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# Audit Enforcement Procedure

## Effective 1 January 2021 (Reissued 30 March 2021)

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## Part 1

### Interpretation/Glossary

#### 1. In these Rules:

Audit Regulation	means Regulation (EU) No 537/2014 of the European Parliament and of the Council dated 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.
Adverse Finding	means a finding by Executive Counsel, an Enforcement Committee or a Tribunal that a Respondent has breached a Relevant Requirement.
Advisors	means advisors appointed by the FRC from time to time to its Advisory Panel or as Senior Advisors.
Allegation	means information about a Statutory Auditor or Statutory Audit Firm which raises a question as to whether they have breached a Relevant Requirement. Executive Counsel shall particularise the Allegation(s) which are to be set out in any Notice of Referral to the Enforcement Committee or in any Notice of Hearing.
Appeal	means an appeal against the Final Decision Notice of the Tribunal.
Appellant	means a Statutory Auditor or Statutory Audit Firm seeking to appeal under these Rules.
Appeal Panel	means the panel constituted to hear Appeals in accordance the Tribunal Terms of Appointment issued by the Conduct Committee.
Appeal Tribunal	means the Appeal Tribunal appointed to consider an appeal in accordance with Rule 67 and the Tribunal Terms of Appointment issued by the Conduct Committee.
Board	means the Board of directors of the FRC established and appointed under the FRC's Articles of Association. Where the Board has delegated any of its functions and decisions to the Conduct Committee any references to the Board shall mean the Conduct Committee.
Case Examiner	means an officer of the FRC whose responsibilities include the exercise of the functions under Part 2 of these Rules. The Case Examiner shall not be a practising auditor or an individual who has, during the previous three years, carried out statutory audits; held voting rights in an audit firm; been a member of the administrative, management or supervisory body of an audit firm; been a partner, employee of, or otherwise contracted by, an audit firm.
Case Management Directions	means Standard Directions and/or directions given by the Chair under Rule 28.
Case Management Meeting	means a meeting held by the Chair to give Case Management Directions.
Chair	means the Chair of the Tribunal appointed in accordance with the Tribunal Terms of Appointment issued by the Conduct Committee.

Conduct Committee	means the Conduct Committee of the FRC established under the Articles of Association of the FRC.
Constructive Engagement	means any of the range of forms of engagement set out in the Case Examiner Guidance issued by the Conduct Committee.
Days	means calendar days.
Decision Maker	means Case Examiner, Board, Conduct Committee, Executive Counsel, the Enforcement Committee, Chair or Tribunal.
Decision Notice	means the notice issued by Executive Counsel or the Enforcement Committee with the findings and recommended sanction.
Directive	means Directive 2006/43/EC of the European Parliament and of the Council of the European Union on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660 EEC and 83/349 EEC and repealing Council Directive 84/253/EEC (and as amended by Directive 2008/30/EC, Directive 2013/34/EU and Directive 2014/56/EU).
Enforcement Action	means any steps taken pursuant to Rules 17, 18, 24, 25, 27 and 54 of these Rules.
Enforcement Committee	means a committee as constituted under its terms of reference issued by the Board and shall exercise its functions in accordance with Part 4 and Part 6.
Executive Counsel	means a legally qualified officer of the FRC appointed to that office by the FRC's People Committee or the person or persons to whom the Board or Executive Counsel delegates responsibility.
Final Decision Notice	means the notice issued by Executive Counsel, the Enforcement Committee or Tribunal setting out the Decision Maker's conclusive findings and Sanction.
FRC	means the Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales and the designated competent authority pursuant to the SATCAR 2016.
Hearing	means an oral hearing before the Tribunal.
Initial Investigation Report	means the report prepared by or on behalf of Executive Counsel which outlines the Allegation and those Relevant Requirements which the Respondent appears to have breached and summarises the evidence and documents obtained in the course of the investigation.
Interim Order	means an order which imposes restrictions on the Respondent (in accordance with guidance issued by the Board) pending the outcome of the FRC's investigation or proceedings.
Investigation Report	means the report finalised by or on behalf of Executive Counsel following any submissions from the Respondent to the Initial Investigation Report.
Notice of Cancellation	means written notification that an investigation or proceedings against a Respondent has been cancelled under Rule 74 or 76.

