IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 244

Originating Application No 617 of 2025

Between

Sunil Kishinchand Bhojwani

… *Applicant*

And

Law Society of Singapore

… *Respondent*

JUDGMENT

[Legal Profession — Disciplinary proceedings]
[Legal Profession — Professional conduct — Breach]

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Sunil Kishinchand Bhojwani
v
Law Society of Singapore

[2025] SGHC 244

General Division of the High Court — Originating Application No 617 of 2025
Valerie Thean J
26 September, 11 November 2025

17 December 2025 Judgment reserved.

Valerie Thean J:

Introduction

1 On 7 March 2025, Mr Sunil Kishinchand Bhojwani ("Applicant") lodged a complaint with the Law Society of Singapore ("Respondent") concerning Mr Hewage Ushan Saminda Premaratne ("Mr Premaratne"). This complaint had three heads, the second of which was referred by the Review Committee to the Inquiry Committee. On 24 April 2025, the Respondent notified the Applicant that its Council, having considered the report of the Inquiry Committee, had determined that a formal investigation by a Disciplinary Tribunal was unnecessary.

2 The Applicant subsequently filed Originating Application No 617 of 2025 ("OA 617") under ss 96(1) read with 96(4) of the Legal Profession Act 1966 (2020 Rev Ed) ("LPA"), praying that the Respondent be directed to apply

to the Chief Justice to appoint a Disciplinary Tribunal for a formal investigation into the second head of the complaint considered by the Inquiry Committee and the Council of the Respondent. This head is referred to in this judgment, for ease of reference, as "the Complaint".

3 For the reasons I explain, I grant the application.

Background

Suit 848

4 On 15 October 2021, the Applicant's younger sister, Ms Rita Kishinchand Bhojwani ("RKB"), commenced HC/S 848/2021 ("Suit 848") against, *inter alia*, the Applicant's mother. Mr Premaratne represented RKB in Suit 848 for the most part from the time of its commencement.[1]

5 Suit 848 proceeded for trial between 30 January 2024 and 5 April 2024 before Christopher Tan JC (as he then was) ("Judge"). RKB took the stand to be cross examined on 30 January 2024 and remained on the stand for around four days.[2] On the third day of trial, RKB made certain material concessions to her claim, and had agreed to withdraw several allegations in Suit 848.[3] At this juncture, Mr Premaratne sought permission from the court to speak with RKB and take instructions on a letter concerning possible settlement of Suit 848 ("Letter"), while she was still on the stand.[4] Mr Premaratne was granted

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1 Applicant's Affidavit dated 17 June 2025 ("A1A") at [4]–[6].

2 A1A at [14]–[15].

3 A1A at [20].

4 A1A at [22].

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permission to speak to RKB that evening to take instructions on the same ("Meritus Meeting").[5]

6 On the fourth day of trial, Mr Premaratne sought the court's permission to speak to RKB on the legal implications of withdrawing several of her claims in her pleadings.[6] The Judge observed that the concessions she had made during cross-examination were factual, and it thus could not be said that her decision to withdraw these claims were ill-informed. The Judge opined that if RKB withdrew her concessions after speaking to Mr Premaratne, this would be, in effect, RKB modifying her factual evidence in the middle of cross-examination.[7] Mr Premaratne's request to speak to RKB was thus refused.

7 RKB took the stand immediately after and claimed that her mental state was "not there" and that she did not understand the nature of her concessions and withdrawal of her claims. She expressed her intention to withdraw her concessions and stated that she no longer wished to withdraw any of her claims.[8] She admitted that she had a discussion with Mr Premaratne at the Meritus Meeting and that he "told [her] about the options" if she "decide[d] to withdraw this [claim]".[9]

8 After RKB was asked to step out of the room, Mr Premaratne was asked for his account of the Meritus Meeting. Mr Premaratne acknowledged that RKB came with her son, Mr Karan Deepak Kirpalani ("KDK"), to his office. He

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5 A1A at [22]; NEs (1 February 2024) p 209 lines 1–29 (A1A at p 730).

6 NEs (2 February 2024) p 7 lines 10–16 (A1A at p 742).

7 NEs (2 February 2024) p 2 lines 18–30, p 8 lines 1–6 (A1A at p 737 and 743).

8 NEs (2 February 2024) p 12 lines 5–27, p 14 lines 11–28 (A1A at p 747 and 749).

9 NEs (2 February 2024) p 15–16 (A1A at pp 750–751).

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maintained that he only discussed the options of responding to the Letter (see [5] above) with RKB and KDK, and nothing more. KDK had not been in the room initially but had been invited to join the meeting when the options available to RKB were being discussed.[10]

9 Upon RKB's return to the stand, she was asked about whether she had discussed her evidence from the previous day with anyone, including KDK, who was expected to give evidence in Suit 848 next. When pressed on what exactly she had discussed with Mr Premaratne, RKB confirmed that she had asked him to "explain … [the] implications" of what she had said on the third day of trial, which she said he obliged.[11]

The Complaint

10 Following the events above, on 7 March 2024, the Applicant lodged a complaint with the Respondent. In this complaint, he raised three heads of complaint against Mr Premaratne in respect of his conduct of Suit 848.[12] The second head of complaint (which, as mentioned at [2], is referred to in this judgment as "Complaint") was referred by the Review Committee to Inquiry Committee 16 of 2024 ("IC 16/2024").

11 The Complaint concerned two aspects. First, Mr Premaratne discussed RKB's evidence during the Meritus Meeting while she was still on the witness stand ("First Limb"). Second, Mr Premaratne allowed RKB and KDK to discuss her evidence while she was still on the witness stand, and before KDK gave his

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10 NEs (2 February 2024) pp 28–29 (A1A at pp 763–764).

11 NEs (2 February 2024) pp 52–53 (A1A at pp 787–788).

12 A1A at [7].

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evidence in Suit 848 ("Second Limb").[13] The relevant portion of the notes of evidence for the four days during which RKB gave evidence were attached to the Complaint.

