



Authority Update



August 2012

CE/Registrar

Welcome to the August newsletter. There is a lot happening at the moment and we have a number of activities underway that this newsletter updates you on. The continuing education topic for 2013 has been set and is "the legal and physical description and representation of real estate". This topic was decided in conjunction with the Continuing Education Advisory Group and will include searching and interpreting titles; basics of land ownership; council planning and compliance and the basics of building structures. We will be calling for applications to become a provider of verifiable continuing education for 2013 and 2014 in due course.

The second round of submissions on the proposed changes to the Code of Conduct closed on Friday 27 July and we received 27 submissions. We are now analyzing these submissions. As mentioned in our last newsletter, once the Code of Conduct has been approved by the Minister, you will be provided with information on the changes and will be given plenty of time to become familiar with these changes before they come into effect.

Another key initiative we have underway is the development of an online licensing portal. This functionality is something that the industry has been requesting and we are pleased to let you know that we expect it will be available from our website in December this year. The portal will allow you to manage your licence quickly and easily online - you will be able to do everything from renewing your licence, updating your contact details to suspending your licence. We will provide you with everything you need to know about using this portal before it launches in December.

Also included in this newsletter is:

- We are establishing four [industry advisory groups](#) and are calling for applications to be part of these groups;
- [Compliance guidance](#) information on salespeople advertising in their own name and what new salespersons can do and how to supervise them properly;
- An update on the number of licensees who have enrolled to complete, or have completed, their verifiable [continuing education](#) requirements;
- Information on [licensing statistics](#) as at 31 July 2012; and

- A general [compliance update](#) including recent decisions from the [Tribunal](#) and the [Complaints Assessment Committees](#).

Industry advisory groups to be established

We are in the process of establishing a number of industry advisory groups. These groups will provide us with a valuable way to interact with the industry and hear from those working in real estate.

We are establishing four groups - residential, commercial, rural and business. It is envisaged that each group will have up to 10 unpaid members, will be representative of the diversity of the industry and will meet approximately two times per year or more frequently if required.

Having groups focused on particular areas of expertise will help us to be aware of emerging issues for that particular area of practice, as well as any issues for the industry as a whole.

If you are interested in being considered for appointment to one of these groups, please send your details, including your curriculum vitae, to industrygroups@reaa.govt.nz. Applications close on Friday 31 August 2012.

[Back to Top](#)

Compliance Guidance Information

Salespeople advertising in their own name

We are concerned about the practice of salespersons advertising in their own name. This most commonly occurs in internet advertising.

For instance, Joe Blogs is a licensed salesperson and he operates a website under the title Springfield Properties. People who make contact via this site make contact directly with him and nowhere on the site does it make it clear that he is a salesperson working for agency ABC Limited.

Advertising in this manner is misleading and confusing for consumers. If the activities advertised by the salesperson involve real estate agency work then they cannot advertise in their own name. Instead, they must ensure that all advertising material clearly identifies that they are working on behalf of the agency they are associated with - this is because it is unlawful for a salesperson to carry out real estate agency work other than under the supervision of a licensed agent or branch manager.

In the example given above, to comply with the Real Estate Agents Act 2008, the salesperson must make it clear on the site that "Springfield Properties" is the trading name for the agency they work for. For instance, the advertisement could read "Springfield Properties" and then underneath have "ABC Limited, licensed REAA 2008".

New Salespersons: What they can do and how to supervise them properly

An information sheet on what new salespersons can and can't do in their first six months is now available from our [website](#).

This information sheet has been prepared jointly with REINZ and provides information on what real estate agency work new salespersons can do during their first six months of being licensed and how agents and branch managers can ensure that they are supervised effectively.

Entry into the real estate industry is a vulnerable time for new salespersons as well as those supervising them. This information sheet is a valuable tool for managing that risk and all new salespeople, as well as

those responsible for supervising them, are urged to familiarise themselves with this information sheet.

[Back to Top](#)

Continuing Education

At the end of June 2012 the providers of the 2012 verifiable continuing education programme supplied us with a list of licensees who have enrolled in/completed the verifiable continuing education with them. As of the end of June over 7,000 licensees have enrolled in/completed the 2012 verifiable continuing education programme. A further 1,200 or so are exempt from completing the 2012 verifiable continuing education because they completed a prescribed qualification in 2011 or 2012.