Notice of Hearing	means written notification in accordance with Rule 34 of a Hearing before the Tribunal under Part 5.
Notice of Investigation	means written notification that an Allegation has been referred for investigation under Rule 7.
Notice of Referral to the Enforcement Committee	means written notification, in the form as required by Rule 20, that an Allegation has been referred to the Enforcement Committee.
Party/Parties	means the Respondent and Executive Counsel and may refer to those representing them.
Publication Policy	means the FRC's publication policy from time to time in force and issued by the Conduct Committee.
Public Interest Entity	has the meaning set out in Regulation 2, SATCAR 2016.
Recognised Supervisory Body	means a supervisory body, within the meaning in section 1217(1) of the Companies Act 2006, recognised in accordance with Schedule 10 of that Act (as amended) and for the purposes of Part 3 of these Rules the body to whom an investigation under this procedure has been delegated pursuant to Regulation 3(2) of the SATCAR 2016.
Relevant Requirement	has the meaning set out in Regulation 5(11) SATCAR 2016 or Regulation 11(5)(b) of SATCAR 2016.
Respondent	means a Statutory Auditor or Statutory Audit Firm against whom an Allegation has been made.
Rules	means the rules set out in this Audit Enforcement Procedure.
Sanction	means a sanction under Rule 96.
Sanction Policy	means the policy document on sanctions approved by the Board.
SATCAR 2016	means the Statutory Auditors and Third Country Auditors Regulations 2016 (SI 2016/649).
Secretariat	means any person, with no decision making function, appointed by the FRC to exercise administrative functions and to support the Tribunal.
Standard Directions	means directions applicable to all cases referred for a Hearing save as set out in Rule 31.
Statutory Audit	means an audit of annual financial statements or consolidated financial statements required by the Companies Act 2006 (as amended).
Statutory Audit Firm	means a legal person or any other entity, regardless of its legal form, that is approved by or on behalf of the FRC to carry out Statutory Audits (and for these purposes includes such a person or any other entity that is appointed to perform third country audit functions) and is potentially liable to Enforcement Action under these Rules.

Statutory Auditor	means a natural person who is approved by or on behalf of the FRC to carry out Statutory Audits (and for these purposes includes such a person who is appointed to perform third country audit functions) and is potentially liable to Enforcement Action under these Rules.
Third country audit function	has the meaning set out in Regulation 11 (8) of SATCAR 2016.
Tribunal	means a Tribunal appointed in relation to a specific case.
Tribunal Panel	means the Tribunal Panel constituted in accordance with the Tribunal Terms of Appointment issued by the Conduct Committee to conduct Hearings and those matters set out in Parts 5, 6, 7 and 9 of this Procedure.

In these Rules words denoting the masculine gender also include the feminine and neutral, and words denoting the singular may include the plural<sup>1</sup>.

## Part 2 - Initial Stages

### Initial Action by Case Examiner

2. On receipt of information about a Statutory Auditor or Statutory Audit Firm the Case Examiner may:
  - (a) make enquiries and obtain specialist advice;
  - (b) seek constructive engagement with the Statutory Auditor or Statutory Audit Firm.
3. Where the Case Examiner determines that the information about a Statutory Auditor or Statutory Audit Firm:
  - (a) amounts to an Allegation, and the matter has not been resolved using constructive engagement where the Case Examiner considers such engagement would be appropriate, he:
    - (i) may refer the Allegation for an Interim Order to be considered by the Enforcement Committee;
    - (ii) shall refer the Allegation to the Board;
  - (b) does not amount to an Allegation, he shall take no further action.

