



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

Compliance

Process Review Report

In April 2015, the Regulatory Accountability Board (RAB) issued the Process Review Report on the compliance department of the Hong Kong Institute of Certified Public Accountants

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General information

Background

The Regulatory Accountability Board (RAB) was established by the Council of the Hong Kong Institute of Certified Public Accountants (Institute) in 2009 as part of the major overhaul of the Institute's governance structure.

Role and responsibilities

The Institute is committed to uphold a regulatory regime that commands public trust and confidence. The role of the RAB is to ensure that the regulation of the professional conduct of members of the Institute is being carried out in accordance with policies and procedures that have been designed with the public interest at the forefront.

To carry out its responsibilities, the RAB undertakes the following functions:

1. Oversees, on behalf of Council, the performance and operations of the compliance department and the Professional Conduct Committee (PCC) of the Institute;
2. Receives and consider periodic status reports from the compliance department through the Executive Director; and
3. Provides its views and advice to Council on the Institute's policies, priorities and resource allocation in respect of the regulation of the professional conduct of its members and member practices.

The RAB meets periodically to assess the performance and operations of the compliance department by considering reports of the compliance department which provides information on key activities of the department and providing recommendations to the Council on regulatory related matters.

Composition

The RAB comprises certified public accountants, lay members and representatives of other regulators. The RAB has six members including a lay Chairman. The Executive Director, Standards and Regulation and the Director, Compliance provides administrative support to the Board. The membership of the RAB is at **Appendix 1**.

Process review

As part of its oversight function, the RAB conducted its third process review of the operations of the compliance department in December 2014. This report explains the work done in the third process review and the findings and recommendations thereon.

Objective

The purpose of the process review is to enhance the RAB's oversight of the compliance department's key operations in case handling by:

- Assessing whether the compliance department adheres to established internal procedures when handling complaints, investigation and disciplinary cases;
- Evaluating the adequacy of internal procedures, the adequacy and appropriateness of information gathered to arrive at a conclusion and the time taken to deal with cases; and
- Identifying areas that require improvements and make recommendations thereon.

Benefits

RAB considered that the benefits of the process review include:

- Assurance that there is independent input to the oversight of the regulatory function of the Institute to ensure that the public interest is protected in case proceedings and outcomes;

- Build confidence in the robustness of the Institute's regulatory system; and
- Contributing to development of effective and efficient processes within the compliance department.

Approach

1. The review involved an evaluation of the case handling processes undertaken to arrive at decisions and did not require re-opening cases and re-appraisals of judgments and conclusions that had previously been made.
2. The review focused on completed cases against members and member practices of the Institute.
3. Five* RAB members volunteered to conduct the 2014 process review (Reviewers). The Reviewers reported their findings to the RAB.
4. The RAB Chairman, who was one of the Reviewers, selected cases for review based on pre-determined criteria such as public interest and time to completion.
5. For the cases selected, compliance team provided the relevant case files to Reviewers to carry out the detailed review.
6. When making an assessment on the case handling process, Reviewers referred to existing guidance and documentation on due process, statutory provisions, rules and guidelines.

