



## Lodging a Complaint against a Barrister

### (I) Introduction

All barristers are subject to rules of conduct and must observe high standards of ethics. When a barrister acts for you in court or gives you advice you are entitled to expect your case to be handled in a professional and ethical manner. If you feel that this has not happened and you wish to have the conduct of the barrister investigated, you may lodge a complaint with the Hong Kong Bar Association. The Hong Kong Bar Association is required to promote high standards of conduct and ethics. Any barrister who falls below those standards may be liable to disciplinary sanction.

The Hong Kong Bar Association has an important role in the disciplinary process and the handling of allegations of misconduct against barristers.

Complaints about misconduct by a barrister should be made to the Bar Secretariat. The address is mentioned later. If a person wishes to complain about the conduct of a barrister, it is important that this is done as soon as possible after the conduct about which you wish to complain. Delay in lodging a complaint may make proper investigation very difficult - which may be unfair to the person who makes the complaint and unfair to the barrister concerned. The Hong Kong Bar Association will also accept complaints from people who are making complaints on behalf of others provided it is clear that the person on whose behalf the complaint is made authorizes this course.

Once the Hong Kong Bar Association received a complaint of misconduct on the part of a barrister, the complaint is investigated. If after an investigation it appears that the conduct complained of may amount to professional misconduct, it will be referred to the Barristers Disciplinary Tribunal. Less serious conduct may be dealt with by the Chairman of the Bar.

If the Bar Council does not submit a complaint to a Barristers Disciplinary Tribunal within six months (whether because it has not finished its investigation or because it decides not to), a complainant may ask the Chief Judge of the High Court to convene a Barristers Disciplinary Tribunal.

## (II) How to make a complaint?

Fill in your particulars on our homepage <https://www.hkba.org/content/request-complaint-form> and we will send you a complaint form via email



Complete the form

(Please provide us with your personal details and details of the complaint to facilitate subsequent investigation. It is also fair to the barrister against whom the complaint is made to permit him to know what is alleged in relation to him.)



Sign the Declaration in the last page of the form



Send the completed form with relevant copies of documents to the Bar Secretariat by post (Wherever possible we will acknowledge receipt of the complaint within 10 days. As the nature of the complaints varies, so will the time necessary to investigate those complaints. However, the complaint will be dealt with as quickly as possible.)

## (III) How will your complaint be dealt with?

Receipt of properly filled Complaint Form



Matter referred to the Standing Committee on Discipline for investigation (During the investigation process, it may be necessary to obtain further information from the complainant, so complainants must be ready to assist in this regard. As the nature of the complaints varies, so will the time necessary to investigate those complaints. However, the complaint will be dealt with as quickly as possible.)



Report submitted by the Committee to the Bar Council for decisions or action



1) Where the Bar Council considers that the conduct complained of, if substantiated, may amount to professional misconduct, and that it should be inquired into by the Barristers Disciplinary Tribunal (BDT) → Referred to BDT for disciplinary hearings → The BDT will determine what action(s) to take \*

OR

2) Where the Bar Council considers the complaint substantiated, but the conduct complained of does not amount to professional misconduct → punishment of the barrister by the Chairman of the Bar

OR

3) Unfounded complaints → Dismissal

\* The Barristers Disciplinary Tribunal hearing proceeds before a senior barrister and members of the community appointed by the Chief Justice. The hearing is required by law to be fair. The barrister who is accused of misconduct is entitled to challenge the accusation. The complainant and witnesses named by him in the complaint form may have to testify.

#### (IV) Reminder – What we can and cannot do?

##### *We Can:*

- Investigate complaints against barristers only when a properly signed standard Complaint Form is submitted
- Take disciplinary actions against barristers

##### *We Cannot:*

- Deal with complaints against solicitors; judges (even if the judge is a barrister); the Director of Legal Aid and officers employed by the Director of Legal Aid (unless the officer concerned is a barrister); and the Duty Lawyer Service and officers employed by the Duty Lawyer Service (unless the officer concerned is a barrister).
- Provide legal advice or assistance
- Influence the outcome of court proceedings
- Compensate your loss and help you with claims for negligence. Only the court can deal with these and you should get advice from an independent legal adviser.

#### (V) Enquiry

If you have any enquiries, please feel free to contact our Secretariat by email [info@hkba.org](mailto:info@hkba.org).

Address: LG2, High Court, 38 Queensway, Hong Kong.

