

CILEX REGULATION INVESTIGATION PROCEDURE NOTES

All reports of wrongdoing and allegations of professional misconduct are dealt with under the [CILEx Regulation Enforcement Rules](#). Additional guidance on our procedures can be found in the [Enforcement Handbook](#) and its [associated annexes](#).

Please ask if you need further details or require the information in an alternative format.

INVESTIGATION PROCEDURE

Rule 15 of the Enforcement Rules details our investigation procedure.

When we receive an allegation of wrongdoing against you, we may gather information and evidence from information providers and other third parties, such as your employer, the police and other law enforcement agencies, other regulators, and witnesses and provide you with copies for a response.

To assist our investigation, we may inform information providers and third parties of the allegations of misconduct against you. We may also supply them with a copy of the evidence gathered and all, or part of your response(s) for their written comment.

At the end of the investigation, we may prepare a report containing a summary of the information and evidence gathered, with an analysis of the issues to be considered and send you a copy for your response. We will not usually prepare a report if we decide to take no action against you, or where the case is referred directly to the CILEx Regulation Disciplinary Tribunal (“the DT”) – see below.

You will usually be given 14 days to respond to communications from CILEx Regulation.

POSSIBLE OUTCOMES

The possible outcomes of an investigation are set out at Rule 16 of the Enforcement Rules. Depending on your response(s) and any further information received by CILEx Regulation, we may:

- Reject the allegation(s) against you;
- Refer the allegation(s) to the CILEx Regulation Professional Conduct Panel (the PCP) to determine whether, based on the available evidence, there is a case for you to answer; or
- Refer the allegation(s) straight to the DT where the evidence demonstrates that there is clear case of misconduct for you to answer and either the allegation is serious, or an adverse finding has previously been made against you in respect of a similar matter.

The standard proof adopted by CILEx Regulation and its disciplinary panels is the balance of probabilities.

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Determinations by Consent

Where there is a case of misconduct for you to answer and you unreservedly admit the allegation(s), CILEx Regulation may be able to agree to a determination by consent under Rule 18 of the Enforcement Rules (a DBC).

A DBC is a type of consent order, whereby you agree for CILEx Regulation settle the allegation(s) against you by imposing one of the sanctions available to the PCP or DT (except for costs), without the case being proved before the PCP or DT.

The sanctions available to the PCP and DT are set out below. A DBC order must be approved by the PCP before it can take effect.

POWERS OF THE PCP

The PCP is made up of two independent non-lawyer members and one professional lawyer member. The powers available to the PCP are set out at Rule 17 of the Enforcement Rules. If the PCP finds that there is a case for you to answer it may:

- refer the case to the DT; or
- with your admission and consent:
 - a.) Require you to give an undertaking as to your future conduct; and/or
 - b.) Impose conditions on your conduct or employment; and/ or
 - c.) Reprimand or warn you, or both.

PCP meetings take place approximately every six weeks and are usually held in private. However, in some cases the PCP may seek further information from you and/or request your attendance at its meeting before reaching a decision.

The conduct of PCP meetings is set out in Rule 9 of the Enforcement Rules. You will be given more details of the procedure if your case is referred to the PCP.

POWERS OF THE DT

The DT is also made up of two independent non-lawyer members and one professional lawyer member. The DT's powers are set out at Rule 30 of the Enforcement Rules.

If your case is referred to the DT and it finds the charges against you proved, it may:

- a.) Reprimand or warn you, or both; and/or
- b.) Impose conditions on your conduct or employment; and/ or
- c.) Impose a fine.



The DT can also exclude you from CILEx membership for a fixed or indefinite period, and award costs to CILEx Regulation.

All DT hearings are open to the public, except where it is decided that the circumstances of the case outweigh the public interest. CILEx Regulation always attends DT hearings and is often represented by a solicitor-advocate. You also have a right to attend the hearing and can be represented if you wish.

You will be given more details about the DT procedure if the case is referred to the DT.

PUBLICATION

Any findings of misconduct, including admissions of misconduct and determinations by consent, are usually published in accordance with the CILEx [Regulation Publication Policy](#). We may also notify your employer and firm in accordance with Rule 38 of the Enforcement Rules.

Please log onto your “MyCILEx” online account, or contact the CILEx membership team, to make sure your contact and employment details are up to date if you have not already done so.

APPEALS

You have a right of appeal against decisions made by the DT and PCP (except for a decision to refer a case to the DT). CILEx Regulation also has similar rights of appeal. All appeals are heard by the CILEx Regulation Appeals Panel. You will be informed of the appeals process when a decision against you is made by the PCP or DT.

If an Investigator decides to reject an allegation under Rule 16 of the Enforcement Rules, any complainant(s) involved the matter may request a review of the Investigator’s decision within 21 days of the decision. Reviews are conducted by the PCP. You will be informed of the full procedure if, and when, a complainant requests a review. Details of the appeals process is contained in Rules 20, 33 and part 5 of the Enforcement Rules, and in the Enforcement Handbook.

RESIGNATION FROM CILEx MEMBERSHIP

Under Rule 6 of the CILEx Regulation Enforcement Rules any resignation or termination of your CILEx membership will not be valid until the investigation and proceedings against you by CILEx Regulation have been determined.

TIMESCALES

When communicating with us, we usually ask you to respond to within 14 days.

We aim to determine or refer to a disciplinary panel 80% of our misconduct cases within 9 months of receipt of an allegation, and 100% of cases within 12 months.



Unfortunately, we cannot give exact timescales for the conclusion of the investigation as we often have many cases to consider and must ensure that we give each matter the attention it deserves. This may result in some investigations taking longer than others.

In some cases, we may have to place our investigation on hold pending the outcome of investigations or proceedings by other regulators or law enforcement agencies. In these circumstances, or where the case is particularly complex, it may take a little longer to conclude our investigation. We will inform you if we need to extend the timescale for the conclusion of your matter.

HELP AND GUIDANCE

Being the subject of an investigation into an allegation of misconduct can be upsetting. You may wish to obtain legal advice to assist you. As a member of CILEx you can also obtain free advice and support from [LawCare](#) regarding your welfare and wellbeing.

If you have any queries about the standards expected of you as a CILEx member, [Practice advice](#) is available from the CILEx membership body.

COMPLAINTS ABOUT CILEx REGULATION

If you are dissatisfied with the way in which this matter has been handled, for example if you feel we have taken too long to deal with a case, or are unhappy about how we have dealt with you, you may raise a complaint our [Service Complaints Policy](#). Please note however that complaints about our handling of an investigation may be deferred while the matter is still ongoing.