

ENCLOSURE 1

COMMITTEE TO REVIEW THE LEGAL SERVICES SECTOR

Chairman

Justice V K Rajah – Judge of Appeal, Supreme Court

Members

Justice Chan Seng Onn¹ – Solicitor-General, Attorney-General's Chambers (till 2 July 2007)
 – Judge, Supreme Court (from 3 July 2007)

Mr Sundaresh Menon – Judicial Commissioner, Supreme Court (till 3 April 2007)
 – Senior Partner, Rajah & Tann (from 15 May 2007)

Mrs Koh Juat Jong – Registrar, Supreme Court

Mr Michael Hwang – Senior Counsel, Sole Proprietor, Michael Hwang

Mr Alvin Yeo – Senior Counsel, Managing Partner, Wong Partnership and Joint Managing Director, Clifford Chance Wong

Mr Cavinder Bull – Director, Drew & Napier LLC

Mr Lee Eng Beng – Partner, Rajah & Tann

Mr Kwek Mean Luck – Senior Assistant Registrar, Supreme Court (till 31 March 2007)
 – Director, Industry Division, Ministry of Trade & Industry (from 1 April 2007)

Secretariat

Mr David Lee Yeow Wee – Assistant Registrar, Supreme Court

Ms Tammy Low Wan Jun – Assistant Registrar, Supreme Court (till 31 July 2007)

Mr Paul Tan Beng Hwee – Justices' Law Clerk, Supreme Court (till 31 May 2007)

Mr Goh Yihan – Justices' Law Clerk, Supreme Court

¹ Mr Soh Tze Bian, Senior State Counsel, Attorney-General's Chambers, was alternate member to Justice Chan Seng Onn.

ENCLOSURE 2

Table of Differences Between Current JLV and Proposed Enhanced JLV

	Feature	Current JLV	Enhanced JLV
1.	Sharing of Profits	Areas of legal practice permitted to JLV include banking law, finance law, corporate law, and any other area of legal or regional work as may be approved by the Attorney-General.	Permitted areas of cooperation from which profits may be shared will now include work prior to a notice of arbitration being issued.
		The constituent foreign law firm in an existing JLV is not allowed to share in the profits of the constituent Singapore law firm.	The constituent foreign law firms in an existing JLV is allowed to share up to 49% of the profits of the constituent Singapore law firm in the permitted areas of cooperation.
		The foreign law firm and Singapore law firm may only share in the profits of the JLV in such proportion as may be mutually agreed upon. However, the foreign law firm's share of the JLV's profits cannot exceed the total profits of the JLV arising from those areas of legal practice permitted to the JLV.	No change.
2.	Experience of foreign law firm and Singapore law firm	The foreign law firm and Singapore law firm must have relevant legal expertise and experience in banking law, finance law, corporate law, arbitration, intellectual property law, maritime law, or any other area of legal or regional work as may be approved by the Attorney-General.	No change.
3.	Type of foreign law firm	<ul style="list-style-type: none"> - Foreign law firm has five or more foreign lawyers resident in Singapore, at least two of whom shall be equity partners in the foreign law firm or, in the case of a foreign law firm constituted as a corporation, at least two of whom shall be directors of such corporation. - The foreign lawyers in the foreign law firm must have at least five years of relevant legal expertise and experience in any of the areas of legal practice referred to in item (2). 	No change.
4.	Type of Singapore law firm	<ul style="list-style-type: none"> - Singapore law firm has five or more Singapore lawyers, at least two of whom shall be equity partners in the Singapore law firm or in the case of a law corporation; at least two of whom shall be directors of 	No change.

