



## **PUBLICATION OF INFORMATION ON ADJUDICATION PANEL HEARINGS – FREQUENTLY ASKED QUESTIONS**

### **Summary**

The Adjudication Panel hears and determines disciplinary cases referred to it by the CLC. The CLC brings cases to the Panel when it suspects an individual or firm has breached the Code of Conduct. The Panel will determine the disciplinary sanctions to be applied to the respondent if it finds that a breach was made. The Adjudication Panel makes its determinations independent of the CLC. No member of the Panel is either a member of the CLC Council or an employee of the CLC.

- The CLC will not take a regulatory issue to the Adjudication Panel without having first undertaken a detailed investigation which concludes that the case is likely to be proved, or it is in the public interest or the interest of consumers for the case to be referred.
- The CLC expects the respondent<sup>1</sup> promptly to take steps to mitigate any risks identified by the CLC and not to wait for the Adjudication Panel hearing
- If the case is so clear, or our assessment of the risk of harm so significant, the CLC will intervene and stop the respondent from trading.

The CLC takes action based upon a breach of the Code of Conduct; it does not act as an advocate for individual complainants. Should you be dissatisfied with the legal service you received from a Licensed Conveyancer you should contact the [Legal Ombudsman](#) in the first instance.

### **Part 1. Conduct**

- Q1. What conduct is expected of CLC-regulated individual or firm?
- Q2. What is meant by a breach of the Code of Conduct?
- Q3. When does the CLC take disciplinary issues to the Adjudication Panel?
- Q4. What process has been applied to get to the point of formal Adjudication?
- Q5. What happens at an Adjudication Panel hearing?
- Q6. What kinds of disciplinary action can the Adjudication Panel take?
- Q7. Can the Adjudication Panel's decision be appealed?

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<sup>1</sup> Use of the term 'respondent' within this Q&A Note refers to both individual sole practitioners (i.e. Licensed Conveyancers) and firms regulated by the CLC which have a case before the Adjudication Panel

## **Part 2. Whether to proceed with a transaction**

- Q8. Will the CLC advise whether or not I should proceed with my transaction?
- Q9. Does the pending hearing mean the firm should definitely not be engaged with?
- Q10. Is a pending hearing proof of a firm's guilt?
- Q11. Is redress available if I proceed with the transaction but something goes wrong?
- Q12. Should a firm with a disciplinary finding made against them definitely be engaged with?

## **Part 3. Adjudication Panel Hearings**

- Q13. Can I attend an Adjudication Panel hearing?
- Q14. Can the Panel award compensation?
- Q15. Are there some cases which won't go before the Adjudication Panel?

## **Part 4. Other Questions**

- Q16. What if I have other questions?

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## **Part 1. Conduct**

### **Q1. What conduct is expected of a CLC-regulated firm?**

The [CLC Code of Conduct](#) sets out the positive Outcomes which the CLC expects the regulated community to deliver to clients and the behaviours (Overriding Principles) with which it needs to comply:

- OP1. Act with independence and integrity**
- OP2. Maintain high standards of work**
- OP3. Act in the best interests of your Clients**
- OP4. Comply with your duty to the court – applicable only should the CLC apply to regulate property litigation**
- OP5. Deal with regulators and ombudsmen in an open and co-operative way**
- OP6. Promote equality of access and service**

See also the [CLC Client Charter](#).

### **Q2. What is meant by a breach of the Code of Conduct?**

Examples of breaches of the [Code of Conduct](#) include (but are not limited to): failure to keep information confidential, failure to comply with an undertaking, discrimination on a protected characteristic (e.g. race), acting where there is a conflict of interest, acting dishonestly.

### **Q3. When does the CLC take disciplinary proceedings before the Adjudication Panel?**

Our response to breaches of the Code of Conduct is proportionate to the risk of harm.

In less serious circumstances: (e.g. where there has been a breach which has resulted in minimum risk of harm and we are satisfied that the firm is putting in place processes to

avoid repetition of the breach) we will provide support or advice or take regulatory action (e.g. issue a direction to the firm to address the issue).

Adjudication Panel: the CLC refers disciplinary proceedings to the Adjudication Panel where in its view there have been more serious breaches of the Code of Conduct (or where the firm has failed to respond positively to informal or regulatory action).

Intervention: where the interests of consumers are put at immediate and severe risk, the CLC exercises its powers of intervention in order to take control of client monies and documents, resulting almost invariably in the closure of the firm.

**Q4. What process has been applied to get to the point of a formal Adjudication?**

Following a detailed investigation, disciplinary proceedings will only be taken once the CLC is satisfied that the allegations are likely to be proved on the balance of probabilities (the civil standard of proof).

**Q5. What happens at an Adjudication Panel hearing?**

The CLC will prepare the disciplinary case to present at the Panel hearing in support of the allegations made against the respondent. The CLC is acting in its capacity as a regulator, and not as an advocate for any individual complainant. The respondent will be given the opportunity to present any evidence in defence and address the Panel. If it is satisfied that the allegations have been proved, the Adjudication Panel will determine what, if any, sanction should apply.

