

Table 2.4. *Legal professional conduct in greater China key ethical rules^a*

PRC	HKSAR	
All China Law Association	Law Society of Hong Kong Bar Association of Hong Kong	Taiwan Taiwan Bar Association
Relevant laws		
<i>Lawyers' Law of the People's Republic of China – 2017</i>	<i>Legal Practitioners' Ordinance</i>	<i>Attorney Regulation Act</i>
All China Law Association	Law Society of Hong Kong	Taiwan Bar Association
<i>Codes of Profession Conduct for Lawyers – 2018</i>	<i>Solicitors' Practice Rules</i>	<i>Code of Ethics</i>
	Law Society of Hong Kong	
	<i>Professional Guide – 2013</i>	
	Bar Association of Hong Kong	
	<i>Bar Code of Conduct</i>	
General principles		
All China Law Association (ACLA)	The Legal Practitioners Ordinance s72AA	Attorney Regulation Act Article 1
The Codes of Profession Conduct for Lawyers – 2018	allows the Bar Council to make rules about the professional practice, conduct and discipline of barristers, and	Attorneys take upon themselves the goals of promoting social justice, protecting human rights, and contributing to democratic government and the rule of law.
requires all lawyers to be members of the ACLA or a local law association.	s73 gives similar powers to the Council of the Law Society in respect of solicitors.	Guided by these
The ACLA is the disciplinary body with power to interpret the code. The ACLA or local lawyers' body cannot make rules inconsistent with the Code.	It is noted that both the Bar Council and the Law Society are fully self-regulating, and have the power to decide if their members are or are not in breach of proper professional standards.	professional goals, with the spirit of self-regulation and self-governance attorneys should strive to faithfully execute their professional responsibilities, contribute to the preservation of social order, and work towards the improvement of the legal system.
Lawyers' Law of the People's Republic of China – 2017	Law Society of Hong Kong	
Article 1	<i>Professional Guide – 2013</i>	
This Law has been made to improve the lawyer system, standardize the	11.03 Duty to report misconduct	

Table 2.4. (cont.)

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practising conduct of lawyers, safeguard the legal practice of law by lawyers, and discharge the functions of lawyers in the building of a socialist legal system.	A solicitor is under a duty to report to the Council, where necessary after having obtained his client's consent, any professional misconduct or dishonesty on the part of another solicitor or a member of his staff, or of any other person purporting to represent or to be in the employment of another solicitor or firm.	Code of Ethics Article 44 A lawyer, on learning that there is concrete factual evidence that another lawyer has violated this Code, ought to report such violation to the bar association to which the latter belongs, except where he/she has a confidentiality obligation for not doing so.
Article 3 In practising law, a lawyer must observe the Constitution and laws and adhere to the professional ethics and practising disciplines of lawyers . . .	Law Society of Hong Kong Professional Guide – 2013 Sec. 5.06: Third party instructions Where instructions are received not from a client but from a third party purporting to represent that client, a solicitor should obtain written instructions from the client that he wishes him to act. In any case of doubt he should see the client or take other appropriate steps to confirm instructions.	
Article 42 Lawyers and law firms shall perform their obligations of legal aid according to the state provisions, provide the aided persons with standard legal services, and protect the legal rights and interests of the aided persons.		
Article 46 The professional code and disciplinary rules made by a lawyers' association shall not conflict with the relevant laws and administrative regulations and rules.	Sec. 5.17: Communication with client A solicitor is under a duty to keep his client properly informed and to comply with reasonable requests from the client for	