### Decision to Investigate

4. Where the Board considers that there is a good reason to investigate an Allegation, it shall:
  - (a) refer the Allegation for investigation by the Executive Counsel; and
  - (b) direct whether the investigation should be delegated to the appropriate Recognised Supervisory Body.

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<sup>1</sup> This document was re-issued on 30 March 2021 with corrections and clarifications.

5. Where the Board decides not to refer the Allegation for investigation, it may refer the matter back to the Case Examiner to resolve using Constructive Engagement.
6. The Board may delegate the decisions at Rules 4, 5 and 70 to the Conduct Committee. Where the Board has delegated any of its functions and decisions to the Conduct Committee, any references to the Board shall mean the Conduct Committee.

### **Notice of Investigation**

7. Where the Board refers an Allegation for investigation, the Respondent shall be sent a Notice of Investigation (which will be copied to the Respondent's Recognised Supervisory Body) which shall:
  - (a) outline the scope of the investigation;
  - (b) indicate if the investigation has been delegated to a Recognised Supervisory Body.

### **Part 3 - Investigation**

#### **Delegation**

8. Where the Board has delegated the investigation to a Recognised Supervisory Body, the Recognised Supervisory Body may, on behalf of the FRC, exercise the powers set out in Rule 9.

#### **Investigation Powers**

9. In order to investigate and determine whether to issue a Decision Notice, or monitor compliance with Decision Notices, Executive Counsel may:
  - (a) give notice to require any Statutory Auditor or Statutory Audit Firm to provide information it holds which relates to work undertaken in respect of the Statutory Audit of, or the performance of third country audit functions in respect of, the annual accounts or the consolidated accounts of any audited person;
  - (b) request any specialist advice;
  - (c) request experts to carry out verifications or investigations;
  - (d) require any Statutory Auditor or Statutory Audit Firm to co-operate with investigations, including attending for interview;
  - (e) request or receive from any other person any information which may be material to an investigation.
10. In the course of any investigation in relation to the Statutory Audit of a Public Interest Entity Executive Counsel may:
  - (a) enter premises upon notice and at any reasonable time to carry out on-site inspections of statutory audit work or audit firms, subject to:
    - (i) providing notice in writing to the occupier of such premises which sets out:
      - (A) why entry is necessary;
      - (B) the name of the audited person;
      - (C) the accounting years in question;

- (D) the risk of committing a statutory offence contrary to paragraph 5 Schedule 2 SATCAR 2016.
    - (ii) providing at least 2 working days between the date of receipt of the notice and the date of entry.
  - (b) give notice to any person specified below to provide information relating to the statutory audit of the annual accounts or the consolidated accounts of any Public Interest Entity:
    - (i) any person involved in the activities of Statutory Auditor (including any person to whom a Statutory Auditor has outsourced such activities);
    - (ii) any Public Interest Entity;
    - (iii) any subsidiary or parent of the Public Interest Entity or any other subsidiary of a company of which a Public Interest Entity is a subsidiary;
    - (iv) any person otherwise having a connection to a Statutory Auditor carrying out the Statutory Audit of the annual accounts or consolidated accounts of a Public Interest Entity.
11. Unless Rule 74 applies, when the investigation has been concluded, Executive Counsel shall provide the Respondent with the Initial Investigation Report within 14 days and any relevant accompanying papers.
12. On receipt of the Initial Investigation Report, the Respondent shall have 56 days to make representations or such other period as may be agreed by Executive Counsel.
13. Executive Counsel may take into account a failure to make representations when determining any Enforcement Action.
14. Executive Counsel shall consider any representations from the Respondent before finalising the Investigation Report within 56 days of receipt of the representations or such other period of time as Executive Counsel considers appropriate.
15. At any stage of the investigation or following completion of the investigation, before or after receipt of any representations from the Respondent, Executive Counsel may:
- (a) seek clarification or further information from the Respondent or any other person in respect of the Allegation or investigation;
  - (b) seek advice from Advisors; or
  - (c) agree with the Respondent that the case should be referred directly for a Hearing under Part 5 of these Rules without first passing through the Enforcement Committee stage set out in Part 4 of these Rules.

