



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

Compliance

Process Review Report 2016

The Regulatory Accountability Board's
Process Review Report on the performance and
operations of the Compliance Department of the
Hong Kong Institute of Certified Public Accountants

Table of contents

Section	Page
General information	2
• Background	
• Role and responsibilities	
• Composition	
Process review	3 – 5
• Objective	
• Benefits	
• Approach	
• Case selection	
• Workflow	
Findings	6 – 11
• Areas of focus	
• Complaints considered by PCC	
- Background	
- Responses to observations	
• Disciplinary cases	
- Background	
- Responses to observations	
• Investigation cases	
- Background	
- Responses to observations	
Recommendations	12
• Improving case handling processes	
Appendix 1 Regulatory Accountability Board 2016 Composition	13

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 and has designed policies and procedures with the public interest at the forefront to regulate members' professional conduct. The role of the RAB is to oversee that the Institute carries out the regulatory function in accordance with the policies and procedures.

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 members and member practices' professional conduct.

The RAB meets periodically to consider information on the Compliance Department's key activities to assess the department's performance and to provide recommendations to the Council on regulatory matters.

Composition

The RAB consists of eight members including a lay Chairman, 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 fifth process review of the operations of the Compliance Department in 2016. This report highlights the RAB's process review work, findings and recommendations.

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 case handling; and the time taken to process cases; and
- Identifying areas that require improvements and implementing recommendations.

Benefits

The RAB considered that the benefits of the process review include:

- Performing active and independent oversight of the Institute's regulatory function in case processing and outcomes;
- Building confidence in the robust nature of the Institute's regulatory system; and

- Contributing to the development of efficient, effective processes within the Compliance Department.