	Feature	Current JLV	Enhanced JLV
		such law corporation. - The Singapore lawyers in the Singapore law firm must have at least five years of relevant legal expertise and experience in any of the areas of legal practice referred to in item (2).	
5.	Partners and Directors	- If JLV is constituted as a partnership, the number of equity partners in the foreign law firm and resident in Singapore shall not at any time be greater than the number of equity partners in the Singapore law firm. - If the JLV is constituted as a corporation, the number of directors nominated by the foreign law firm shall not at any time be greater than the number of directors nominated by the Singapore law firm.	No change.
6.	Written agreement	The foreign law firm and the Singapore law firm must have entered into a written agreement to jointly manage the JLV and, if requested by the Attorney-General, have submitted a copy of such agreement to the Attorney-General and no material modification shall be made to the agreement without the prior written approval of the Attorney-General.	No change.
7.	Insurance policies	The JLV shall maintain throughout the period of its registration adequate insurance policies concerning indemnity against loss arising from its provision of legal services in or from Singapore and which are of a value not less than that required under any rules made under section 75A of the Legal Profession Act in respect of Singapore law firms, or of such other value as may be specified by the Attorney-General.	No change.
8.	Agreed Business plan	The foreign law firm and Singapore law firm shall submit an agreed written business plan describing the objectives of the JLV and the implementation of the business plan, and no material modification shall be made to the written plan without the prior written approval of the Attorney-General.	No change.
9.	Permitted areas of	Foreign law firms may only practise foreign law and Singapore law, where applicable,	Permit constituent foreign law firms to employ Singapore

	Feature	Current JLV	Enhanced JLV
	legal practice	<p>through the JLV.</p> <p>JLV may practise in areas of legal practice mutually agreed between the constituent Singapore law firm and the foreign law firm, who may also agree among themselves the parameters of the practice areas; and</p> <p>JLV shall not practise Singapore law except through a Singapore lawyer who has in force a practising certificate and is practising in the constituent Singapore law firm of the JLV, or a foreign lawyer registered to practise Singapore law in the JLV under section 130I of the Legal Profession Act or in the constituent Singapore law firm of the JLV under section 130J of the same Act.</p>	lawyers to give Singapore law advice in the permitted areas of legal practice.
10.	Ratio of S'pore lawyer vs Foreign lawyer	No specified restriction.	Foreign law firms may hire up to one Singapore lawyer for every foreign lawyer in the foreign law firm constituent.
11.	Experience of S'pore lawyers	No specified restriction.	Singapore lawyers in constituent foreign law firm to have minimum of three years Singapore law practice experience in Singapore law firm.
12.	Role of local partners	A Singapore law firm lawyer in the JLV may not become an equity or profit sharing partner in the foreign law firm. If he does so, he will be regarded as a foreign law firm lawyer in the JLV. However, a Singapore law firm lawyer is permitted to play an active role in the regional or international management framework of the JLV, for e.g. he may become part of the foreign law firm's regional management team.	Local partners be allowed to concurrently hold partnership and administrative positions in the foreign law firm constituent.
13.	Regulatory control of S'pore lawyer	Singapore practicing solicitors are subject to the control of the Supreme Court and Law Society (Part VII of the Legal Profession Act on Disciplinary Proceedings applies).	The Singapore lawyers hired by the constituent foreign law firms in the JLVs will come under the regulatory and disciplinary control of the Attorney-General as the current regulatory authority for the JLV scheme.

ENCLOSURE 3

LEGAL EDUCATION AND PROFESSIONAL TRAINING

The Committee has made recommendations which will support our vision of developing Singapore as a legal education hub. Recommendations have been made relating to (a) the legal academia; (b) restructuring the legal education system; (c) admission to the legal profession; (d) continuing legal education; and (e) promotion of Singapore as a legal education hub.

Singapore as a Legal Education Hub

2. The Committee was of the view that it was important for Singapore to promote itself as a legal education hub. Singapore needed to have a through train of legal talent – from academics to practitioners – in areas that would dovetail with the nation’s economic priorities.

3. In this regard, the law schools play an important role in attracting talent from the region into the legal profession and enhancing Singapore’s status as a centre for legal excellence. The Committee felt that our law schools should aspire to be among thought leaders in the common law world in certain core areas. These areas should be intensively taught, world-class academics should be encouraged to publish papers, participate in international conferences and teach in these areas, and there must be greater collaboration with government, industry and international legal institutions.

