
COMPLIANCE



2022 Annual Report

A Legacy of Public Protection



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

Abbreviations used

CPA	Certified Public Accountant
FRC	Financial Reporting Council
HKICPA / Institute Members	Hong Kong Institute of Certified Public Accountants CPAs, CPA firms, corporate practices and registered students
PAO	Professional Accountants Ordinance
PCC	Professional Conduct Committee
PRC	Practice Review Committee
RBA	Resolution by Agreement
ROB	Regulatory Oversight Board

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FOREWORD

On 1 October 2022, the Accounting and Financial Reporting Council will assume responsibility for the inspection, investigation and discipline of all certified public accountants and practice units currently registered with the Institute. The authority was set out in the Financial Reporting Council (Amendment) Bill 2021, which was passed by the Legislative Council in October 2021.

Since the announcement of the further reform, the Compliance Department has been liaising with the FRC to prepare for a smooth transition of the regulatory process in anticipation of the new regime. During that time, the Compliance Department continued to process cases received under the current regime in accordance with the complaint handling process of the Institute, ensuring the efficiency and effectiveness needed to properly protect public interest and maintain the good reputation of the profession.

To promote good practice and raise awareness of regulatory issues, Compliance Department representatives have contributed to seminars and articles in *A Plus*.

The Compliance Department's webinar entitled *Risk Management: Corroborating Evidence is a Key to Success*, which has attracted over 7,000 enrolments, will continue to be available until November 2022. The webinar provides a closer look at how to apply risk management techniques when performing assurance engagements.

Representatives of the Compliance Department gave a presentation at the 2021 SMP Symposium held in November 2021, and highlighted key complaint findings that were relevant to small and medium practitioners. The live webinar symposium attracted over 310 attendees.

The Director, Compliance presented on audit quality issues at the HKICPA's Annual Auditing Update 2021, and professional ethics at various workshops throughout the year. Highlights of the sessions include overviews of the conceptual framework, key components of professional skepticism, and lessons to be learned from case studies.

The Compliance Department has published articles and other practice alerts periodically to alert members on regulatory issues identified during the complaint and disciplinary process. Publications during the period were: *2021 Compliance Forum: "Risk Management: Corroborating Evidence is a Key to Success"* and *Reviewing valuation reports in an audit*.

Linda Biek
Director, Compliance
July 2022

REGULATING THE PROFESSION

The Hong Kong Institute of Certified Public Accountants is the licensing body for professional accountants in Hong Kong and is responsible for regulating the conduct of certified public accountants. As part of its regulatory function, the Institute responds to complaints concerning the professional and ethical conduct of its members.

Compliance with the Institute's professional standards is a requirement of membership. Complaint and disciplinary processes are key mechanisms by which the Institute regulates the conduct of its members, with sanctions imposed for serious breaches of the standards.

The Compliance Department carries out the Institute's function of regulating the professional and ethical conduct of members. The department's activities are subject to continuous monitoring supported by an independent process review carried out by the Regulatory Oversight Board, to ensure procedures are consistently applied and expected results are delivered.

The core activities of the department consist of conducting case assessments and investigations arising from complaints against members of the Institute, supporting the Professional Conduct Committee in their consideration of appropriate action, and assisting with the disciplinary proceedings handled by Disciplinary Committees.

To protect the public image of the profession, the department supports the Institute in taking action against suspected offences under section 42 of PAO involving, inter alia, fraudulent representations of the designation "certified public accountant" and "CPA".

To promote proficiency, the department organizes technical forums and contributes contents in *A Plus* to alert members to contemporary regulatory issues and promote good practices.

This report sets out the department's key activities and statistics for the year ended 30 June 2022.



ANATOMY OF THE COMPLAINT PROCESS

What is a complaint?

The Institute's power to regulate its members under the Professional Accountants Ordinance allows it to pursue complaints against members.

Any complaint received by the Institute (whether made anonymously or not) is handled in accordance with the Institute's complaint handling process.



