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## 第28條調查小組主席 陳超國先生

本期《專業天地》專訪了監管局第28條調查小組主席陳超國先生，了解一下該小組的工作，以及他對業界專業水平的看法。

**問：**你自2014年11月起出任第28條調查小組主席，可否和《專業天地》的讀者分享一下小組的工作主要包括甚麼？

**答：**我相信大部分的持牌人或公眾人士，都對「第28條調查小組」不太熟悉。其實此小組的工作包括，就如何選取需要根據《地產代理條例》(《條例》)第28條展開調查的個案制定指引和程序，並監督根據《條例》第28條進行的調查，確保調查工作符合法例規定。小組負責接受和考慮監管局行政部門就其認為有需要根據《條例》第28條進行調查的涉嫌違反或沒有遵守《條例》或其他規定的個案所呈交的報告和建議，並在有需要時，委任調查員進行調查。調查員可以要求持牌人或任何持有與調查有關資料的人士交出該等資料，並提供協助。任何人士倘若沒有按照調查員的要求交出有關

## AN INTERVIEW WITH MR CHARLES CHAN CHIU-KWOK, CHAIRMAN OF SECTION 28 INVESTIGATION PANEL

In this issue of *Horizons*, we interview Mr Charles Chan Chiu-kwok, Chairman of the EAA Section 28 Investigation Panel, about the work of the Panel and his views on the professional standard of the trade.

**Q:** You have been the Chairman of the Section 28 Investigation Panel since November 2014. Could you share with the readers of *Horizons* the work of the Panel?

**A:** I believe most of the licensees or the public might not be familiar with the Section 28 Investigation Panel ("the Panel"). The Panel is empowered to formulate guidelines for and procedures on the selection of cases for investigation, as well as to oversee the conduct of investigation under section 28 of the Estate Agents Ordinance ("EAO") to ensure its full compliance. The Panel is tasked to receive and consider reports and recommendations on suspected cases of contravention or non-compliance of the EAO or other relevant requirements warranting investigation under section 28 of the EAO. It can appoint investigator(s) to conduct investigations as the Panel considers necessary. The investigator(s) may require the licensee or any other persons who are in possession of documents containing information relevant to the investigation to produce the documents and assist in the investigation. Anyone who fails, without reasonable excuse, to comply with the investigator(s)'

資料或提供協助，又不能提供合理解釋，便屬違法。此小組不屬常設委員會，僅在需要時召開會議。

**問：**過去曾否行使過《條例》第28條的權力？此條文賦予的權力似乎相當廣泛，我們如何確保能恰當地行使這些權力？

**答：**「第28條調查小組」於2010年設立，以接替之前於2007年成立的「第28條調查委員會」的功能和權力。由於此條文賦予的權力頗為廣泛，故此小組是行使該等權力的把關者，並須遵循既定的指引和程序。只有當標準的調查方法已被證實無法帶來結果時，第28條的調查權力才會被使用，這主要是由於接受調查的持牌人採取不合作態度。過去，有極少數的個案需要利用到第28條的權力調查，而在我作為小組主席的這段期間，由於業界普遍都對監管局的調查或查詢更為合作，因此也毋須運用到第28條的權力。

**問：**你自2010年11月開始出任監管局成員至今，對於地產代理業界的專業水平，你有甚麼看法和期望？

**答：**加入監管局至今，轉眼已過了五年。過去我曾出任紀律委員會委員，因此明白到業界的違規情況。有不少的紀律個案是關乎一些技術性違規，主要是因為對《條例》或其附例下的規定缺乏透徹認識或存有誤解所致。然而，我見到業界的專業水平比以前進步了不少，而且大部分的業界人士的教育水平也比以前更高。同時，監管局在提升業界專業水平方面所作出的教育和培訓工作，也做得很好。我希望未來我們的持牌人能拓闊視野，更加明白作為一個地產代理應有的專業及操守要求，為客戶提供更優質的服務。

request for the provision of documents and assistance, commits an offence. The Panel is not a standing committee of the EAA and it only meets as and when needed.

**Q:** Has the power of section 28 of the EAO been exercised before? The power given under this section seems to be quite wide, how do we ensure the power is used appropriately?

**A:** The Panel was set up back in 2010 to take over the functions and powers of the previous Section 28 Investigation Committee, which was established in 2007. As the powers given under this section are quite wide, the Panel is a gatekeeper of invoking the powers and there are guidelines and procedures for the Panel to follow. The section 28 investigation powers will only be invoked when standard investigation techniques have been proved fruitless, mainly due to non-cooperation of the licensees subject to investigation. In the past, there were a very limited number of cases investigated under the section 28 powers. During the time I have chaired the Section 28 Investigation Panel, the trade has generally been more cooperative in responding to the EAA's investigation and enquiries and hence there has been no need to invoke the section 28 powers.

**Q:** You have served the EAA Board since November 2010. What are your views on the professional standard of the estate agency trade nowadays? What are your expectations?

**A:** Yes, it has been over five years since I joined the EAA Board. In the past I was also one of the Disciplinary Committee members and so I understand the non-compliance situation of the trade. Many disciplinary cases related to technical breaches due to lack of thorough knowledge or misunderstanding of the requirements under EAO and its subsidiary laws. However I can see that the professional standard of the trade has generally become better than before and most of the trade members are getting better educated. EAA also did a great job in providing education and training to raise the professional standard of licensees. In the future, I hope that our licensees could broaden their horizons, understand more about the professional and ethical requirements of an estate agent and provide higher quality services to their clients.