4. Collaboration between the law schools and the proposed Institute of Legal Education, detailed below, would create a hub for continuing legal education in the region.

Legal Education in Universities

5. In order for Singapore to develop into a legal education hub, it is vital for our law schools to continue attracting and retaining their share of the limited talent pool. This is especially so with the increasing competition for legal talent both domestically and internationally.

6. The proposals emphasise ways to encourage talent. For example, the Committee made various recommendations that would allow our law schools to remain attractive to law academics. These include giving greater autonomy to the law schools to set fees and revising the pay scales of the better law academics to more accurately reflect changes in the marketplace. The Committee has also noted the importance of maintaining a balance between imparting legal theories and principles and practical knowledge of their application. Recommendations have thus been made to encourage faculty members to take up secondments outside their faculties so as to enhance their knowledge of the practical workings of the law. The law schools are also encouraged to enhance the current practice of engaging adjunct professors and part-time tutors from the legal profession.

7. To attract talent from a wider sphere of expertise and an expanded geographical region, there were suggestions which would allow foreign law graduates, from civil law jurisdictions even, and graduates from other disciplines, to obtain a law degree in two years. Such graduates should have had sufficient grounding in the law prior to admission to local law schools and would not require lengthy study.

Continuing Legal Education

8. The Committee noted that whilst continuing legal education (CLE) has been made compulsory in a number of Commonwealth jurisdictions², it is currently not mandatory for lawyers to participate in such activities in Singapore. There is also no overall supervision or coordination amongst service providers to ensure minimum standards of such programmes and to chart a holistic programme which all lawyers (including in-house counsels) can benefit from.

9. The Committee thus recommended the introduction of compulsory CLE for all advocates and solicitors, including foreign lawyers and local lawyers registered with the Attorney-General to practise Singapore law in certain permitted areas of legal practice in the Joint Law Ventures, Singapore-based foreign law firms or Singapore law firms.

Admission to the Legal Profession

10. The Committee considered the requirements that law graduates had to complete before admission to the Singapore Bar, specifically, the Diploma in Singapore Law course (for law graduates from gazetted foreign law universities), the Practical Law Course (administered by the Board of Legal Education) and the pupillage programme.

11. The Committee was of the view that improvements could be made in these areas. In this regard, the Committee recommended the introduction of a Vocational Training Course (VTC) which would replace the Practical Law Course. The Diploma in Singapore Law course will also be fused with the VTC. The Committee envisaged that whilst the VTC would retain its traditional function of ensuring competency in core subject areas, it would also allow students to tailor their own courses through the election of optional subjects in their area of specialisation.

12. Further, the Committee recommended that the current pupillage programme will be restructured into a training contract which would oblige law firms to engage their trainees in a structured learning programme.

13. With the number of changes to be made the legal education landscape, the Committee was of the view that there was a need to set up a single institution to coordinate, administer and have oversight of all initiatives and programmes related to legal education.

² Australia, Hong Kong, England and Wales and the United States

14. As such, the Committee has recommended the setting up of a new Institute of Legal Education (ILE). The ILE will take over the roles and responsibilities of the current Board of Legal Education. In addition, the ILE will also focus on charting the development of and requirements for post-university education, including vocational training and continuing legal education. Thirdly, it will have the responsibility of coordinating and overseeing the curricula of our law faculties. As the key linchpin for the various players within the legal education system, the ILE will become integral to our efforts to grow Singapore as a Legal Education Hub.