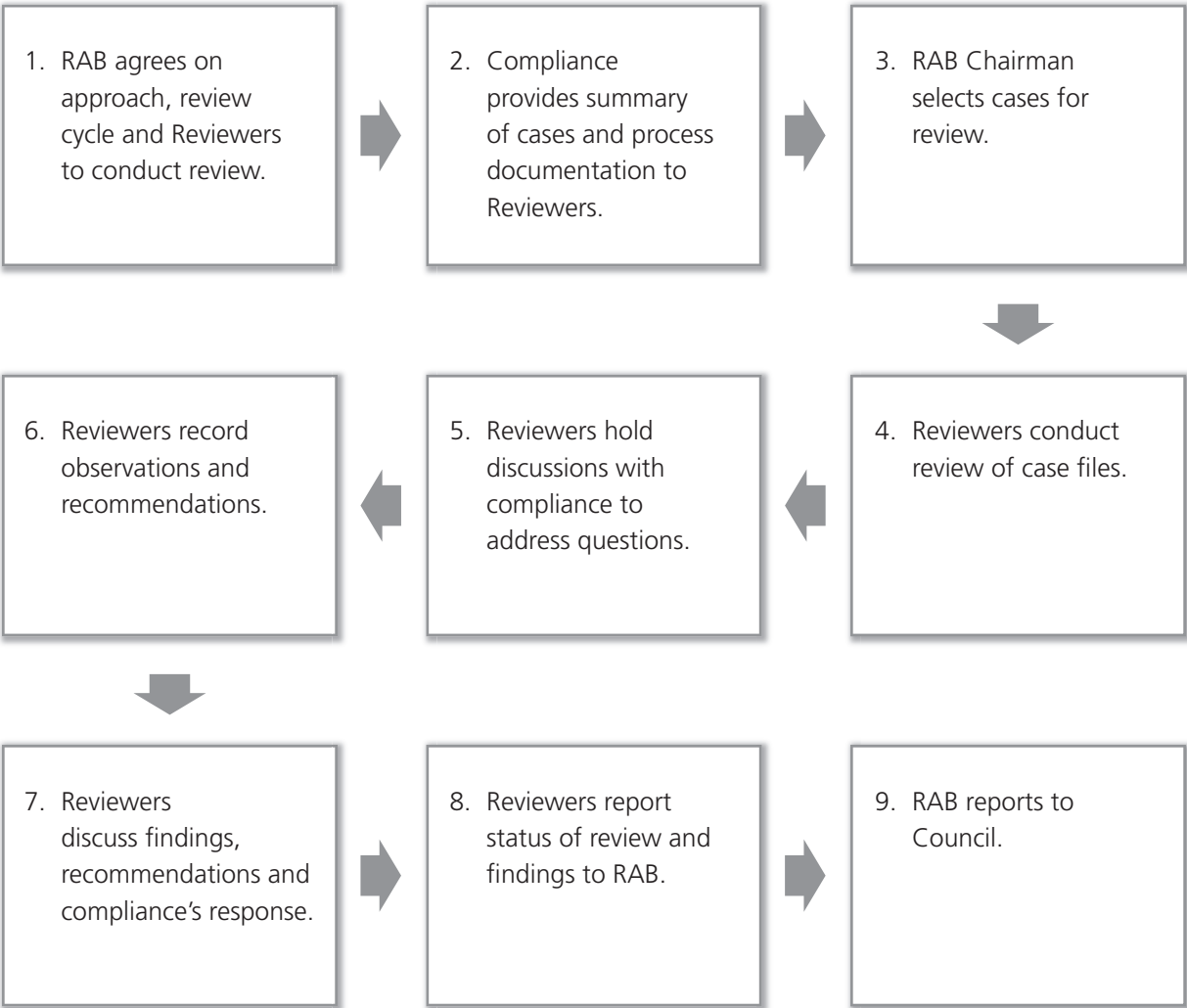
7. Reviewers are obliged to preserve secrecy with regard to any matter coming to their knowledge in conducting the process review, and shall not at any time communicate any such matter to any other persons.

Case selection

1. The RAB determined that the review should focus on cases completed in the third cycle during the period from 1 October 2013 to 30 September 2014.
2. In the period subject to review, 95 complaints against members and 24 disciplinary cases were completed.
3. The RAB Chairman selected 16 cases based on public interest and time to completion. Cases selected included 6 disciplinary cases and 10 complaint cases which were either dismissed, dealt with by disapproval letter and resolution by agreement.

* See Appendix 1 for names of Reviewers.

Workflow



Findings

Areas of focus

| | |
|-----------------------------|---|
| Compliance with due process | - All selected cases were dealt with in accordance with the established internal procedures. No deviations from the due process were noted. |
| Timeliness | - Delays were noted in some of the cases selected for review. The RAB provided recommendations to improve timeliness. |
| Quality of case handling | - No criticisms were made in respect of the quality of case handling. The RAB provided recommendations to improve the manner in which cases can be handled. |

