



Authority Update



September 2012

CE/Registrar

Welcome to the September newsletter. As we head towards the end of the year we are preparing our annual report which is a good opportunity to reflect on our progress. In our two core operational areas (licensing and complaints management), we have made a number of improvements and changes. The time taken to process license renewals reduced from an average of 53 days in 2010/11 to 8 days in 2011/12. This trend is expected to continue with the introduction of online licensing in 2013.

Feedback on our new compliance model implemented in July 2011 has been very positive. However, our average timeframes for resolving complaints is not as quick as it should be and there is still room for improvement. This continues to be a focus for us and we are working to ensure the process is timely but balanced, to allow for robust investigations and consideration by the Complaints Assessment Committees. If you are involved in a complaint and have questions or concerns please just contact us directly.

In the coming months we will start to publish more information and statistics on the timeliness and nature of our response to complaints.

Work on the updated Code of Conduct is progressing and it is currently being drafted by the Parliamentary Counsel Office before being sent to the Minister for approval. The earliest that the new code will come into effect is March 2013. You will be fully informed about the changes to the code and what they mean for you.

We have also been out and about meeting with agencies. Recently our staff have presented at conferences and forums in New Plymouth, Invercargill, Christchurch and Auckland. If you would like us to come along to any meetings or conferences please let us know - we would welcome the opportunity to be included.

Finally, please remember that we are just at the end of the phone. If you are unsure about something or have any questions about a case you are involved in just give us a call.

Also included in this newsletter is:

- An update on our four [new industry groups](#);
- [Compliance guidance](#) information on advertising material and the 'fit and proper' test that is applied to new licensees;
- More about the introduction of our [new website and the licensee online portal](#);
- An update on [continuing education 2012](#) and where things are at with continuing education for 2013;
- A general [compliance update](#) including recent decisions from the [Tribunal](#) and the [Complaints Assessment Committees](#);
- Information on [licensing statistics](#) as at 31 August 2012.

Industry advisory groups established

Thank you to those of you who said they would be interested in becoming part of our new industry advisory groups. We had a number of applications and are currently in the process of finalising membership.

The groups will cover four core areas of the industry - residential, commercial, rural and business brokers and will help us to keep abreast of emerging trends and gain insights into the particular issues and challenges impacting each business area.

These groups will not take up a lot of members' time and are intended to be a touchstone for the Authority. Meetings are likely to take place a couple of times a year with the details still to be finalised. I look forward to the opportunity that these new relationships will bring.

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Compliance Guidance Information

Advertising material

We have had several consumers call us recently to advise us of advertising material (such as flyers) soliciting for new business that are being delivered where they have clearly stated 'no junk mail' on their letterbox. Although this is a relatively minor nuisance, it is clearly significant enough for some consumers to give us a call.

Similarly with email advertising, if you regularly send out emails of new listings or real estate information to consumers you need to make sure that you have an 'unsubscribe' function. This allows consumers to opt-out of these updates that would otherwise be considered spam.

The reputation of the industry is being impacted by what some consumers see as unwanted email or advertising material.

Supporting staff to become licensed

Something to keep in mind for staff in your agencies that are aspiring to become licensed is that to do so they will be required to pass the 'fit and proper' person test. There are a number of criteria that an individual must meet in order to pass this test and information is available on our [website](#). Of particular note is that if an individual has been convicted of serious offences in the past they may not pass the test, regardless of the length of time that has lapsed.

Given the effort and time invested by you and the individuals wanting to become licensed, it is important that they are made aware of this early in the process. Please feel free to give us a call to discuss any questions about potential licence applicants.

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New website and the licensee online portal

The Authority will have a new website in November. All the same information will be there, but the site will be cleaner and more user friendly. We will let you know when it is live.

In our last newsletter we mentioned that we are developing a new licensee online portal (accessible via our new website). The portal will allow you to manage your licence renewal and other licence functions quickly and easily online. The portal is expected to go live in December and more information will be included in later newsletters.

There will likely be a short period of a few weeks where the information in the public register will be 'frozen' while background system changes take place. Information about this freeze will be published on our website so anyone accessing the public register during this period will know to call us for information if required.

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Continuing education

2012

Most of you should now be well into, or have completed your continuing education for the 2012 calendar year. If you have not made a start, we suggest you do so to ensure you do not put yourself under unnecessary pressure at the end of the year.

We will shortly be receiving information from providers about those who have not enrolled in continuing education and we will be following up with those individuals to make sure that they are aware of their obligations.