The Institute's complaint handling process is governed by the [General policy on Anonymous Complaints](#) and the policy on [Confidentiality and Protection of Identity](#).

Complaint statistics

	Beginning balance	Received	Evaluated by Professional Conduct Committee	Cases involving non-members or outside the Institute's jurisdiction	Ending balance
1 July 2021 - 30 June 2022	58	88	(111)	(22)	13
1 July 2020 - 30 June 2021	48	122	(99)	(13)	58

Processing complaints

Complaints are analysed by the Compliance Department to determine if a prima facie case exists. Before conducting enquiries of our members, the department will ensure that the subject matter is:

- within the jurisdiction of the Institute; and
- supported by sufficient evidence suggesting that members may have failed to comply with the Institute's standards.

To ensure a fair and due process, enquiries are sought from members in accordance with the complaint handling process. On conclusion of enquiry and analysis, the Compliance Department will submit a report on its findings, conclusion and recommended action to the PCC for consideration of appropriate action.

For details of the complaint process, visit:

<https://www.hkicpa.org.hk/en/Standards-and-regulation/Compliance/Complaints>

Performance measures

The Compliance Department aims to maintain effective, efficient case processing; and continuous review and monitoring of cases throughout all phases of the complaint handling process.

As a measure of good performance, the Compliance Department targets completion of all phases of the complaint handling process, excluding disciplinary proceedings, within 12 months of case receipt. Actual achievement of this metric for the reporting period was 97% (2021: 95%).

ASSESSING COMPLAINTS

Professional Conduct Committee

The Professional Conduct Committee comprises CPAs in public practice and in business. Based on information gathered by the Compliance Department, each complaint is independently evaluated.

When deliberating cases, the PCC:

- evaluates each case in light of the circumstances and expected conduct of the member under the relevant professional standards or PAO provisions; and
- makes decisions in the context of the Institute's commitment to uphold the quality of members' professional work and the positive public perception of the profession in Hong Kong.



Types of actions under the PCC's terms of reference:



- Insufficient evidence to show a *prima facie* case
- Outside jurisdiction
- Advisory letter may be issued


- Issue disapproval letters for minor *prima facie* cases
- Direct other course of action as appropriate

- Recommend Resolution by Agreement for *prima facie* cases of moderate severity
- Recommend referral of serious *prima facie* cases to the Disciplinary Panels

Recommendations and outcomes

Complaints decided by PCC





Recommended for
referral to
Disciplinary Panels


Recommended for
Resolution by
Agreement


Issue of
disapproval letter


Dismissal and
issue of
advisory letter


Other action

RESOLUTION BY AGREEMENT

The RBA mechanism was established to conclude disciplinable cases of moderate severity in lieu of disciplinary proceedings. This allows an efficient and effective alternative for resolving potential disciplinary cases which meet the pre-determined criteria.

Criteria:

- Complaints under sub-paragraphs (vi), (viii), (ix) and (x) of section 34(1)(a) of the PAO;
- Cases not contested by the respondents; and
- Cases not involving complaints of dishonesty.

Other factors:

- Nature and seriousness of a complaint.
- Relevant precedent cases.
- Past disciplinary records of the respondents.
- Aggravating or mitigating circumstances.

Applicable terms:

- Mandatory public censure including publication of the RBA terms and relevant facts.
- Optional administrative penalty not exceeding HK\$50,000.
- Other actions, such as payment of costs, and additional conditions and restrictions, as deemed necessary by Council.

The terms within the RBA are non-negotiable. If they are not accepted by all stakeholders, the complaint may be referred to the Disciplinary Panels unless significant new information has been found subsequent to the original decision, which may warrant reconsideration of the original decision.

No. of completed RBAs



2022 (13)



2021 (15)

For details of the RBAs, visit: <https://www.hkicpa.org.hk/en/Standards-and-regulation/Compliance/Resolution-by-Agreement>

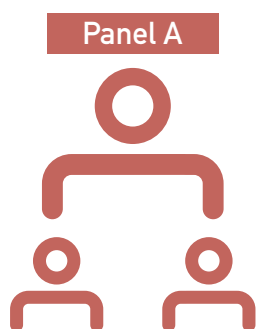
DISCIPLINARY MATTERS

What is a disciplinary proceeding?

