



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

Case reference: PC 2020/1396D5

Mr Glen Teck Beng Koh  
The Director-General of the Bar Standards Board  
The Chair of the Bar Standards Board  
The Treasurer of the Honourable Society of Middle Temple

### Disciplinary Tribunal

#### Mr Glen Koh

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 23<sup>rd</sup> September 2021, I sat as Chairman of a Disciplinary Tribunal on 20<sup>th</sup> October 2021 to hear and determine 2 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr Glen Koh, barrister of the Honourable Society of Middle Temple.

#### Panel Members

2. The other members of the Tribunal were:

Ms Sarah Baalham (Lay Member)  
Mr Thomas Williams (Barrister member)  
Ms Lakshmi Ramakrishnan (Lay member)  
Ms Siobhan Heron (Barrister Member)

#### Charges

3. Charge 1 alleged professional misconduct in that Mr Koh failed to comply with a sanction imposed by a Disciplinary Tribunal, between 20 December 2019 and 21 January 2021, in that he failed to pay the Bar Standards Board the fine of £7500 imposed by a Disciplinary Tribunal on 28 November 2019.

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Charge 2 alleged professional misconduct in that by failing to comply with the sanction and pay the fine Mr Koh had behaved in a way which is likely to diminish the trust and confidence which the public places in him and/or the profession in that between 20 December 2019 and 21 January 2021, he failed to comply with a sanction imposed by a Disciplinary Tribunal on 28 November 2019 and pay a fine of £7500.

4. Both charges were found proven.

### Parties Present and Representation

5. The Respondent who lives in Singapore was present, appearing by Zoom, and was not represented. The Bar Standards Board (“BSB”) was represented by Mr David Sharpe QC.

### Preliminary Matters

6. There had been legal argument as to jurisdiction on an earlier date. There were no preliminary matters dealt with on the day of the hearing.

### Pleas

7. Mr Koh denied both of the charges and alleged that the date ranges were incorrect. That point was not pursued.

### Evidence

8. The BSB’s evidence was unchallenged, and no live witnesses were called. Mr Paul Pretty was available for cross-examination if Mr Koh wished, but Mr Koh indicated at the outset that he did not wish to ask Mr Pretty any questions.
9. The BSB’s evidence consisted of correspondence between Mr Koh and the BSB about payment of the £7500 fine imposed as the sanction after a previous 3-person disciplinary tribunal found charges proved against him. In reliance on rule E169 the BSB relied on the record of the findings made in November 2019 as proof of what was then decided, and the sanction then imposed. There had been no subsequent appeal against those findings or the financial sanction.

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10. Mr Koh had refused to pay the fine and had not done so at the date of the hearing.  
Much of the correspondence related to requesting the provision of documents to allow the BSB to undertake a means' assessment for the purpose of a payment plan. Mr Koh did provide some documentation, but the BSB had repeatedly indicated that it was not sufficient.
11. Mr Koh did not give evidence, but did make submissions, on the basis that the written evidence 'speaks for itself'. The Chair explained to him the difference between giving evidence and making submissions, specifically that giving evidence would open him up to cross-examination.
12. Mr Koh maintained in his submissions that he was impecunious. The Chair asked him for a summary of his incomings and outgoings. Mr Koh provided this orally, though he had no further documentary evidence other than that which he had provided to the BSB earlier in proceedings and a brief tax form attached to his recent skeleton argument.
13. He was reminded that there was no power of this tribunal to hear an appeal against the imposition of the fine, or to vary that fine. It was pointed out that Mr Koh could have co-operated more actively at an earlier date.
14. Mr Koh submitted that the two charges were (effectively) bad for duplicity and should be alternatives. It was clarified that they were not alternative charges, as, although they were based on the same facts, they were separate allegations of misconduct.
15. Submissions were heard about what weight should be given to Mr Koh's assertions in answer to questions and in his submissions. It was submitted by the BSB that the weight should be less on the basis it was unsworn evidence and had not been given under oath.
16. The BSB accepted that the charges were not strictly liability, and that the offences would only be made out if the Panel found that Mr Koh had had the means to pay the fine and had wilfully not done so.
17. Mr Koh did not accept that he had not provided the necessary details of his finances. He highlighted some documents in the bundle where he had given some details, though at

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no point did these amounts to a precise and itemised schedule of incoming and outgoing transactions. He had given no information as to any savings or other capital resources. A number of Panel members asked Mr Koh for specifics during his submissions.

