

## **Role of HKAS in handling complaints against its accredited organisations**

### **Introduction**

HKAS Executive considers complaints against accredited organisations as opportunities for improving their performance and for helping HKAS in monitoring their performance. A customer of an accredited organisation not satisfied with the accredited service may lodge a complaint with HKAS. This article explains the role of HKAS Executive in handling such complaints and provides information to help an aggrieved party in determining whether to raise a complaint to HKAS Executive. The procedure of lodging a complaint against any accredited organisation is also explained. Towards the end, there is a brief review on what customers can do to secure satisfactory services from accredited organisations.

### **Rights and limitation of HKAS Executive in investigating complaints made against an accredited organisation**

Participation in any accreditation schemes administered by HKAS is voluntary. There is neither any ordinance nor statutory regulation to require a conformity assessment body (CAB, which include laboratory, certification body and inspection body) to obtain HKAS accreditation. By applying for HKAS accreditation, an organisation commits itself to complying with the Regulations for HKAS Accreditation – HKAS 002 for the activities included in its scope of accreditation. The clauses of HKAS 002 relevant to investigation of complaints against an accredited organisation are:

#### **Clause 2.8:**

HKAS Executive may investigate any complaint made to HKAS Executive by a third party against an accredited organisation concerning activities included in its scope of accreditation. The organisation shall provide information to HKAS Executive upon request and shall co-operate with HKAS for the purpose of investigating the complaint.

#### **Clause 5.15:**

If a complaint, dispute or appeal made to an accredited organisation by its customers or other parties relating to any of its accredited activities is not satisfactorily resolved within 60 days from the date of receipt, the accredited organisation shall notify HKAS Executive in writing of this matter.

#### Clause 5.16

Any concerned party may lodge complaints with HKAS on any accredited activities carried out by an accredited organisation.

The rights of HKAS to ask for cooperation and information in investigating a complaint against an organisation and require it to take any action are therefore based on the above provisions of HKAS 002. Such rights are given by the accredited organisation and confined to accredited activities only. In other words, if a complaint is about an activity not included in the scope of accreditation of an accredited organisation, HKAS Executive will not be able to investigate it nor require the organisation to take any action because HKAS Executive does not have the necessary rights or authority to do so.

#### Complaint against non-accredited activities

There were cases where a third party complained to HKAS Executive against an accredited organisation for an activity not within its scope of accreditation. A complainant might consider that the organisation might have violated an accreditation regulation stated in HKAS 002, or that the activity governing accredited activities was also applicable to the non-accredited activity. This was a misunderstanding of the HKAS 002. The accreditation regulations relating to complaints only apply to activities included in the scope of accreditation as stated in the above quoted clauses. In the "Introduction" section of HKAS 002, the fifth paragraph, the third bullet point, it is also explicitly stated that organisations which have been accredited are required to demonstrate that they are in compliance with all the regulations in this booklet (HKAS 002) for activities they have been accredited. Although a certain HKAS accreditation regulation or technical criterion may seem to be relevant to a particular activity, as long as that activity is not included in the scope of accreditation of the organisation, HKAS Executive does not have the right nor authority to investigate complaints concerning it, or to ask the organisation to disclose any information or to take any actions relating to it.

To ensure that HKAS Executive can take appropriate actions in case the service of an accredited organisation is not satisfactory, customers of accredited organisations are advised to ensure that the activity they commission the organization to perform has been accredited and request that the result of the activity be included in a report or certificate which bears the appropriate HKAS accreditation mark. An accredited organisation can only issue such a report or certificate for activities within its current scope of accreditation<sup>1</sup>. Whether an organisation has been accredited for an activity can be verified by checking whether the activity is listed in its latest scope of accreditation published in the HKAS website of [http://www.itc.gov.hk/en/quality/hkas/hoklas/laboratory\\_name.htm](http://www.itc.gov.hk/en/quality/hkas/hoklas/laboratory_name.htm).