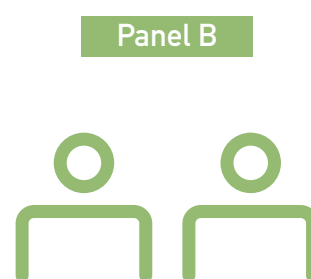
A Disciplinary Committee is constituted when Council concludes that a complaint is serious enough to warrant referral to the Disciplinary Panels. The sequence of steps by which the matter is adjudicated would be referred to as disciplinary proceedings.



Composition of a Disciplinary Committee

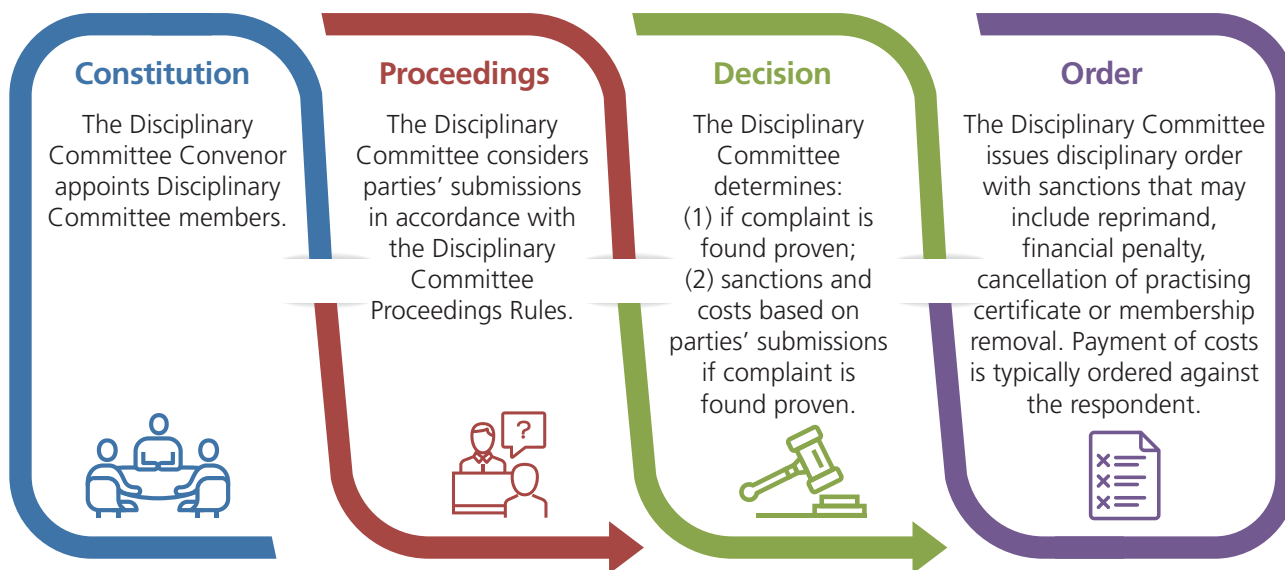


Three lay members appointed by the government, one of whom is selected as the committee chair.



Two CPAs, one of whom must be a practising CPA.

Process



For details on the disciplinary process, visit: <https://www.hkicpa.org.hk/en/Standards-and-regulation/Compliance/Disciplinary>

Complaints raised by Practice Review Committee

In addition to complaints recommended by PCC to refer to the Disciplinary Panels, the Compliance Department processes complaints raised by the PRC against practising CPAs. The department's work includes evaluating the case information and seeking further representations from the respondents as necessary, and preparing summary of findings and/or proposed complaint letters.

