

Sender's Fax: 6533 5700

Sender's DID: 6530 0221

Sender's Email: represent@lawsoc.org.sg

6 March 2017

Melissa Gay  
Assistant Director  
Ministry of Law, Community Legal Services Division  
The Treasury  
100 High Street, #08-02  
Singapore 179434

BY EMAIL

Melissa\_GAY@mlaw.gov.sg

Dear Ms Gay,

**REVIEW OF THE PUBLIC TRUSTEE'S ROLE IN ASSESSING THE  
SOLICITOR & CLIENT COSTS UNDER THE MOTOR VEHICLES  
(THIRD-PARTY RISKS AND COMPENSATION) ACT (CAP. 189)**

1. We thank you for inviting to Law Society of Singapore ('Law Society') to provide feedback on the review of the Public Trustee's ('PT') role in assessing solicitor and client ('S&C') costs under the Motor Vehicles (Third-Party Risks and Compensation) Act (Cap. 189) ('MV(TPRC)A').
2. We refer to the following documents:-
  - (i) Your email dated 26 October 2016; and
  - (ii) Its attachments, namely (a) the Consultation Paper titled "A Review of the Public Trustee's Role under the Motor Vehicles (Third-Party Risks and Compensation) Act (Cap. 189)", dated 11 December 2012 ('2012 Consultation Paper'); (b) the Law Society's response to 2012 Consultation Paper dated 22 January 2013 ('LSS Response')(collectively, the 'Documents').
3. With reference to your email dated 26 October 2016, we set out our views on overcharging and the Law Society's disciplinary processes:-
  - (i) In essence, Rule 17 of the Legal Profession (Professional Conduct) Rules 2015 embodies the ethical duty on the legal practitioner to explain his costs, to advise his client of the right to tax the bill and not to overcharge. Breach of these rules exposes the legal practitioner to disciplinary action. These rules are also designed to safeguard the interests of all litigants, which include motor accident victims.
  - (ii) Disciplinary proceedings can be initiated through a complaint by anyone (not limited to the litigant) or by information referred by the Council and other stakeholders. Therefore, persons related to litigant may also lodge complaints of the litigant being overcharged, where the need arises.
  - (iii) Most legal practitioners abide by these ethical duties and the number of complaints of overcharging is not particularly significant. In any case, the



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Law Society's disciplinary process is effective and adequate to deal with any complaints of overcharging.

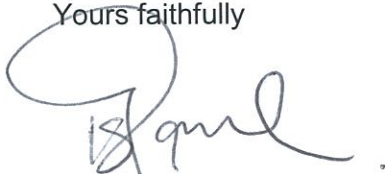
4. In addition, we have referred the Documents to the Personal Injury and Property Damage Committee ('PIPD Committee') and the Council of the Law Society ('Council') for their comments. Their views have been set out below:-
  - (i) Currently, the PT serves an important statutory role in assessing the reasonableness of S&C costs where the compensation moneys exceed the relevant amount under the MV(TPRC)A by ensuring that the S&C costs charged are proportionate to the damages awarded/agreed and the amount of work done.
  - (ii) Motor accident victims remain a category of vulnerable persons that should continue to receive protection. An accident could be life-changing. It affects not only the victim, but his or her family and even society as a whole – especially if such a victim becomes financially hampered or mentally or physically incapacitated.
  - (iii) Based on the PIPD Committee's experiences, there are victims (educated or otherwise) who may not know their full entitlement as to the types of damages (i.e. general and special damages) that they can claim from a motor accident. Similarly, they may also not know what would be reasonable S&C costs incurred. The present mechanism, including the PT's role, acts as a safeguard and provides motor accident victims with as much protection as possible.
  - (iv) While the PIPD Committee acknowledges that the Law Society has effective frameworks in place to discipline errant members of overcharging, these frameworks have constraints. The Law Society's disciplinary mechanism is usually triggered by a complaint. Before a party makes a complaint of overcharging, he or she must first be adequately informed of his or her entitlements to the types of damages claimable and what would amount to reasonable S&C costs incurred. The PIPD Committee is of the view that many accident victims are not placed in a position to know this.
  - (v) Under the MV(TPRC)A, legal practitioners are currently compelled by the statute to have their S&C costs assessed by the PT once the compensation moneys exceed the relevant amount under the Act. Due to such legislative requirements, overcharging is prevented and accident victims are protected. If the PT's statutory role under the MV(TPRC)A is abolished, accident victims lose the safeguards and protection afforded by the MV(TPRC)A.
  - (vi) The PIPD Committee notes that time and resources are incurred by the PT in exercising the important statutory role of assessing the reasonableness of S&C costs under the MV(TPRC)A where the compensation moneys exceed the relevant amount. If the PT intends to withdraw from this statutory role, the PIPD Committee submits that this role should be preserved and that there is room to consider whether another appropriate regulatory body, such as the Law Society, should undertake this role.



(vii) The Council of the Law Society has considered the PIPD Committee's views set out in (i) – (vi) and submits that the role in assessing the reasonableness of S&C costs where motor accident compensation moneys exceed the relevant amount under the MV(TPRC)A can be taken up by the Law Society if the PT should decline to exercise this role. However, the Council will require time to study the current processes and evaluate how the Law Society can take over this role. As such, the PT should continue to exercise its existing role under the MV(TPRC)A in the interim whilst in consultation with the Law Society on the process for the transition of roles.

5. We would be grateful for an update in due course.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'K. Gopalan', with a large, stylized loop at the end.

K. Gopalan  
Director (Head of Department), Representation and Law Reform Department