



Authority Update



February 2013

Welcome to our first newsletter for 2013. It is already shaping up to be another busy year and we have kicked off the new year with the launch of our new [website](#).

The website has a fresh new look and information is clearer and easier to find. You can find all the information you need as a licensee in the "[For Licensees](#)" section. This section is divided into applying for a licence; maintaining your licence (renewals, change of circumstances, continuing education, surrendering and suspending your licence); your obligations; what happens if a complaint is made about you and forms and publications.

The new site also contains comprehensive information for consumers about the buying and selling process including information on agency and sale and purchase agreements; what buyers need to know about a property; what happens when an offer is made; different methods of buying and selling and what they can expect from their real estate agent.

Please be aware that any bookmarks/favourites you have saved will no longer work and you will need to recreate these. We hope that you enjoy using the new site and welcome any feedback you may have.



Kevin Lampen-Smith
Chief Executive/Registrar

Also included in this newsletter:

- An update for licensees who need to [renew their licences by 31 March 2013](#);
- A reminder to check out the information about the [new Code of Conduct 2012](#) coming into effect on 8 April 2013;
- Information about [changes to the conflict of interest disclosure requirements](#);
- Registrar's [decision not to grant a licence](#) upheld by Tribunal;
- A [compliance update](#), a [litigation update](#) and [Complaints Assessment Committee decisions](#);

- Information on [licensing statistics](#) as at 31 January 2013.

Renewals 2013

It is licence renewal time again. We were intending to have a licensee portal, which would allow you to renew online, ready for the 31 March renewals. Unfortunately we have not been able to implement this in time.

This means, that if your licence expires on 31 March 2013, you will need to download the renewal form from our [website](#) and complete and return it to us (with your payment) before 31 March 2013. As we have a new website, any bookmarks/favourites you may have saved to the renewal form will no longer work and you will need to download the form again from our [website](#).

This year we will only be sending out individual renewal reminders by email – we will not be sending out a letter as well. Companies will receive a letter as well as an email.

Please ensure that you get your renewal application to us before Easter - which is at the end of March. We must receive your renewal application before 31 March (a Sunday). If we do not receive it by then your licence will expire and you will no longer be able to carry out real estate agency work.

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New Code of Conduct 2012

If you have not already checked out the information on the new Code of Conduct 2012 - please take the time to [read about the changes](#) and [watch our video](#).

The new Code of Conduct comes into effect on 8 April 2013. There will be further communication closer to this date to remind you about the changes. If you have any questions please [email us](#) or call us on 0800 367 7322 or (04) 471 8930.

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Changes to conflict of interest disclosure requirements

An amendment has been made to [section 137 of the Real Estate Agents Act 2008](#) which impacts on your conflict of interest disclosure obligations.

The definition of someone who is related to a licensee has been extended to include a grandparent, a parent, or an aunt or uncle of the licensee or their partner (under a partnership agreement), their employee or a salesperson or branch manager engaged by them, or their partner (spouse, civil union, or de facto partner).

Please update your conflict of interest disclosure policies to reflect this change and ensure that you, and any licensees that work for you, are meeting this new disclosure requirement.

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Authority licensing decision upheld

The Real Estate Agents Disciplinary Tribunal has upheld the Registrar's decision not to grant Yang Shi a licence.

The Registrar declined Yang Shi's application for a salesperson's licence on the basis that she was not a

fit and proper person by reason of her criminal conviction for kidnapping.

This is a welcome decision. The applicant committed serious criminal offending for the purpose of financial gain and this conduct is incompatible with the high standards expected under the consumer focussed Real Estate Agents Act 2008. Buying or selling a property is often the largest and most important transaction a consumer will ever be involved in and it is essential that they can rely on the honesty and integrity of the licensees they are dealing with.

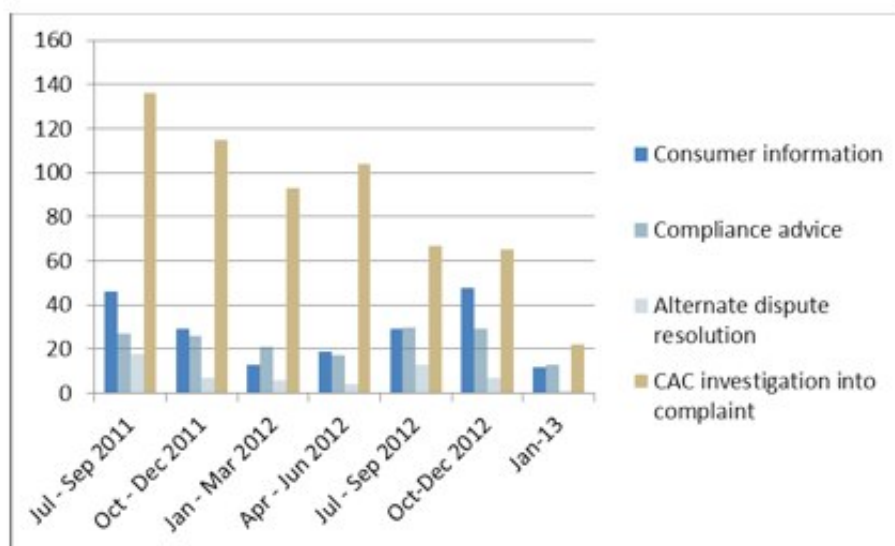
You can read the full decision on our [website](#).