### **HKAS procedures for handling complaints against accredited organisations**

Upon receiving a complaint, HKAS Executive will carry out an investigation as soon as possible in accordance with the requirements of ISO/IEC 17011, which governs the operation of HKAS. As clause 5.9 b) of that document states that HKAS “shall, where appropriate, ensure that a complaint concerning an accredited CAB is first addressed by the CAB”, HKAS Executive will have to inform the accredited organisation of the complaint and ask the organisation to address it, unless HKAS Executive considers it inappropriate to do so. However, HKAS Executive will normally not disclose the identity of the complainant without the agreement of the complainant.

HKAS will monitor the progress of the accredited organisation in handling the complaint. When the organisation has finished with handling the complaint and if the complainant is not satisfied with the outcome, HKAS will seek the cooperation of the organisation and start to investigate the complaint based on the requirements in the relevant HKAS accreditation regulations and technical criteria. In particular, the investigation will assess whether the organisation has handled the complaint in accordance with the accreditation regulations and technical criteria and the management system of the organization. Details such as whether the investigation have been properly conducted, correction has been made, the root cause identified and corrective action has been taken to prevent recurrence will also be covered.

## What HKAS Executive can do and cannot do

HKAS Executive may ask the organisation to provide information and evidence, including documents and records. HKAS Executive may interview staff members of the organisation and the complainant, ask the organisation to demonstrate the performance of the accredited activities or relevant supporting activities and take other appropriate investigation action. Where necessary, on-site visits, sometimes with technical assessors, will be conducted. If any non-conformity is identified, the organisation will be asked to take remedial actions within a given period of time and monitor their effectiveness. If critical non-conformity with accreditation regulations or technical criteria has been identified, HKAS Executive will consider suspending or terminating the relevant accreditation. However, after terminating the accreditation, HKAS Executive will no longer has any right to require the organisation to comply with any accreditation regulations nor technical criteria.

HKAS Executive has no right to impose on the organisation what method it should use to settle a complaint. HKAS Executive cannot ask the organisation to change any of its decisions relating to a complaint if there is no evidence that such a decision is not in conformity with the accreditation regulations or technical criteria. Take a fictitious example - there was a complainant who commissioned an accredited laboratory to conduct a test under a contract which stated the laboratory's liability in any case was limited to refunding the cost of the test. The result provided by the laboratory turned out to be wrong and the complainant sustained damaged because he relied on the erroneous result. The complainant asked the laboratory to pay compensation but the accredited laboratory refused. The complainant then complained to HKAS. In such case, HKAS Executive could not ask the laboratory to pay compensation even if the investigation showed that the result provided by the laboratory was incorrect. This is because there is no accreditation regulation nor technical criterion to require the laboratory to compensate its customers for damages resulting from error in its results. The aggrieved party may negotiate with the laboratory for a settlement or resort to other method to seek redress.

## Time to take to investigate a complaint and for the organisation to take action

HKAS Executive will investigate a complaint at the earliest opportunity. It may,

however, take a considerable time to finish the investigation and for the organisation to complete any remedial action. Longer time will be required if other parties are involved, the case is complicated or when its resolution involves procurement of new equipment or development or application of new technology.

### **Information that can be disclosed to a complainant**

HKAS 002 clause 2.3 commits HKAS Executive to keeping confidential all information provided by an organisation in relation to application for accreditation and assessment of the organisation. Therefore, unless otherwise agreed by the subject organisation, HKAS Executive does not have the right to disclose the findings and outcome of the investigation of the complaint to any third party. In the majority of cases, HKAS Executive can only inform the complainant of the actions it has taken to investigate the complaint but not the findings, not even whether any non-conformities with HKAS accreditation regulations or technical criteria have been found, or whether the organisation has been asked to take any correction or corrective actions. HKAS Executive will however, thank the complainant for the information he/she has provided as it has helped HKAS Executive to improve its operation. HKAS Executive will also keep the complainant informed of the progress of the investigation as far as allowed by the need to protect information confidentiality.