Once we receive confirmation that you have completed your continuing education we will update our database. However this information will not be available on our website (the public register). We are in the process of updating our operating system and as part of this, renewals will be done online (via the licensee portal). Once this update has been completed, you will be able to access your records, including the details of your verifiable continuing education. It is anticipated this will occur late 2012, early 2013.

2013

The continuing education topic for 2013 has been set and is "the legal and physical description and representation of real estate".

We have contracted the Open Polytechnic of New Zealand to set the core curriculum, learning objectives and write course materials ready for delivery in the New Year. Content development is underway and we are on schedule to have the material available to providers well before the end of the year.

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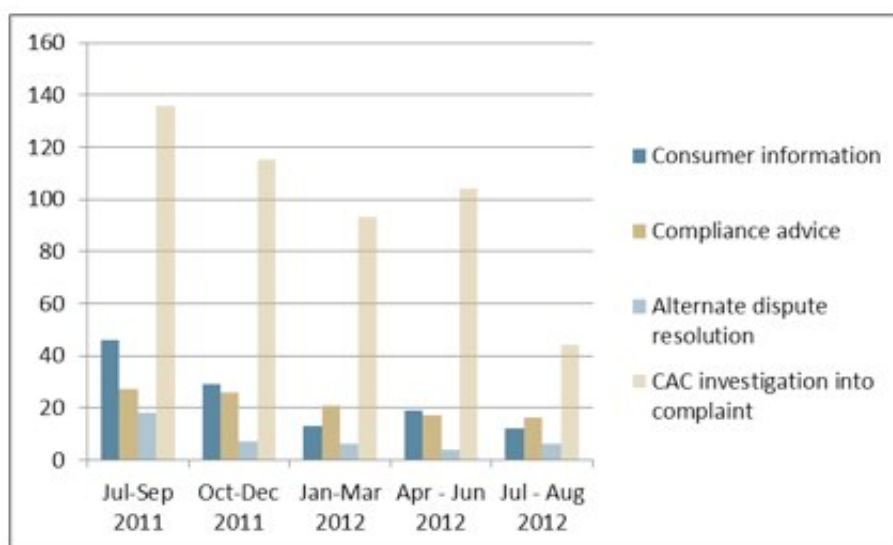


Kevin Lampen-Smith
Chief Executive/Registrar

Compliance Update

The following tables set out recent compliance activity. Since 1 July 2011, and the introduction of the new compliance model, approximately two thirds of complaints received have been referred to a Complaints Assessment Committee (CAC) for resolution.

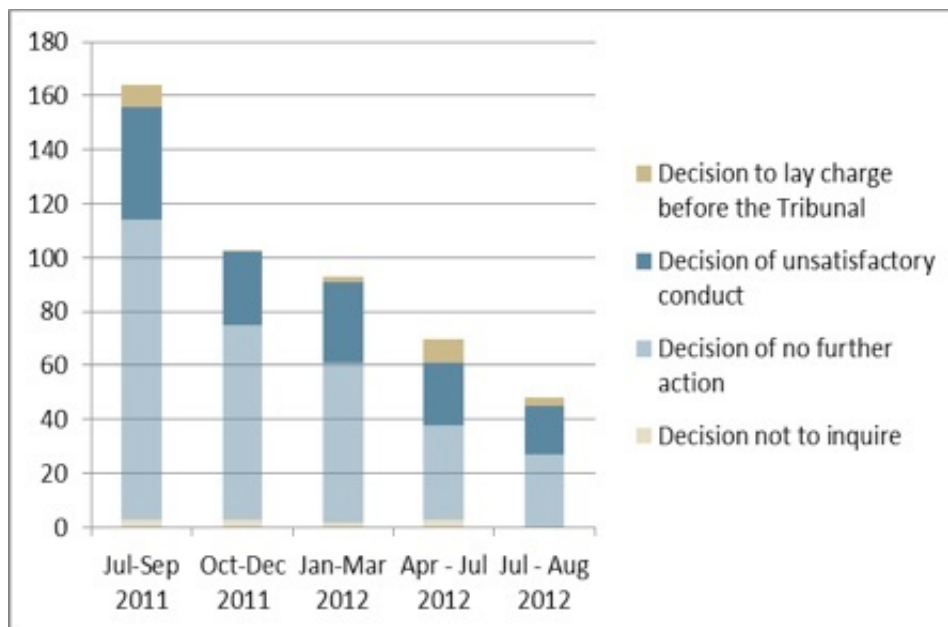
Graph 1: Responses to complaints received since 1 July 2011*



**Note that the July - August 2012 period contains two months of results compared with the other periods that contain three months.*

Graph 2 shows that there has been a decline in the number of decisions of 'no further action' since 1 July 2011. This is attributed to the new compliance model that applies a triage approach to new complaints which means less serious complaints are now being resolved without being referred to a CAC. The number of CAC decisions of unsatisfactory conduct, no further action, and decisions to lay charges before the Tribunal has remained relatively constant over this period.