IC 16/2024

12 Before IC 16/2024 and in response to the Complaint, Mr Premaratne's case was simply that he did not advise RKB on her evidence at the Meritus Meeting, and that his discussion with her was limited to discussing the Letter, for which he had obtained the leave of court.[14] In support of his case, Mr Premaratne's written explanation included the following: (a) an affidavit he had filed on 14 March 2024 pursuant to the Judge's directions, where he stated on oath that he did not discuss RKB's evidence during the Meritus Meeting; and (b) a handwritten attendance note of the Meritus Meeting ("Attendance Note").[15] This Attendance Note documented Mr Premaratne's advice on the Letter, and stated that as soon as RKB raised the events that transpired in court, Mr Premaratne put an end to the query and advised her that he could not discuss her evidence.[16]

13 On 18 February 2025, IC 16/2024 issued its report ("Report"). It is not disputed that the Report dealt only with the First Limb. IC 16/2024 observed that the sole issue that needed to be determined was whether Mr Premaratne discussed RKB's evidence at the Meritus Meeting. In this regard, IC 16/2024,

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13 A1A at [8]; IC 16/2024's Report at [3.1] (A1A at p 1002); Respondent's Written Submissions dated 25 September 2025 ("RWS") at [5].

14 IC 16/2024's Report at [4.1] (A1A at p 1003).

15 IC 16/2024's Report at [4.2] (A1A at p 1003).

16 IC 16/2024's Report at [4.2(d)] (A1A at pp 1003–1004).

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having considered the documents produced by both the Applicant and Mr Premaratne, found RKB's evidence unclear. Specifically, IC 16/2024 opined that the "cross-examination was not conclusive as to what exactly transpired at the [Meritus Meeting] and whether [Mr Premaratne] did discuss and advise [RKB] on her evidence in [c]ourt".[17] Instead, IC 16/2024 placed weight on Mr Premaratne's affidavit and Attendance Note. IC 16/2024 assessed Mr Premaratne to be credible and consistent in his evidence.[18] In other words, IC 16/2024 determined that Mr Premaratne did not discuss RKB's evidence at the Meritus Meeting. For these reasons, IC 16/2024 determined unanimously that no cause of sufficient gravity existed for a formal investigation by a Disciplinary Tribunal and that the Complaint should be dismissed.[19]

14 In the meanwhile, the Judge delivered Oral Remarks in Suit 848 ("Oral Remarks") on 28 January 2025. On 8 March 2025, the Applicant sent a copy of the Notes of Argument containing the Oral Remarks to the Respondent for IC 16/2024's consideration. In these Oral Remarks, the Judge summarised the discrepancy in testimony between RKB and Mr Premaratne in respect of Mr Premaratne's conduct during the Meritus Meeting while Suit 848 was in progress.[20]

15 Subsequently, on 24 April 2025, the Respondent informed the Applicant that it would take no further action on the matter, as the Council of the Law Society of Singapore ("Council"), having considered the Report and its

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17 IC 16/2024's Report at [5.4] (A1A at p 1004).

18 IC 16/2024's Report at [5.5] (A1A at p 1005).

19 IC 16/2024's Report at [5.7] (A1A at p 1005).

20 A1A at [9]; Email to Respondent dated 8 March 2025 (A1A at pp 950–951).

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recommendations, had determined that a formal investigation by a Disciplinary Tribunal was unnecessary.[21]

16 On 28 April 2025, the Judge released his written Grounds of Decision for Suit 848, *Rita Kishinchand Bhojwani v HVS Properties Pte Ltd* [2025] SGHC 80 ("GD"). In this GD, the Judge summarised what had transpired at trial, consistent with the notes of evidence from trial and his prior Oral Remarks.

OA 617

17 On 18 June 2025, the Applicant filed OA 617.[22] While the application ought to have been filed by 8 May 2025, the Respondent agrees to the necessary extension.[23] I therefore grant, by consent, the Applicant's application for an extension of time to the date that OA 617 was filed.

Overview of arguments

18 As mentioned at [11], the Complaint comprised two limbs. Before detailing the parties' respective positions with regard to the First Limb and the Second Limb below, it is useful to first set out the Applicant's broad contentions.

19 The Applicant's contentions rest on evidence that he submits shows, *prima facie*, that Mr Premaratne discussed RKB's evidence at trial with her and KDK at the Meritus Meeting. He says so for the following main reasons:

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21 Letter from the Respondent dated 24 April 2025 at [2] (A1A at p 996).

22 A1A at [53]–[54].

23 Minute sheet for OA 617 dated 16 July 2025; RWS at [1(a)].

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(a) The notes of evidence reflect that RKB confirmed that she asked Mr Premaratne to explain the implications of her concessions and withdrawals in Suit 848, and that Mr Premaratne obliged.[24] The discussion of RKB's evidence at the Meritus Meeting happened even though she was still on the witness stand. Her subsequent attempt to resile and withdraw the evidence that she had given in trial the day before was a consequence of the discussion of her evidence with Mr Premaratne and KDK at the Meritus Meeting.[25]

(b) In the Oral Remarks delivered on 28 January 2025 and subsequent GD issued on 28 April 2025, the Judge himself made a factual finding that, contrary to Mr Premaratne's evidence, RKB did speak to him about the implications of the concessions that she had made on the witness stand.[26]

(c) Mr Premaratne's evidence as to what was discussed at the Meritus Meeting was inconsistent and unsubstantiated.[27]

20 In this connection, the Applicant submits that Mr Premaratne's conduct *prima facie* breached the Legal Profession (Professional Conduct) Rules 2015 ("PCR"):

(a) By discussing RKB's evidence during the Meritus Meeting, Mr Premaratne breached r 12(2) of the PCR which provides that a legal

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24 AWS at [25]–[28], [30].

