

## Report of the Standing Committee on Discipline 2016

### Investigation

1. During 2016 (as of 15 December 2016), there have been **15 disciplinary matters** (13 were formal complaints and 2 were initiated by the Bar Council itself). In 2015, there were 12 formal complaints. The results/progress of the 15 cases are as follows:

<b>Result/Progress</b>	<b>No. of matters</b>
Found unsubstantiated and dismissed / No further action be taken against the barrister	<b>7</b>
Referral to BDT	<b>0</b>
Barrister being Admonished / Advised	<b>1</b>
Under investigation	<b>7</b>

2. Also during this year, 4 disciplinary matters arising in 2012 (all were formal complaints), 1 disciplinary matter arising from 2013 (initiated by the Bar Council itself), 4 disciplinary matters arising in 2014 (3 were formal complaints and 1 was referred from the Judiciary) and 8 disciplinary matters arising in 2015 (7 were formal complaints and 1 was initiated by the Bar Council itself) were in progress of investigation. The results/progress of these **17** cases are as follows:

<b>Result</b>	<b>No. of matters</b>
Found unsubstantiated and dismissed / No further action be taken against the barrister	<b>7</b>
Referral to BDT	<b>0</b>
Barrister being Admonished / Advised	<b>1</b>
Under investigation	<b>9</b>

3. At the beginning of the year the Committee enquired with 11 practising members (8 of them renewed their Practising Certificates late (including 1 pupil member who has taken out a limited practising certificate) while the remaining 3 members neither renewed their Practising Certificates nor gave notifications of cessation of practice at the end of 2015) as to their positions of practice from 1 January 2016 up to the date of

renewal/the date of enquiry. In the meantime, it was discovered that another pupil was appearing as Counsel in an ongoing criminal trial without holding a valid Limited Practising Certificate, matter of which had led to disciplinary investigation.

- As a result of the enquiries and the said investigation, 4 members who were in actual practice without holding a valid Practising Certificate were admonished by the Chairman of the Bar Council. In addition, the said 4 cases of actual practice without holding a valid Practising Certificate were referred to the Director of Public Prosecutions for suspected commission of an offence under section 44 of the Legal Practitioners Ordinance (Cap.159). I am glad to say that no prosecutions have been instituted as a result of such referrals. It is sincerely hoped that we will not have to make such referrals again in the future.

### **Barristers Disciplinary Tribunal**

- During the year, the Barristers Disciplinary Tribunal (BDT) handled a total of **4 BDT matters**, 2 of which were concluded and the outcome is as follows:-

<b>Case Ref</b>	<b>Outcome</b>
16/2012	Complaint be concluded by virtue of apology from the Respondent to the Complainant.
03/2014	10 complaints laid were all found proved.

- At present, there are **5 outstanding BDT matters**, 2 of which (1 from two respective disciplinary matters arising in 2014 and 2015 consolidated together, and 1 from 2015) are being handled by the BDT, whilst the other 3 (1 from a complaint in 2003, 1 from 2012 and 1 from 2014) are pending referral to the BDT.
- The following members served on the Committee this year: Mr Anson Wong SC, Mr Johnny Mok SC, Ms Lisa Wong SC, Mr Anthony Houghton SC, Mr Nicholas Cooney SC, Mr Graham Harris SC, Mr Eugene Fung SC, Mr Paul Lam SC, Mr Ronald Tang, Mr Bernard Chung, Mr Walker Sham, Mr Alfred Liang, Mr Lawrence Ng, Mr Timmy Yip, Mr Joseph Vaughan, Mr Sanjay Sakhrani, Mr Ling Chun Wai, Ms Phillis Loh, Mr Paul HM Leung, Mr Charles J Chan and Ms Elaine Liu.

These people contribute a significant amount of their time investigating and advising on discipline matters, and without their help the Bar could not be self-regulating in

discipline matters. I am grateful for all their help.

8. I would like to express my special thanks to Mr Anson Wong SC, Vice-Chairman of the Committee, for his tremendous assistance in screening and reviewing discipline matters, his wise advice, and for having deputized for me on many occasions.
9. Finally, I would especially like to express my gratitude to the assistance of the Bar Secretariat. In particular, I must take this opportunity to thank Ms. Michelle Tang for her tireless and indefatigable support to the work of the Committee since 2009. Upon her departure in August 2016, the Committee has managed to maintain its operation in handling of complaints and disciplinary matters with valuable assistance from Ms. Dora Chan, the Administrator, as well as Ms. Jessica Lam. Mr. Charles Tsang, Ms. Tang's successor, has proved equally capable and dedicated and I am sure will continue to render invaluable support to the Committee.

Robert Pang, SC  
Chairman  
Standing Committee on Discipline

15 December 2016