ENCLOSURE 4

ENHANCEMENT OF DISCIPLINARY PROCESS

Main findings of the Committee

- (a) **Delays in the Disciplinary Process.** The average time taken by the Disciplinary Committees to complete their cases has doubled from 7.5 months in 2002 to 15.4 months in 2006. One reason for this delay is that the current composition of the Disciplinary Committee, of two lawyers from private practice (including the chairperson), one officer from the Legal Service and one lay person, often makes it difficult for the Disciplinary Committee to schedule early hearings.
- (b) **Concerns about veracity of complaints.** While genuine complaints should be taken seriously, the public interest is not served when lawyers are hauled through the disciplinary process as a result of vexatious or baseless complaints by clients with ulterior motives. Such unmeritorious complaints also result in an unnecessary wastage of resources in sifting and investigating the claims. There is currently no adequate safeguard against such abuse of the disciplinary process.
- (c) The need to streamline the work in the various stages of the disciplinary process, in particular the Inquiry Panel.
- (d) **Abuse of judicial review.** Currently, judicial review is available even before the Disciplinary Committee has completed its work. This has the potential to stall the disciplinary process. It has also caused unnecessary expenditure of judicial and manpower resources.

Recommendations of the Committee

- (a) To reduce delays, the Disciplinary Committee will be replaced by a Disciplinary Tribunal, which will be appointed by the Chief Justice and comprise only one member - a Senior Counsel, or a retired Judge or Judicial Commissioner.³ In addition, there will be firm adherence to stipulated timelines at every step of the disciplinary process.
- (b) To deter baseless or frivolous complaints, every complaint against a lawyer must be made in writing and supported by a statutory declaration affirming or swearing the truth of the particulars of the complaint, except if the complaint is made by a public officer. This

³ The Review Committee (2 members) and Inquiry Committee (4 members) will continue to sieve out unmeritorious complaints, for only valid complaints to be heard by the Disciplinary Tribunal. After the Disciplinary Tribunal has made a decision, this is referred back to Law Society Council to decide whether to refer the advocate and solicitor to the Court of 3 Judges to show cause.

requirement of a statutory declaration is also found in the Accountants Act and Medical Registration Act. The maximum amount that an Inquiry Committee may require a complainant to deposit will be increased from the present \$500 to \$1,000. An Inquiry Committee or Disciplinary Tribunal will also be empowered to order a complainant to pay the costs of proceedings before them if the complaint is found to be frivolous or vexatious.