#### **Executive Counsel's Test**

16. On finalising the Investigation Report Executive Counsel will decide that either:
- (a) A Respondent is not liable for Enforcement Action and shall issue a Notice of Cancellation pursuant to Rule 74; or
  - (b) A Respondent is liable for Enforcement Action, having made Adverse Findings against the Respondent.

#### **Executive Counsel's Decision Notice**

17. Following a decision under Rule 16(b), whereby Executive Counsel considers that a Respondent is liable for Enforcement Action, he shall issue a Decision Notice which shall:
  - (a) outline the Adverse Findings with reasons;
  - (b) propose a Sanction with reasons;
  - (c) propose an amount payable in respect of Executive Counsel's costs of the matter;
  - (d) invite the Respondent to provide a written agreement to all or part of the Decision Notice within 28 days or such other period as Executive Counsel may agree is reasonable in all the circumstances.
18. Executive Counsel shall issue a Final Decision Notice within 14 days where the Respondent agrees to the Decision Notice.

#### **Referral to the Enforcement Committee**

19. Executive Counsel shall refer a matter to the Enforcement Committee where:
  - (a) the Respondent has failed to respond to Executive Counsel's Decision Notice within the time stated by Executive Counsel;
  - (b) the Respondent responds but does not provide written agreement to the Decision Notice to Executive Counsel's satisfaction;
  - (c) the Respondent has failed to comply with a Final Decision Notice and the Allegation is therefore re-opened;
  - (d) Executive Counsel considers that an Interim Order should be considered.

#### **Part 4 - Enforcement Committee**

20. The Notice of Referral to the Enforcement Committee shall:
  - (a) specify the date for the meeting of the Enforcement Committee which shall be no less than 28 days after service of the Notice of Referral;
  - (b) provide the Respondent with copies of any document that has not previously been provided to the Respondent which may be considered relevant;
  - (c) invite the Respondent to provide written representations and further documentation on the Allegation and/or Executive Counsel's recommendation for Sanction;
  - (d) where part of Executive Counsel's Decision Notice has been agreed, annex confirmation of the matters agreed between the Parties;
  - (e) inform the Respondent that the Enforcement Committee may seek further information for the purposes of carrying out its functions.
21. The Enforcement Committee shall:
  - (a) meet in private and not hear oral evidence;
  - (b) consider all the documentation and representations placed before it by Executive Counsel and the Respondent.
22. The Enforcement Committee may:

- (a) specify time limits and grant extensions;
- (b) adjourn for further enquiries of the Parties to be conducted as considered necessary;
- (c) invite Executive Counsel and the Respondent to attend to make oral submissions.

### **Enforcement Committee Test**

23. The Enforcement Committee will decide that either:

- (a) a Respondent is not liable for Enforcement Action and shall issue a Notice of Cancellation pursuant to Rule 75; or
- (b) a Respondent is liable for Enforcement Action having made Adverse Findings against the Respondent.

### **Enforcement Committee's Decision Notice**

24. Where the Enforcement Committee decides that the Respondent is liable for Enforcement Action, the Committee shall within 14 days, or such other period as the Enforcement Committee considers appropriate, issue the Decision Notice which shall:

- (a) outline its findings;
- (b) propose a Sanction;
- (c) provide reasons for its conclusions at (a) and (b) above;
- (d) propose an amount payable in respect of Executive Counsel's costs of the matter;
- (e) invite the Respondent to provide a written agreement to the Decision Notice by a specified date which shall be no later than 28 days from the date of the Decision Notice;
- (f) warn the Respondent that failure to respond could lead the Enforcement Committee to issue a Final Decision Notice.