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	<p>information concerning his affairs.</p> <p>Sec. 7.01: Loyalty, openness and fairness</p> <p>... a solicitor owes a fiduciary duty to his client. He must act with loyalty, openness and fairness towards his client.</p>	
<p>All China Law Association</p> <p><i>Codes of Profession Conduct For Lawyers – 2018</i></p>	<p>Law Society of Hong Kong Professional Guide – 2013</p> <p>Sec. 10.02: The duty of a solicitor</p>	<p>Attorney Regulation Act Article 28</p>
<p>Article 3</p> <p>A lawyer shall deem it as a basic requirement for the legal profession to uphold the leadership of the Communist Party of China and support the socialist rule of law.</p>	<p>A solicitor must treat the court with courtesy and respect and must represent his client resolutely, honourably and within the limits of the law.</p>	<p>An attorney shall not engage in fraudulent or beguiling acts towards their client, the court, prosecution agencies or judicial police.</p>
<p>Article 6</p> <p>No lawyer shall manipulate an individual case by using his or her identity as a lawyer or in the name of a law firm to attack the socialist system or conduct any activity jeopardizing national security;</p>	<p>Sec.10.03: Duty to court</p> <p>A solicitor must never knowingly attempt to deceive or participate in the deception of a court.</p>	<p>Article 29</p> <p>An attorney shall not engage in acts that may harm the attorney's reputation or credibility.</p>
<p>nor shall the lawyer, by using his or her identity as a lawyer, incite, abet or organize an interest</p>	<p>Solicitors' Practice Rules Rule 2 states that</p> <p>'A solicitor shall not, in the course of practising as a solicitor, do or permit to be done on his behalf anything which compromises or impairs or is likely to compromise or impair –</p> <p>(a) his independence or integrity;</p>	<p>Article 32</p> <p>An attorney should not engage in businesses that damage the dignity and reputation of the attorney profession.</p> <p>Taiwan Bar Association Code of Ethics Article 4</p> <p>A lawyer shall be regardful of the freedom and independence of his/her duties.</p>

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group in interrupting or breaking the normal social order . . .	(b) the freedom of any person to instruct a solicitor of his choice;	Article 6 A lawyer shall be prudent in his/her words and careful of his/her acts so as to conform to the savour and dignity of the legal profession.
Article 7 A lawyer shall be honest, faithful, diligent, devoted to his or her duties, protect the client's legitimate rights and interests according to the facts and laws, maintain the correct implementation of law and safeguard social fairness and justice.	(c) his duty to act in the best interests of his client; (d) his own reputation or the reputation of the profession; (e) a proper standard of work; or (f) his duty to the court. ⁷	Article 8 A lawyer shall perform his/her duties in line with the principle of honesty, fairness, rationality and conscience.
Article 15 No lawyer shall commit any of the following acts: . . .	For barristers, the <i>Bar Code of Conduct s10.29</i> emphasizes that 'A practising barrister has an overriding duty to the Court to act with candour and independence in the interests of justice.'	Article 11 A lawyer shall not be tied down by the outcome of winning or losing a lawsuit, thereby overlooking the discovery of the truth.
1. acts which have a negative impact on society and damage the reputation of legal profession;	Under the <i>Bar Code of Conduct s5.15</i> , a 'barrister cannot enter into partnership or employment or other similar relationship with . . . any other person in connection with [their] practice as a barrister'.	
2. acts which obstruct the exercise of power, in accordance with law, by state judicial and administrative organs; . . .	Similarly, the <i>Bar Code of Conduct s10.3</i> makes it clear that ' . . . a practising barrister must not:	
	(a) compromise his professional standards in order to please his professional or lay	

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	client, the Court or a third party; or (b) permit his absolute independence, integrity and freedom from his personal interests or external pressures to be compromised or do anything in such circumstances as may lead to any inference that his absolute independence, integrity and freedom from his personal interests or external pressures may be compromised.'	
	<i>Law Society of Hong Kong Professional Guide – 2013</i> Sec. 9.06: Mediation A solicitor may act as a mediator between two or more parties in a dispute but if a solicitor does so he must make it clear to each party, preferably in writing, that he is acting solely in the resolution of their differences.	
<i>Fees and costs</i> [Note the significant difference across Greater China in relation to contingency fees]		
National Development & Reform Commission and the Ministry of Justice,	<i>Law Society of Hong Kong Professional Guide – 2013</i> Sec. 4.01: Inform clients about costs	<i>Attorney Regulation Act Article 37</i> An attorney shall not demand in advance, or

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Measures for the Administration on Lawyers' Charging Activities, 2006 Article 3 Lawyers' charging activities shall follow the principles of openness and fairness ... and good faith. Article 4 Lawyers' service charges shall follow the guidance prices of the government and the market regulated prices. Article 6 The benchmark price and its floating degree of the government guidance prices shall be determined by the competent pricing department of the people's government of each province, autonomous region or municipality. Article 8 The government shall take into full consideration the local economic development level, the social acceptance level as well as the long-term development of the	On taking instructions a solicitor should normally give his client the best information he can under the circumstances about the likely costs of the matter. The solicitor should discuss with the client how the costs and disbursements are to be met and must consider whether the client (if an individual) may be eligible and should apply for legal aid (including legal advice and assistance) or the assistance of the Duty Lawyer Service. Sec. 4.02: Agreed fees must be recorded When fees have been agreed with a client the solicitor must promptly provide the client with a written record of the agreement, signed by the solicitor stating what the fee is, and what it covers and whether it includes disbursements. See also <i>Legal Practitioners' Ordinance</i> , s56. Sec. 4.03: Provide details of fees If no fee has been agreed or estimate given, a solicitor should tell his client how the fee will be calculated, for example, whether on the basis of an hourly rate	receive fees beyond those specified or provided for in Legal Codes, Attorney Code of Ethics or Bar Association Articles of Incorporation. Code of Ethics Article 35 A lawyer shall expressly inform a client of the amount of his/her remuneration or the method of calculating his/ her remuneration ... Code of Ethics Article 35 ... A lawyer may not enter into an agreement for contingent fee payment with a client in the case of a family matter, criminal matter, or juvenile matter.

