for legal purposes<sup>40</sup>.

A test of sufficient stringency should be undertaken by all law students at the end of the first year. Those passing it would not be required to sit it again. Those failing it would be permitted to continue their law studies but would be required to undertake remedial tuition (in addition to their law studies)<sup>41</sup>.

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<sup>40</sup> Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review".

<sup>41</sup> Ibid.

A test of similar stringency should be undertaken by those students who were required to undertake remedial tuition, to be conducted annually. Affected students should be given the opportunity to fail it twice<sup>42</sup>.

#### **4.4 Entry to the LPC**

Students should be accepted into an LPC course only if they have passed the UELT which would be set at a higher level than that referred to in 4.2 and 4.3<sup>43</sup>.

#### **4.5 Entry to the trainee solicitor contract**

Persons should be accepted into a trainee solicitor contract only if they have reached the benchmark in English language ability recommended by the Law Society.

#### **4.6 Active learning**

The process of active learning in the teaching of law should include a strong and rigorous emphasis on the use of English. One of the criteria for assessment of all oral and written assessable work in the LLB degree should be English language ability appropriate to the work being assessed, and this criterion should be assessed rigorously, to the point where work could be failed on that basis alone<sup>44</sup>.

#### **4.7 Chinese**

It is highly desirable that there be a number of those admitted to practice in Hong Kong who are able to use the Chinese language, where appropriate to their practice, to comparable standards as those required in regard to English.

Continuing training in the Chinese language should be provided for students and lawyers who have capabilities in the use of Chinese.

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.



## **5 Continuing professional development**

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### **5.1 General principle**

Continuing professional development is both an individual and collective responsibility. All solicitors in Hong Kong need to be committed to lifelong learning which will enable them to respond to the changing needs of society.

Collectively, the Law Society will ensure that high quality continuing professional development activities are available to all members of the profession.

### **5.2 Aim of continuing professional development**

Continuing professional development will foster the development and knowledge of solicitors necessary to provide high quality and efficient legal services to the community, and will promote a spirit of continuing learning amongst solicitors. Professional development activities will enable solicitors to:

- acquire a wide range of skills relating to the delivery of legal services and the management of their practices;
- work with and train others involved in the delivery of legal services;
- maintain an up-to-date knowledge of the law and changes in the practice of law;
- master new areas of the law; and
- maintain and enhance their level of competence.

### **5.3 Mandatory continuing professional development**

Under the Continuing Professional Development (CPD) Scheme which commenced on 1 January 1998, it is mandatory for all trainee solicitors and solicitors with practising certificates who were admitted after 31 December 1993 to undertake continuing professional development of a minimum of 15 CPD points each practice year. The mandatory CPD Scheme is being phased in over 6 years so that by the year 2003 all trainee solicitors and all

solicitors with practising certificates will be embraced by the Scheme.

The Law Society's policy is that:

- there should be a broad range of activities for which CPD points can be accumulated;
- enhanced accreditation points should be allocated to target areas, such as professional ethics;
- there should be a mandatory practice management course for all solicitors seeking an unconditional practising certificate for the first time;
- there should be a risk management course developed for solicitors;
- the onus for keeping a record of CPD points accumulated should rest with solicitors and trainee solicitors and not the Society. The Society's role should be to monitor compliance with mandatory CPD by conducting audits; and
- the method of accreditation of CPD activities should be by way of provider accreditation for providers who can demonstrate a good track record as a provider through course by course accreditation by the Society.

## **6 Academy of Law**

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### **6.1 Aims of the Academy**

The Law Society is of the view that there are very good reasons for the establishment of an Academy of Law which would comprise a one-stop shop for the provision and administration by the profession of qualifications and training for all lawyers post LLB. The most important reason is that it will ensure the maintenance of a consistent high quality and standard of professional legal education across the entire legal profession from the moment a student completes his LLB through to the end of his professional career.

Other reasons in support of such a proposal are that, given the size of the jurisdiction in Hong Kong, it will lead to economies of scale in the provision of these functions and services, and will result in better regulation of the profession.

