



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

Compliance

Process Review Report 2015

The Regulatory Accountability Board (RAB)'s
Process Review Report on the performance and
operations of 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 upholding 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. Overseeing, on behalf of Council, the performance and operations of the compliance department and the Professional Conduct Committee (PCC) of the Institute;
2. Considering periodic status reports from the compliance department; and
3. Advising 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 provide information on key activities of the department and to provide recommendations to the Council on regulatory related matters.

Composition

The RAB has seven members including a lay Chairman, consisting of certified public accountants, lay members and representatives from other regulatory bodies. The Executive Director, Standards and Regulation and the Director, Compliance provide administrative support to the Board. RAB members are listed in **Appendix 1**.

Process review

As part of its oversight function, the RAB conducted its fourth process review of the operations of the compliance department in 2015. This report highlights the work performed during the review and explains 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, investigations and disciplinary cases;
- Evaluating the adequacy of internal procedures applied; the adequacy and appropriateness of information gathered during the case handling process and the time taken to process 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 active, independent oversight of the Institute's regulatory function which ensures that the public interest is protected in case processing and outcomes;

- Build confidence in the robust nature of the Institute's regulatory system; and
- Contribute to the development of efficient, effective processes within the compliance department.

Approach

1. The review involved an evaluation of the case handling procedures undertaken to arrive at decisions and did not address the propriety of judgments and conclusions that had previously been made.
2. The sample population included cases against members and member practices which had been finalized during the review period.
3. Six¹ RAB members (Reviewers) volunteered to conduct the 2015 process reviews and subsequently reported their findings to the RAB.
4. Cases were selected for review by the RAB Chairman based on pre-determined criteria such as public interest and completion time.
5. For the cases selected, compliance team members provided relevant case files to Reviewers to assist with the detailed review.
6. When making an assessment on the case handling process, Reviewers referred to existing guidance on due process, statutory requirements, rules and guidelines.

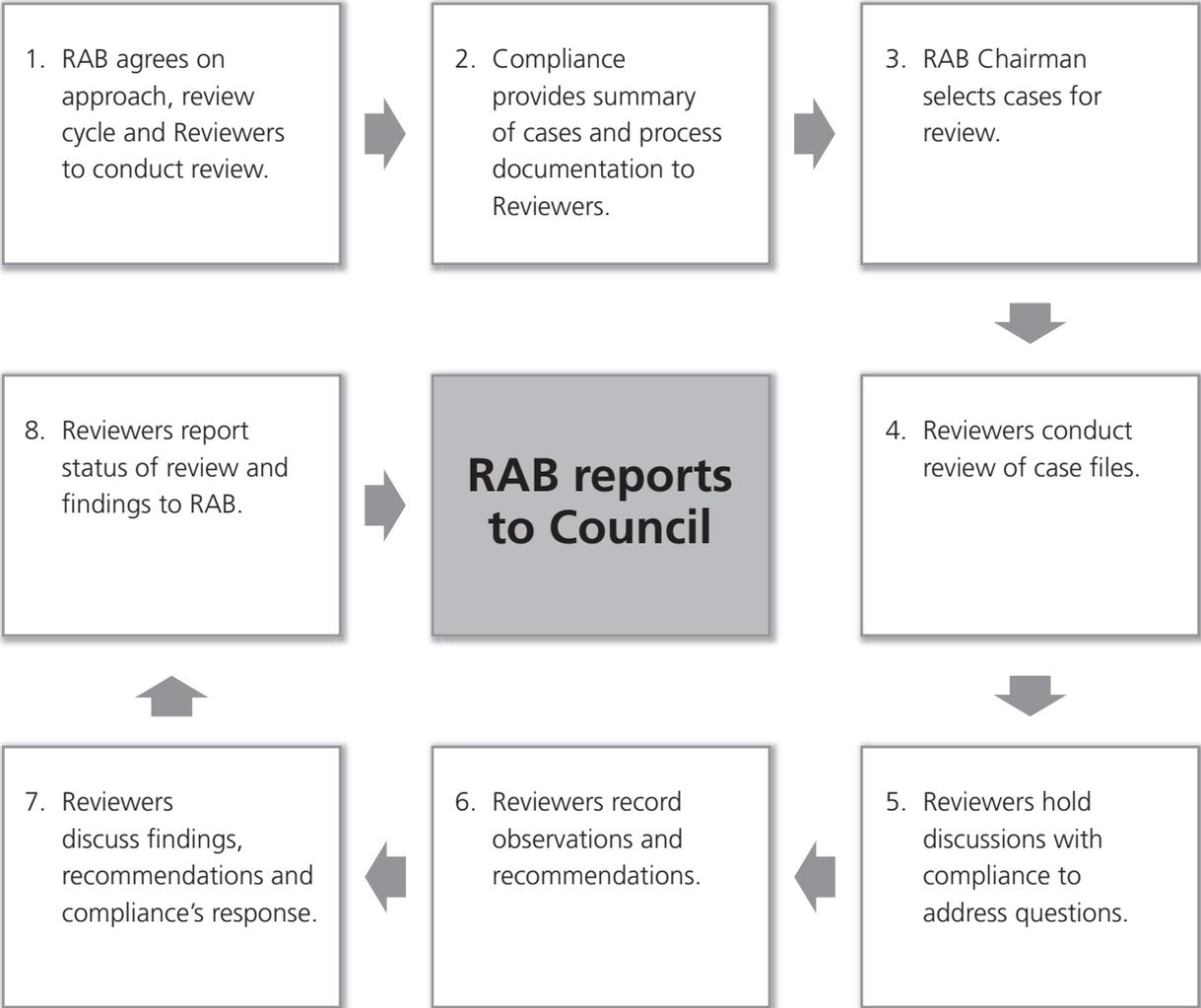
7. To preserve secrecy, Reviewers are obliged to maintain confidentiality with regard to any matter coming to their knowledge in conducting the process review, and shall not at any time communicate any such matter to any other persons.