Graph 2: CAC decisions since 1 July 2011*



**Note that the July - August 2012 period contains two months of results compared with the other periods that contain three months.*

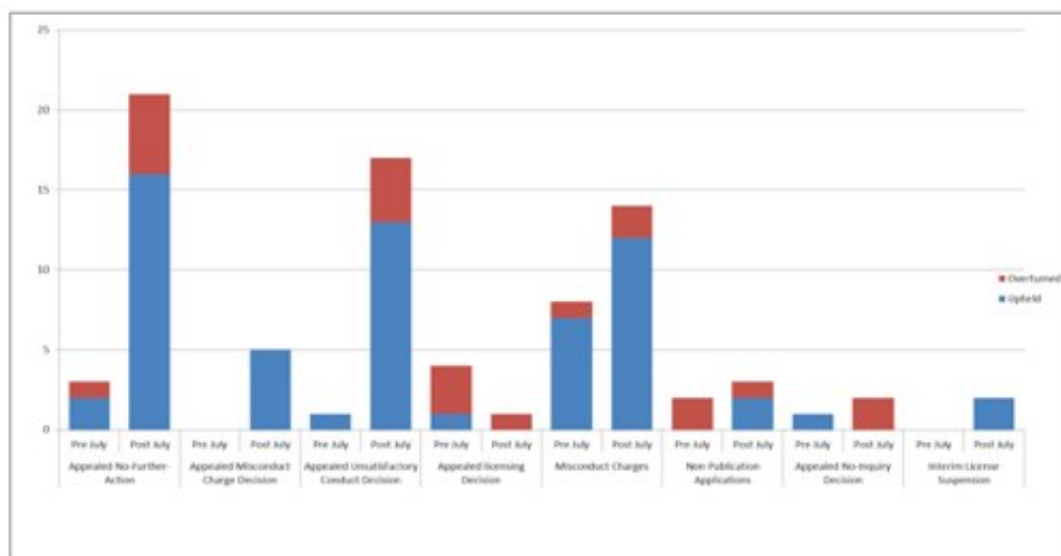
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Real Estate Agents Disciplinary Tribunal Decisions

Graph 3 below summarises all Real Estate Agents Disciplinary Tribunal (Tribunal) decisions made from when the Tribunal first sat in November 2010 through to 7 September 2012.

In total, 74 cases have been decided. There are a further 92 cases that are before the Tribunal awaiting their consideration.

Graph 3: Tribunal decisions to 7 September 2012*



**Note that the timeframes referred to are pre July 2011 and post July 2011.*

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

Since our last newsletter on 8 August 2012, one new decision of misconduct has been published. This decision relates to promoting a “lay-by” arrangement as an agent when they were not licensed to do the work ([NZREADT 30](#)).

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Complaint Assessment Committee Decisions

8 decisions of unsatisfactory conduct have been published since our last newsletter on 8 August 2012.

Table 1: Decision categories

Topic	Number	Relevant Cases
• Sent an inappropriate email about the price of the property to the purchaser	1	CA4078506
• Did not provide a market appraisal	2	CB5834288 CA5358657
• Failed to exercise skill and care when collecting a deposit	1	CB5834288
• Altered a listing agreement after it was signed	1	CA4825263
• Put the vendor at risk of paying double commission	2	CA4000737 CA5358657
• Presented a sale and purchase agreement to be signed before a sole agency with another agency was cancelled	1	CA4127619
• Insufficient knowledge of legislation relevant to real estate agency work	1	CB5621816
• Asked vendor to sign an incomplete listing form	1	CA5358531
• Made no effort to establish correct GST status	1	CA5358531
• Failed to advise the complainant to seek legal advice	1	CA5358657
• Offered a property to prospective purchasers without the complainants consent	1	CA5358657

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

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Licensing Update

As at the end of August there are 13,007 active licences which is a slight increase on the number of active licences at the end of July (12,923).

Table 2: Licence numbers 31 August 2012

	Active	Suspended	Total
Agent	1,924	311	2,235
Branch manager	474	83	557
Salesperson	9,794	2,871	12,665
Company	815	96	911
Total	13,007	3,361	16,368

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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 [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