**Q6. What kinds of disciplinary action can the Adjudication Panel impose?**

The Panel has a range of enforcement tools available to it, including disqualification or suspension of a licence, withdrawal of approval of an individual within the respondent firm, a fine, a reprimand and payment of costs.

**Q7. Can the Adjudication Panel's decision be appealed?**

Respondents are entitled to appeal against the Adjudication Panel's decision. The fact that the decision is being appealed will be recorded on the CLC website. Members of the public or other third parties do not have rights to appeal against a determination made by the Adjudication Panel.

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**Part 2. Whether to proceed with a transaction**

**Pending disciplinary hearings**

**Q8. Will the CLC advise whether or not I should proceed with a transaction?**

The CLC is not able to give you advice about a specific matter. If you ask the CLC for advice, you will be directed to this document. You may wish to discuss this with your legal services provider.

**Q9. Does the pending hearing mean the firm should definitely not be engaged with?**

No; regulated firms in every sphere of life can find themselves engaged with their regulator on an issue: it does not automatically mean that they are 'guilty' of the allegations made or that the breach of the Code of Conduct is so severe as to warrant the CLC intervening in, and closing, the firm – see Q3.

The headline summary of allegations in the pending hearing notice gives an idea as to whether the issue might be relevant to your own transaction. You could ask the firm how they will manage the risk to your own transaction.

If the CLC is concerned that a firm poses an immediate threat to the interests of its clients, the public or the profession, it would have taken such steps as it is able to safeguard the interests of clients. In exceptional cases, the CLC may decide to exercise its powers of intervention and take control of the monies and documents held by the firm;

**Q10. Is a pending hearing proof of a firm's guilt?**

No. However, the CLC will only refer a matter to the Adjudication Panel for consideration if it believes, following its own investigation, that the respondent has a case to answer in respect of the allegation. Whether the respondent is guilty of breaching the CLC Code of Conduct is a decision for the Adjudication Panel alone.

**Q11. Is redress available if I proceed with the transaction but something goes wrong?**

Yes. All CLC practices are required to have professional indemnity insurance in place when they provide services regulated by the CLC. Complaints of poor service can be made to the CLC practice and if you are not satisfied about the outcome of your complaint you may refer your complaint to the [Legal Ombudsman](#). If for any reason the insurance does not respond to the claim, it may be possible to make an application for a grant out of the CLC's Compensation Fund.

**Adjudication Panel Judgement**

**Q12. Should a firm with a disciplinary finding made against them definitely not be engaged with?**

No – please see answer provided at Q9. A sanction has been applied and published to act as a deterrent so the firm does not repeat the breach. Adjudication Panel findings remain on the CLC's website for 2 years, or for the duration of the sanction applied, whichever is the longer period.

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**Part 3. Adjudication Panel Hearings**

**Q13. Can I attend an Adjudication Panel hearing?**

- a) Member of public/other

Yes, Adjudication Panel hearings are open to the public. However, any party to a case and any person who claims to be affected by it, can apply to the Panel for the hearing, or part of it, to be private. This may also occur in instances where the Panel has already decided not to name the firm, due to concerns that to name could:

- a) **Prejudice legal proceedings or regulatory or disciplinary investigations**
- b) **Risk breaching a person’s rights under Article 8 of the European Convention on Human Rights**
- c) **Not be just.**

If a hearing, or part of it, is to be held in private, the online Adjudication Panel Schedule will make this clear.

b) Complainant

If your complaint triggered the CLC’s investigation, or you have suffered detriment because of the firm’s practices in the area subject to the charges, you will be given the opportunity to comment on the charges and the evidence before the hearing. You may also be asked to be a witness; if so, we will provide you with further information. A complainant or witness will not have the right to appeal the decision.

**Q14. Can the Panel award compensation?**

No. Should the Adjudication Panel determine that there had been a breach of the Code of Conduct it will impose a disciplinary sanction. See Q10 for information on redress/compensation avenues.

**Q15. Are there some cases which won’t go before the Adjudication Panel?**

Other than in exceptional circumstances, the following issues are unlikely to be heard by the Panel:

- Conduct not relating to delivery of legal services regulated by the CLC and as specified in the firm’s licence;
- Disputes between employer and employee;
- Partnership disputes (unless client interest is adversely affected or there is a finding of a court or tribunal)
- Non-payment of fees (unless a non-payment judgement is in place)
- Allegations from lenders regarding failure to hand over deeds or papers (unless a successful application to the court has been made);
- An isolated report of misconduct, unless serious misconduct, or on the instructions of a client or to protect the interests of an identifiable client who has an interest in the outcome;
- Misconduct allegations made more than twelve months after the alleged misconduct could reasonably have come to light;
- Where a clear alternative legal remedy is available which has not yet been pursued.

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**Part 4. Other Questions**

**Q16. What if I have other questions?**

For more information on our approach to non-compliance: [CLC Regulation and Enforcement Policy](#). For more information on the CLC Adjudication Panel: [Procedure](#) and [Rules](#) or write to [policy@clc-uk.org](mailto:policy@clc-uk.org)