

## SANCTIONS GUIDANCE

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## SANCTIONS GUIDANCE

### 1. Introduction

- 1.1. This document sets out the Council for Licensed Conveyancers' policy on how sanctions should be applied by the Adjudication Panel ("the Panel") during misconduct hearings.
- 1.2. Hearing decisions will be published on the CLC's website in accordance with the CLC's publication policy.
- 1.3. This Guidance is not an alternative source of legal advice. When appropriate, the Legal Advisor will advise the Panel on questions of law, including questions about the use of this Guidance and the approach it should take.
- 1.4. **This document is for guidance only and is not intended to fetter the Panel's discretion. The Panel may depart from it when determining sanction in accordance with its discretion. The Panel should, in the interests of transparency, provide written reasons for its decision to depart from this guidance.**

### 2. Purpose of the CLC's Sanctions Guidance

- 2.1. To guide the Panel's consideration of the sanction to impose following a determination that there has been a breach of the CLC's Code of Conduct.
- 2.2. To provide an authoritative statement of the CLC's approach to sanction issues for the regulated community, the public and other stakeholders.
- 2.3. To allow the respondent appearing before the Panel to know what powers and sanctions are available, and in the event that sanctions are to be imposed, the matters that the Panel may take into account when coming to a decision.
- 2.4. To promote fairness, consistency and transparency by the Panel when considering an appropriate sanction.
- 2.5. In preparing this Guidance, the CLC recognises that each case will be determined on its own set of facts and that the members of the Panel exercise their own judgement when considering what sanction(s) to impose. In all cases written reasons must be given by the Panel on the sanction(s) imposed (rule r.31(2)(b) Adjudication Panel Procedure Rules 2013 (as amended)).
- 2.6. The Guidance sets out the principles which should be applied when determining what sanction to impose.

### 3. Purpose of sanctions

- 3.1. To uphold the CLC's regulatory objective of protecting the public and consumers of legal services;
- 3.2. To maintain and uphold public confidence in the reputation of the profession;
- 3.3. To declare and uphold proper standards of conduct; and
- 3.4. To promote public and professional confidence in the CLC's complaints and disciplinary processes.
- 3.5. To mark the seriousness (actual or potential) of the proven misconduct. It is well established that the purpose of imposing sanctions is not to punish the respondent, but to protect the public. This is consistent with and does not prevent the imposition of a sanction which may have a punitive effect on the respondent when it is necessary to meet its objectives at 3.1 to 3.2 above.

### 4. Principles of the CLC's sanctions regime

- 4.1. **Proportionality** - ensuring that the sanction imposed is proportionate, taking account of the need to protect the public and the need to uphold proper standards of conduct amongst the regulated community in order to maintain the reputation of the regulated community. The interference with the CLC Lawyer's or entity's right to practise must be no more than necessary to achieve the Panel's purpose in imposing sanctions.
- 4.2. **Consistency** - ensuring a consistent approach to determining an appropriate sanction.
- 4.3. **Accountability** - to consumers and the regulated community.
- 4.4. To promote **transparency** in the CLC's decision-making processes.
- 4.5. **Targeting** the sanction should apply directly to the misconduct that the Panel has found proven in order to remedy the breaches identified and avoid the risk of repetition.

### 5. Sanctions available to the Panel

- 5.1. The sanctions for a CLC Lawyer are as follows (in ascending order):
  - No Further Action
  - Reprimand
  - Fine
  - Conditions on licence
  - Suspension
  - Disqualification (whether for a fixed period or permanent)
  - Revocation of Licence

5.2. In deciding what sanction to impose the Panel should consider the following factors:

- Proportionality
- Harm (impact on client, clients in general, on the profession)
- Insight
- The public interest (impact on the reputation of the profession, confidence in the CLC's regulatory process and the deterrent effect)
- Aggravating factors (which may cause sanction to be increased)
- Mitigating factors (which may cause sanction to be reduced)

## 6. Sanctions Ladder

6.1. The Panel should consider the full range of sanctions open to them. The recommended approach is to start with the least restrictive sanction.<sup>1</sup> In *Giele v General Medical Council*<sup>2</sup> Mr Justice Collins said that the panel should decide “*whether [the sanction] was right for the misconduct in question after considering any lesser sanction*”.

