



Authority Update



August 2011

CEO/Registrar

In this newsletter...

- A searchable complaint decisions database that provides useful information on CAC decisions is now available at www.reaa.govt.nz.
- We received 65 continuing education submissions. There are likely to be some improvements but no major changes to the proposed framework which comes into effect on 1 January 2012.
- Please let us know if you have changed your contact details by completing a [change of circumstances form](#).
- Two Tribunal decisions of misconduct have been published since our last newsletter. One for engaging in a physical fight and one for not disclosing their relationship with the vendor and for providing false evidence of deposits and money in bank accounts.
- Three decisions of unsatisfactory conduct have been published since our last newsletter. One for removing a private sign without permission, one for paying out a deposit without legal authority or entitlement and one for failing to negotiate the commission when they originally said that the commission was negotiable.

Complaint decisions database is now live

We have just launched our complaint decisions [database](#). This is a searchable database that is accessible from our website. All Complaints Assessment Committee (CAC) decisions that we are directed to publish, as well as Tribunal decisions, are available from this database.

The database allows you to easily search published decisions and provides useful information on CAC and Tribunal decisions. The decision database has been developed to support the transparency of the disciplinary process.

This database is a useful tool for both the industry and buyers and sellers. It means the industry can easily find information on what is not acceptable from a real estate professional, which will assist in raising industry standards. For buyers and sellers, the database means information is available on what is and what isn't acceptable behaviour from their real estate agent, meaning they go into the buying and selling process better informed and better protected.

To use the database just go to the [Complaint Decisions](#) section of our website. There is also a button on the Homepage that links to the database.

Continuing Education Consultation

We ran a consultation period on our proposed continuing education framework between 1 June and 16 July 2011. We received 65 submissions from licensees, agencies, training providers, REINZ and other stakeholders. The submissions were primarily supportive. As a result, there are likely to be some improvements but no major changes to the proposed framework.

The next steps are to get our Board to consider any changes to the original proposal, get Ministerial approval for the framework and gazette the new rule in the New Zealand Gazette by late November 2011.

A full report on the final framework and the consultation will be made publically available once we receive Ministerial approval.

Continuing education will need to be completed from 2012 onwards.

Thank you to everyone who made a submission.

Have your contact details changed?

Please remember to let us know if there are any changes to your contact details e.g. where you work, address, phone number or email address. Not only is it important that we have up to date contact details for you but the Act requires you to advise us of any change of circumstances within 10 working days.

To advise us of any changes just complete a [change of circumstances form](#).

Keith Manch

Chief Executive/Registrar

Compliance Update

Our new compliance approach began on 1 July 2011. The following table provides an overview of concerns received in July (under the new approach).

Number of Concerns:	July 2011	TOTAL
Received:	89	89
Open:		57
• ADR:		8
• Enforcement:		44
• To be categorised:		5
Withdrawn:	0	0
Closed:	32	32
• No action required:	4	4
• Consumer information:	14	14
• Compliance advice:	14	14

• ADR:	0	0
• Enforcement:	0	0
CAC decisions:	0	0
• No further action:	0	0
• Unsatisfactory conduct:	0	0
• Charges laid before the Disciplinary Tribunal (by a CAC):	0	0
Appeals:	0	0
Withdrawn appeals:	0	0

The table below provides information on complaints we received prior to July 1 that are still in the process of being resolved.

Number of:	July 2010 – June 2011	July 2011	TOTAL
Complaints/allegations:	685	0	685
Complaints/allegations under investigation:			294
Withdrawn complaints:	43	0	43
CAC decisions not to inquire:	111	6	117
CAC determinations made:	512	60	572
• Unsatisfactory conduct:	101	16	117
• No further action:	383	44	427
• Charges laid before the Disciplinary Tribunal (by a CAC):	28	0	28
Closed complaints:	655	66	721
Closed allegations:	106	67	173
Appeals:	80	11	91
Withdrawn appeals:	17	0	17

Licensing Update

Number of:	TOTAL (as at 31 July 2011)
Active licences:	13,692
• Company	822
• Agent	2,044
• Branch Manager	526
• Salesperson	10,300
Suspended licences:	3,437
• Company	85
• Agent	224
• Branch Manager	95
• Salesperson	3,033

Real Estate Agents Disciplinary Tribunal Findings of Misconduct

Below is an overview of the latest decisions of misconduct that have been published by the Real Estate Agents Disciplinary Tribunal:

You can search for and view the decision documents on our [website](#).