25 AWS at [30(4)].

26 AWS at [32].

27 AWS at [37]–[41].

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practitioner must not, except with permission of a court or tribunal, interview or discuss, with a witness whom the legal practitioner has called in proceedings before the court or tribunal, at any time after the start and before the end of the cross-examination of that witness, the evidence given or to be given by that witness or any other witness.[28]

(b) Moreover, by allowing RKB to discuss her evidence with KDK at the Meritus Meeting despite KDK being the next witness to give evidence in Suit 848, Mr Premaratne breached rr 10(2) and 10(6) of the PCR which, *inter alia*, (i) obligates a legal practitioner to inform the client of the client's responsibilities to the court; and (ii) prohibits a legal practitioner from knowingly assisting or permitting the client from doing any other thing which the legal practitioner considers to be misleading the court or dishonest.[29]

The First Limb

21 The Respondent does not dispute the Applicant's position on the First Limb. Both parties agree that IC 16/2024 erred in its determination to dismiss the Complaint, and that the Council's decision to dismiss the Complaint should be quashed.[30] The Respondent also agrees that IC 16/2024 ought to have recommended that there was a *prima facie* case of sufficient gravity to refer the First Limb of the Complaint to a Disciplinary Tribunal.[31]

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28 AWS at [43].

29 AWS at [46]–[50].

30 AWS at [20]; RWS at [1(b)] and [6].

31 Applicant's Supplementary Written Submissions dated 31 October 2025 ("ASWS") at [3]; RWS at [6].

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22 Therefore, on the First Limb, the Respondent's submission is for the court to quash the previous decision of Council and to issue a mandatory order for the Council to reconsider its decision under s 87(1) of the LPA. In this context, the Respondent informed the Court that the Council was of the view that, should this matter be remitted to the Law Society, the Council would refer the matter to a Disciplinary Tribunal.[32]

The Second Limb

23 The parties' dispute relates to the Second Limb and consequently, the orders that should be granted.

(1) The Applicant's position on the Second Limb

24 The Applicant submits that if a *prima facie* case on the facts is made out for the First Limb, it must necessarily mean that a *prima facie* case on the facts is also made out for the Second Limb.[33] Thus, the Applicant submits that the entire Complaint (*ie*, both the First Limb and Second Limb) should be referred to a Disciplinary Tribunal for investigation.

25 While the Applicant originally sought an order under s 96(4)(*b*) of the LPA directing the Respondent to apply to the Chief Justice for the appointment of a Disciplinary Tribunal, he now seeks a mandatory order to the same effect in order to avoid bearing the costs of prosecuting the Complaint under s 96(5) of the LPA.[34]

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32 Notes of Argument, 26 September, p.2, lines 9 – 11.

33 ASWS at [11]–[13].

34 Notes of Argument for OA 617 dated 26 September 2025 ("NOA 26 September") at p 2 lines 5–21.

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(2) The Respondent's position on the Second Limb

26 The Respondent takes the view that that the more appropriate approach is for this court to issue a mandatory order directing the Council to reconsider the entirety of its determination under s 87(1) of the LPA.[35] The Respondent's reasons for seeking the same may be summarised as follows:

(a) First, neither Mr Premaratne's written explanation nor IC 16/2024's Report appears to have addressed the Second Limb.[36]

(b) Therefore, given IC 16/2024's apparent failure to address and evaluate the Second Limb, the only available determination for the Council is to remit the matter back to IC 16/2024. This Court cannot review the materials and direct the Council to act in a certain way under s 96(4) of the LPA, considering that a court only has appellate and supervisory powers, and legal practitioners are entitled to peer review in the first instance.[37] Omitting to send the matter back to IC 16/2024 would be overreaching a statutory protection for advocates and solicitors.

(c) Lastly, where the court finds that a particular decision reached was defective under any of the traditional grounds of judicial review, the appropriate order would be to quash the decision and direct a

35 RWS at [7(f)].

36 RWS at [7(a)]–[7(c)].

37 RWS at [7(d)].

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reconsideration of the matter.[38] The court will generally not mandate the decision-maker to reach the decision in a particular manner.[39]

27 In other words, the Respondent concedes that the First Limb should be referred to a Disciplinary Tribunal, and if the matter is referred back to the Council to reconsider the exercise of its discretion under s 87(1) of the LPA, it would exercise its discretion under s 87(1)(*c*) of the LPA to do so.[40] However, for the Second Limb, the Respondent contends that peer review is required. This implies that a possible exercise of their discretion is to give direction under s 87(1)(*d*) of the LPA in relation to the Second Limb. That said, the Respondent argues against any bifurcated approach. The Respondent submits that because both limbs of the Complaint arise from the same factual circumstances and are closely intertwined, addressing them separately would create a real risk of inconsistent findings.[41] Therefore, the Respondent submits that the more appropriate approach is for this Court to issue a mandatory order directing the Council to reconsider the entirety of its determination under s 87(1) of the LPA.

The issue

28 Arising from parties' arguments, there are three different approaches this Court may take:

(a) First, the court may quash the Council's decision and issue a mandatory order directing the Council to reconsider the whole of its

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38 RWS at [7(e)].

39 RWS at [7(e)].

40 RWS at [6(m)]–[6(n)].

41 RWS at [8].

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determination. This is the Respondent's preferred approach ("first approach").

(b) Second, the court may quash the Council's decision and issue a mandatory order directing the Respondent to use its discretion under s87(1)(*c*) of the LPA to apply to the Chief Justice for the appointment of a Disciplinary Tribunal. This is the Applicant's preferred approach ("second approach").

(c) Third, the court may make an order under s 96(4)(*b*) of the LPA directing the Respondent to apply to the Chief Justice for the appointment of a Disciplinary Tribunal. This is the prayer in OA 617 and the Applicant's original approach ("third approach").