PRC complaints processed

	Beginning balance	Received	Reported to Council	Other action	Ending balance
1 July 2021 - 30 June 2022	15	8	(19)	-	4
1 July 2020 - 30 June 2021	14	9	(7)	(1)	15

Compliance Department's involvement in disciplinary matters

Preparation of proposed complaints and reporting to Council

Cases recommended for referral to the Disciplinary Panels require preparation of the proposed complaint letters and invitation to the respondents to make submissions under rule 5 of the Disciplinary Committee Proceedings Rules (Rule 5 submissions).

The department drafts proposed complaint letters, addresses associated legal issues, and seeks Rule 5 submissions.

After receiving and reviewing the Rule 5 submissions, the department evaluates the impact, if any, on the merits of the complaints and then reports the cases to Council for consideration of referral to the Disciplinary Panels.

Disciplinary proceedings

The department works closely with the prosecutors (the Institute's Legal Department and/or externally appointed counsel) throughout different stages of the proceedings, including submissions of complainant's cases and replies, disciplinary hearings, submissions of proposed sanctions and costs, and addressing technical and/or factual issues raised by disciplinary committees or parties to the proceedings.

Clerical support to Disciplinary Committees

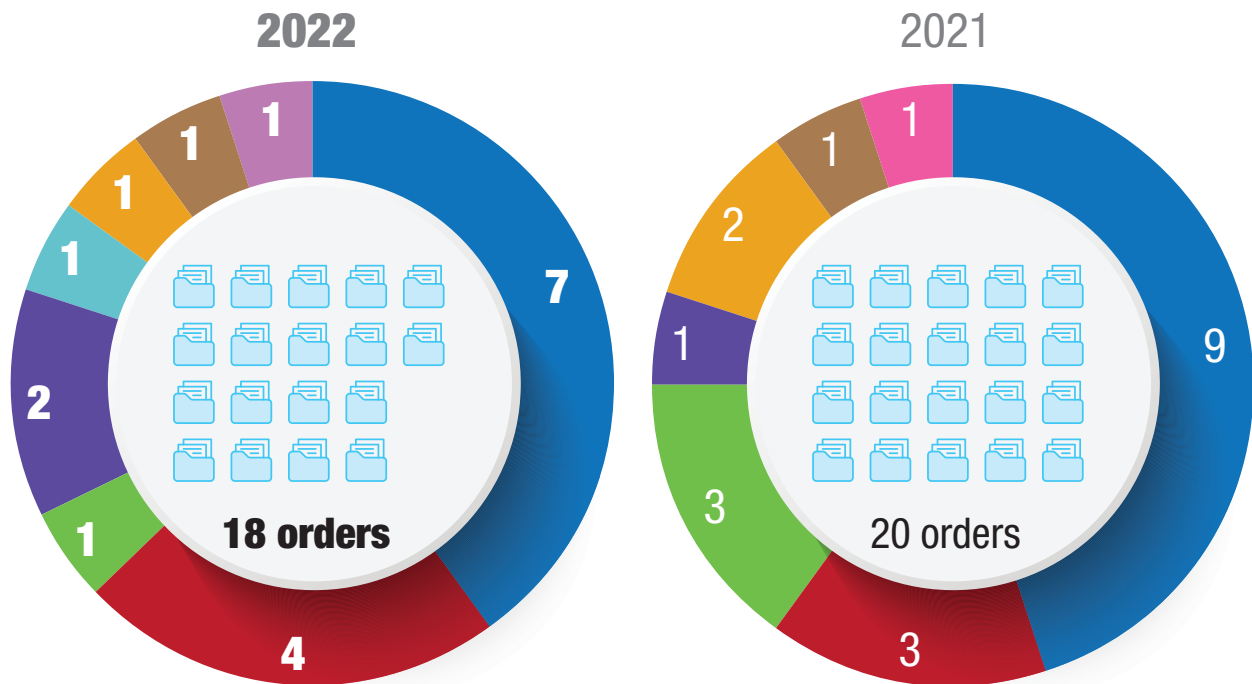
The department's professional staff members are appointed as clerks to Disciplinary Committees. The clerk in each disciplinary case monitors the progress of the case and acts as the point of contact for the Committee and parties to the proceedings. The clerk's duties include apprising the Committee of the steps necessary to direct the proceedings in accordance with stipulated guidelines, alerting the Committee to any procedural matters arising, arranging and attending hearings, and providing other administrative and secretarial support as necessary.