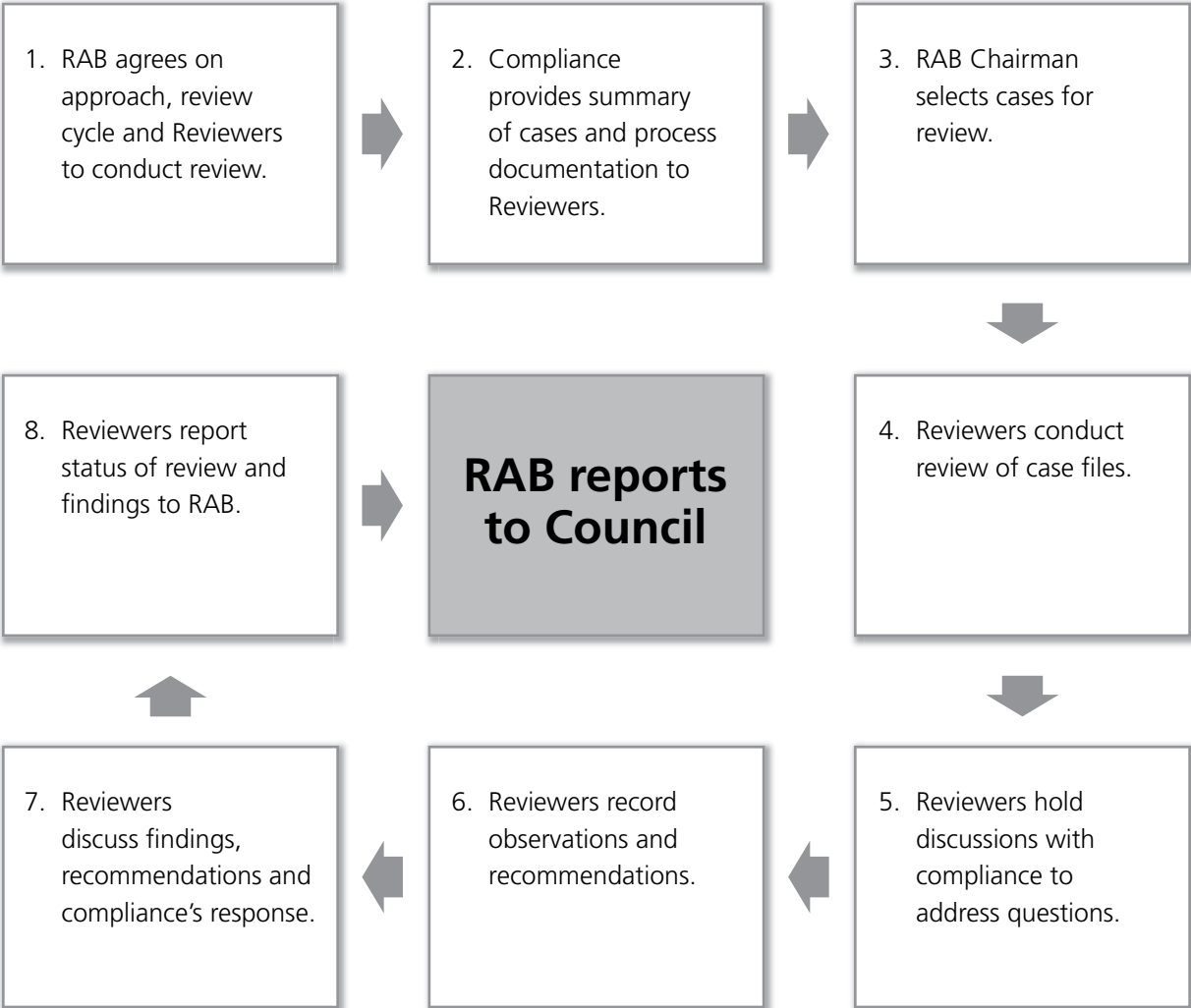
Approach

1. The RAB Chairman selected cases for review based on pre-determined criteria, such as public interest and completion time, from a population of completed cases against members and member practices provided by the Compliance Department.
2. All RAB members (Reviewers) participated and were assigned several cases for review. Their collective findings were reported to the RAB and senior management.
3. After receiving case files from compliance team members, Reviewers referred to existing guidance on due process, statutory requirements, rules and guidelines to assist in evaluating case handling procedures undertaken and information reported to the PCC and Council to arrive at decisions.
4. The review did not address the propriety of judgments and conclusions that had previously been made.
5. To preserve secrecy, Reviewers were obliged to maintain confidentiality on any matter coming to their knowledge while conducting the process review, and were restricted from communicating any such matter to other persons.

Case selection

1. Cases were selected for review from 113 cases completed during the period beginning 1 October 2015 to 30 September 2016. The total number comprised 9 Resolutions by Agreement (RBA), 4 investigations and 19 disciplinary cases. The remaining 81 cases were either dismissed or resolved with a letter of disapproval.
2. From the total population, the RAB Chairman selected 22 cases based primarily on public interest and completion time. The selection included 9 disciplinary cases, 7 RBA cases, 5 complaints and 1 investigation. The RAB paid specific attention to the assessment of case gravity in each case.

Workflow



Findings

Areas of focus

- Compliance with due process* - All selected cases were handled in accordance with established internal procedures. No deviations from due process were noted.
- Timeliness* - Some cases took longer than expected to complete. The RAB provided recommendations to improve timeliness.
- Quality of case handling* - All allegations made by complainants were appropriately addressed. Assessment of gravity was considered reasonable. However, the RAB recommended improvements regarding file documentation.

Complaints considered by PCC

Background

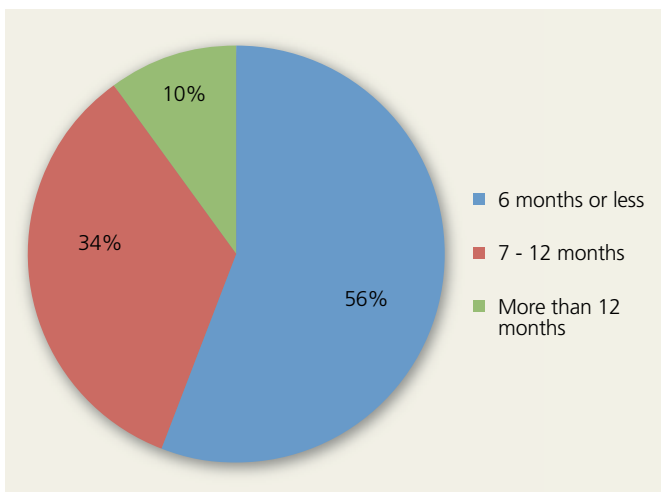
Case completion

Complaint cases are categorized as complete after the PCC has evaluated and made decisions on the case assessment reports submitted by the Compliance Department. RBA cases are categorized as complete after all relevant parties have accepted the RBA terms.

Compliance Department targets presentation of each case to PCC within six months of receipt of complaint. Longer time may be required for complicated cases, such as those requiring in-depth analysis of complex issues.

During the period under review, seven PCC meetings were held to consider 86 complaints, an average of 12 cases per meeting.