Analysis

29 It is apposite to situate the parties' disagreement within the legal context.

Role of the Court

30 It is not disputed that under the LPA, the role of the Inquiry Committee is inquisitorial and informal. The investigative burden borne by the Inquiry Committee is not an onerous one – it only needs to determine if there is a *prima facie* case of ethical breach or other misconduct by a lawyer that warrants formal investigation and consideration by a Disciplinary Tribunal (*Loh Der Ming Andrew v Law Society of Singapore* [2018] 3 SLR 837 ("*Andrew Loh*") at [62] citing *Whitehouse Holdings Pte Ltd v Law Society of Singapore* [1994] 2 SLR(R) 485 ("*Whitehouse*") at [38]). As part of its role, the Inquiry Committee may sieve out and decline to refer to the Disciplinary Tribunal any complaint that, even if taken at face value, would not raise sufficiently grave concerns as

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to warrant formal investigation (*Andrew Loh* at [68] citing *Subbiah Pillai v Wong Meng Meng* [2001] 2 SLR(R) 556 at [68]).

31 After the Inquiry Committee issues its report and the Council considers this report and makes a determination under s 87(1)(*a*) of the LPA, a complainant dissatisfied with the Council's determination may apply under s 96(1) of the LPA for the court to consider the Council's determination (*Iskandar bin Rahmat v Law Society of Singapore* [2020] SGHC 40 ("*Iskandar* (*HC*)") at [9]).

32 Where the Council adopts the findings and reasoning of the Inquiry Committee (such as in the present case), the judge hearing an application under s 96(1) of the LPA is effectively required to assess the Inquiry Committee's report to consider if the Council's determination should be departed from (*Iskandar* (*HC*) at [9]).

33 The starting point for the court's role is the statutorily conferred powers under s 96(4) of the LPA, which states:

> (4) At the hearing of the application, the Judge may make an order —
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> (a) affirming the determination of the Council; or
>
> (b) directing the Society to apply to the Chief Justice for the appointment of a Disciplinary Tribunal,
>
> and such order for the payment of costs as may be just.

34 In this context, the judge's jurisdiction is two-fold:

(a) The first is the exercise of its supervisory jurisdiction. In this regard, the Court only looks at the legality of the decision-making process rather than its merits; and in applying the grounds of illegality,

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irrationality, and procedural impropriety, the court cannot substitute its own views for that of the decision-maker (*Iskandar* (*HC*) at [9] citing *Andrew Loh* at [82]).

(b) The second is the exercise of its appellate jurisdiction. This requires the judge to examine the substantive merits of the Council's and/or Inquiry Committee's decision (*Iskandar* (*HC*) at [9] referring to *Andrew Loh* at [83]).

Availability of prerogative powers

35 Parties agree that quashing and mandatory orders may be granted by the court. In other words, parties agree that the court has prerogative powers on such applications. Both submit that the Council's determination to dismiss the Complaint is erroneous and should be quashed.[42] Where they differ is in the frame of the mandatory order requested.

36 The Respondent disagrees on the content of what the mandatory order may contain. In arguing against the Applicant's preferred approach of a specific mandatory order, the Respondent took the view at the hearing that s 96(4) of the LPA does not give the court the right to make what he termed "classic judicial review orders".[43] This view was difficult to reconcile with the position taken in advocating the first approach (which also involved quashing and mandatory orders), and is inconsistent with the case precedents. In *Andrew Loh*, the High Court observed that s 96(4) of the LPA states that "the judge may make an order" but does not use the word "shall". Thus, this implies that there is no

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42 AWS at [20]; RWS at [1(b)].

43 Minute sheet for OA 617 dated 11 November 2025 at p 2.

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mandatory obligation to make either of the two stipulated orders in s 96(4) of the LPA (*Andrew Loh* at [92] citing *Whitehouse* at [33]). The High Court further observed that in addition to the statutorily conferred powers under s 96(4) of the LPA, the court also has the power to make prerogative orders (*eg*, mandatory, prohibiting, quashing or declaratory orders). This flows from the court's supervisory jurisdiction over the Council and the Inquiry Committee (*Andrew Loh* at [93] referring to *Whitehouse* at [37]), which the Respondent does not dispute.[44]

37 In *Iskandar bin Rahmat v Law Society of Singapore* [2021] 1 SLR 874 ("*Iskandar* (*CA*)") the Court of Appeal again considered the scope of the court's powers under s 96 of the LPA. In this respect, the Respondent argues that a reading of *Iskandar* (*CA*) suggests that prerogative orders are no longer concurrently available alongside the statutory route.[45] Counsel relies on [30], where the Court of Appeal made the following remarks on the nature and scope of the Court's powers under s 96 of the LPA:

> 30 … The **key distinction between decisions of the Review Committee and those of the Council pursuant to s 87(1) is the provision of a statutory route of review of the Council's determination provided for in ss 95 and 96** (see [22(a)]–[22(b)] above), but in Whitehouse Holdings Pte Ltd v Law Society of Singapore [1994] 2 SLR(R) 485 ("Whitehouse Holdings"),this court held that the existence of those provisions does not preclude the possibility of judicial review of the Council's determination and the Inquiry Committee's decision (at [37]). **Prerogative orders are *concurrently* available alongside the statutory route**, **though this court also opined that the statutory route should be the procedure of first resort (*Whitehouse Holdings* at [37] and [40]–[41]).** In [*Andrew Loh*], the High Court held that under the statutory route, the Judge may similarly consider the legality of the decision-making

44 Minute sheet for OA 617 dated 11 November 2025 at p 2.

45 Minute sheet for OA 617 dated 11 November 2025 at pp 2–3.

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> process on the traditional grounds of judicial review and make the appropriate orders. **We leave the question of the nature of the powers of a Judge under s 96 open for the moment.** Based on the language of s 96(4), particularly when contrasted with the language of ss 97(4)(*a*) and 98(8)(*a*), it seems to us eminently arguable that the power of a Judge under s 96(1) may well be one that goes to the merits of the Council's determination that the matter need not advance to the next stage or as to the penalty to be imposed on the solicitor and not to encompass the traditional judicial review grounds. **On this basis, judicial review would be available as a separate common law right existing alongside the statutory right of action provided for in s 96(4).** At the same time, we note that ss 97(4)(*a*) and 98(8)(*a*) were inserted into the LPA alongside s 91A, and the language of the provisions might simply have been intended to clarify the relationship between these provisions rather than to limit the scope of review in ss 95 and 96 …
>
> [emphasis in original in italics; emphasis added in bold and underlined]