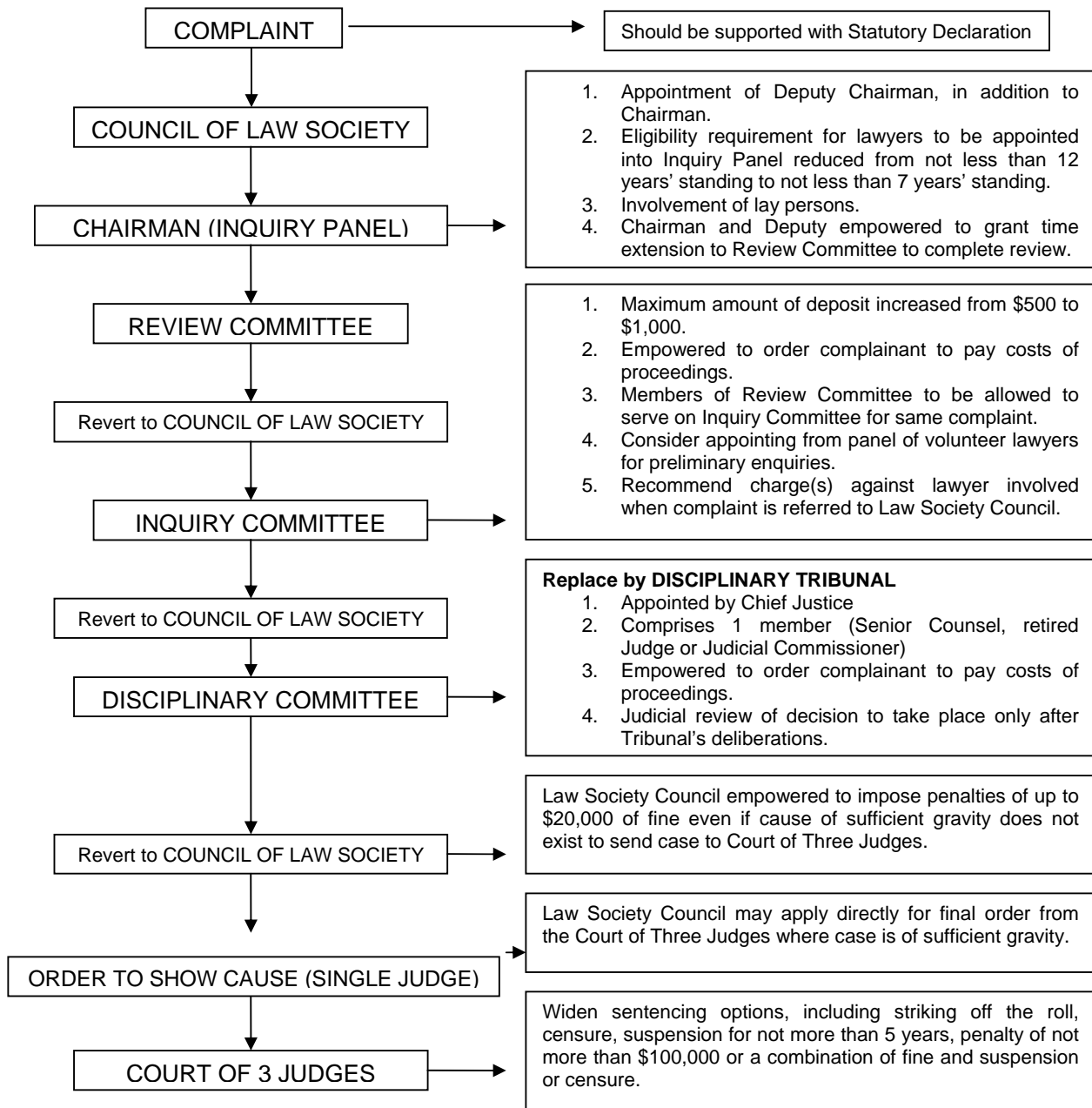
- (c) To streamline the Inquiry Panel and Inquiry Committee as follows:
- (i) A Deputy Chairman will be appointed to assist the Chairman in the work of the Inquiry Panel formed to deal with a complaint against a lawyer;
 - (ii) The eligibility requirement for an advocate and solicitor to be appointed as a member of the Inquiry Panel will be reduced from 12 years' standing to not less than 7 years' standing;
 - (iii) To involve lay persons in the initial stages of the disciplinary process to enhance transparency, the Inquiry Panel could include active citizens who may not be professionals such as school principals;⁴
 - (iv) The Chairman or Deputy Chairman of the Inquiry Panel will be empowered to grant a time extension to the Review Committee to complete the review in exceptional cases;
 - (v) Members of a Review Committee who did not dismiss a complaint should be allowed to serve on the Inquiry Committee for that complaint;
 - (vi) The Inquiry Committee should consider appointing investigators from a panel of volunteer lawyers to assist it in making preliminary inquiries; and
 - (vii) The Inquiry Committee should recommend the charge(s) which can be preferred against the lawyer involved when it refers a complaint or piece of information for formal investigation to the Law Society Council.
- (d) Any judicial review of the Disciplinary Tribunal's decision can be raised only after the conclusion of the Disciplinary Tribunal's deliberations.
- (e) Where cause of sufficient gravity exists, the Law Society Council may apply directly for a final order from the Court of Three Judges. (The requirement for a show cause application to be made *ex parte* to a judge of the High Court should be abolished.)
- (f) To improve other aspects of the disciplinary process as follows:

⁴ Lay persons will no longer be involved in the Disciplinary Tribunal (which will replace the Disciplinary Committee). The Disciplinary Tribunal will comprise only one member - a Senior Counsel, or a retired Judge or Judicial Commissioner