6.2. Accordingly, the Panel must always give reasons as to why they have chosen a particular sanction, and also why they have rejected other sanctions.

6.3. The Panel should always start at the least restrictive sanction (No Further Action) and only impose the next serious sanction after it has assessed whether the lesser sanction adequately addresses the principle of proportionality, weighing the interests of the public against those of the respondent.

6.4. Although the Panel should always impose the least restrictive sanction which adequately addresses public protection, the Panel should also consider the next more serious sanction on the scale to determine which sanction is the appropriate one in the circumstances. Guidance on these points are set out below.

## 7. Public interest

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<sup>1</sup> “It is necessary for a Panel, when considering the appropriate sanction, to work from the bottom up, if I may put it that way, that is to say to consider the least penalty and to ask itself whether that is sufficient, and, if not, then to go to the next one, and so on. Thus they go from taking no action and merely recording a serious professional misconduct finding through a reprimand, the imposition of conditions, suspension, and the final sanction of erasure.” *Raschid v General Medical Council* [2006] EWHC 886 (Admin) Collins, J.

<sup>2</sup> - [2005] All ER (D) 156 (Oct)

7.1. Sanctions exist to protect members of the public from the potential risk which the Respondent may present to those who use or may use his or her services.

7.2. However, there are important wider public interest matters that the Panel will have to consider such as:

- the reputation of the profession;
- the deterrent effect on the regulated community as a whole; and
- public confidence in the profession and in the CLC's regulatory proceedings.

7.3. The Panel is able to impose a sanction on wider public interest reasons alone, but should give written reasons if it chooses to do so.

## **8. Proportionality**

8.1. In deciding what sanction, if any, to impose, the Panel must apply the principle of proportionality, considering the following questions in order to balance the interests of the public alongside those of the respondent:

- Is the sanction in question a suitable means of attaining the degree of public protection identified by the Panel?
- Is the sanction in question the least restrictive means of attaining that degree of public protection?

## **9. Harm**

9.1. In determining harm, the Panel will assess:

- Whether there was actual harm caused by the respondent's misconduct
- If not, whether there was the potential of harm being caused by the respondent's misconduct
- If the respondent's actions are reckless or deliberate
- Risk of repetition is of particular importance when considering whether there is the likelihood of future harm.

## **10. Insight**

10.1. The degree of insight displayed by a respondent is vital to a proper determination of what sanction (if any) is required. The issues which the Panel need to consider include whether the respondent:

- has admitted or recognised their failings, including the impact (actual or potential) of their misconduct - for example, on the consumer concerned, and/or the reputation of the profession;

- has taken or is taking any appropriate remedial action; and
- is likely to repeat or compound their misconduct.

10.2. However, the Panel should be mindful that cultural differences could affect how the respondent may express insight.

## **11. Particular Consideration**

### **11.1. Dishonesty**

Misconduct which involves dishonesty will be viewed as the most serious form of misconduct and result in a severe sanction (such as disqualification) save in exceptional circumstances. Dishonesty is serious even when it does not involve direct harm to clients because dishonesty has the potential to undermine public trust in the profession. Evidence of technical competence cannot mitigate dishonesty.

### **11.2. Mishandling of client money falling short of dishonesty**

Findings of serious breaches of the Accounts Code (such as shortage to client account) which fall short of dishonesty are also likely to receive more severe sanctions because of the potential of direct harm to clients, damage to the reputation and confidence of the profession.

### **11.3. Criminal convictions**

The purpose of a professional disciplinary hearing in relation to a regulated member's criminal conviction is not to punish the respondent a second time for the same offence, but to protect members of the public and safeguard the public interest.