38 While the Court of Appeal in *Iskandar* (*CA*) may have expressed some reservation about whether prerogative orders are concurrently available alongside the statutory route rather than as a separate common law right existing alongside the statutory right of action provided for in s 96(4) of the LPA, the Court of Appeal made those comments in *obiter* and expressly left the issue *open*. Thus, the Court of Appeal's decision in *Whitehouse* remains applicable and binding on this court. I will therefore proceed on the basis that prerogative orders are concurrently available alongside the statutory route under s 96(4) of the LPA. In my view, the more important point is the availability of a statutory route of review for the Council's determination under s 87(1) of the LPA. This was mentioned by the Court of Appeal in *Iskandar* (*CA*) at [30] as a "key distinction" *vis-à-vis* the decisions of the Review Committee: see the lines with bold and underlined emphasis in the extract above at [37]. I deal more fully with this point in the context of *Whitehouse* at [65] – [66] below.

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Respondent's position on the First Limb

39 In order to discuss the Second Limb, it is relevant to first explain the parties' agreement on the First Limb.

40 In the Complaint, the Applicant set out the timeline of events and reproduced the relevant transcript extracts of Suit 848. I reproduce the relevant parts of the Applicant's Complaint below:[46]

> My second complaint concerns Mr Premaratne's involvement and assistance rendered to [RKB] in breaching and/or defying express orders of Court. This was contrary to his duties and obligations as an officer of the Court.
>
> [**The Applicant cites the timeline of events**]
>
> Therefore, what the Honourable Judge had cautioned might have occurred if Mr. Premaratne advised [RKB] on her evidence, did indeed happen shortly after.
>
> [**The Applicant cites transcript extracts of Suit 848 where RKB confirmed that Mr Premaratne discussed her "options"; *and* where Mr Premaratne confirmed that he advised both KDK and RKB at the Meritus Meeting**]
>
> It is pertinent to recall that [KDK] was summoned as the Plaintiff's second witness, and at this juncture of the proceedings, he had not yet been called to the stand. Consequently, the Plaintiff should refrain from conversing with him, and likewise, her lawyer should not permit it
>
> [**The Applicant cites transcript extracts of Suit 848 where RKB confirmed that she discussed the "options" with KDK in Mr Premaratne's presence at the Meritus Meeting**]
>
> It is evident from [RKB's] cross-examination that she discussed with Mr. Premaratne the withdrawals she made during cross-examination, their implications, and even the terms used in the pleadings, for which she apologized to Mr. Premaratne since on the third day of the trial she stated she didn't "want to use those words". All of that is clearly part of the evidence she gave during the trial, and therefore, Mr. Premaratne collaborated with her to breach Court rules, violating the Court rules himself.

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46 Applicant's Complaint (A1A at pp 56–70).

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[emphasis added]

41 This was the scope that the IC 16/2024 ought to have investigated. The transcripts contained within the Complaint already contained RKB's statements in court relating to the content of her conversation with Mr Premaratne and KDK. In assessing the evidence, the investigative burden on an Inquiry Committee is limited. An Inquiry Committee need only determine whether there is a *prima facie* case of ethical breach or misconduct that warrants formal investigation by a Disciplinary Tribunal (*Andrew Loh* at [62] citing *Whitehouse* at [38]). While Mr Premaratne's evidence was to the contrary, it was not the role of the Inquiry Committee to come to a conclusion on the evidence. There was a dispute on the facts, arising from the notes of evidence, to be resolved. However, IC 16/2024 determined that RKB's evidence at trial was "unclear" and that the cross-examination "was not conclusive as to what exactly transpired at the [Meritus Meeting] and whether the Respondent did discuss and advise [RKB] on her evidence in Court".[47] IC 16/2024 preferred Mr Premaratne's evidence that he did not discuss or advise RKB on her evidence.[48] In my judgment, this approach is incorrect. The Inquiry Committee examines the evidence in a quasi-inquisitorial manner (see *Andrew Loh* at [62]–[63]). The regime under the LPA is not intended to empower Inquiry Committees to resolve substantial factual disputes in their informal and inquisitorial setting, especially when the evidence discloses sufficiently serious misconduct (*Tan Ng Kuang v Law Society of Singapore* [2020] SGHC 127 ("*Tan Ng Kuang*") at [17]). In the present case, where disputed facts cannot be resolved (*ie*, whether Mr Premaratne discussed RKB's evidence with RKB and KDK at the Meritus

47 Report at [5.4] (A1A at p 1004).

48 Report at [5.5] (A1A at p 1004).

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Meeting), IC 16/2024 should *not* have decided this factual dispute. It ought to have recommended referring the matter to a Disciplinary Tribunal which serves as the proper fact-finding body under the LPA (see *Iskandar* (*CA*) at [28] referring to *Deepak Sharma v Law Society of Singapore* [2016] 4 SLR 192 at [38]–[39]; *Tan Ng Kuang* at [17]).

42 For these same reasons, the Council's determination to accept IC 16/2024's findings and recommendations was similarly erroneous. On 8 March 2025, this became more apparent when the Applicant sent the Judge's Oral Remarks to the Respondent. In these remarks, the Judge summarised what had transpired at trial and recounted, first, that while Mr Premaratne assured the court he had not discussed the implications of her concessions, RKB's testimony was that he had done so (at [24(b)], Oral Remarks); and second, that both Mr Premaratne and RKB conceded that RKB's son was with her at the Meritus Meeting (at [24(c)], Oral Remarks).[49]

43 Considering the Complaint and the Oral Remarks, the Council ought to have determined that a formal investigation of the matter by a Disciplinary Tribunal should be carried out under s 87(1)(*c*) of the LPA. Alternatively, as the Applicant suggests,[50] the Council ought to have at least referred the matter back to IC 16/2024 for reconsideration or a further report under s 87(1)(*d*) of the LPA.

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49 Oral Remarks for Suit 848 at pp 14–16 (A1A at p 967–9).