Completion time



- Average time for reporting to PCC: **6.5 months.**
- Average time for completing RBA: **1.6 months.**
- **56%** of cases completed within 6 months.
- **90%** 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 complaint and RBA cases were handled in accordance with due process.	<ul style="list-style-type: none">Compliance Department strives to continuously adhere to the Institute's established process for case handling.
<p>2. Timeliness</p> <ul style="list-style-type: none">Fives cases were noted to have taken longer than six months to report to the PCC. The delay resulted from excess time taken by respondents and complainants to provide information; and, in one case, time taken by Compliance Department to request information from respondents.	<ul style="list-style-type: none">Compliance Department communicates the importance of timely submissions via guidance notes and periodic forums.Compliance Department has enhanced its case status tracking mechanism and is in the process of amending internal procedural timelines.
<p>3. Quality of case handing</p> <ul style="list-style-type: none">All allegations raised by complainants have been addressed.Documentation of procedural matters during case processing could have been clearer in three cases reviewed.Assessment of case gravity by Compliance Department and PCC was reasonable. Established criteria developed to assess the seriousness of cases concluded by RBA was consistently applied. Reviewer recommended analysis with reference to some benchmark.Case files lacked documentation to show PCC's decisions had been properly executed.	<ul style="list-style-type: none">All allegations are assessed by Compliance Department before reporting to the PCC.Compliance teams will include more robust documentation regarding procedural matters in the future.Compliance Department adheres to the due process in all aspects of case handling.PCC report provides analysis of case gravity in accordance with established criteria approved by Council.In developing the established seriousness criteria, the Institute considered that of other organization. Therefore, benchmarking individual case is not considered necessary.Status of PCC recommendations are reported back to PCC by way of a summary at each PCC meeting until the matter is resolved.

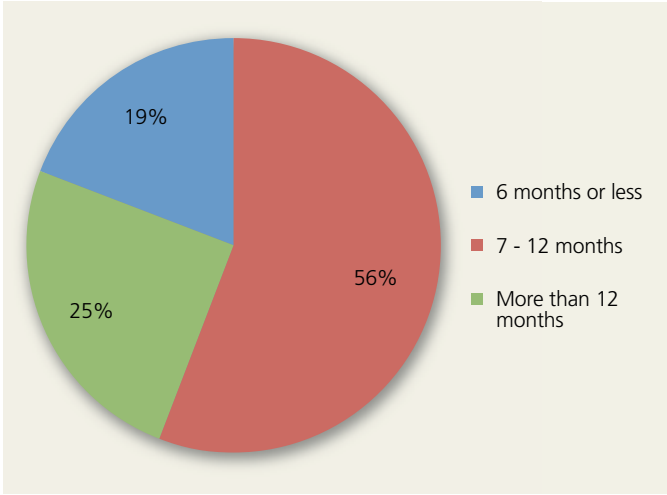
Disciplinary cases

Background

Case completion

Disciplinary cases are dealt with by Disciplinary Committees constituted by a government appointed DC Convenor. Compliance Department assists the legal team in prosecuting complaints that are subject to disciplinary proceedings. A disciplinary case is completed when an Order and Reasons for Decisions are issued by the Disciplinary Committee.

Completion time



- Average completion time from date of referral to the Disciplinary Panels: **7.2 months.**
- **81%** 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 disciplinary cases were handled in accordance with due process. 	<ul style="list-style-type: none"> Compliance Department strives to continuously adhere to the Institute's established process for disciplinary proceedings.
<p>2. Timeliness</p> <ul style="list-style-type: none"> Time taken to complete the disciplinary proceedings in three cases was reasonable. 	<ul style="list-style-type: none"> 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.
<ul style="list-style-type: none"> The time taken to constitute the Disciplinary Committee took approximately 6 months in one case. 	<ul style="list-style-type: none"> Compliance Department has implemented procedures to expedite the constitution process. As a result, time taken for the constitution of Disciplinary Committees has significantly improved.
<ul style="list-style-type: none"> Disciplinary proceedings in one case took 18 months to complete, due to respondents' actions. For example, the respondent took seven months to retract his previous admission. The Reviewer expects Disciplinary Committees to better manage delays caused by respondents. 	<ul style="list-style-type: none"> The respondent initially admitted the complaint but subsequently retracted his admission. This occurred after he had been granted several extensions of time to reconsider his initial admission. The compliance and legal teams have enhanced the admission procedures to promote efficiency.