Case selection

1. The RAB determined that the review should focus on cases completed during the period from 1 October 2014 to 30 September 2015.
2. In the period subject to review, 85 complaints and 24 disciplinary cases were completed.
3. The RAB Chairman selected 32 cases based on public interest and completion time. Cases selected included 16 cases concluding with disciplinary action and 16 cases which were dismissed, dealt with by disapproval letter or concluded with a resolution by agreement.

¹ 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 established internal procedures. No deviations from due process were noted.
- Timeliness
 - Some cases were noted to have taken longer time than expected to complete. The RAB provided recommendations to improve timeliness.
- Quality of case handling
 - All allegations raised by complainants had been addressed. No criticisms were made in respect of the quality of case handling. However, the RAB recommended improvements regarding case file documents which may result in more efficient processing.

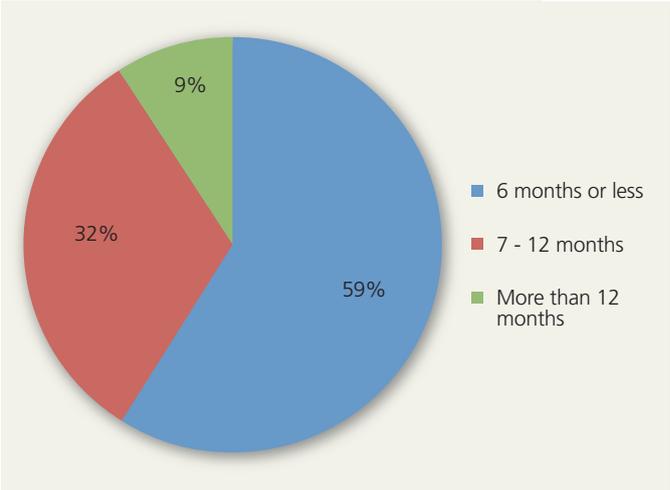
Complaints

Background

Case completion

Complaints are categorized as complete after the PCC has evaluated case reports submitted by the compliance department and made decisions thereon. During the period under review, 7 PCC meetings were held to deal with 85 complaints. On average, 12 cases were considered by the PCC at each 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 complex issues.
- Average completion time: **6.4 months**
- **59%** of cases completed within 6 months
- **91%** of cases completed within 12 months

Responses to observations

Reviewers' observations	Compliance's response
<p>1. Adherence with due process</p> <ul style="list-style-type: none">All cases were handled in accordance with due process.	<ul style="list-style-type: none">Compliance department adheres to the Institute's established complaint handling process to ensure fair and proper treatment of all parties involved.
<p>2. Timeliness</p> <ul style="list-style-type: none">Three cases were noted to have taken 10 to 15 months to complete. The delay seemed to be caused by case complexity and the number of legal documents and correspondence involved in the analysis process.	<ul style="list-style-type: none">Some cases involved multiple exchanges of correspondence between the compliance team, respondent and the complainant; and review of voluminous documents and working papers.A review of internal procedures took place in 2015 to reduce case processing time.Compliance department will continue to prioritize resources and monitor case progress to minimize delays.
<p>3. Quality of case handling</p> <ul style="list-style-type: none">All allegations raised by complainants have been addressed.	<ul style="list-style-type: none">All allegations raised against members are assessed by compliance team before reporting to the PCC.PCC assesses information gathered by the compliance department and may request further enquiry when necessary.