50 AWS at [34].

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44 When the Respondent filed its written submissions, it conceded the above. It accepts that IC 16/2024 ought to have recommended that there was a *prima facie* case of sufficient gravity to refer to a Disciplinary Tribunal.[51]

Does a referral for the Second Limb follow from a referral for the First Limb?

45 The question that follows is whether the above reasoning applies to both the First and Second Limbs. The Complaint clearly alleged both limbs. As a factual matter, Mr Premaratne's defence was the same for both limbs. It was not disputed that KDK was at the Meritus Meeting with RKB.

46 The standard of professional responsibility is also not disputed. At the hearing, it was not disputed that discussions between witnesses should not take place, and that a witness should give his or her own evidence, as far as practicable, uninfluenced by what anyone else has said.[52] This principle was succinctly summarised in the English case of *R v Momodou and another (Practice Note)* [2005] 1 WLR 3442 (at [61]):

> 61 There is a dramatic distinction between witness training or coaching, and witness familiarisation. Training or coaching for witnesses in criminal proceedings (whether for prosecution or defence) is not permitted. This is the logical consequence of the well-known principle that discussions between witnesses should not take place, and that the statements and proofs of one witness should not be disclosed to any other witness: see R v Richardson [1971] 2 QB 484, R v Arif The Times, 22 June 1993, R v Skinner (1993) 99 Cr App R 212 and R v Shaw [2002] EWCA Crim 3004. **The witness should give his or her own evidence, so far as practicable uninfluenced by what anyone else has said, whether in formal discussions or informal conversations**. **The rule reduces, indeed hopefully avoids, any possibility that one witness may tailor his evidence in**

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51 RWS at [6(a)].

52 See Notes of Argument, 26 September 2025.

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> **the light of what anyone else said, and equally, avoids any unfounded perception that he may have done so** … [emphasis added]

47 That witness preparation should not be done in groups was further emphasised by the Court of Appeal in *Ernest Ferdinand Perez De La Sala v Compañia De Navegación Palomar, SA* [2018] 1 SLR 894 (at [140]):

> 140 Thirdly, witness preparation should not be done in groups. As the court in *Momodou* ([134] *supra*) observed, group preparation or training exacerbates the risk that witnesses may change their testimony to bring it in line with what they believe the "best" answer to be (and, in particular, to make their testimonies consistent with each other). The same is true **where a witness is prepared together with other involved persons, notwithstanding that they may not themselves be called as witnesses … A witness, upon hearing the answer of another witness (or observing the other witness's reaction to the first witness's answer), may come to doubt, second-guess, and eventually abandon or modify an answer which was actually true**. A case prepared in such a manner may come to resemble a thriving but barren plant: the fibres of (apparent) consistency, coherence, and plausibility may grow large and strong, but the fruit – the truth of what transpired between the parties – withers on the vine. [emphasis added]

48 These well-established common law principles find expression in rr 10(2), 10(6), and 12(2) of the PCR, set out at [20], and which the Respondent accepts as a basis for its decision on the First Limb.

49 These principles guide how I address each of the three approaches proposed by the parties, alluded to above at [28].

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The first approach: need for IC

50 In proposing the first approach, the Respondent's concern is that Mr Premaratne's written explanation and IC 16/2024's Report do not appear to have addressed the Second Limb at all. In this connection, the Respondent argues that because IC 16/2024 failed to address the Second Limb, the court must give a mandatory order for the Council to reconsider the whole of its determination of the Complaint under s 87(1) of the LPA.[53] The Council would then ask IC 16/2024 to consider whether there is a *prima facie* case on the Second Limb.

51 The Respondent explains that the court must exercise a supervisory or appellate jurisdiction (see [26]–[27] above), and cannot exercise an original jurisdiction. Therefore, where an Inquiry Committee had acted wrongly in failing to inquire into a particular complaint, the only determination open to the Council would be to refer the matter back to the Inquiry Committee for inquiry (*Wee Soon Kim Anthony v Law Society of Singapore* [1988] 1 SLR(R) 455 ("*Anthony Wee*") at [14]). This is because the statutory scheme under the LPA is intended to give the advocate and solicitor concerned a right to be judged first by his own peers - here, the Inquiry Committee, followed by a determination by the Council - before the complaint can be brought by a dissatisfied complainant before a judge (*Anthony Wee* at [17]; *Whitehouse* at [21] and [36]).

52 In so far as the Respondent relies on *Anthony Wee* and *Whitehouse* to support the first approach, I consider such reliance misplaced. In *Whitehouse*, the appellant lodged a complaint with the Law Society against an advocate and solicitor, Mr Tham. This complaint was eventually dismissed. The appellant later applied under s 96 of the Legal Proceedings Act (Cap 161) for an order

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[53] RWS at [1(c)] and [9].

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directing the Law Society to apply to the Chief Justice for the appointment of a Disciplinary Committee. The High Court judge found that the Inquiry Committee had failed to indicate its findings on the second limb of the complaint regarding whether Mr Tham displayed gross improper conduct. Thus, because the Council had accepted and adopted the findings of the Inquiry Committee, the Council could either have made no determination at all or have failed to arrive at a proper determination on the first complaint. For these reasons, the High Court judge was of the view that the Council ought to have referred the matter back to the Inquiry Committee in accordance with s 87(1)(*d*), concluding that it would be wrong for the court on an application under s 96 to make an order for the appointment of a Disciplinary Committee as it would mean that Mr Tham would be deprived of the safeguards provided by law (*Whitehouse* at [21]–[22]).

53 On appeal, the Court of Appeal disagreed with the High Court judge's decision. The Court of Appeal found that there was, in fact, an inquiry into the complaint despite there being no specific finding on the issue of gross improper conduct by the Inquiry Committee. Considering, *inter alia*, the written submissions of the appellant (*ie*, the complainant), it was evident that the substance of the first complaint was fully inquired into – it could not have been a mere oversight that both parties did not realise that no specific finding on gross improper conduct was made. The Court of Appeal found that Mr Tham obviously had notice of the allegation of gross improper conduct, and the Inquiry Committee must have made the necessary inquiries before reaching the overall conclusion on the entire complaint that there was no necessity for formal investigation by a Disciplinary Committee. There was therefore no room for an objection that Mr Tham had not been judged by his own peers (at [36]).