Criminal convictions not directly related to a respondent's professional conduct may still require a sanction.

## **12. Drafting decisions**

The Panel must state the sanction it is imposing and give clear reasons for imposing it. The written decision should include the following:

- A summary of the case and the facts found proved;
- Any mitigating or aggravating factors taken into account with reference, where appropriate, to the parties' submissions on mitigation;
- Legal jurisdiction applied-Sections of Acts, Rules, Codes;

- If the Adjudication Panel Chair has selected a Legal Advisor to attend the hearing, a summary of any legal advice provided by the legal advisor.

### **13. Length of sanctions**

In determining the period of a suspension or disqualification order, the Panel should consider all the circumstances of the case, including the aggravating and mitigating factors and then consider the period of the sanction to reflect the seriousness of the misconduct.

### **14. Costs**

14.1. The Panel has the power to make a costs order on an application by either party, or on its own initiative. The Panel may not make an order against a respondent without first:

- giving that person an opportunity to make representations; and
- if the paying person is an individual, considering that person's financial means.

14.2. The amount of costs or expenses to be paid under a costs order may be ascertained by:

- summary assessment by the Adjudication Panel;
- agreement of a specified sum by the paying person and the person entitled to receive the costs or expenses ("the receiving person"); or
- assessment of the whole or a specified part of the costs or expenses incurred by the receiving person, if not agreed.

### **15. Review of this guidance**

This policy will be reviewed biannually to ensure that it complies with the requirements of the Human Rights Act 1998 (principally the right to a fair trial), the Equality Act 2010 and relevant case law.

This policy is due next to be reviewed in 2020.

## Annex A

### Aggravating and mitigating factors

The following are examples of potential aggravating and mitigating factors. This is not an exhaustive list and the weight attached to these factors will be left to the Panel's professional judgement.

	<b>Aggravating Factors</b>	<b>Mitigating Factors</b>
<b>Behaviour</b>	Failure to self- report to the CLC	Prompt self-report to the CLC
	Attempt to conceal wrongdoing	Open and honest about wrongdoing
	Failure to co-operate with CLC investigation and any interim measures	Full co-operation with CLC investigation
	Likelihood of repetition	Repetition unlikely
	Abuse of position (particularly in relation to vulnerable clients)	
	Motivated by desire for personal advantage	
	Respondent gained advantage as a result of wrongdoing	
	Abusive behaviour	
	Lack of insight or learning	Evidence of significant insight, remediation or learning
	Lack of remorse	Clear demonstration of remorse
	Lack of explanation for actions	
	Drug or alcohol misuse linked to misconduct	
	No apology to the client	Apology to the client
		Relevant positive references
Previous finding(s) of misconduct	No previous finding(s) of misconduct	
<b>Nature of misconduct</b>	Dishonesty	
	Serious breach of the CLC's regulatory arrangements	Breach of a technical nature

	Serious financial mismanagement	There is no serious financial mismanagement
	Repeated failure or pattern of behaviour	Single isolated incident
<b>Effect on others</b>	Significant risk of harm to others	
	Abuse of position/breach of trust	
	Increased likelihood of damage to reputation of the profession	No risk of damage to reputation of the profession
<b>Convictions/ cautions</b>	Criminal offences for example, the nature of the offence involves violence/ dishonesty/breach of trust and/or has the potential to cause significant loss of confidence in the profession	
	Risk of repetition/reoffending	Evidence of rehabilitation
	Number of offences/ offence committed over a prolonged period of time	The offence occurred over a short period of time/ was an isolated incident
	No evidence of rehabilitation	Evidence of rehabilitation

## Annex B

### Sanctions for a CLC lawyer:

#### No Further Action

Having regard to all the circumstances of the case before it, the Panel may decide not to impose a sanction, where the Panel concludes that that whilst the facts of the allegation were proved, there is no public interest in imposing a sanction.

A No Further Action order is only likely to be imposed in exceptional circumstances.

