

**Justice and Conflict of Interest  
Quasi Judicial Body – Dental Council in Hong Kong**

Cecilia Young

Dental Consultant, Physician Pharmacist People Health Magazine

**Abstract**

Dental Councils are Quasi-Judicial Bodies, Declaration of the Conflict of Interest is vital to the fair trial. This short communication discussed the issue regarding the related laws, code of professional ethics and the sample code of conduct for members of public bodies from Independent Commission Against Corruption. A compulsory session for the Declaration of Conflict of Interest is necessary before the Preliminary Investigation and the Hearing.

**Corresponding author:** Cecilia Young, Physician Pharmacist People Health Magazine,  
Email: [ceciliatyp@yahoo.com.hk](mailto:ceciliatyp@yahoo.com.hk)

**Keywords:** Conflict of Interest; Dental Council; Quasi-Judicial; Code of Professional Ethics; Code of Conduct for Members of Public Bodies; Council Hearing; Council Member; Preliminary Investigatory Committee

**Received:** Mar 12, 2020

**Accepted:** Mar 18, 2020

**Published:** Mar 21, 2020

**Editor:** Elbaih Zico, Suez Canal University, Egypt.

## Introduction

A Quasi Judicial Body is an entity such as an arbitrator or a tribunal, generally of a Public Administrative Agency, which has powers and procedures resembling that of a Court of Law or Judge, and which is obliged to objectively determine facts and draw conclusions from them so as to provide the basis of an official action. Such actions are able to remedy a situation or to impose legal penalties, and may affect the legal rights, duties or privileges of specific parties [1]. Examples of Quasi-Judicial bodies in Hong Kong are The Insurance Appeals Tribunal, Medical Council of Hong Kong, Dental Council of Hong Kong, and Intellectual Property Department etc [2-5].

The Dental Council of Hong Kong (The Dental Council) is established under the Dentists Registration Ordinance, Chapter 156, Laws of Hong Kong [6]. It provides for the registration and regulation of the dental profession in order to protect patients, foster ethical conduct, and develop and upkeep the ethical standard of the profession. The subsidiary legislation, Ancillary Dental workers (Dental Hygienists) Regulations, of the Dentists Registration Ordinance empowers the Council to provide enrolment and regulation of the dental hygienist. A roll of enrolled dental hygienists is maintained by the Dental Council [7]. The composition and the establishment of the Dental Council were established by the same ordinance [7]. The general public can search the composition of the Dental Council on the website [7].

The Preliminary Investigatory Committee screens the complaint. "As soon as practicable after a complaint or information has been submitted to the Preliminary Investigation Committee, the chairman of that Committee shall ascertain whether it also falls within regulation.", The Dental Council has the power to obtain evidence, conduct the proceedings and give the judgment. [6]

People can find the current list without service term of the composition of the council members, which was last updated on October 21, 2019 [7]. The general public, the complainant and the defendant dentist or the dental hygienist can search for it. There is no direct list of the composition of previous council member, but one

can search them through the "Annual Reports of the Dental Council" [7]. The website is showing the annual report from 2004 to 2017. The service term of each member was different, e.g in the report of 2017, one council member finished on May 31, 2017, and one member started since June 1, 2017.

The general public, registered dentists, complainants and the defendants might be interested in searching the composition of the Dental Council, e.g.:

- the council members in establishing the Continuing Professional Development Programme
- those make the list of Registrable/Quotable Additional Qualifications and Licensing Examination
- Preliminary Investigatory Committee members who screen the case for the hearing
- and the council members who conduct the hearing of the complaint etc.

However, the lists are not comprehensive; e.g. the Annual report of 2018 was not there, one also cannot find whether a particular person was the council member in 2018.

Clear and explicit lists with working terms are essential because the Secretary of the Dental Council does not request the Preliminary Investigatory Committee member and the council member in the hearing to declare the conflict of interest. It does not conduct the same procedure in the court; the non-legally trained council members are unbounded so that they can hide the conflict of interest intentionally.

The victim still needs to file the costly and time-consuming judicial review to correct the fundamental flaws when he knows it before, during or after the hearing. The reputation of the defendant dentists would be damaged continuously before the judgment of the judicial review is granted. The terrible truth is that he might not know the real interest forever.

Corruption Prevention Department of Independent Commission Against Corruption made a sample code of conduct for members of public bodies [8]:

- A Member should uphold the above core values. He should always act in the best interest of the

- Organisation, place public interest above private interest and ensure that his conduct would not bring the Organisation into disrepute.
- When a situation involving a conflict of interest cannot be avoided, Members should as soon as possible make full disclosure of all relevant interests which conflict, may conflict or may be seen to conflict with their official duties. The basic principle to be observed is that Members' advice should be disinterested and impartial and it is the responsibility of each Member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman or the Secretary in case of doubt.
  - There are circumstances in which a tie of kinship or friendship, or some other association or loyalty which does not give rise to a financial interest, can influence the judgement of a Member in discharging his official duties, or may reasonably be perceived as having such an influence. As such, a Member's duty to avoid or declare a conflict of interest goes beyond the disclosure of interests that are definable in pecuniary term.

5. Hong Kong: The Facts - Legal System – GovHK [https://www.gov.hk/en/about/abouthk/factsheets/docs/legal\\_system.pdf](https://www.gov.hk/en/about/abouthk/factsheets/docs/legal_system.pdf) viewed March 12, 2020
6. Cap. 156 DENTISTS REGISTRATION ORDINANCE Chapter 156. <https://www.elegislation.gov.hk/hk/cap156> viewed March 12, 2020
7. The Dental Council of Hong Kong. <https://www.dchk.org.hk/en/index.htm> viewed on March 12, 2020
8. SAMPLE CODE OF CONDUCT FOR MEMBERS OF PUBLIC BODIES [https://www.icac.org.hk/filemanager/en/content\\_216/cc-members.pdf](https://www.icac.org.hk/filemanager/en/content_216/cc-members.pdf) viewed March 12, 2020

The Dental Council is a public body; the declaration of the conflict of interest is the most critical part in upholding the integrity. Dental Council should make a compulsory section of the declaration of conflict of interest - justice must be seen has been done.

### **Conflict of Interest**

The author is a registered dentist in Hong Kong and is the editor of this journal.

### **References**

1. West's Encyclopedia of American Law, edition 2. 2008 The Gale Group, Inc.
2. Insurance Appeals Tribunal - Insurance Authority viewed March 12, 2020
3. Code of Professional Conduct - Medical Council of Hong Kong viewed March 12, 2020. <https://www.mchk.org.hk/english/code/index.html>
4. Code of Professional Discipline for the Guidance of Dental Practitioners in Hong Kong (Revised in December 2019) <https://www.dchk.org.hk/docs/code.pdf> viewed March 12, 2020