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54 In my judgment, and contrary to the Respondent's submissions, the observations in *Whitehouse* undermine rather than support the first approach. The Applicant clearly set out the facts and particulars relating to the Second Limb in his Complaint (see [38] above).[54] Moreover, the Judge's Oral Remarks which were sent to the Respondent also highlighted RKB's admission that she spoke with KDK in Mr Premaratne's presence at the Meritus Meeting.[55] Both Mr Premaratne and IC 16/2024 must have had notice of the Second Limb of the Complaint, notwithstanding there being no reference to it in IC 16/2024's Report. This conclusion is further strengthened by the nature and interconnectedness of both limbs of the Complaint. Indeed, as the Applicant correctly highlighted, Mr Premaratne's response to the Complaint was straightforward – he *denied* discussing RKB's evidence with RKB and KDK at the Meritus Meeting altogether. Thus, when IC 16/2024 preferred Mr Premaratne's evidence that he did not discuss RKB's evidence at the Meritus Meeting, it was reasonable for IC 16/2024 not to have addressed the Second Limb in its Report. Both limbs of the Complaint were resolved by that conclusion. Once IC 16/2024 dismissed the First Limb, the Second Limb became moot and required no further discussion.

55 In other words, the Inquiry Committee's role in furnishing peer review is relevant to the *prima facie* standard on two issues. The first is the applicable ethical principles governing a lawyer's responsibility. In the present case, there is no dispute that such rules prohibit discussion of a witness's evidence while he or she is still on the witness stand, and further, that such discussion ought not

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54 Applicant's Complaint (A1A at pp 56–70).

55 Email to Respondent dated 8 March 2025 (A1A at p 951).

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to occur in the presence of another person who, at the material time, was expected to be called as a witness in the same suit (see [46]–[48] above).

56 The second area where peer review is useful is to ascertain the facts that underlie the *prima facie* dispute. I find that when Mr Premaratne furnished his explanation, and when the IC 16/2024 considered the evidence, both Mr Premaratne and the IC 16/2024 had both limbs of the Complaint in mind. His defence, and IC 16/2024's acceptance of that defence, was relevant to both limbs. Further peer review is unnecessary because there is a sufficient *prima facie* basis on the premise of the following undisputed assertions that parties agree require to be tested in cross-examination:

(a) RKB confirmed that Mr Premaratne discussed her evidence with her at the Meritus Meeting while she was still on the witness stand;[56]

(b) RKB confirmed that she had spoken to KDK about the case at the Meritus Meeting even though she knew she was not supposed to discuss anything relating to the case;[57] and

(c) Mr Premaratne confirmed that RKB and KDK were present at the Meritus Meeting and that he explained the "options" to both of them during this meeting.[58]

The summation above is also found at [58], [135] and [56] of the Judge's GD. While the GD was issued after Council made its decision, it is consistent with the Judge's Oral Remarks and the notes of evidence of the trial.

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56 NEs (2 February 2024) pp 52–53 (A1A at pp 787–788).

57 NEs (2 February 2024) p 51 (A1A at p 786).

58 NEs (2 February 2024) p 35 (A1A at p 770).

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57 There is therefore no basis for arguing that Mr Premaratne has not been judged by his own peers, or that this court would be exercising original jurisdiction by reviewing the Second Limb of the Complaint and directing the Council to refer the same to a Disciplinary Tribunal.

58 More importantly, if this court were to grant the Respondent the mandatory order sought and the Council remits the matter back to IC 16/2024 for their reconsideration, this would be a waste of resources, given the unique factual and legal matrix of the present case that I have highlighted.

59 I find, therefore, that the matter should proceed to be considered by a Disciplinary Tribunal.

The second approach: mandamus for s 87(1)(c) direction

60 The next question is, what mechanism should be used for this matter to proceed to a Disciplinary Tribunal? The Applicant asks for a mandatory order for the Respondent to refer the matter to a Disciplinary Tribunal in exercise of its powers under s 87(1)(*c*) of the LPA.

61 The Applicant relies on *CBB v Law Society of Singapore* [2021] 1 SLR 977 ("*CBB*").[59] In *CBB*, the appellant filed a complaint with the Law Society of Singapore against a lawyer. Because parts of the appellant's complaint concerned matters that arose more than six years earlier, s 85(4A) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("LPA 2009 Rev Ed") required the Council to seek the leave of court before it could act on the complaint. The

[59] Applicant's Supplementary Written Submissions dated 31 October 2025 ("ASWS") at [33].

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Council decided not to seek such leave. The appellant challenged this decision and sought an order directing the Council to apply for leave. The High Court held that the Council had acted irrationally and quashed its decision, but declined to make the mandatory order sought. Instead, the High Court made an order directing the Council to reconsider its decision (at [1]–[2]).

62 On appeal, the appellant sought a mandatory order compelling the Council to apply for leave. The Court of Appeal emphasised that the courts will generally not mandate the performance of an administrator's duty in a particular manner (at [7] and [19]). However, exceptional circumstances may warrant making a mandatory order requiring a decision-maker to exercise its power in a certain way. Such exceptional circumstances require the applicant to establish that the balance of the following factors operates in its favour (at [19]):

(a) the availability in the public domain of objective evidence particularly relevant to the merits of the decision

(b) the institutional competence of the court;

(c) the decision-maker's conduct;

(d) the absence of other reasons militating against the grant of a mandatory order; and

(e) the absence of alternative ways of carrying out the duty, having regard to the relevant considerations that factor into the decision as may be construed from the statute.

63 In *CBB*, one significant factor that weighed in favour of granting the mandatory order sought was that the Council had no other reasonable way to

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carry out its duty apart from seeking permission to move the complaint forward. The Court of Appeal therefore found exceptional circumstances which justified granting the mandatory order directing the Council to apply for leave (at [32]–[37]).