The Panel must give clear and reasoned decisions explaining why it has determined to take no further action.

#### Reprimand

*A reprimand does not restrict a CLC Lawyer's ability to practise.*

A reprimand might be most appropriate in cases:

- Where an act or omission needs particular attention drawn to it, with the intention that the behaviour of the individual/body is changed.
- Where the misconduct has now been remediated
- Where the respondent has demonstrated insight

#### Fine

*A direction for a CLC lawyer to pay a fine which is **fair and proportionate**, and does not exceed £50 million.*

As fines are punitive in nature, it will be rare for the Panel to impose such a sanction on its own. It is recommended that fines are used in conjunction with another sanction, or for unlicensed individuals, or where the misconduct cannot be sufficiently dealt with by issuing a Reprimand and it would be disproportionate to issue conditions on licence.

The level of the penalty will take into account the size/resources of the body so it is fair and proportionate, whilst also at a level likely to give consumers and the public confidence that issues which cause them detriment are dealt with appropriately.

The Panel may impose a separate penalty in respect of each allegation which has been proved.

In determining the appropriate level of the fine the Panel must take into consideration:

- the gravity of the respondent's misconduct; and
- the respondent's financial means

The Panel should ensure that the level of the fine reflects the gravity of the respondent's misconduct, having regard to all relevant aggravating and mitigating factors.

The existence of significant mitigation should normally preclude the imposition of the maximum fine.

Although consistency in decision making is desirable, the amount of the fine is within the discretion of the Panel.

### **Conditions on licence**

*Conditions will restrict a CLC Lawyer's practice, require the CLC Lawyer to take remedial action, or a combination of both.*

A condition may require a respondent to be supervised, undertake education or training, to comply with particular requirements when practising (including restrictions on the nature of any work undertaken or clients represented).

Conditions might be most appropriate in cases where there is evidence of shortcomings in a specific area or areas of the CLC Lawyer's practice (for example – record keeping)

Conditions are likely to be suitable in cases where the:

- Respondent has insight
- Panel is satisfied that the CLC Lawyer will fully comply with the conditions imposed

Conditions should be proportionate, appropriate, workable and measurable.

Proportionate means that the conditions must be no more than necessary to protect the public and uphold confidence in the profession and regulatory process.

Appropriate means that the conditions should directly relate to and address the matters giving rise to the misconduct.

Practicable means that it must be possible for the respondent to comply with the conditions. Any condition imposed should not be impracticable, or so restrictive that it amounts to a suspension.

Measurable means that it must be possible to assess objectively whether or not the respondent has complied with the condition.

Time specific means that the date by which the condition must be complied with and/or the date when the condition will no longer have effect must be specified in the order.

*Prohibits a CLC Lawyer from holding a licence for a time specified by the Panel.*

Suspensions are temporary in nature and have a deterrent effect. Suspensions can be used to show the public and the regulated community what is viewed as unacceptable behaviour.

Suspension might be most appropriate in cases where there is serious misconduct which requires the public to be protected and public confidence in the profession to be maintained.

### **Disqualification**

*Disqualification prohibits a CLC Lawyer from holding a licence for a specified period of time*

Disqualification might be most appropriate in cases:

- Involving serious misconduct
- Involving dishonesty
- Involving convictions
- Where there is a lack of insight
- Where the evidence suggests that the CLC Lawyer will be unwilling to remedy the failings identified

### **Disqualification for a fixed period commensurate with the criminal sanction**

*In the event that the Respondent has received a criminal disqualification order, the Panel may consider applying a disqualification order for the same period.*

## **Permanent disqualification**

*Permanent disqualification prohibits a CLC Lawyer from holding a licence at any given time in the future*

As this is a last resort option, it is reserved for the most serious cases of misconduct.