That means that nearly 4,000 licensees still have to enrol with a verifiable continuing education provider. If you are one of these 4,000 licensees, you need to make sure that you complete the 2012 requirements by 31 December 2012 so you can renew your licence in 2013.

We have sent out reminders to all licensees who we believe still need to enrol with a provider. If you do not complete the 2012 10+10 continuing education requirements, when you come to renew your licence in 2013 it may be cancelled (see provision s of section 54(d) of the Real Estate Agents Act 2008).

We encourage you not to leave completing your 10 hours of verifiable continuing education until the last minute. A list of providers who you can enrol with to complete this training is available from www.reaa.govt.nz.

[Back to Top](#)



Kevin Lampen-Smith
Chief Executive/Registrar

Compliance Update

The following tables set out recent compliance activity.

Table 1: Responses to concerns received since 1 July 2011

	Jul-Sep 2011	Oct-Dec 2011	Jan-Mar 2012	April-June 2012	July 2012
Consumer information	46	29	13	19	5
Compliance advice	27	26	21	17	6
Alternate dispute resolution	18	7	6	4	1
CAC investigation into complaint	136	115	93	104	20
Total	227	177	133	144	32

This table shows that over the last four quarters, there has been a slight increase in the percentage of complaints that have required investigation by a Complaints Assessment Committee (CAC) - 60%, 65%, 70% and 72% respectively.

Table 2: CAC decisions since 1 July 2011

	Jul-Sep 2011	Oct-Dec 2011	Jan-Mar 2012	April-June 2012	July 2012
Decision not to inquire	3	3	2	3	0
Decision of no further action	111	72	59	35	18
Decision of unsatisfactory conduct	42	27	30	23	11
Decision to lay charge before the Tribunal	8	1	2	9	1
Total	164	103	93	70	30
Decisions appealed	41	25	12	8	3

Table 2 above shows the total number of decisions that have been made by CACs since 1 July 2011. The data includes decisions that relate to complaints that were received both pre and post 1 July 2011, when the new triage process was introduced.

The percentage of unsatisfactory conduct decisions has increased slightly over the last four quarters - 26%, 26%, 32% and 33% respectively. This is to be expected as post 1 July 2011 only the more serious complaints are referred to a CAC. Complaints that are less serious in nature are resolved via other interventions such as compliance advice or consumer information.

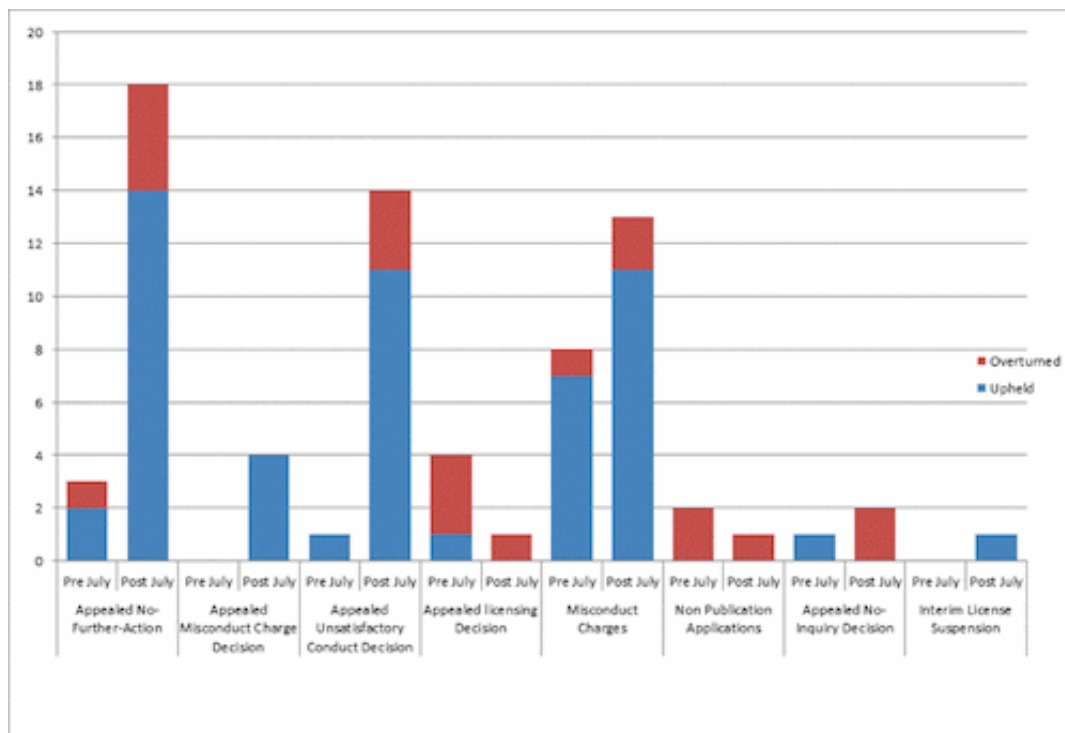
Also of note is that the percentage of decisions of no further action has steadily decreased over the last three quarters (70%, 63% and 50%) and the April-June 2012 quarter saw a big increase in the number of charges laid with the Tribunal. There has also been a steady decline in the percentage of CAC decisions that are being appealed (25%, 24%, 13% and 11%).

