

Review of Complaints in Australia

What if you are dissatisfied with decisions about a complaint?

- If you are dissatisfied with the decision of the Professional Conduct Committee (PCC) about a complaint, you may request a review of:
 - a decision to dismiss a complaint without investigation or
 - a Final Decision¹.
- You have 21 days after notification of the PCC's decision to request a review.
- The review will be conducted by an independent Reviewer of Complaints.
- In certain circumstances the Reviewer of Complaints may accept a request for a review which is made more than 21 days after the date of notification of the Final Decision.

Who can ask for a decision to be reviewed?

- The person or entity who made the complaint can request a review of a decision made by the PCC.
- The Member who is the subject of the complaint or Notifying Principal can also request a review of a decision made by the PCC.
- Only the complainant can request a review of a decision of the PCC to enter into a Consent Order Agreement with the Member or Notifying Principal.
- The Member or Notifying Principal cannot request a review of a decision of the PCC to enter into a Consent Order Agreement.

When can the PCC decide to dismiss a complaint without investigation?

- Under the By-Laws, the PCC can decide to dismiss a complaint without investigation (By-Law 40.11(b)) if the complaint:
 - relates to conduct that does not amount to an Offence
 - is trivial, frivolous, vexatious or made in bad faith
 - is lacking in substance, vague, imprecise or unsupported by evidence, including where the complainant has failed to provide such further information as required by the PCC
 - is, may or could be, an abuse of process
 - relates to historical issues that the PCC considers would no longer be practical to investigate
 - is of an insufficient nature to warrant investigation
 - comes within the jurisdiction of another body or agency or is otherwise the subject of a separate PCC investigation and in all the circumstances it is reasonable for the complaint to be so dismissed.

¹ Capitalised terms are as defined in the By-Laws.

What is a Final Decision?

- Under the By-Laws, a Final Decision means a decision of the PCC to:
 - discontinue the investigation and take no further action
 - take no further action following the conclusion of an investigation
 - issue a professional reminder that the Member's or Practice Entity's conduct has fallen short of best practice
 - issue a Caution
 - require the Member and/or the Member's/Notifying Principal's Practice Entity to submit to a review
 - require the Member to complete professional development or other courses
 - investigate and make a decision about any other matter
 - propose a Consent Order Agreement.
- A review cannot be requested of a decision to refer a matter to the Disciplinary Tribunal.
- A review cannot be requested of a decision of the Disciplinary Tribunal or Appeals Council.

How do you request a review?

- You must request a review by using the proper form, signing the Costs Agreement and paying the Reviewer of Complaints Application Fee. Copies of these documents are on our website.
- You must send your application for a review either by email to membercomplaints@charteredaccountantsanz.com or by post to:

Conduct & Discipline
 Chartered Accountants Australia and New Zealand
 GPO Box 9985
 Sydney NSW 2000

What will happen in a review?

- The Reviewer of Complaints will only consider the PCC's file and any other documents or material held by CA ANZ concerning the original complaint together with the application for review. The Reviewer will not consider any new material.
- The Reviewer of Complaints will consider whether the PCC's procedure was appropriate and whether the PCC's decision was one which could reasonably have been made, taking into account the available information.
- The Reviewer of Complaints will not review a decision if it considers that the application is trivial, frivolous, vexatious or made in bad faith or not made in accordance with the By-Laws and Regulations.
- The Reviewer of Complaints may provide a draft report to the Member and, if relevant, the complainant setting out the factual matters and redacting any draft conclusions expressed in the draft report, to seek confirmation from the Member and the complainant that the factual matters are accurately stated.
- The Reviewer of Complaints may direct the PCC to reconsider the decision made in relation to the complaint.
- The Reviewer of Complaints will also consider whether you should pay the costs and expenses of the review, including whether the Reviewer of Complaints Application Fee should be refunded.
- The Reviewer of Complaints will report to the Member, the complainant, the PCC and, at the Reviewer's discretion, the Professional Conduct Oversight Committee in relation to the review.

This publication is intended to provide general information and is not intended to provide or substitute legal or professional advice. This publication has been prepared so that it is current as at the date of writing. You should be aware that such information can rapidly become out of date. You should not act, or refrain from acting, or rely on any statement, view or opinion expressed in this publication. You should make and rely on your own inquiries in making any decisions or giving any advice.

No warranty is given as to the correctness of the information contained in this publication, or of its suitability for use by you. To the fullest extent permitted by law, Chartered Accountants Australia and New Zealand (**CA ANZ**) is not liable for any statement or opinion, or for any error or omission contained in this publication and disclaims all warranties with regard to the information contained in it, including, without limitation, all implied warranties of merchantability and fitness for a particular purpose. CA ANZ is not liable for any direct, indirect, special or consequential losses or damages of any kind, or loss of profit, loss or corruption of data, business interruption or indirect costs, arising out of or in connection with the use of this publication or the information contained in it, whether such loss or damage arises in contract, negligence, tort, under statute, or otherwise.