Disciplinary case statistics

	Beginning balance	Referred by Council	Completed/ settled	Ending balance
1 July 2021 - 30 June 2022	16	15	(19)	12
1 July 2020 - 30 June 2021	28	13	(25)	16

Disciplinary outcomes

Details regarding the 18 disciplinary orders issued for 19 cases during the period are presented on the Institute's website (2021: 20 disciplinary orders issued for 21 cases).



- Reprimand and penalty
- Reprimand, cancellation of practising certificate and penalty
- Removal of membership / studentship
- Reprimand and removal of membership
- Reprimand, non-issuance of practising certificate and penalty
- Reprimand and cancellation of practising certificate
- Reprimand, cancellation of practising certificate, removal of membership and penalty
- Reprimand and non-issuance of practising certificate
- Penalty and removal of membership

Disciplinary orders under appeal are not published. For further details of the published orders, visit: <https://www.hkicpa.org.hk/en/Standards-and-regulation/Compliance/Disciplinary/Disciplinary-Orders>

SETTLEMENTS

In certain circumstances, the interests of the public, the profession, and the Institute's regulatory objective may be best served by early resolution of complaints which are either expected to result in disciplinary proceedings or are already the subject of disciplinary proceedings. Parties who are subject to potential disciplinary action may seek to negotiate settlement of a complaint with the Institute. Settlement may be proposed and negotiated at any stage during the process, although a respondent wishing to settle the matter should approach the Institute as early as possible to ensure timely consideration.

The key principle of a settlement is that it represents a just and proper resolution of the complaint.

The following criteria will be taken into account when considering whether it is appropriate for the Institute to agree to a settlement proposal:

- (a) The public interest in:
 - preserving the integrity, reputation and status of the accountancy profession;
 - ensuring members of the profession adhere to professional standards and members of the public are protected from harm; and
 - the swift resolution of disciplinable complaints.
- (b) Nature and seriousness of the alleged conduct.
- (c) Likely sanctions that would have been imposed by the Disciplinary Committee had the complaint been proved.

All settlements will be subject to publicity, by publication in *A Plus*, press releases and/or such other means deemed appropriate by the Institute or the Council. Starting from March 2021, settlements are also published on the Institute's website for five years.

During the year, the Institute approved 8 settlements (2021: 3).

For details of the settlements, visit <https://www.hkicpa.org.hk/en/Standards-and-regulation/Compliance/Settlements>

CONSTITUTION OF INVESTIGATION COMMITTEES

What is an investigation?

Council may constitute an Investigation Committee when:

- it has reasonable suspicion that a member has not followed professional standards issued by the Institute or has committed other improper acts; and
- the Investigation Committee's powers are needed to assist the Council in determining if a case should be referred to the Disciplinary Panels.



Composition of an Investigation Committee

Panel A



Three lay members appointed by the government, one of whom is selected as the committee chair.

Panel B



Two CPAs, one of whom must be a practising CPA.

Process

- The Compliance Department provides support and gathers evidence according to the committee's instructions.
- The responsibility for investigation of matters involving listed entities is with the FRC. Accordingly, the Institute is only responsible for investigations of non-listed entities and those involving listed entities that commenced before July 2007.
- No investigation committees were constituted during the period (2021: nil).

SECTION 42 OFFENCES

Some of the cases involving non-members concern section 42 of the PAO, which makes it an offence for individuals or companies to fraudulently hold themselves out as CPAs / CPA practices or offer services that only practising CPAs are qualified to provide.

As the statutory licensing body of the accounting profession in Hong Kong, the Institute not only regulates the conduct of CPAs but also protects the public image of the profession by taking action against section 42 offenders. In this connection, the Institute encourages its members and members of the public to forward evidence of suspected section 42 violations.

During the period, regulatory actions were taken against 4 offenders (2021: 6 offenders).