Reviewers' observations

Compliance's response

- The Reviewer noted that a less serious case took 22 months to complete. The case was initially recommended for RBA but it was rejected by the complainant resulting in a Disciplinary Committee considering the matter. The Disciplinary Committee should have taken into account the circumstances in which the complainant rejected the RBA.

- This case was initially resolved by the Council to be concluded by a RBA. The complainant rejected the RBA and presented the case before a Disciplinary Committee in the disciplinary proceedings. Disciplinary Committees would not be made aware of rejected RBAs as they are offered on a "without prejudice" basis.
- The complaint handling process has been revised to minimize objections by anyone other than the deemed complainant.

- The processing of three cases at the complaint stage took longer than expected. Two cases took 12 months to report to the PCC; another case was delayed because further information was requested after it was first reported to the PCC.

- Complex cases may take longer time to report to PCC. To address this, compliance staff have been attending training in technical areas, as well as time/project management.
- Standard operating procedures require case handlers to request working papers when relevant. In this case, working papers were requested but not received. Subsequently, PCC requested audit working papers be obtained and the matter was then reported back to the PCC for further assessment.

3. Quality of case handling

- In one case, the Reviewer noted that the Disciplinary Committee was unaffected by respondent's vigorous defense. The decision was delivered firmly and promptly.
- File documentation for a case did not clearly show why the initial hearing date was deferred by two months.

- The Institute held a briefing session to remind Disciplinary Panel members of their roles, responsibilities and powers under the relevant rules and regulations.
- The initial procedural timetable included a tentative hearing date. The timetable was changed subsequently due to respondent's request for extra time to file the submissions.

Investigation cases

Background

Investigation Committees (IC) are constituted by a government appointed Convenor at the request of Council. The Compliance Department provides administrative assistance to the Investigation Committees to ensure investigations are carried out in a timely manner. An investigation is completed when the Investigation Committee report is submitted to Council. In accordance with PAO sec. 42G, Investigation Committees are required to preserve secrecy of any knowledge gained in the performance of the Investigation.

An investigation case was selected for review upon request by the Investigation Committee to determine whether the process for reporting their findings to Council adhered to established procedures. Ongoing investigation cases have been in progress for a number of years. No new Investigation Committees have been recently convened.

Responses to observations

Reviewers' observations	Compliance's response
<ul style="list-style-type: none"> Two RAB Reviewers were assigned to review this case with special attention given to the process of reporting IC findings to Council; no exceptions were noted. 	<ul style="list-style-type: none"> Compliance Department duly submitted the Investigation Committee report and legal department's assessment of the merits of the case to Council for its consideration of the matter.

Recommendations

Improving case handling processes

1. Improve processing time for case handling:
 - Enhance case monitoring system and issue reminders for cases which show a period of inactivity.
 - Improve timing for follow-up actions after receipt of complaints or further information from either party.
 - Observe disciplinary proceedings timetable more closely when granting time extension requests.

Compliance's response

- Compliance Department will enhance its tracking mechanism to include periodic alerts for slow-moving cases and continue to monitor case progress for improvements.
- Compliance Department will develop more detailed timelines which clearly reflect complaint handling action steps and expected time for completion.
- Compliance Department will continue to communicate the importance of timely submissions to members and Disciplinary Committees.

2. Improve quality of case handling:

- Enhance file documentation to reflect unusual procedural matters and communication with PCC members and Disciplinary Committees.

Compliance's response

- The Compliance Department will continue to document all relevant aspects of the complaint handling process with a focus on key matters and unusual circumstances.

Regulatory Accountability Board 2016 Composition

Chairman

Mr. TAM Wing Pong

Members

Mr. Clement CHAN

Ms. Mabel CHAN

Mr. Wilson FUNG

Ms. Angelina KWAN

Ms. Cecilia LIEW

Mr. Andrew MAK

Mr. Keith POGSON

Secretary

Mr. Chris JOY, Executive Director, Standards & Regulation

Representatives of Compliance Department

Mrs. Linda BIEK, Director, Compliance

Ms. Elaine CHUNG, Deputy Director, Compliance

Hong Kong Institute of Certified Public Accountants
37th Floor, Wu Chung House
213 Queen's Road East, Wanchai, Hong Kong
Tel: (852) 2287-7228
Fax: (852) 2865-6603
Email: hkicpa@hkicpa.org.hk
Website: www.hkicpa.org.hk