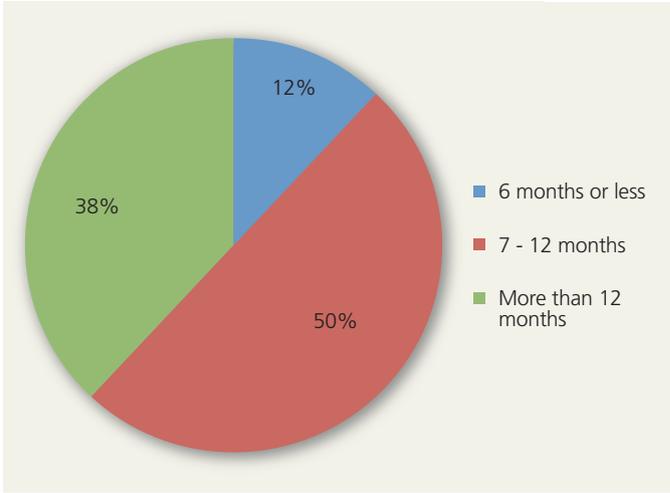
Disciplinary cases

Background

Case completion

Disciplinary cases are dealt with by Disciplinary Committees that have been constituted by a government appointed Convenor. The compliance department assists the legal team to carry out disciplinary proceedings as the prosecutor. A disciplinary case is completed when the Order and Reasons for Decision has been issued by the Disciplinary Committee.

Completion time



- Average completion time from date of referral to the Disciplinary Panels: **11.3 months.**
- **62%** of cases were completed within 12 months.

Responses to observations

Reviewers' observations	Compliance's response
<p>1. Compliance with due process</p> <ul style="list-style-type: none"> ▪ All cases were handled in accordance with due process. ▪ One case was selected for review due to the emotional reaction from the respondent. The case was straightforward and the violation was blatant. All procedures were noted to have been followed and there was nothing unbecoming that the Reviewers could find in the case handling process which would discredit the Institute's regulatory system. 	<ul style="list-style-type: none"> ▪ Compliance department adheres to the Institute's disciplinary process.
<p>2. Timeliness</p> <ul style="list-style-type: none"> ▪ Time taken to constitute Disciplinary Committees seemed excessive in some cases. For example, the Committee was constituted months after the respondent's admission in one case. ▪ The time taken for the disciplinary proceedings from four cases was noted to be exceptionally long due to the following: <ul style="list-style-type: none"> - case complexity; - respondents' numerous challenges and requests for time extensions; and - resignation of Disciplinary Committee members in the midst of the proceedings. ▪ Admissions by respondents in some cases enabled the cases to be processed efficiently and saved time and costs for all parties concerned. 	<ul style="list-style-type: none"> ▪ The compliance department will continue to implement ways to expedite the constitution process. Time taken for constitution of Disciplinary Committees improved in 2015 ▪ For contested cases, parties are required to file written submissions and attend hearings in accordance with the procedural timetable. The proceedings for complex cases generally take more than six months. ▪ The Disciplinary Committee's clerk provides administrative support to the Disciplinary Committee and will remind parties to adhere to the procedural timetable set by the Committee. ▪ Parties to the proceedings made joint application to the Disciplinary Committee to waive unnecessary procedures and deal with matter on the basis of respondents' admission.
<p>3. Quality of case handling</p> <ul style="list-style-type: none"> ▪ In one case, the Disciplinary Committee disallowed costs incurred during the investigation phase without reason and restricted publication of the Order for a complaint which was found proved against the respondents. 	<ul style="list-style-type: none"> ▪ The Institute held a briefing session to remind Disciplinary Panel members of their roles, responsibilities and powers under the relevant rules and regulations.

Recommendations

Improving case handling processes

1. Improve processing time for case handling:
 - To monitor case progress and processing time.
 - To take follow-up action as soon as practicable after the receipt of responses from the respondents.

Compliance's response:

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

2. Improve quality of case handling:

- Enhance file documentation of case chronology and include follow up work performed after case completion.

Compliance's response:

- The compliance department is looking into ways to improve its data management system and organization of case file documentation.

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 endeavour to implement them in future reviews.

Regulatory Accountability Board 2015 Composition

Chairman

Mr. TAM Wing Pong*

Members

Ms. CHAN, Mabel*

Mr. CHOW, Anthony, SBS, JP*

Mr. FUNG, Wilson*

Ms. KWAN, Angelina

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

Ms. Elaine CHUNG, Deputy Director, Compliance

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