

# Guidance Notes for dealing with a complaint

The objective of this section is to provide guidance to members who have become subjects of complaints.

## Member obligation to deal with complaints

Hong Kong Standard on Quality Control 1 requires that a CPA practice should establish policies and procedures to provide reasonable assurance that complaints and allegations have been appropriately addressed.

Individual members are also expected to handle complaints filed by clients and other parties in a timely and professional manner.

From a risk management perspective, members may wish to promptly respond to the aggrieved party with an objective of resolving the issue. This approach may prevent the matter from being brought to the attention of the Institute.

## Complaint handling process

The Institute receives approximately 100 complaints each year.

Complaints are objectively analyzed by the Compliance Department in accordance with the complaint handling process to determine if there is reasonable suspicion that a prima facie case exists. Before conducting enquiries of our members, we will ensure that the subject matter is:

- within the jurisdiction of the Institute; and
- supported by evidence.

If representations on the matter are needed, the Compliance Department will send enquiry letters to the relevant parties.



## Matters arising from the Compliance Department's observations

As the sole statutory licensing body of CPAs in Hong Kong, the Institute may instigate its own complaint against members based on:

- public information (e.g. court judgments and orders, press releases) relating to misconduct; and
- information obtained during the enquiry process, which suggests section 34 of the Professional Accountants Ordinance (PAO) may apply.

## Step I. Enquiry process

The main objective of an enquiry letter is to obtain information to enable the Institute to better assess the subject matter of the complaint.

In addition to the information provided by the informant / complainant, the submissions provided by the member establish an important basis of decision for the Professional Conduct Committee (**PCC**). Therefore, members are advised to cooperate with the Institute and provide appropriate, relevant information to address enquiries in a timely manner.<sup>1</sup>

To promote efficient processing of the matter, the Compliance Department invites communication with the subject of the complaint to clarify any issues in question.

At the end of the enquiry process, the Compliance Department will report its findings on the matter to the PCC, which assesses each case independently and determines the next course of action.

## Step II. Professional Conduct Committee decisions

The PCC evaluates each complaint independently, based on the information provided by the informant / complainant and the subject of the complaint. It may:

- Dismiss a complaint

The PCC will dismiss the case when there is insufficient evidence to show the member failed to comply with a professional standard or committed any improper conduct, or when the subject matter is outside the jurisdiction of the Institute.

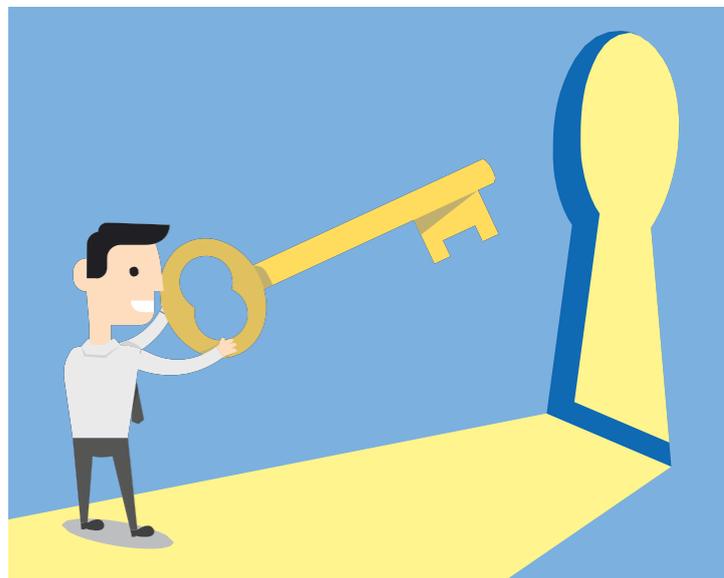
- Issue a disapproval letter

When one or more of the provisions of section 34 of the PAO apply to the member and the PCC considers the non-compliance is of minor severity, they may resolve to issue a disapproval letter to the member.

A disapproval letter does not amount to a formal disciplinary action, however, it will be part of a member's records for future consideration. If there is repeated non-compliance by the member, the disapproval letter will be taken into account by the Institute when considering the appropriate course of action against the member.

- Recommend Resolution by Agreement

In lieu of disciplinary proceedings, if the severity of the matter is deemed to be moderate and the matter meets certain pre-established criteria, PCC may



recommend the complaint be resolved by Resolution by Agreement (**RBA**). If RBA is not accepted by all stakeholders, the complaint will be re-presented to the Institute's Council for consideration of referral to the Disciplinary Panels. The terms within the RBA are **non-negotiable**.

- Recommend referral to the Disciplinary Panels

When one or more of the provisions of section 34 of the PAO applies to the member, and the PCC considers the non-compliance is serious or would not meet the criteria for RBA, it will recommend Council to refer the matter to the disciplinary panels.

### Other helpful information

Members are encouraged to refer to the following resources available on the Institute's website to better serve client needs and minimize the risks of being the subject of a complaint:

- [Annual Reports](#) and Operations Reports of the department
- [APlus articles](#) alerting members to matters which may increase the risks of a complaint
- The [webpage](#) of the Compliance Department
- [Orders and reasons for decision](#) issued by the Institute's Disciplinary Committees

<sup>1</sup>When the Institute determines a CPA should provide an explanation of his conduct but he fails to do so, a direction under section 18B of the PAO may be issued. Members should note that non-compliance with a section 18B direction is a disciplinable offence under section 34(1)(a)(ix) of the PAO – "refused or neglected to comply with the provisions of any bylaw or rule made or any direction lawfully given by the Council".

#### Enquiries can be sent to:

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