

The Complaints Process for Members

NB: this guide does not relate to complaints made about Members of NZICA

What is CA ANZ's professional conduct role and purpose in relation to complaints?

- CA ANZ's purpose is to act in the public interest and ensure that members uphold the highest ethical and technical standards.
- CA ANZ's professional conduct role is to investigate complaints in accordance with the By-Laws, and if necessary, take appropriate disciplinary action.
- Complaints can be made against:
 - members of CA ANZ; and
 - former or suspended CA ANZ members.
- CA ANZ cannot require members to:
 - take a particular course of action or
 - make restitution for any financial loss was allegedly caused by members.
- CA ANZ does not have a fidelity fund. Any claims that members have caused financial loss may need to be pursued through the court system.

How CA ANZ investigates complaints

- For full details of the rules that govern the CA ANZ professional conduct process, see section 5 of the By Laws on our website (particularly By-Laws 39 and 40.1 to 40.40).
- The Professional Conduct Committee (PCC) is responsible for investigating the complaint against you.
- The PCC is comprised of two Members of CA ANZ and one lay member and is an independent body within CA ANZ. This means the PCC does not act on your behalf or on behalf of the complainant.
- The PCC is assisted by CA ANZ's Conduct & Discipline staff (Staff). The Staff are your principal point of contact during the investigation of the complaint.

What happens when CA ANZ receives a complaint?

Registration

- Every complaint received is registered on our system.

Initial Review

- You will receive a copy of all complaints made against you, whether or not they are investigated, as well as this information sheet.
- The Staff will contact you by telephone to notify you of the complaint before it is formally issued to you via email.

- The PCC will decide whether it is appropriate to investigate the complaint and if so, whether any further information from the complainant is required before commencing the investigation. The PCC is assisted by CA ANZ's Conduct and Discipline staff (Staff).
- If there are any issues subject to legal/regulatory proceedings, the investigation may be adjourned until those proceedings have concluded.
- There are certain circumstances under the By-Laws in which the PCC is unable to investigate the complaint. You will be notified if this is the case.

Investigation

- If the PCC is investigating the complaint, Staff will provide you with a further copy of the complaint and all supporting evidence.
- You will be provided with a timeframe within which to respond to the complaint (generally 14 days). If you require additional time to respond, an extension may be granted if the PCC considers this is appropriate. Please advise the Staff of your request and the reasons for it as soon as possible and in writing.
- Your response will usually be sent to the complainant for comment, unless the PCC considers this is not appropriate.
- The process of exchanging comments continues until there is sufficient information for the PCC to make a decision in relation to the complaint.
- After the Staff have gathered all relevant information, the PCC will consider this at its initial meeting. The decision is made by the PCC and is not made by the Staff.
- The PCC may wish to meet with the parties to discuss the complaint or to obtain further information at a case conference.

Decision

- The PCC can make the following decisions about a complaint:
 - take no further action
 - issue a professional reminder if your conduct has fallen short of best practice
 - issue a caution
 - require you or practice entity to submit to a review or reviews
 - require you to carry out professional development
 - seek your consent to enter into a consent order agreement
 - convene a case conference
 - refer the complaint to the Disciplinary Tribunal (DT) for hearing
 - require you to pay costs of the investigation.

When will you be informed of the outcome?

- The Staff will inform you of the PCC's decision and reasons within 21 days of the decision.
- If the PCC has decided to take no further action, issue you with a professional reminder, to caution you, you enter into a consent order agreement with the PCC, or you have been ordered to submit to a review or carry out professional development, this concludes the complaint process and the complaint will be closed.
- If you receive a caution, enter into a consent order agreement, or a sanction is imposed on you by the DT, this will form part of your disciplinary record and the PCC may consider this information if a further complaint is received.

- If a case conference has been convened, the investigation moves to the next stage (see further details below).

What happens at a case conference?

- A case conference is convened for complaints where the PCC wishes to meet with the parties and obtain further information.
- The case conference is an opportunity for you to discuss the complaint and your evidence with the PCC. The PCC may also invite the complainant to attend.
- The case conference is not open to the public.
- If you would like to bring a support person to the case conference, please ensure your support person completes a confidentiality form and submit this no less than 7 days prior to the Case Conference. The PCC will consider the request.
- If you are required to attend a case conference, you will be provided with additional information about that process.