### **6.2 Scope of the Academy**

It is proposed that this Academy would, in due course, be responsible for:

- the Legal Practice Course for all intending solicitors and barristers following the completion of the LLB
- CPD programmes for both solicitors and barristers at all levels
- additional skills training programmes for the profession post-LPC, including advocacy skills training, mediation skills training, communication skills training.
- specialist training in specified areas of practice and specialist accreditation
- implementing a Mandatory Practice Management Course for solicitors
- implementing a Risk Management Education Programme (mandatory or otherwise) for solicitors
- administering the Overseas Lawyers Qualification Examinations and preparatory training courses
- administering the conversion course.

### **6.3 Establishment funding**

It would be appropriate for government or other funding to be provided to enable the development of this Academy<sup>45</sup>.

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<sup>45</sup> Ibid.

## 7 Conversion course

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### 7.1 Aim of the course

For persons seeking entry to vocational training in Hong Kong on the basis of academic qualifications other than those of the LLB from a Hong Kong university, a conversion course should be established to make up deficits, measured against the statement of academic standards required for entry to the vocational stage<sup>46</sup>.

### 7.2 Scope of the course

While the precise area of shortfall that needs to be made up will vary with the nature of the legal education received by each applicant for entry to the conversion course, possible areas of deficit that would need to be made up by those taking their legal education outside Hong Kong universities include:

- Legal System of the People's Republic of China
- Hong Kong Constitutional Law
- Hong Kong Property Law and
- legal research and writing skills<sup>47</sup>.

The subjects required in the conversion courses should give credit for study undertaken in overseas courses so that the full local subject requirement is not automatically required but might in a particular area (eg, Hong Kong Constitutional Law and Property Law) be simply a bridging course in areas where Hong Kong law is significantly different to that of the overseas legal system studied by the applicant<sup>48</sup>.

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

### **7.3 Duration and provision of the course**

The standard duration of the conversion course for the holder of a three year full time law degree might well be six months although a decision as to duration would depend upon the content of the statement of academic standards issued by the Legal Qualifying Council<sup>49</sup>.

Although the Hong Kong law schools might be the initial providers of the conversion course, other providers might be considered in future, in particular, the proposed Academy of Law.

### **7.4 Formal recognition**

Consideration should be given to the formal recognition of the conversion course through the granting of an academic award to those who complete it<sup>50</sup>.

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<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

## 8 Governance of the process of qualification for admission to practice

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### 8.1 General

A Legal Qualifying Council should be established to set, monitor and govern the process of qualification for admission to practice, as either a barrister or a solicitor<sup>51</sup>.

The Law Society and the Bar Association would continue to administer the process of dealing with applications for admission, collection of fees, issuance of practising certificates, and otherwise act as they do now – except that they would operate within the overall policy framework of requirements and standards as specified by the Legal Qualifying Council<sup>52</sup>.

### 8.2 Powers

The powers of the Legal Qualifying Council should be –

- a) To develop, prescribe and keep under review a general statement of the requirements and standards of those seeking admission as barristers or solicitors in Hong Kong regardless of where their training was undertaken.
- b) To prescribe and keep under review the academic requirements for admission to practice.
- c) To prescribe and keep under review the vocational requirements for admission to practice.
- d) To prescribe and keep under review requirements for admission for those with degrees or other qualifications from institutions other than the two Hong Kong universities.
- e) To monitor the provision of academic and institutional vocational training.
- f) To collect and disseminate statistical information in regard to the legal education and training system in Hong Kong<sup>53</sup>.

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<sup>51</sup> This policy is largely derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review” except in relation to the composition of the Council.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

### 8.3 Composition

That the Legal Qualifying Council should comprise<sup>54</sup> –

- one person drawn from the judiciary and nominated by the Chief Justice
- four people nominated by the Law Society
- four people nominated by the Bar Association
- one person nominated by the University of Hong Kong
- one person nominated by City University of Hong Kong
- one person nominated by the Secretary of Justice
- one person nominated by the Secretary for Education and Manpower
- one person from the community.

The Chairman should be appointed from the legal profession.

### 8.4 Public accountability

The Legal Qualifying Council should report annually, in some detail, on its work to all relevant stakeholders. Its annual reports should be in the public domain<sup>55</sup>.

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<sup>54</sup> The Law Society is not dogmatic about the configuration of the proposed Council, except to the extent that the legal profession should have the majority representation.

<sup>55</sup> Derived from the Report of the Consultants on “Legal Education and Training in Hong Kong: Preliminary Review”.