### **Determining whether to complain to HKAS Executive**

Based on the background explained above, a potential complainant may determine whether complaining to HKAS Executive is the appropriate method to seek redress by going through the following questions and answers:

- a. Is the organisation accredited for the relevant activity?  
If the activity is within the scope of accreditation of the organisation, it may be helpful to complain to HKAS Executive. If it is not, then HKAS Executive cannot help because it does not have the right or authority to properly investigate the case. However, if an organisation falsely claimed that it had been accredited for an activity not included in its scope

of accreditation, HKAS Executive would be interested in the details.

- b. Is there any evidence of possible non-conformity with the accreditation regulations or technical criteria?

If there is such evidence, it may be useful to complain to HKAS Executive. On the other hand, if the complainant is not satisfied with a decision made by the organisation within its autonomy and in accordance with accreditation regulations and technical criteria, complaining to HKAS Executive may not help because HKAS Executive does not have the authority to alter such decision of the organisation. In such case, the potential complainant may like to negotiate with the organisation for a settlement or seek redress through other means.

- c. Has a complaint been made to the accredited organisation first?

For most cases, it is more effective to complain to the organisation first. The complainant and the organisation may find it easier to arrive at a mutually agreeable solution if the complaint is confined to them. Even if a complaint is made to HKAS Executive first, bound by the requirement of ISO/IEC 17011, HKAS Executive has to inform the organisation and allow it to handle the case first. After the organisation has completed handling the complaint, but the complainant is not satisfied with the outcome and there is evidence that the outcome was not arrived at in accordance with the accreditation regulations or criteria, the complainant may then complain to HKAS Executive.

- d. Would it be possible to obtain information on internal operation the organisation refuses to provide through complaining to HKAS Executive?

This is not possible as HKAS Executive is bound by the confidentiality commitment stated in clause 2.3 of HKAS 002.

- e. What should be done if I am not satisfied with a product or service provided by an organisation certified by a certification body accredited by HKAS for certification of such product or service?

It is recommended that a complaint should be lodged with the certified organisation first. It is usually easier to settle the case between them. Even if a complaint is lodged with the certification body first, the certification body is required by the international standard governing its operation to inform the certified organisation of the complaint and ask the

certified organisation to handle it in accordance with its management system. The certification body will also monitor the progress of the certified organisation in handling the complaint. It should also be pointed out that the certification body can only investigate complaints relating to activities included in the scope of certification of the certified organisation. At this stage, it may not be appropriate to complain to HKAS Executive as there is no direct relationship between HKAS Executive and the certified organisation. HKAS Executive does not have the right or authority necessary for investigating any complaint against certified organisations. If HKAS Executive receives such a complaint, it can only refer the case to the appropriate certification body. Where appropriate, the certification body will, in turn, refer the case to the certified organization.

A further advice is that a complainant should consider whether there is any evidence of potential non-conformity with the certification criteria. If there is no such evidence, the certification body may not be able to help. In particular, the certification body will not be able to alter any decision of the certified organisation made within its autonomy and in accordance with the certification criteria.

If after the case has been handled by the certified organisation and the certification body concerned and the complainant is still not satisfied with the outcome, the complainant may consider complaining against the accredited certification body to HKAS Executive by going through steps b and c above. It should also be pointed out that HKAS Executive has no right to change the decision of the certified organisation nor that of the accredited certification body if such decision is made by them in accordance with the relevant certification criteria or accreditation regulations and technical criteria respectively. Furthermore, it is helpful to point out that HKAS Executive cannot suspend the certification of an organisation as such certification is granted by the certification body. HKAS Executive, however, can ask the accredited certification body to investigate and take remedial actions if any non-conformity with accreditation regulations and technical criteria has been identified or suspend its accreditation if such non-conformity is critical.

Note: A statement of conformity to ISO 9001:2000 should not, however, be considered as a substitute for a declaration or statement of product

conformity. More information can be obtained from the ISO publication “ISO 9001:2000 – What does it mean in the supply chain?” available at the following link:

<http://www.iso.org/iso/en/iso9000-14000/explore/9001supchain.html>.