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Compliance update

For the period 1 July 2011 to 30 June 2012, the first year operating under our new compliance model, approximately 66% of complaints were referred to a Complaints Assessment Committee (CAC) for resolution. In the current financial year to date (1 July 2012 to 31 January 2013), this figure reduced to approximately 44% of complaints. This reflects refinements we have made to this new approach that ensures the most appropriate intervention is applied to each complaint.

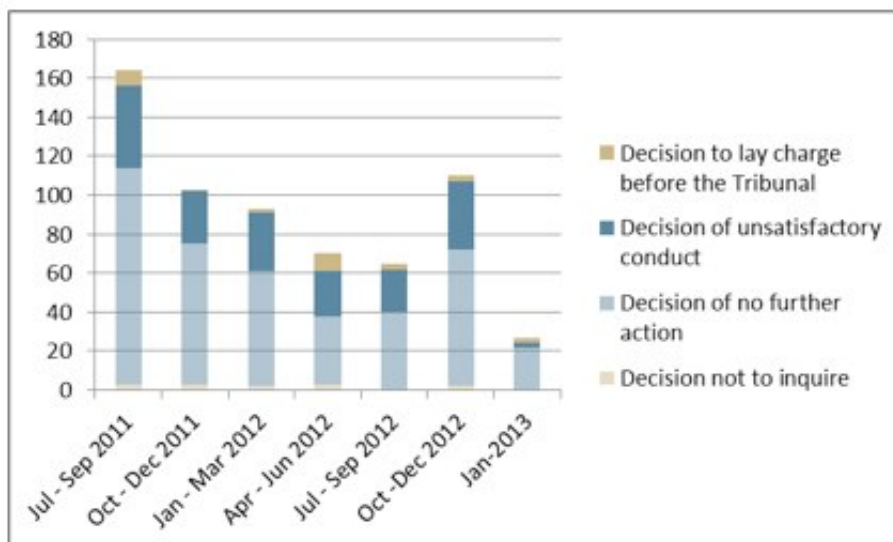
Graph 1: Responses to complaints received since 1 July 2011



Note that the volumes for January 2013 are based on one month compared with the other columns that are based on three months.

Graph 2 shows that in the October to December quarter CACs issued a higher number of decisions than the previous three quarters. A contributing factor to this was the Authority working with CAC's to improve turnaround times and increase the timeliness of CAC decisions. There was an increase in the proportion of no further action decision during January. Although this is a higher proportion than the average, these decisions relate to only four cases.

Graph 2: CAC decisions since 1 July 2011



Note that the volumes for January 2013 are based on one month compared with the other columns that are based on three months.

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Complaints Assessment Committee decisions

One decision of unsatisfactory conduct has been published since our last newsletter on 13 December 2012.

Table 1: Decision categories

Topic	Number	Relevant Cases
<ul style="list-style-type: none"> Did not disclose that he was part owner of the property he was selling and provided misleading information to the purchasers 	1	CB6699431

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Litigation update

Due to an upgrade to our internal compliance and licensing system we are unable to provide our normal litigation update in this newsletter. Our next newsletter will include improved information on litigation activity.

The Tribunal has made a number of decisions of misconduct in January which are summarised below. These decisions will be published on our [website](#) within the next few weeks.

- Former licensee Mark Fergusson has been found guilty on six charges of misconduct for

"badmouthing" a property that had previously been listed with him to potential purchasers, not providing a written appraisal, failing to honour a promise made to a vendor in return for her listing with him, removing pages from a LIM report before providing it to a potential purchaser, publishing a purported client testimonial on the internet and in marketing material without the client's knowledge or consent and inviting parties to sign documents authorising the early release of funds without advising them of the consequences of doing this.

The penalty is still to be decided however the Tribunal has indicated that cancelling his licence would have been an appropriate penalty if Mr Ferguson had not already surrendered it.

- Murray (Ross) Cooper has been found guilty of misconduct for withdrawing commission from deposit funds prior to the expiration of 10 working days and without the consent of the parties involved. In one case, the licensee withdrew funds even though the purchaser's solicitor had expressly advised him that the purchaser did not authorise the early release of the deposit. The Tribunal emphasised the pivotal nature of [section 123](#) of the Act and noted that it will treat breaches of duties concerning client funds by licensees very seriously.

The penalty is still to be decided.

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Licensing update

At the end of January 2013 there were 13,522 active licences. This is down slightly on the 13,980 active licences that there were at the end of January 2012.

Table 2: Licence numbers at 31 January 2013

	Active	Suspended	Total
Individual	12,700	3,257	15,957
Agent	1,935	300	2,235
Branch manager	483	78	561
Salesperson	10,282	2,879	13,161
Companies	822	102	924
Total	13,522	3,359	16,881

[Licence numbers by region](#)

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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 [Your Obligations](#) 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