Process

When the Institute receives promotional materials that suggest section 42 violations, the Compliance Department undertakes the regulatory actions below:



COMPLIANCE DEPARTMENT – HALF-YEAR PROCESS REVIEW REPORT 2022

A. Introduction

1. The ROB oversees the performance and outcomes of regulatory functions, and provides advice on policies, priorities and resource allocation in respect of the Institute’s regulatory matters. As part of its oversight function, the ROB conducts annual process reviews on the operations of the Compliance Department (Compliance), as well as the Legal Department’s (Legal) management of the disciplinary proceedings.
2. The previous process review was completed for the 12-month reporting period from 1 July 2020 to 30 June 2021. The latest process review was conducted in March/April 2022 which covered a total of 69 cases which were completed during the six-month period from 1 July to 31 December 2021. The case mix consisted of nine disciplinary cases, three settlements, and five RBAs. The remaining 52 cases were either resolved with a Disapproval Letter or dismissed.
3. Under a pre-determined criteria set by the ROB Chair, six cases were selected randomly for review. The sample of six contained two disciplinary cases, one settlement, one RBA, one disapproval letter, and one dismissal.
4. After receiving the case files from Compliance, ROB members (Reviewers) referred to existing guidance on due process, statutory requirements, and applicable rules to conduct the process review. The review focuses exclusively on process. It did not address the propriety of case judgments and conclusions, which would be beyond the remit of the process review.

B. Reviewers’ Findings and Compliance’s Responses

(i) Compliance with due process

5. Reviewers considered whether Compliance had followed the established complaint handling process.
6. All selected cases were handled in accordance with established procedures. There were no findings on this point.

(ii) Timeliness

7. Reviewers examined the amount of time each complaint took to determine whether it progressed through the complaint handling process in accordance with Compliance’s established triage system. They assessed whether the time spent was reasonable and, if not, whether circumstances justified the delays.

Reviewers' Observations

8. In general, results showed adherence to the process and procedures designed to ensure timeliness. However, one of the cases referred from the PRC in August 2019 was cited for seemingly unnecessary delays.
9. There appeared to be minimal activity on the case until February 2021 when the initial draft summary of findings was prepared. The respondents received the summary of findings in May 2021, and subsequently submitted their representations. The settlement proposal was presented to Council in September 2021.
10. The Reviewer noted that an increase in the volume of PRC referrals and a resulting change in procedures may have contributed to the delay. The case handler of the present settlement case was "new" to processing PRC cases.
11. While it is understandable that delays could happen due to case handlers' workload and the unpredictability of case referrals at any one time, the Reviewer found that the time lapse between the respondents' receipt of notification of complaint and their receipt of summary of findings is undesirable and should be avoided.

Compliance's response

12. At the May 2020 meeting, ROB was advised that loss of one headcount in July 2018, increased responsibility concerning PRC cases, and increased regulatory referrals would result in longer completion times.
13. Regardless, Compliance acknowledges that extensive delays are undesirable and remedies to minimize delays should be promptly executed if the circumstances arise in the future.

(iii) Quality of case handling

14. Reviewers assessed whether allegations raised by complainants were identified and addressed. For the dismissal case, Reviewer considered whether reasons for dismissing the complaint were adequately explained.
15. Reviewers did not identify any findings that would indicate a lack of quality in case handling.

Members of the Regulatory Oversight Board in 2022

Name	Position	Company
Mr. POGSON, Timothy Keith	Chairman	Ernst & Young
Mr. CHAN, Kam Wing, Clement	Member	BDO Limited
Ms. CHOI, Heung Kwan, Agnes	Member	-
Ms. HUI, Grace	Member	-
Ms. NG, Choi Yuk, Theresa (Appointed 20 January 2022)	Member	-
Dr. SO, Shiu Tsung, Thomas	Member	Grandall Zimmern Law Firm
Ms. TSUI, Lai Ching, Kitty	Member	Companies Registry
Mr. YIH, Lai Tak, Dieter, JP (Appointed 20 January 2022)	Member	Kwok Yih & Chan

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