What is a consent order agreement?

- The PCC may offer you the option of entering into a consent order agreement.
- This agreement is reached between a Member and CA ANZ, whereby a member agrees to sanctions without the need to go before the DT.
- The consent order agreement will be noted on the Member's professional record with CA ANZ.
- By-Laws 40.26(a)-(c) provide that the name of the member the subject of an adverse decision or sanction must not be published unless the PCC considers that there are special circumstances for doing so. If the PCC considers it is in the public interest to do so, it may notify the decision to other professional bodies, regulatory authorities, the member's current and/or former employers, partners, and clients of the Member or the Member's Practice Entity.

What you need to provide

- Make sure you respond to the PCC within the time required. If you don't the PCC will take this very seriously and can refer you to the DT (for further details, see "What happens if you fail to respond?" below).
- Give clear and direct responses to the complaint in writing and provide any documentary support.
- Treat the complaint seriously and be frank about any deficiencies that you identify.
- Respond with courtesy even if you consider the complaint is baseless.
- If the complainant has not contacted you to discuss the complaint, try to talk to them about it.
- Depending on the nature of the complaint you may wish to consider advising your insurers.
- You may wish to provide:
 - a detailed timeline/chronology of events
 - copies of communications (letters, emails and texts)
 - any agreement/s between you and the complainant, including terms of engagement.
 - any additional information you consider relevant to your response.

What happens if you fail to respond?

- If you fail to respond in writing to a complaint or attend a case conference, the PCC may refer this failure, as well as the subject matter of the complaint, to the DT.
- The PCC, the DT and the Appeals Council take very seriously the failure by a Member to respond to a complaint.

Complaints the PCC can investigate

- The PCC can only investigate complaints about conduct which may amount to an Offence under the By-Laws (refer to By-Law 40.9)

Complaints the PCC cannot investigate

- The PCC may dismiss a complaint against you without investigation if it considers that 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
 - is, may or could be, an abuse of process
 - relates to matters of historical issues which would no longer be practical to investigate
 - is of an insufficient nature to warrant investigation
 - falls within the jurisdiction of another body or agency or is the subject of a separate PCC investigation and it is reasonable to be dismissed.

How often will CA ANZ update you?

- You will be contacted by the Staff if the PCC needs further information in relation to the information received from the complainant.
- The Staff will let you know when a decision has been made by the PCC.
- If you wish to receive any more updates during the investigation of the complaint, please contact the Staff.

CAAG

- At any stage during the investigation of a complaint you may wish to contact a member of your regional CA Advisory Group (CAAG). The CAAG member can confidentially discuss the complaint with you.
- CAAG members have a wide range of experience and have demonstrated a clear commitment to the profession and its members.
- This service is free of charge and can be accessed by contacting your Regional Manager.
- The CAAG member may be able to arrange for you to have 1 hour of free legal advice in relation to the complaint against you.

If you are experiencing difficulty

- We encourage you to contact:
 - CAAG on the details provided above.
 - CA ANZ's EAP service, which is a confidential program to support members and members of your family through counselling services.
 - You can also access the resources on CA ANZ's Wellbeing page.

What if you are dissatisfied with the PCC's decision?

- If you are dissatisfied with the PCC's decision to finalise a complaint after it has been investigated (except by way of consent order agreement), you have 21 days after notification of that decision to request a review of the decision (although this period may be extended in exceptional circumstances).
- You must request this review by using the proper form, signing the costs agreement and paying the application fee. Further details and copies of these documents are on our website.
- The review will be conducted by an independent reviewer (Reviewer of Complaints). The Reviewer of Complaints will consider whether the PCC's procedure and decision were appropriate.
- You cannot request a review in circumstances where you entered into a consent order agreement.
- The Reviewer of Complaints will not review a decision if it considers that the application is trivial, frivolous, vexatious, made in bad faith or not made in accordance with the By-Laws and Regulations.
- 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.
- The Reviewer will report to you, the complainant, the PCC and, if it considers it appropriate to do so, the Professional Conduct Oversight Committee in relation to the review.
- The complainant is also able to request a review in certain circumstances.