25. Where the Respondent agrees to the entire Decision Notice, the Enforcement Committee's Final Decision Notice shall be issued within 14 days.

### **No Agreement to the Enforcement Committee's Decision Notice**

26. Where the Respondent rejects all or part of the Decision Notice, the Chair of the Enforcement Committee shall refer the matter for a Hearing before a Tribunal.

27. Where the Respondent fails to respond within the specified time to the Decision Notice, the Chair of the Enforcement Committee may issue a Final Decision Notice.

### **Part 5 – The Tribunal**

28. The Tribunal is not bound by and will not defer to earlier Decision Notices (which, unless the parties agree otherwise, will be treated as without prejudice save as to costs).

### **Case Management Meetings and Directions**

29. Case Management Directions may be provided at a Case Management Meeting, by correspondence, telephone or other electronic communication as the Chair deems fit.
30. Case Management Directions may be given by the Chair:
  - (a) upon the request of a Party; or
  - (b) at the Chair's own volition.
31. Standard Directions will apply unless otherwise agreed between the Parties or ordered by the Chair at the Chair's own volition or upon application by one of the Parties.
32. The Chair may rule on any question of law or admissibility of evidence and any such decisions are binding on the Tribunal Panel hearing the Allegation.
33. The Chair or Tribunal may draw adverse inferences in respect of a failure by a Party to comply with Case Management Directions.

### **Notice of Hearing**

34. Where the Tribunal is to hold a Hearing, the Notice of the Hearing shall:
  - (a) state the date, time and venue;
  - (b) state the Allegation(s);
  - (c) warn that the Tribunal may proceed with the Hearing in the absence of any Party.
35. The Secretariat shall serve a Notice of the Hearing on the Parties no less than 28 days before the date fixed for the Hearing.

### **Evidence**

36. The Tribunal may take into account any relevant evidence, whether or not such evidence would be admissible in a court. The Tribunal shall at all times apply the rules of natural justice.
37. The Tribunal has discretion to allow a Party to adduce written evidence or call a witness at a Hearing which has not been disclosed in accordance with these Rules or any relevant Case Management Direction.
38. Production of a certificate from a competent officer of a court in the United Kingdom or overseas shall be conclusive evidence of an offence committed.
39. Production of a certificate signed by an officer of a regulatory body shall be conclusive evidence of that regulator's determination.
40. The Tribunal may, upon the application of any Party, in the interests of the witness direct that details which could identify a witness shall not be revealed in public.
41. Witnesses:
  - (a) shall usually first be examined by the Party calling them;
  - (b) may be cross-examined;
  - (c) may be re-examined by the Party calling them;
  - (d) may be questioned by the Tribunal;

- (e) may be re-examined by the Party calling them on matters arising out of the Tribunal's questions.
- 42. The Tribunal may, upon the application of any Party or of its own volition require a person who is due to be a future witness to be excluded from the Hearing.
- 43. The Chair or Tribunal, after receiving submissions from the Parties, may adopt such measures as considered necessary to receive evidence from a witness.

#### **Postponements and Adjournments**

- 44. The Chair may, of his own volition or upon the application of a Party, postpone any Case Management Meeting or Hearing.
- 45. The Tribunal may, of its own volition or upon the application of a Party, adjourn the proceedings at any stage.
- 46. In considering whether to postpone or adjourn a Case Management Meeting or Hearing, the Chair or Tribunal shall, further to any submissions from the Parties, have regard to the fairness to the Parties and the public interest.
- 47. The validity of proceedings shall not be undermined where Tribunal Panel members present at the former Case Management Meeting or Hearing are not present at subsequent proceedings.

#### **Proceeding in Absence**

- 48. Where the Respondent fails to attend a Case Management Meeting or a Hearing, the Chair or Tribunal may continue in his absence if:
  - (a) it is satisfied that notification of the Case Management Meeting or Hearing was properly given;
  - (b) it is fair in all the circumstances.