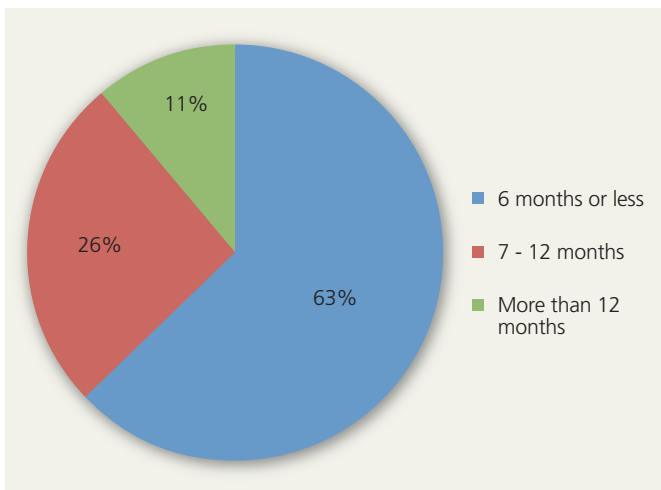
Complaints

Facts

Case completion

Complaints are completed when the PCC has evaluated the case reports submitted by the compliance department and made decisions on the cases. During the period under review, 7 PCC meetings were held to deal with 95 complaints. On average, 13 cases were considered by the PCC per meeting.

Completion time



- In general, the department targets to complete cases within 6 months. Longer time is required for complicated cases such as those that require consideration of contentious issues.
- Average completion time in the period subject to review: **6.6 months**
- **63%** of cases completed within 6 months
- **89%** of cases completed within 12 months

Compliance’s responses to reviewers’ observations

| Reviewers’ observations | Compliance’s response |
|---|---|
| <p>1. Adherence with due process</p> <p>a) All cases were handled in accordance with due process.</p> | <ul style="list-style-type: none"> ▪ Compliance department adheres to the Institute’s established complaint handling process. |
| <p>2. Timeliness</p> <p>a) There were instances of delay in follow up actions with periods of unexplained inactivity.</p> | <ul style="list-style-type: none"> ▪ Compliance department will continue to prioritize case handling efforts and monitor case progress to minimize delays. |
| <p>3. Quality of case handling</p> <p>a) In one case, the PCC requested further enquiry by the compliance department.</p> | <ul style="list-style-type: none"> ▪ The PCC assesses information gathered by the compliance department and recommends appropriate courses of action. PCC may request further enquiry of a case where necessary. |

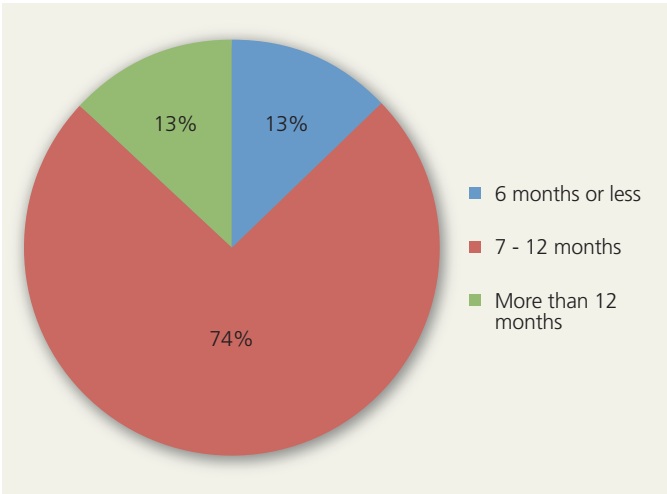
Disciplinary cases

Facts

Case completion

Disciplinary cases are dealt with by Disciplinary Committees. The compliance department works with the legal team to carry out disciplinary proceedings as the Complainant. A disciplinary case is completed when the Order and Reasons for Decision is issued by the Disciplinary Committee.

Completion time



- Average completion time in the period subject to review: **11.6 months**. (Note: From date of referral to the Disciplinary Panels.)
- **87%** of cases were completed within 12 months.