The Disciplinary Tribunal (DT)

- If the PCC refers you to the DT, the Staff will provide you with more information at that time.
- You will receive the PCC's written advice of the decision to refer you to the Disciplinary Tribunal within 21 days after that decision has been made.
- You will receive the exact details of the allegations made against you and the time, date and location of the hearing at least 35 days before the hearing. A notice of disciplinary action and a casebook will also be provided.
- You may wish to bring a support person or legal representative to the DT hearing.
- A DT hearing is a formal process, which you are required to attend. If you do not attend the hearing it can take place in your absence.
- The DT Hearing is generally in public.
- The sanctions which can be imposed by the DT are referred to in By-Law 40.21.
- Once the appeal period has expired, DT decisions are generally published and findings of breach and any sanctions imposed on a Member must be reported. This report will include your name and location unless the Tribunal considers that there are exceptional circumstances for not publishing your name.
- Publication is generally in the journal and on the website of CA ANZ, and in any other place decided by the Tribunal.
- The DT may also notify interested parties including other professional bodies, regulatory authorities, your current and/or former employers, partners or clients who are or may be affected by the conduct to which the disciplinary action relates.
- You will receive written notice of the DT's decision and any sanctions imposed, including the reasons for the decision.
- Members of the public can attend DT hearings.

The Appeals Council (AC)

- If you wish to appeal the decision of the DT, you have 21 days after receipt of notice of the written decision of the DT to lodge an appeal.
- The PCC may also appeal the decision. The complainant is not able to lodge an appeal.

- You must lodge the appeal by using the form prescribed by the Regulations which is available on our website.
- If you lodge an appeal, the AC may order security for costs against you which, if not paid, will result in the appeal lapsing.
- If an appeal is brought, it will be scheduled as soon as possible, but this may take a number of months.
- An AC hearing is a formal process, which you are required to attend. If you do not attend the hearing it can take place in your absence.
- An AC hearing is generally in public and the outcome must be reported. This report will include your name and location unless the AC considers that there are exceptional circumstances for not publishing your name.
- Publication is generally in the journal and on the website of CA ANZ, and in any other place decided by the Tribunal.
- The AC may also notify interested parties including other professional bodies, regulatory authorities, your current and/or former employers, partners, or clients who are or may be affected by the conduct to which the disciplinary action relates.
- You will receive written notice of the AC's decision and any sanctions imposed, including the reasons for the decision.

Procedural fairness

- In dealing with a complaint the PCC and the Staff will observe procedural fairness to ensure that the PCC's decision-making is fair and impartial. This means that both sides get to tell their story.
- The Staff will generally give any information or documents it receives from one party to the complaint to all other parties. The Staff need not do so if the information or documents are irrelevant, are already in the possession of the parties or in circumstances where the PCC is unable to investigate the complaint.
- The PCC and the Staff will ensure that:
 - the parties are informed about the issues being considered, so that they can respond to those issues properly
 - information received from the complainant and Member is exchanged between the parties where appropriate and
 - all information is received and considered before a decision is made.

How long will the investigation take?

- Investigations will usually be completed within 4-9 months if all relevant information is provided. This may take longer if the complaint is complex, if relevant information is not provided or workloads are high.
- If the complaint is referred to the DT then it may take approximately 12 months to complete.

Withdrawn complaints

- The complainant may at any stage inform us that they no longer wish to pursue the complaint. However, the PCC may decide to continue the investigation.

Confidentiality

- Please remember that all information, correspondence and other documentation sent and/or received by CA ANZ, the PCC or other disciplinary bodies in connection with a complaint, its investigation, outcome and associated processes is confidential.
- If you do not comply with this requirement, further investigations and potentially disciplinary action may result.
- Please refer to CA ANZ Regulation CR8.14 for further information.

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.