Permanent disqualification might be most appropriate in cases:

- Involving deliberate and reckless acts, for example, misconduct involving an abuse of trust, dishonesty, or persistent failures
- Where there is no other way to protect the public due to a lack of insight, continuing problems and/or denial. (An unwillingness and inability to remedy the misconduct will suggest that a lower sanction is not appropriate)
- Where the nature and severity of the misconduct are such that any lesser sanction would lack a deterrent effect or undermine public confidence in the profession or the regulatory process.

Please note that this is not an exhaustive list.

Permanent disqualification is a long term sanction intended to be permanent. Although section 27 Administration of Justice Act 1985 provides that allows a respondent to apply for a CLC licence after 10 months, Panels should impose permanent disqualification orders in cases where they are of the view that the should never be permitted to hold a CLC licence.

## **Revocation of Licence**

*The effect of revoking a licence is to withdraw the licence and treat it as if it had never been issued.*

A licence should only be revoked where it was issued as a result of an error or as a result of fraud by the licensee. A licence which is revoked is treated as if it had never been granted.

**The Panel may direct the payment of costs by any party to proceedings including the CLC. Such costs may include the costs incurred in a preliminary investigation.**

*The party will be ordered to pay any costs as determined by the Panel.*

## Annex C

### **Sanctions for a Recognised Body or sole practitioner practice regulated by the CLC:**

#### **No Further Action**

Having regard to all the circumstances of the case before it, the Panel may decide not to impose a sanction, where the Panel concludes that that whilst the facts of the allegation were proved, there is no public interest in imposing a sanction.

A No Further Action order is only likely to be imposed in exceptional circumstances.

The Panel must give clear and reasoned decisions explaining why it has determined to take no further action.

#### **Reprimand the entity**

*A reprimand does not restrict an entity's or a sole practitioner's ability to practise.*

A reprimand might be most appropriate in cases:

- Where an act or omission needs particular attention drawn to it, with the intention that the behaviour of the individual/body is changed.
- Where the misconduct has now been remediated
- Where the respondent has demonstrated insight

#### **Direct the payment of a fine which is fair and proportionate, and does not exceed £250 million**

*The entity/sole practitioner will be ordered to pay a fine not exceeding £250 million.*

Financial penalties will only be directed in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others).

Should a number of breaches be separately investigated, the Panel may determine it appropriate for a separate penalty to be imposed in each case.

#### **Direct the issue of a certificate of recognition subject to conditions it may specify**

*A certificate of recognition may be issued subject to conditions*

*Conditions will restrict a Recognised Body's/sole practitioner's practice, require remedial action to be taken, or a combination of both.*

Any conditions should be proportionate, appropriate, practicable, measurable and time related.

### **Revoke the recognition of the entity**

*A certificate of recognition issued by the CLC to an entity /sole practitioner will be withdrawn.*

**The Panel may direct the payment of costs by any party to proceedings including the CLC. Such costs may include the costs incurred in a preliminary investigation.**

*The party will be ordered to pay any costs as determined by the Panel.*

## Annex D

### **Sanctions for a Manager or employee who is not a CLC Lawyer but works in a CLC regulated practice:**

#### **No Further Action**

Having regard to all the circumstances of the case before it, the Panel may decide not to impose a sanction, where the Panel concludes that that whilst the facts of the allegation were proved, there is no public interest in imposing a sanction.

A No Further Action order is only likely to be imposed in exceptional circumstances.

The Panel must give clear and reasoned decisions as to why it has determined to take no further action.

#### **Direct the payment of a fine which is fair and proportionate, not exceeding £50 million**

*The Manager or employee will be ordered to pay a fine not exceeding £50 million.*

Financial penalties will only be directed in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others).

Should a number of breaches be separately investigated we may determine it appropriate for a separate penalty to be imposed in each case.