- (i) Increase the power of the Law Society Council to order penalties of up to \$20,000 where a fine should be imposed even if cause of sufficient gravity does not exist to send the case to the Court of Three Judges;
 - (ii) Widen the sentencing options for the Court of Three Judges to include striking off the roll, censure, suspension for not more than 5 years, penalty of not more than \$100,000, or a combination of fine and suspension or censure;
 - (iii) Introduce a 'limitation period' of six years to prevent long overdue complaints against errant lawyers;
 - (iv) Empower the Law Society to intervene if a lawyer is unable to practise by reason of physical or mental condition;
 - (v) Empower the Law Society to prevent a lawyer from practising without submitting himself to a medical examination;
 - (vi) A Judge may, on application of the Attorney-General or the Law Society Council, order a lawyer to submit to a medical examination;
 - (vii) Empower the Registrar of the Supreme Court to refuse to issue a practising certificate or to issue a conditional one;
 - (viii) The appointment of a Senior Counsel should be deemed revoked, if he is suspended, struck off the roll or whose appointment the Court of Three Judges has recommended to be revoked;
 - (ix) Increase the maximum fine that a court be empowered to impose on officers of the Legal Service and non-practising solicitors from \$5,000 to \$20,000; and
 - (x) Introduce measures to ensure that the lawyer and complainant are notified of the outcome within a reasonable period.
- (g) Refer to Annex for a flowchart highlighting the current disciplinary process and the proposed main changes.

Current Disciplinary Proceedings

Proposed Main Changes to Disciplinary Proceedings



Other proposed changes:

1. Introduction of 6-year limitation period.
2. Law Society Council empowered to intervene if a lawyer is unable to practise by reason of physical or mental condition.
3. Law Society Council empowered to prevent lawyer from practising without submitting oneself to medical examination.
4. A Judge may, on application of AG/Law Society Council, order a lawyer to submit a medical examination.
5. Registrar of Supreme Court empowered to deny issuance of practising certificate or to issue a conditional one.
6. Appointment of Senior Counsel to be deemed revoked if he is suspended, struck off roll or recommended to be revoked.
7. Increment of maximum fine that Court can impose on LSO or non-practising lawyer from \$5,000 to \$20,000.
8. Introduction of measures ensuring lawyer and complainant are notified of outcome within a reasonable time.

ENCLOSURE 5

OTHER ISSUES PERTAINING TO THE LEGAL PROFESSION

Main Findings and Recommendations of the Committee

- (a) **Miscellaneous proposals to address sufficiency concerns of legal profession.** More should be done to ensure a better work-life balance, part time work and for members who have left the profession to return. Mentorship and pro bono programmes were recommended.
- (b) **Specialist recognition.** Legal work has become increasingly specialised in recent years and the trend is likely to continue. More should be done to bolster this trend and give recognition to specialists in various areas of law, as this will encourage specialisation and excellence in the law. For this, the Committee recommended the establishment of a specialist accreditation scheme
- (c) **Conditional fee arrangements.** Conditional fee arrangements have been introduced in the UK, and are different from the US variant of contingency fee arrangements. When a conditional fee arrangement is in place, the lawyer is paid an additional amount (the “uplift”) over his usual fee if the case arrives at a successful conclusion, rather than the US contingency fee arrangement where his uplift upon a successful result would be a percentage of the damages awarded. Conditional fee arrangements are intended to increase access to justice, allowing plaintiffs with lower income who have strong cases but who do not qualify for legal aid to seek legal redress. The Committee recommended the introduction of conditional fee arrangements. The Committee also recommended various safeguards, including a review after an initial period of 3 years, with a legislative provision to that effect.
- (d) **Class actions.** Class actions allow one or more individuals to bring a civil action on behalf of themselves and others similarly affected. This makes it commercially viable for an individual to have his action dealt with in court. The Committee recommended that the issue of whether Singapore should allow class actions and, if so, what is a suitable model be further considered.