#### **Attendance of the Public**

- 49. The Hearing shall be held in public subject to Rule 50.
- 50. Where the Chair or Tribunal decides that publicity could prejudice the interests of justice, or that a private hearing may otherwise be in the public interest, all or part of the Hearing may be held in private.
- 51. The Tribunal may exclude from the Hearing any person whose conduct has disrupted or is likely to disrupt proceedings.

#### **Representation**

- 52. At a Hearing, the Respondent may represent themselves or be represented by:
  - (a) a Solicitor or Counsel; or
  - (b) another person at the discretion of the Chair or Tribunal, provided that the person is not a witness in the case, a member or employee of the FRC.

#### **The Procedure at a Hearing**

- 53. Unless the Chair or Tribunal determines otherwise, the order of proceedings at a Hearing is:

- (a) the Tribunal shall consider any preliminary legal arguments;
- (b) the Respondent shall indicate whether any admissions are made;
- (c) Executive Counsel shall open the case and call evidence in support;
- (d) the Respondent may open his case and call evidence in support;
- (e) subject to Rule 54, the Tribunal shall announce its decision.

### **Tribunal Decision**

54. At the conclusion of the evidence, the Tribunal shall:
- (a) consider the case, announce its findings and give reasons for its decision;
  - (b) in the event of an Adverse Finding the Tribunal may receive evidence and submissions in respect of Sanction;
  - (c) the Tribunal shall consider and announce its decision on Sanction and give reasons for its decision;
  - (d) The Tribunal shall issue a Final Decision Notice which will set out its findings and Sanction.

### **Part 6 - Interim Orders**

55. An Interim Order can be determined by the Enforcement Committee or the Tribunal at any stage before issuing a Final Decision Notice.
56. Either Party may apply to have the Interim Order varied or revoked to the Decision Maker that imposed the Interim Order;
57. When considering an Interim Order the Enforcement Committee shall:
- (a) meet in private and shall consider any written submissions provided by the Parties;
  - (b) on the application of one of the Parties, refer the consideration of the Interim Order to a Hearing.
58. When considering an Interim Order (or an appeal in relation to an Interim Order) the Tribunal shall:
- (a) consider any submissions from the Parties;
  - (b) not receive oral evidence unless the Tribunal considers the evidence is relevant to enable it to discharge its functions.
59. Reasonable notice shall be provided to the Parties prior to the Enforcement Committee or Tribunal deciding whether to consider an Interim Order.
60. Where there are reasonable grounds to consider that the Respondent may be liable to Enforcement Action and it is in the public interest or the interests of the Respondent, the Enforcement Committee or Tribunal may impose an Interim Order.
61. The Enforcement Committee or Tribunal shall specify that before the end of the period of the Interim Order the matter shall be considered for a review by the Decision Maker.

62. An Interim Order shall be revoked by:
- (a) a Notice of Cancellation; or
  - (b) a Final Decision Notice following expiry of the appeal period or the conclusion of any appeal.

### **Part 7 - Appeal**

63. A Respondent may appeal:
- (a) an Interim Order imposed by the Enforcement Committee, to the Tribunal for a Hearing;
  - (b) a Final Decision Notice made by the Enforcement Committee without the Respondent's agreement to the Tribunal for a Hearing in accordance with Part 5;
  - (c) a Final Decision Notice made by the Tribunal, to the Appeal Tribunal.
64. Any Appeal under Rule 63(c) can only be made on the grounds that the Tribunal decision was:
- (a) wrong in law;
  - (b) unfair because of a serious procedural irregularity;
  - (c) irrational;
  - (d) made in the absence of significant and relevant new evidence which could not have been adduced previously; or
  - (e) in relation to Sanction, manifestly unreasonable.
65. The Respondent shall lodge any Notice of Appeal under Rule 63 in writing within 28 days of the issuing of the Final Decision Notice.
66. Upon receipt of a Notice of Appeal, the Chair of the Appeal Tribunal shall within 14 days consider whether to give permission to appeal and will grant permission if he is satisfied that:
- (a) there is an arguable case for appeal on one or more of the grounds set out in Rule 64;
  - (b) the appeal was lodged in accordance with Rule 65 unless there are good reasons for giving leave to appeal out of time; and
  - (c) Rule 68 does not apply.
67. The Appeal Tribunal may:
- (a) revoke or vary the relevant Final Decision Notice on the case;
  - (b) give such direction or take such other steps as the Tribunal could have given or taken;
  - (c) make any other decision which the Tribunal could have made;
  - (d) remit the case back to the Tribunal.