#### **Require the CLC to take such steps as it may specify in relation to the Manager or employee**

*The CLC will be required to take steps in relation to the Manager and employee as determined by the Panel. For example, enhanced monitoring and/or supervision.*

#### **Require the CLC to refer to an appropriate regulator any matter relating to the conduct of the Manager or employee**

*The CLC will be required to refer the conduct of a manager or employee to the appropriate regulator where we have reason to believe that the individual's behaviour is in breach of their regulatory responsibilities.*

#### **The Panel may direct the payment of costs by any party to proceedings including the CLC. Such costs may include the costs incurred in a preliminary investigation.**

*The party will be ordered to pay any costs as determined by the Panel.*

## Annex E

### **Sanctions for a Licensed ABS Body, or an employee or manager within, or owner, of the Licensed ABS Body:**

#### **A Licensed Body:**

##### **No Further Action**

Having regard to all the circumstances of the case before it, the Panel may decide not to impose a sanction, where the Panel concludes that that whilst the facts of the allegation were proved, there is no public interest in imposing a sanction.

A No Further Action order is only likely to be imposed in exceptional circumstances.

The Panel must give clear and reasoned decisions as to why it has determined to take no further action.

##### **Reprimand the body**

*A reprimand does not restrict a Licensed Body's ability to practise.*

A reprimand might be most appropriate in cases:

- Where an act or omission needs particular attention drawn to it, with the intention that the behaviour of the body is changed.
- Where the misconduct has now been remediated
- Where the respondent has demonstrated insight

##### **Direct the payment of a fine which is fair and proportionate, not exceeding £250 million**

*The Licensed Body will be ordered to pay a fine not exceeding £250 million.*

Financial penalties will only be directed in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others).

Should a number of breaches be separately investigated the Panel may determine it appropriate for a separate penalty to be imposed in each case.

## **Direct the issue of a licence subject to conditions it may specify**

*A licence issued by the CLC to a Licensed Body may be subject to certain conditions.*

*Conditions may restrict a Licensed Body's practice, require remedial action to be taken, or a combination of both.*

Any conditions should be proportionate, appropriate, practicable, measurable and time-specific.

## **Suspend the licence of the Body**

*Suspensions are temporary in nature and have a deterrent effect on the Body and can be used to show the public and the regulated community what is viewed as unacceptable behaviour.*

The decision to suspend will not be taken lightly. We will only use this measure where, due to the seriousness and/or persistence of the act or omission – or the body has changed its structure/provision arrangements so it is no longer licensable - no other enforcement action is judged adequate to address the identified issue.

## **Revoke the licence of the Body**

*The effect of revoking a licence is to withdraw the licence and treat it as if it had never been issued.*

This measure will only be used where, due to the seriousness and/or persistence of the act or omission – or the body has changed its structure/provision arrangements so it is no longer licensable - no other enforcement action is judged adequate to address the identified issue.

As this is a last resort option, it is reserved for the most serious cases of misconduct.

## **A Licensed Body owner:**

### **Place conditions on the owner's material interest**

Where the Panel are concerned that a material interest holder in Licensed Body may be demonstrating improper influence – i.e. an owner is influencing, or attempting to influence the decisions of the Licensed Body or the conduct of Authorised Persons in a way which would constitute a breach of their regulatory duties, the Panel can object to the interest and this may ultimately result in divestiture.

### **Direct the payment of a fine which is fair and proportionate, not exceeding £50 million**

*The Licensed Body owner will be ordered to pay a fine not exceeding £50 million.*

Financial penalties will only be directed in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others).

Should a number of breaches be separately investigated we may determine it appropriate for a separate penalty to be imposed in each case.

### **A Head of Legal Practice (HoLP) or Head of Finance & Administration (HoFA):**

#### **No Further Action**

Having regard to all the circumstances of the case before it, the Panel may decide not to impose a sanction, where the Panel concludes that that whilst the facts of the allegation were proved, there is no public interest in imposing a sanction.

A No Further Action order is only likely to be imposed in exceptional circumstances.

The Panel must give clear and reasoned decisions explaining why it has determined to take no further action.