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<p>legal industry in determining the price of lawyers' services. The lawyers' service price shall be determined on the basis of a lawyer's average service cost to the society plus reasonable profits and statutory taxes.</p>	<p>plus any mark-up, a percentage of the value of the transaction or a combination of both, or any other proposed basis.</p>	
<p>Article 9</p>	<p>— Legal Practitioners' Ordinance (Cap 159)</p>	
<p>The market regulated service prices of a lawyer shall be determined through consultations between and by a law firm and its client. The following factors shall be taken into account when a law firm is consulting about lawyers' charges with its client:</p>	<p>s58 allows a solicitor to make an agreement with their client in writing as to their legal fees, in respect of any contentious business, which provides that the solicitor shall be paid '...either by a gross sum or by salary, or otherwise, and at either a greater or a less rate than that at which he would otherwise have been entitled to be remunerated'.</p>	
<ol style="list-style-type: none"> 1. the time to be spent on the work; 2. complexity of the legal issue; 3. economic bear-ability of the client; 4. risks and liabilities that the lawyer may assume and undertake; and 5. the lawyer's social reputation and professional practising level. . . 	<p>See also s 64(1). —</p>	
<p>Article 10</p>	<p>Hong Kong Bar Code and Hong Kong Solicitors' Guide</p>	
<p>A lawyer may charge according to different</p>	<p>Principle 4.17. Contingency fees, where a solicitor or barrister agrees to accept a fee as a <i>percentage</i> of the damages recovered where a case is won, but no fee at all if the case is lost, are <i>prohibited</i> for all lawyers in Hong Kong.</p>	

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types of services: case by case service charges, proportional service charges and time-based service charges. The case-by-case service charges shall apply to legal matters not involving property issues. The proportional service charges shall apply to legal matters involving property issues. The time-based service charges may apply to all kinds of legal matters.		
Article 11 For civil cases involving property issues, if the client insists on following a risk agency mechanism even after having been informed of guidance prices of the government, then a law firm may charge on a risk agency basis, but in no way the risk agency charging method shall apply to:		
<ol style="list-style-type: none">1. cases of marriage or inheritance;2. cases about asking for social insurance treatment or minimum living treatment;		

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3. cases about asking for payments for supporting parents or children, alimonies, pensions for the disabled or families of the deceased, welfare payments, or compensations for work-related injuries; or		
4. cases about asking for payments for employment remunerations, etc.		

Article 12

The risk agency charging method is prohibited to be applied to criminal cases, administrative cases, cases about state compensations, and cases of collective litigations.

Article 13

For risk agency charging method, a law firm shall sign a risk agency contract with its client, specifying risks and liabilities both parties may assume, the way of payment, and the amount or proportion that will be charged thereof. For risk agency charging method, the ceiling amount shall be

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in no way over 30% of the amount involved in a case as specified in the risk agency contract.		
All China Law Association		
<i>Codes of Profession</i>		
<i>Conduct for Lawyers – 2017</i>		
Article 35		
A lawyer shall negotiate with a client about the scope, content, power, cost and time limit for the entrusted arrangements, and after an agreement is reached through negotiation, the law firm shall conclude an agency agreement with the client.		
Article 48		
A law firm may conclude, in accordance with law and under the premise of recovering money or property regarding the subject matter, <i>an agreement with a party or client to accept a certain percentage of money or payment-in-kind as lawyer’s fees.</i>		

^a Detailed rules for the legal systems of Greater China are included in Ch.5 relating to criminal cases, Ch. 6 for confidentiality and Ch. 7 for conflicts of interest. In respect of the People’s Republic of China, the All China Law Association *Rules on the Handling of Criminal Cases by (Defence) Lawyers* and the *Code of Conduct for Lawyers to Promote Business* are discussed in Ch. 5.