68. Where a Respondent has agreed to a Decision Notice in accordance with Rules 18 or 25, there is no right of appeal.

### **Part 8 - Reconsideration**

69. The FRC may reconsider any decision made under these Rules with the agreement of the Respondent.
70. The Board may reconsider any decision made in respect of Rule 3 or Rule 4 without the agreement of the Respondent where it appears that:
- (a) either:
    - (i) the decision was one or more of the following:
      - (A) wrong in law;
      - (B) unfair because of a serious procedural irregularity;
      - (C) irrational; or
    - (ii) significant and relevant new evidence which could not have been adduced previously has been received within 5 years of the decision under reconsideration; and
  - (b) it is necessary in the public interest or to prevent injustice to reconsider the decision.
71. Where the Board decides to reconsider a decision, it shall provide the Respondent with any new evidence or information and invite the Respondent to submit representations.
72. Where the Board reconsiders the decision it may:
- (a) decide the original decisions should stand; or
  - (b) remit the matter back to the Decision Maker for a fresh decision where the matter shall follow the same procedure under these Rules applicable to that Decision Maker.
73. The Board shall inform the Respondent of its decision in respect of reconsideration.

### **Part 9 - General**

#### **Notice of Cancellation**

74. Until the Notice of Referral to the Enforcement Committee is issued, Executive Counsel may decide that the Respondent should no longer be liable for Enforcement Action.
75. The Enforcement Committee may decide that the Respondent is not liable for Enforcement Action pursuant to Rule 23(a).
76. Until the Notice for a Hearing is issued, the Tribunal Chair may decide that the Respondent should no longer be liable for Enforcement Action.
77. Where Executive Counsel, the Enforcement Committee or the Tribunal Chair makes a decision under Rules 74 -76, they shall:
- (a) notify the Respondent of the decision;
  - (b) inform any other Party as appropriate and the reasons for the decision.

78. The Chair may, of his own volition or upon the application of a Party, cancel a Hearing.

#### **Amendment of the Allegation**

79. The Chair of the Tribunal may, on their own volition or upon application of a Party, amend the particulars of an Allegation.
80. When considering whether to make an amendment, the Chair of the Tribunal must invite and consider any submissions from the Parties.

#### **Burden and Standard of Proof**

81. The standard of proof when deciding disputed facts shall be the civil standard.
82. The burden of proving any disputed facts in relation to the Allegation rests on Executive Counsel.

#### **Joinder of Allegations**

83. The Enforcement Committee or the Tribunal may consider and determine an Allegation against two or more Respondents together where:
- (a) the Allegation against each Respondent concerned arises out of the same circumstances; and
  - (b) it is appropriate in all the circumstances.
84. Each Respondent has the right to exercise any of the rights accorded to a Respondent in these Rules whether or not any other joined Respondent exercises that right.

#### **Publication**

85. Publication of Decision Notices under these Rules shall be in accordance with the Publication Policy.
86. All Sanctions imposed under these Rules shall be published in accordance with the Publication Policy.