### **Require the CLC to take such steps as it may specify in relation to the HoLP or HoFA**

*The CLC will be required to take steps in relation to the HoLP or HoFA as determined by the Panel.*

### **Direct the payment of a fine which is fair and proportionate, not exceeding £50 million**

*The HoFA/HoLP will be ordered to pay a fine not exceeding £50 million.*

Financial penalties will only be directed in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others).

Should a number of breaches be separately investigated we may determine it appropriate for a separate penalty to be imposed in each case.

### **Withdraw approval of the individual for the role**

Withdrawal of approval of a Licensed Body's Head of Legal Practice or Head of Finance and Administration where the individual has become demonstrably inappropriate for the role e.g. an event has occurred which impacts upon their fit and proper status or they have repeatedly fail to meet their regulatory responsibilities.

### **Disqualify the individual from a role within a Licensed Body**

*Disqualification prohibits the individual from a specific role for a specified period of time.*

Disqualification of an individual from a role within a Licensed Body or a CLC Lawyer from holding a licence will be reserved for exceptional circumstances and where the seriousness of the act or omission means that no other enforcement action is judged adequate to address it.

### **A manager or employee:**

#### **No Further Action**

Having regard to all the circumstances of the case before it, the Panel may decide not to impose a sanction, where the Panel concludes that that whilst the facts of the allegation were proved, there is no public interest in imposing a sanction.

A No Further Action order may be appropriate in circumstances where:

- the seriousness of the misconduct is of a low level;
- the Respondent has taken sufficient corrective action;
- there is no likelihood of repetition;

The Panel must give clear and reasoned decisions as to why it has determined to take no further action.

### **Direct the payment of a fine which is fair and proportionate fine, not exceeding £50 million**

*The Manager/employee will be ordered to pay a fine not exceeding £50 million.*

Financial penalties will only be directed in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others).

Should a number of breaches be separately investigated we may determine it appropriate for a separate penalty to be imposed in each case.

**Require the CLC to take such steps as it may specify in relation to the manager or employee**

*The CLC will be required to take steps in relation to the Manager and employee as determined by the Panel.*

**Require the CLC to refer to an appropriate regulator any matter relating to the conduct of the manager or employee**

*The CLC will be required to refer the conduct of a manager or employee to the appropriate regulator where we have reason to believe that the individual's behaviour is in breach of their regulatory responsibilities.*

**Disqualify the individual from a role in a Licensed Body.**

Disqualification of an individual from a role within a Licensed Body or a CLC Lawyer from holding a licence will be reserved for exceptional circumstances and where the seriousness of the act or omission means that no other enforcement action is judged adequate to address it.

## Annex F

### Sanctions available

<b>Sanctions – CLC Lawyer</b>	<b>Statutory provision</b>	<b>CLC Rules</b>
Revocation of Licence	s.26(2)(a) Administration of Justice Act 1985 (AJA 1985)	r.13.3 (a)(i) Adjudication Panel Rules 2015 (AP Rules 1985)
Disqualified from holding a licence/role (permanently or for a specified period)	s.26(2)(b) AJA 1985	r.13.3 (a)(ii) AP Rules 2015
Licence suspended	s.26(2)(c) AJA 1985	r.13.3 (a)(iii) AP Rules 2015
Licence subject to conditions (e.g. only carry out specified activity, only act for specific types of clients, only provide legal services if a particular structure or policy is in place and implemented, provide information to the CLC to enable it to monitor the practice or CLC Lawyer closely)	s.26(2)(d) AJA 1985	r.13.3 (a)(iv) AP Rules 2015
Payment of penalty to HM Treasury which is fair & proportionate (not to exceed £50 million)	s.26(2)(e) AJA 1985	r.13.3 (a)(v) AP Rules 2015
Reprimand	s.26(2)(f) AJA 1985	r.13.3 (a) (vi) AP Rules 2015
Payment of costs	s.26(2A) AJA 1985	r.9 AP Procedure Rules 2013 (as amended)