18. The Panel retired to consider their decision at 11:30. They returned at 12:35.

## Findings

19. The Panel found both charges made out, as follows.

‘The Tribunal has considered 2 charges of professional misconduct against Mr Koh, an unregistered barrister. The hearing has been held by Zoom, with Mr Koh in attendance. Has made submissions in writing and orally. Charge 1 against him alleges failure to comply with a sanction imposed by a disciplinary tribunal in November 2019. Charge 2 alleges that failure amounts to behaviour likely to diminish the trust and confidence the public places in him or the profession. We were asked to consider during the hearing whether they are alternative charges. We are satisfied that they are not. They must be considered separately. Mr Koh also alleged that charge 1 amounted to a charge of strict liability. We do not agree. The failure to comply would only amount to a charge on which a finding could be made if it amounted to professional misconduct. That failure to comply with the sanction has to be in some respects culpable – wilful or serious negligent failure to comply.

On dealing with the charges, relating to the second charge – the suggestion that the alleged failure is such that it would diminish the trust or confidence in the public is met by Mr Koh with the argument that it was not a matter of public significance, it was simply a matter of private arrangement between him and the BSB. We do not accept that – it was not simply a private debt being addressed by the BSB – they were exercising regulatory functions and brought the charge and on the basis that in these circumstances a failure by an individual barrister to comply with a sanction would cause concern to the public at large especially if it appeared that a regulatory body could not enforce such sanctions against an individual barrister.

We have evidence in the form of the bundle – we have read it and had it read to us. We also have the statement of Mr Pretty. Mr Koh did not require Mr Pretty to give evidence

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and that reflects that essential factual and documentary history is not in dispute. The central issue is whether the failure by Mr Koh to pay fine imposed was justified or not. Considering that, we bear in mind that the burden throughout is on the BSB, and the standard of proof is balance of probabilities.

Mr Koh himself was asked if he wanted to give evidence formally. He indicated he did not wish to do so but he made oral submissions supplementing his written submissions and responded freely to questions put to him by members of the Panel. In doing so he provided some further limited information about his finances. But overall the position remains that the evidence of his financial position, which has been of concern to the BSB in the past, remains sparse and remains untested and unsupported. It is plain from the correspondence what it was that the BSB wanted to see, and also plain in our judgment that had he supplied it the BSB would have done what they said they would – consider the possibilities of making Mr Koh pay the fine possibly by means of a payment plan and consider whether the full amount could be paid.

The inference we have been asked to consider against Mr Koh is whether he was not willing to provide what was being asked. There is not just an inference from the lack of information today, but also an inference overall from the outset when he was being asked to provide documentation, to support his repeated assertion in correspondence that he could not pay or make an offer to pay. It appears from an attendance note in February 2020 that the possibility of an offer being made was discussed but is right to record that Mr Koh himself did not recall that discussion and the tribunal did not hear about it from Mr Pretty. The possibility does not seem to have been followed up.

Later on, just as these proceedings started in March 2021, Mr Koh did make an offer to pay £1500 within 30 days. It is not clear what follow up there was to that proposal. It appears that it was not followed up and was not then considered acceptable in the absence of more financial information. The overall picture is of repeated requests from the BSB to Mr Koh to give them material on which to assess whether he had sufficient means to pay the fine or any part of it. Had he done so it would have enabled the BSB, as he knew, to consider what was a feasible payment plan. The tribunal are satisfied that the BSB did all that it could have done to assist Mr Koh. Despite that being apparent on any reading of the correspondence it is clear that Mr Koh failed to provide

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the information reasonably required. He is an experienced professional capable of presenting information in an organised manner with supporting material. He had no difficulties in understanding what was being asked of him. He did not do enough to support his assertions of a negative financial position – he knew what was required and did not comply.

