

Special Committee on Discipline

Annual Report 2015

Investigation

1. During 2015 (as of 29 December 2015), there have been **15 disciplinary matters** (12 were formal complaints and 3 were initiated by the Bar Council itself). In 2014, there were 10 formal complaints. The results/progress of the 15 cases are as follows:

Result/Progress	No. of matters
Found unsubstantiated and dismissed / No further action be taken against the barrister	4
Referral to BDT	2
Barrister being Admonished / Advised	0
Under investigation	9

2. Also during this year, 5 disciplinary matters arising in 2012 (all were formal complaints), 1 disciplinary matter arising from 2013 (initiated by the Bar Council itself) and 7 disciplinary matters arising in 2014 (4 were formal complaints, 1 was referred from the Judiciary and 2 were initiated by the Bar Council itself) were investigated. The results/progress of these **13** cases are as follows:

Result	No. of matters
Found unsubstantiated and dismissed / No further action be taken against the barrister	2*
Referral to BDT	2
Barrister being Admonished / Advised	1*
Under investigation	9

* In one of the disciplinary matter arising in 2014 concerning the respective conduct of three barristers, whilst one of the barristers' case was dismissed, the other two were admonished by the Chairman of the Bar Council.

3. At the beginning of the year the Committee enquired with 18 practising members (12 of them renewed their Practising Certificates late while the remaining 6 members neither renewed their Practising Certificates nor gave notifications of cessation of practice at the end of 2014) as to their positions of practice from 1 January 2015 up to the date of renewal/the date of enquiry. As a result of the enquiries, 4 members who were practicing without holding a valid Practising Certificate and 3 members who had renewed their Practising Certificates late once or more times in the last five years were admonished by the Chairman of the Bar Council. In addition, the 4 members who had practiced without holding a valid Practising Certificate were reported to the Police for suspected commission of an offence under section 44 of the Legal Practitioners Ordinance (Cap.159).

Barristers Disciplinary Tribunal

4. During the year, the Barristers Disciplinary Tribunal (BDT) handled a total of **2 BDT matters**, 1 of which was concluded and the outcome is as follows:-

Case Ref	Outcome
04A/2008	By consent, leave was granted to the Bar Council to withdraw a complaint laid against the Respondent.

5. In CACV 174/2014, Ms Wong Kam Kuen, Catherine lodged an appeal against the findings of a BDT set out in its Statement of Findings dated 21 March 2014. The Court of Appeal (Hon Barma, Macrae and McWalters JJA) allowed Ms Wong's appeal on 3 June 2015, and the findings and orders made by the BDT were accordingly quashed and set aside by the Court of Appeal.

6. In HCAL 159/2014, leave was granted to the Bar Council on 3 March 2015 to judicially review the decision of a BDT concerning a barrister's conduct when he did not adduce evidence of and/or call a particular witness without advising or consulting his lay client during the course of a criminal trial. In the light of the overruling of the finding of professional misconduct on the part of Ms Wong Kam Kuen, Catherine in CACV 174/2014, who was involved in the same case and where she took the same course of action as the barrister did, and having considered the subsequent representations submitted to the Bar Council on behalf the barrister, the Bar Council decided to withdraw from the application for judicial review, and leave of which was granted by Hon Zervos J on 16 October 2015.

7. At present, there are **6 outstanding BDT matters**, 1 of which (from a complaint in 2014) is being handled by the BDT, whilst the other 5 (1 from a complaint in 2003, 2 from 2012, 1 from 2014, 1 from 2015 and 1 from two respective disciplinary matters arising in 2014 and 2015 consolidated together) are pending referral to the BDT.
8. 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 Phyllis 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.

9. 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.
10. Finally, I would especially like to express my gratitude to the assistance of the Bar Secretariat, and in particular Ms Michelle Tang without whose support and assistance the work of the Committee would have been nearly unmanageable.

Robert Pang, SC

Chairman

29 December 2015