Decision Number: (2011) NZREADT 12

Reference Number: READT 066/10

Decision Date: 13 June 2011

Overview: The defendants engaged in a physical fight at a client's apartment in the presence of other persons.

Penalty: Both defendants censured and ordered to pay a fine of \$600 each.

Decision Number: (2011) NZREADT 11

Reference Number: READT 060/10

Decision Date: 31 May 2011

Overview: Defendant sold the vendor's property to her nephew without disclosing this to the vendor and the defendant deliberately created evidence of deposits and money in bank accounts to deceive the lender into believing that the buyer had sufficient money for a deposit on the property.

Penalty: Order that the licensee's licence be cancelled and that she pay a fine of \$750. As the conduct occurred before the commencement of the Real Estate Agents Act 2008, orders were limited to those that were available under the Real Estate Agents Act 1976.

Unsatisfactory Conduct Determinations



Below is an overview of the latest decisions of unsatisfactory conduct that have been made by Complaints Assessment Committees (CACs). Under [section 78 \(h\)](#) of the Real Estate Agents Act 2008, CAC's may publish their decisions. This is done to ensure that the disciplinary process remains transparent, independent and effective.

You can search for and view the decision documents on our [website](#).

Things to Remember

Approved Guides:

Licensees are required to provide copies of the relevant approved guide before an agency agreement is signed and before a sale and purchase agreement is signed. You must also get written acknowledgement that the guides have been received.

Complaint Number: CA4050039**Decision made:** 16 June 2011

Overview: Licensee breached rule 6.2 of the Code of Professional Conduct and Client Care as she failed to negotiate her commission when she originally said that the commission was negotiable. This influenced the vendors to sign the listing with the licensee and to accept the price offered by the purchasers.

Decision/Penalty: Finding of unsatisfactory conduct under section 72 of the Real Estate Agents Act 2008. Order censuring the licensee.

Complaint Number: CA4030356**Decision made:** 10 June 2011

Overview: Licensee removed the complainant's private sign without permission.

Decision/Penalty: Finding of unsatisfactory conduct under section 72 of the Real Estate Agents Act 2008. Order that the licensee apologise to the complainant and his wife.

Complaint Number: CA4076805**Decision made:** 24 May 2011

Overview: Licensee paid out a deposit it held without legal authority or entitlement as the contract was still conditional (on the issue of a new certificate of title) when the deposit was paid.

Decision/Penalty: Finding of unsatisfactory conduct under section 72 of the Real Estate Agents Act 2008. Order that the licensee make a payment to the Real Estate Agents Authority of \$1,000.

Please do not reply to this newsletter. If you wish to contact us please call us on 0800 for REAA (0800 367 7322) or 04 471 8930 or email us at info@reaa.govt.nz.

Disclosure of rebates, discounts or commissions:

Every agency agreement must contain a statement by the agent about rebates, discounts and commissions. This statement must be as described in [Form 1](#) of the Duties of Licensees Regulations 2009.

Written appraisals:

An appraisal of land or a business must be provided in writing to a client by a licensee; must realistically reflect market conditions; and must be supported by comparable information on sales of similar land in similar locations or businesses (Rule 9.5 of the Professional Conduct and Client Care Rules 2009).

Conflict of interest:

Under [section 134](#) of the Act, if a licensee is carrying out real estate agency work directly or indirectly for a client, he or she cannot acquire the property or business concerned without the consent of the client. The same applies to any person related to the licensee.

Trust accounts:

All money received by an agent in relation to a real estate transaction must be paid to the person who is lawfully entitled to that money, or in accordance with that person's instructions. Until the money has been paid out, it must be held in a trust account.

Further information can be found in the

[Compliance Information](#) section of the Authority's website.

visit: reaa.govt.nz