<b>Sanctions - Recognised Bodies</b>	<b>Statutory provision</b>	<b>CLC Rules</b>
Revoke recognition of entity	Paragraph 4(2)(a) Schedule 6 AJA 1985	r.13.3 (b) (i) AP Rules 2015
Reprimand entity	Paragraph 4(2)(ba) Schedule 6 AJA 1985	r.13.3 (b) (iii) AP Rules 2015

Certificate issued subject to conditions	Paragraph 4(2)(bb) Schedule 6 AJA 1985	r.13.3 (b) (iv) AP Rules 2015
Payment of a penalty to HM Treasury which is fair & proportionate (not to exceed £250 million)	Paragraph 4(2)(b) Schedule 6 AJA 1985	r.13.3 (b) (ii) AP Rules 2015
Payment of costs	Paragraph 4(2D) Schedule 6 1985 Act	r.9 AP Procedure Rules 2013 (as amended)

<b>Sanctions – manager or employee of Recognised Body</b>	<b>Statutory provision</b>	<b>CLC Rules</b>
Payment of a fine to HM Treasury which is fair & proportionate (not to exceed £50 million)	Paragraph 4(2B)(a) Schedule 6 AJA 1985	r.13.3(c)(i) AP Rules 2015
Order requiring the CLC to take such steps as the AP may specify in relation to the Manager or employee	Paragraph 4(2B)(b) Schedule 6 AJA 1985	r.13.3(c)(ii) AP Rules 2015
Order requiring the CLC to refer to an appropriate regulator any matter relating to the conduct of the Manager or employee	Paragraph 4(2B)(c) Schedule 6 AJA 1985	r.13.3(c)(iii) AP Rules 2015
Payment of costs	Paragraph 4(2D) Schedule 6 1985 Act	r.9 AP Procedure Rules 2013 (as amended)

<b>Sanctions - Licensed Bodies (ABS)</b>	<b>CLC Rules</b>
Reprimand body	r.14.2(a)(i) AP Rules 2015
Licence issued subject to conditions	r.14.2(a)(ii) AP Rules 2015
Payment of a fine to HM Treasury which is fair & proportionate (not to exceed £250 million)	r.14.2(a)(iii) AP Rules 2015
Suspend licence of body	r.14.2(a)(iv) AP Rules 2015

Revoke licence of the body	r.14.2(a)(v) AP Rules 2015
Intervene	S14.2(a)(vi) AP Rules 2015

<b>Sanctions - Licensed Body owner</b>	<b>CLC Rules</b>
Place conditions on owner's material interest	s14.2(b)(i) AP Rules 2015
Object to owner's material interest and initiate application to High Court to divest owner of material interest	s14.2(b)(ii) AP Rules 2015
Payment of a fine to HM Treasury which is fair & proportionate (not to exceed £50 million)	s14.2(b)(iii) AP Rules 2015

<b>Sanctions – Head of Legal Practice (HoLP) or Head of Finance and Administration (HoFA)</b>	<b>CLC Rules</b>
Require the CLC to take such steps as it may specify in relation to the HoLP or HoFA	s14.2(c)(i) AP Rules 2015
Payment of a fine to HM Treasury which is fair & proportionate (not to exceed £50 million)	s14.2(c)(ii) AP Rules 2015
Withdraw approval of the individual for the role	s14.2(c)(iii) AP Rules 2015
Disqualify individual from a role within a Licensed Body	s14.2(c)(iv) AP Rules 2015

<b>Sanctions – Manager or employee of a Licensed Body</b>	<b>CLC Rules</b>
Payment of a fine to HM Treasury which is fair & proportionate (not to exceed £50 million)	s14.2(d)(i) AP Rules 2015
Require the CLC to take such steps as it may specify in relation to the Manager or employee	s14.2(d)(ii) AP Rules 2015
Require the CLC to refer to an appropriate regulator any matter relating to the conduct of the Manager or employee	s14.2(d)(iii) AP Rules 2015
Disqualify the individual from a role within a Licensed Body	s14.2(c)(iv) AP Rules 2015