- f. I have discovered a possible non-conformity against accreditation regulations or technical criteria but I am not the direct customer of the accredited organisation for the activity concerned, to whom should I complain?

Complain to the accredited organisation first. According to HKAS accreditation regulation HKAS 002, clause 5.13, an accredited organisation shall have a policy and procedure in writing for handling and resolving complaints, disputes and appeals made to it by its customers or other parties. If you are not satisfied with the outcome and there is evidence that such outcome was the result of non-conformity with HKAS accreditation regulations or technical criteria, you may lodge a complaint with HKAS Executive.

- g. I have complained to the accredited organisation but I am not satisfied with the method selected by the organisation to settle the complaint. Can I force the organisation to change its decision through complaining to HKAS Executive?

It is necessary to determine whether there is any evidence that the settlement method proposed by the organisation is in violation of any HKAS accreditation regulations or technical criteria. If there is no indication of violation, HKAS Executive cannot help because the organisation has the autonomy to determine what to do as long as its decision does not violate any HKAS accreditation regulations nor technical criteria.

In case of doubt, it is useful to contact the relevant accreditation officer or the HKAS Executive for advice. Further information on the operation of HKAS can be found from the HKAS website of [www.itc.gov.hk/hkas](http://www.itc.gov.hk/hkas).

### **Procedure for complaining to HKAS Executive against an accredited organisation**

After it has been determined that complaining to HKAS Executive is appropriate, a complainant can lodge a complaint with HKAS Executive by informing HKAS Executive of subject of the complaint and relevant details, preferably in writing. All relevant details should be provided, for example, the name of the accredited organisation, the identity of the accredited activity, the time when the activity was performed, the place where the activity was performed, description and evidence of the non-conformity with accreditation regulations or technical criteria, description of how the accredited organisation handled the complaint and the outcome and why the outcome was not acceptable. Records and other documents supporting the complaint, including reports and certificates conveying the results of the accredited activity, application forms, contracts, correspondence, records of conversation, or other documents are also required.

### **What customers can do to secure satisfactory service from an accredited organisation**

All accredited organisations are committed to providing a high quality service which satisfies the accreditation regulations and technical criteria. The operation of an accredited organisation is assessed rigorously and monitored closely by HKAS Executive. Most of the services provided by accredited organisations are satisfactory although there have been cases of unsatisfactory service from time to time. Many of these cases were caused by misunderstanding between the accredited organisations and their customers. Therefore, customers can contribute to avoiding unsatisfactory service by reducing misunderstanding, e.g., through the following means:

- a. Customers are recommended to have a clear understanding of the conformity service they required. They can then convey what they need to the conformity assessment organisation. In some cases, the conformity assessment organisation may provide assistance in determining the customers' need.
- b. Ensure that the instruction to the organisation is clearly stated. Although accredited organisations have the responsibility to review all requests for service, there may be misunderstanding generated during interaction with their customers. Customers should therefore check what have been stated in any application form, purchase order or other documents

commissioning the organisation to provide the service and any documents or correspondence from the accredited organisation to acknowledge the order are clear and accurately reflects the service requested. If a customer is aware of specific information that the organisation should pay particular attention, it should be pointed out explicitly and preferably in writing. In case of doubt, the customer should discuss with the staff of the organisation at the earliest opportunity.

- c. For longer term contracts, the customers should review the instructions given to the organisation at appropriate time intervals to see if any changes are needed or whether improvement should be made.
- d. Customers may request witnessing the performance of the activity by the accredited organisation.
- e. Customers should ensure that the activity is accredited and insist that the accredited organisation report the result of the activity in an endorsed report or certification, i.e., one which bears the appropriate HKAS accreditation mark<sup>1</sup>.

Note 1: Result of any non-accredited activities appearing in a report or certificate which bears the HKAS accreditation mark must be clearly identified as not accredited.