The Complaints Process for Members

© Chartered Accountants Australia and New Zealand

ABN 50 084 642 571 (CA ANZ). Formed in Australia. Members of

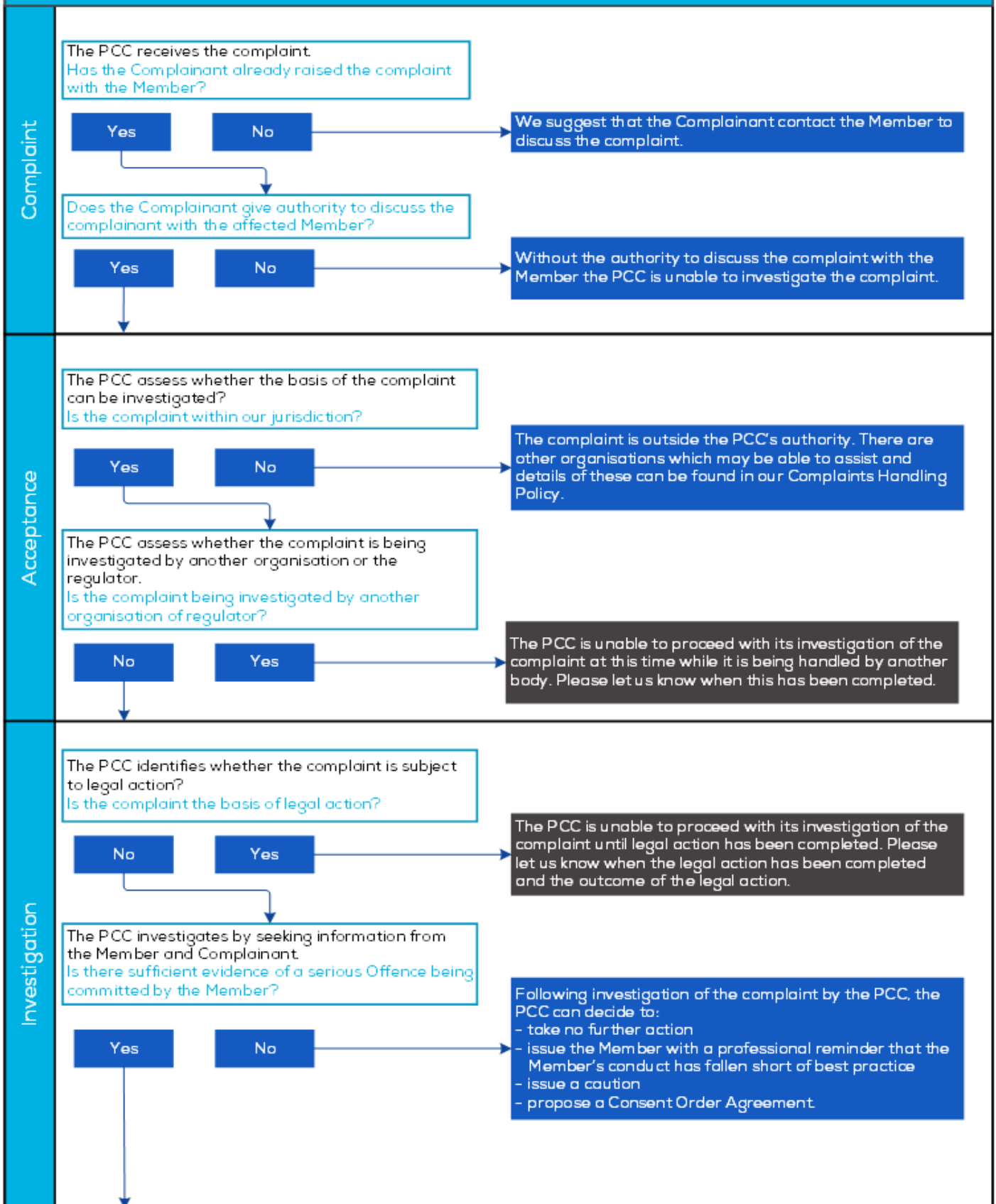
CA ANZ are not liable for the debts and liabilities of CA ANZ.

Complaint Process

Our Complaint Process

Member is used in this chart to refer to current, former or suspended members.

After we receive a written complaint, the Professional Conduct Committee (PCC) investigates it using the following process:



Our Complaint process