Our view of the evidence was reinforced today when even at this late stage, Mr Koh seemed unprepared to give sufficient or complete evidence in any meaningful way of his current financial circumstances. In some ways he seemed evasive. But without a full enquiry we cannot quantify what he may have failed to disclose.

We are satisfied unanimously that both charges are made out – that he failed to pay the amount required of him and failed to co-operate or engage with the BSB which aggravated his failure to pay. The BSB in the circumstances could not disregard his behaviour and any disregard of his behaviour would have led to a loss of public confidence in the effectiveness of such a professional regulator.’

## Sanction and Reasons

20. The Panel then moved to consider sanction. The BSB’s submissions on sanction were restricted to directing the Panel to the sanctions’ guidelines, though Mr Sharpe did also highlight that the hearing had been elongated by Mr Koh not being fully prepared for the hearing and questions that he was asked.
21. There were a number of questions advanced by the Panel about how a suspension would take effect. Mr Sharpe answered these questions in line with the Handbook.
22. In mitigation Mr Koh advanced the case was based on the correspondence and that he had not elongated the hearing unnecessarily. He said that he was working full time currently and is 48 years of age. He said he had many health problems but did not wish to give specifics.
23. For the calendar year 2020 he had made around 3000 Singapore dollars per month. He anticipated that in the calendar year of 2021 he would make around the same.

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24. After a brief adjournment the Panel returned as Mr Sharpe was able to supply answers to specific questions they had asked – namely that the finding would be communicated to the Singaporean regulatory body, and that Mr Koh would not be permitted to hold himself out as a barrister Called by the English Bar in any jurisdiction for the period of any suspension.

25. The Panel were also provided with the outcomes of the two previous disciplinary cases against Mr Koh.

26. The Panel returned and ruled as follows:

‘Following the findings made today on two related charges of professional misconduct by Mr Koh, the Tribunal has considered the question of sanctions against Mr Koh. In doing so the Tribunal has to have regard to what is proportionate and to the current sanctions’ guidance and the indicative ranges contained in that guidance. We do not consider it appropriate or realistic to impose a further financial penalty, not least in light of the wholly unpaid fine still outstanding and likely difficulties of enforcement. Having said that our decision on that point is without prejudice to the question of costs which is still live. In determining sanctions, we consider there are essentially two aggravating features – first the quite lengthy lack of co-operation by Mr Koh and his attitude in correspondence responding to requests by the BSB. Secondly, his previously disciplinary record. Mr Koh said in mitigation there was nothing relating to his health that he wished to rely upon, and that he could see nothing wrong in what he had failed to do at the time that the BSB was trying to engage with him. That itself shows a lack of insight on his part which is of some concern. The decision of the tribunal is that Mr Koh should now be reprimanded for his failure to engage with the BSB in the period subject of these proceedings, and that reprimand should be recorded in those terms. In respect of the two charges, the Tribunal imposes in respect of each a suspension of 6 months, concurrent – that would prevent Mr Koh from applying for a practising certificate in this jurisdiction.’

27. An application for the BSB’s costs of £3900 was provided. It was established that £750 of that was erroneous as a hearing recorded as running for 2 days had in fact only run

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for one. Mr Koh argued that the figure was too high, and that Mr Sharpe QC should receive £200 per hour and around £1000 would be appropriate. Mr Sharpe QC noted in response that the BSB's fees for counsel were set fees, not negotiated. The Panel retired briefly. They accepted that the application reflected set fees for this sort of case and ordered that Mr Koh pay £3000 including VAT in costs to the BSB.

**Dated: 05.11.2021**

**His Honour James Meston QC**

**Chairman of the Tribunal**

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