#### **Costs**

87. When issuing Decision Notices under Rules 17 and 24, Executive Counsel and the Enforcement Committee as applicable shall propose an amount payable in respect of Executive Counsel's costs of the matter.
88. A Party may serve on the other Party and the Secretariat a schedule of costs or expenses relating to or connected with a Hearing no less than 24 hours before the date of that Hearing.
89. After announcing the Tribunal's or Appeal Tribunal's decision the Chair may invite representations as to whether costs or expenses should be assessed against either Party.
90. After hearing representations from the Parties, the Tribunal or Appeal Tribunal may order a Party to pay all or part of the costs or expenses incurred by the other Party by a specified date.
91. The Tribunal or Appeal Tribunal shall have regard to the following when assessing whether a Party should be liable for the costs or expenses of the other Party:
- (a) the Parties' ability to pay;

- (b) the Tribunal's decision on the facts and, if appropriate, the Sanction or the Appeal Tribunal's decision on the Appeal;
  - (c) is it fair and equitable in the circumstances.
92. The Tribunal or Appeal Tribunal shall not award costs to the Respondent unless it finds that it was unreasonable to have pursued all or a substantial part of the case.
93. Where the Tribunal orders a Party to pay the costs or expenses of the other Party, the Chair may
- (a) summarily assess the costs of award;
  - (b) request the Parties to agree;
  - (c) order that the award should be assessed by an appropriate person appointed by the Secretariat.

### **Voting**

94. The Enforcement Committee, the Tribunal and the Appeal Tribunal shall decide matters by a majority vote.
95. No member of the Enforcement Committee, the Tribunal and the Appeal Tribunal may abstain from a vote.

### **Sanctions**

96. Executive Counsel, the Enforcement Committee and the Tribunal may impose the following Sanctions:
- (a) a notice requiring the Respondent to cease or abstain from repetition of the conduct giving rise to the breach of the Relevant Requirement(s);
  - (b) publish a statement (which may take the form of a reprimand or severe reprimand) to the effect that the Respondent is required to cease or abstain from repetition of the conduct giving rise to the breach of the Relevant Requirement(s);
  - (c) order the Respondent to take action to mitigate the effect or prevent the recurrence of the breach of the Relevant Requirement(s);
  - (d) temporary prohibition, of up to three years' duration, banning the Respondent from carrying out Statutory Audits and/or signing audit reports;
  - (e) permanent prohibition banning the Respondent from carrying out Statutory Audits and/or signing audit reports;
  - (f) a declaration that the Statutory Audit Report does not satisfy the Relevant Requirement(s);
  - (g) in a case where an audit report does not satisfy the Relevant Requirements, order that the Respondent waives or repays client fees paid or payable to the Respondent in connection with the carrying out of the Statutory Audit.
  - (h) temporary prohibition of up to 3 years' duration banning the Respondent from being a member of the management body of a firm that is eligible for appointment as a Statutory Auditor;

- (i) temporary prohibition of up to 3 years' duration banning the Respondent from acting as a director of or being otherwise concerned in the management of a Public Interest Entity;
  - (j) a financial penalty;
  - (k) conditions;
  - (l) exclusion as a member of one or more Recognised Supervisory Bodies.
97. Executive Counsel or the Enforcement Committee may, as an alternative or in addition to imposing a Sanction, accept written undertakings from the Respondent.
98. Any Sanction imposed on a Respondent shall be published in accordance with the FRC's Publication Policy and have effect at expiry of the appeal period or the conclusion of any appeal and may be entered on the Register of Statutory Auditors at the direction of the Decision Maker.
99. The provisions of this amended Audit Enforcement Procedure will have immediate effect from 1 January 2021.
100. Any steps taken under any previous version of the Audit Enforcement Procedure shall be deemed to have been taken by the FRC, the Board, the Conduct Committee or the People Committee, as appropriate, under this Audit Enforcement Procedure as amended by the FRC with effect from 1 January 2021.

**Approved by the Board on 30 March 2021.**

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