64 In the present case, in contrast to *CBB,* a statutory power exists under the LPA to direct the Respondent to convene a Disciplinary Tribunal.

65 Section 96 of the LPA was enacted as a specific appeal procedure for dissatisfied complainants and should be the procedure of first resort (*Andrew Loh* at [93] citing *Whitehouse* at [41]). The Court of Appeal explained in *Whitehouse* that in most situations, the statutory regime under s 96 of the LPA would suffice to meet the complainant's objectives, such that prerogative orders need not be resorted to (*Whitehouse* at [37]–[41]):

> 37 … **We do not disagree that *mandamus* is also available to the appellants but we would also think that the statutory apparatus under the LPA, namely, s 96 already encompasses this situation here**.
>
> …
>
> 40 Mr Ramakrishnan also submitted before us that the appropriate remedy for a dissatisfied complainant was to proceed under s 96 and that there was no necessity to incur additional expense by resorting to other remedies. We agree. Prerogative orders are, of course, concurrently available here. However, its scope of application would also extend to areas outside the ambit of s 96 and s 97 (for complainants dissatisfied with a Disciplinary Committee's decision). This is evident from the decision in *Re Wee Harry Lee* [1983–1984] SLR(R) 274 which was referred to by the respondents as to the availability of *mandamus*. There, the order of *mandamus* was sought by the Law Society itself to compel a Disciplinary Committee to hear and investigate all the charges preferred by the Council where the Disciplinary Committee had on its own deleted several charges from the statement of case.
>
> 41 As we have said, we are of the view that there was a relevant determination by the Council. **Section 96 was enacted as a**

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> **specific appeal procedure for dissatisfied complainants and therefore should be the procedure of first resort**. We do not find it inconsistent with the supervisory powers of the court under s 96 to assume jurisdiction here.
>
> [emphasis in original in italics; emphasis added in bold]

66 The observations and concerns articulated in *Whitehouse* are directly applicable to the present case. The Applicant's suggested approach for this court to make a mandatory order directing the Respondent to apply to the Chief Justice for the appointment of a Disciplinary Tribunal flies in the face of the specifically enacted statutory regime under s 96 of the LPA. The central issue is thus whether this Court should depart from this procedure of first resort in favour of granting the Applicant the mandatory order sought.

67 The Applicant argues that an order under section 96(4)(*b*) of the LPA would mean that he would incur greater costs, since he would be required to have conduct of the proceedings before the Disciplinary Tribunal (see s 96(5) of the LPA). In contrast, making a mandatory order as he suggests would place conduct of the prosecution of the Complaint with the Respondent. He contends this to be exceptional circumstances as envisaged in *CBB*. I am unable to accept this submission because the Applicant's responsibility for costs was specifically envisaged and directed by the statute. The Applicant's proposition that his liability for costs could found exceptional circumstances therefore contradicts express parliamentary intention.

68 I accordingly decline to make the mandatory order requested by the Applicant.

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The third approach: an order under s 96(4)(b) of the LPA

69 I turn to the exercise of this Court's appellate jurisdiction, and examine the substantive merits of the Council's decision.

70 In doing so, I build upon my conclusion at [59], that referral to the Disciplinary Tribunal is the logical outcome of the Council's position on the First Limb, and my conclusion at [68], that issuing a *mandamus* for Council to make a s 87(1)(*c*) order would not be an appropriate exercise of my prerogative power.

71 In summary, I find that there is a *prima facie* case of sufficient gravity to refer both the First Limb and Second Limb of the Complaint to a Disciplinary Tribunal. Given the unique circumstances of this case where both the factual and legal basis of the Complaint are undisputed, I find that the most appropriate course of action is to make an order under s 96(4)(*b*) of the LPA directing the Council to apply to the Chief Justice for the appointment of a Disciplinary Tribunal to investigate both the First Limb and Second Limb of the Complaint.

Costs

72 The Applicant submits he is entitled to costs. It is well-established that the court does not generally make adverse costs orders against public bodies performing a public regulatory function except in cases where the public body has demonstrated bad faith or gross dereliction, otherwise known as the *Baxendale-Walker* principle (see *CBB* at [38] referring to *Baxendale-Walker v Law Society* [2008] 1 WLR 426). The Applicant is of the view that there has been gross dereliction on the part of the Council.

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73 In this regard, the Applicant argues that the relevant documents clearly suggesting that RKB's evidence was discussed were before the Council. He contends that the Council ought to have identified this before they decided to dismiss the Complaint. Their decision to dismiss the Complaint therefore amounts to gross dereliction, which has caused him to incur unnecessary costs in filing this application.[60]

74 The Respondent, on the other hand, concedes that the Council's decision to dismiss the Complaint was a mistake, but not one that amounts to gross dereliction.[61]

75 I reject the Applicant's submission. As the Court of Appeal emphasised in *CBB*, lapses in decision-making do not mean that the decision-maker is not performing a regulatory or public function. Such a body may have erred in the course of performing its public function (at [38]). In my judgment, the Applicant has failed to show that the Respondent's conduct amounts to a *gross dereliction* of its duty. I therefore do not order the Respondent to pay costs.

Conclusion

76 In conclusion, my orders are as follows:

(a) By consent, I grant an extension of time for the filing of OA 617, to the date that it was filed.

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60 Minute sheet for OA 617 dated 11 November 2025 at p 3.

61 Minute sheet for OA 617 dated 11 November 2025 at p 3.

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(b) Pursuant to s 96(4)(*b*) of the LPA, the Respondent is directed to apply to the Chief Justice to appoint a Disciplinary Tribunal to investigate both the First Limb and Second Limb of the Complaint.

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(c) No order on costs.

Valerie Thean
Judge of the High Court

Christopher Anand s/o Daniel and Ganga d/o Avadiar (Advocatus Law LLP) for the applicant;
P Padman (Yuen Law LLC) for the respondent.

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