[Back to Top](#)

Real Estate Agents Disciplinary Tribunal Decisions

Graph 1 below summarises all Real Estate Agents Disciplinary Tribunal (Tribunal) decisions made from when the Tribunal first sat in November 2010 through to 26 July 2012.

In total, 67 cases have been decided. There are a further 93 cases that are before the Tribunal awaiting their consideration.

Graph 1: Tribunal decisions November 2010 to 26 July 2012

[View this graph on our website.](#)

Since our last newsletter on 29 June 2012, five new decisions of misconduct have been published. These decisions relate to creating real estate sales in a fraudulent manner ([NZREADT 37](#)) ; selling a car park they didn't own ([NZREADT 34](#)); forging a signature on a settlement notice ([NZREADT 15](#)) ; not letting the purchasers know that they (the licensee) hadn't actually been inside a property ([NZREADT 23](#)) and , amongst other things, failing to provide all written offers on a property to their client and marketing a property for sale without the authority of all owners of the property ([NZREADT 40](#)) .

[Back to Top](#)

Unsatisfactory Conduct Decisions

10 decisions of unsatisfactory conduct have been published since our last newsletter on 29 June. The most common reason for a decision of unsatisfactory conduct over this period was that the licensee did not exercise skill, care, competence and diligence when preparing the listing and/or sale and purchase agreements.

Table 3: Decision categories

Topic	Number	Relevant Cases
• Failed to do a title search	1	CB5789711
• Did not exercise skill, care, competence and diligence when preparing the listing and/or sale and purchase agreements	4	CA5274786 CA5228184 CA5274939

		CA5274885
• Not filling out and getting signatures on financial disclosure/consent forms	1	CB5805227/CB5805506
• No market appraisal	2	CA3738999 CA5334087
• Gave a security code to a client's house to a third party	1	CB5768705/CB5782331
• Did not explain how commission would be calculated or give an estimate of commission	1	CA3738999
• Included unnecessarily restrictive conditions within listing agreements	1	CB5523104
• Undue or unfair pressure	1	CA5334087
• Made material insertions to the signed sale and purchase agreement without having them initialed or signed by the complainants	1	CA5334087
• Disclosed confidential personal information	1	CA5334087

Note: A decision may fall into more than one category.

[Back to Top](#)

Licensing Update

There are currently 12,923 active licences which is a slight increase on the number of active licences at the end of May 2012 (12,857) and June 2012 (12,862). The number of suspended licences has decreased by 228 in the last two months with the majority of these licence holders letting their licence's expire.

Table 4: Licence numbers 31 July 2012

	Active	Suspended	Total
Individual	12,107	3,273	15,380
Agent	1,927	307	2,234
Branch manager	474	83	557
Salesperson	9,706	2,883	12,589
Company	816	96	912
Total	12,923	3,369	16,292

[Licence numbers by region](#)

[Back to Top](#)

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.

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.

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

visit: reaa.govt.nz