Compliance's responses to reviewers' observations:

| Reviewers' observations | Compliance's response |
|---|--|
| <p>1. Compliance with due process</p> <p>a) All cases were handled in accordance with due process.</p> | <ul style="list-style-type: none"> ▪ Compliance department adheres to the Institute's disciplinary process. |
| <p>2. Timeliness</p> <p>a) Time taken to constitute a Disciplinary Committee seems longer than expected.</p> <p>b) In one case, the respondents ignored the Disciplinary Committee's directions. A mechanism could be put in place to ensure proceedings are not delayed due to non-cooperation of respondents.</p> <p>c) Parties are given approx. 4 weeks to make first submissions and approx. 3 weeks to make subsequent replies. Time for submissions and replies could be shortened to 2-3 weeks.</p> <p>d) The availability of Disciplinary Committee members should be established at the onset.</p> <p>e) In one case, the time taken for the proceeding was exceptionally long due to the complexity of the case and the number of legal challenges made by the respondents. The delay in this case was also caused by unavailability of Disciplinary Committee members and excessive time taken to issue the disciplinary order. The file documentation shows that the Institute has put its best efforts to expedite the proceedings.</p> | <ul style="list-style-type: none"> ▪ The compliance department will continue to implement ways to expedite the constitution process. ▪ The compliance department will continue its efforts to remind Disciplinary Committees to adhere to procedural timetables. ▪ Parties are usually allowed 21 days to make their written submissions. The compliance department will continue to encourage the Disciplinary Committees to expedite the proceedings while allowing parties to have adequate time to make submissions. ▪ Disciplinary Committees are requested to issue timetables at the onset of proceedings and the compliance department encourages the Committees to adhere to the scheduled dates. ▪ This case was an outlier in that the processing time took exceptionally long due to the unusual circumstances which are not expected to be recurred in other cases. ▪ The case status had been periodically reported to Council to ensure that they were aware of the case progress on an ongoing basis. ▪ The compliance department will continue to remind Disciplinary Committees to follow established timetables. |
| <p>3. Quality of case handling</p> <p>a) In one case, no reminder was issued to the Disciplinary Committee when there was inactivity for about one month.</p> | <ul style="list-style-type: none"> ▪ The compliance department will continue to issue reminders to Disciplinary Committees to expedite proceedings in cases where prolonged inactivity is noted. |

Recommendations

Improving case handling processes

1. Improve processing time for complaint process:

- To avoid undue delay, efforts should be made to make follow-up enquiries as soon as possible after the receipt of responses from the respondents.
- To formalize target completion date for follow up actions requested by PCC.
- To enhance efficiency, internal discussions should take place at the onset to deal with pertinent issues and establish direction for case handling.

Compliance's response:

- The compliance department will continue to monitor case progress to improve processing time for handling complaints.

2. Improve processing time for disciplinary process:

- Reduce time allowed for submissions to shorten duration of disciplinary process.
- Issue reminders to Disciplinary Committees when there is inactivity for a long period of time.
- Establish availability of Disciplinary Committees at the onset of proceedings.
- Expand Disciplinary Panel members to increase availability of members for case allocation.

Compliance's response:

- The compliance department will continue to identify ways to expedite the disciplinary process which include reminding Disciplinary Committees to issue timetables at the onset of proceedings and adhere to the scheduled dates.

3. Improve quality of case handling:

- Enhance file documentation.
 - There is room for improvement in respect of documentation of case rationale, actions taken place and explanation of long periods of inactivity.
 - Include notes of internal discussion meetings including the names of meeting attendees.
 - Document guidelines applied for dealing with complaints involving staff/committee members of the Institute.

Compliance's response:

- As part of its reporting to PCC, compliance prepares case analysis reports which include explanation of work processes undertaken for each case. The department will improve file documentation as recommended.

Improving the process review

1. Information required to check against the case handling process could be better organized with pertinent case documents tagged to enable the reviewers to locate the relevant information in order to assess the work done by the compliance team.

Compliance's response:

Compliance team thanks the Reviewers for the above recommendations for improving process review procedures and will adopt them in future reviews.

Regulatory Accountability Board 2014 Composition

Chairman

Mr. TAM Wing Pong*

Members

Mr. CHOW, Anthony, SBS, JP*

Ms. CHAN, Mabel*

Mr. FUNG, Wilson*

Ms. LIEW, Cecilia*

Mr. POGSON, Keith

** Process Review members*

Secretary

Mr. Chris JOY, Executive Director, Standards & Regulation

Representatives of compliance department

Mrs. Linda BIEK, Director, Compliance

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