

June 2020

Publication Policy regarding decisions under the Accountancy and Actuarial Schemes

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Accountancy and Actuarial Schemes – Publication Policy

Introduction

1. This Policy applies to matters which are the subject of a decision under the Financial Reporting Council (“FRC”)’s Accountancy Scheme and Actuarial Scheme (“the Schemes”).
2. Publicity about actions taken under the Schemes contributes to transparency and public confidence in the FRC’s independent disciplinary arrangements, informs the public and the professions of unacceptable standards of conduct, and deters future Misconduct.
3. The Schemes set out that matters under the Schemes either attract a presumption in favour of publication, or do not attract such a presumption. Each decision by the Committee is taken on its own merits and on a case-by-case basis.
4. In all cases, it is a matter for the FRC’s Conduct Committee (“Committee”) to decide whether to publish a matter related to a decision reached under one of the Schemes. The manner in which an announcement is made is a matter for the FRC Executive.

Matters with a presumption in favour of publication

5. The matters that attract a presumption in favour of publication are set out in the Schemes. These concern referrals from Accountancy Scheme Participants to commence an investigation¹, the outcome of investigations², approved Settlement Agreements³ and Tribunal reports⁴.
6. When considering whether to publish matters that attract a presumption in favour of publication, the Committee may only decide not to publish, or to defer or delay publication, if it considers that to do so is in the public interest.
7. Whether the greater public interest lies in publication or in deferring or delaying publication is a subjective assessment.
8. The following are examples of factors that may indicate that publication would not be in the public interest:
 - a. publication could jeopardise the stability of financial markets;
 - b. publication could prejudice criminal or other regulatory investigations or proceedings;

¹ Paragraph 6(2) Accountancy Scheme.

² Paragraph 7(15) Accountancy Scheme and paragraph 7(15) Actuarial Scheme.

³ Paragraph 8(6) Accountancy Scheme and paragraph 8(6) Actuarial Scheme.

⁴ Paragraphs 9(13), 10(16) and 15(13) Accountancy Scheme and paragraphs 9(13), 10(16) and 15(13) Actuarial Scheme.

- c. publication could prejudice the FRC's investigations or any future disciplinary action it may wish to take; or
- d. publication could have an impact on the national, regional or local economy disproportionate to the gravity of the issues under consideration and the overall circumstances.

9. The examples set out above are for illustrative purposes only and do not amount to an exhaustive list.

Matters with no presumption in favour of publication

10. The specific matters that do not attract a presumption in favour of publication are set out in the Schemes. These relate to:

- a. referrals from Actuarial Scheme Participants to commence an investigation⁵;
- b. decisions to decline a referral from a Scheme Participant to commence an investigation⁶;
- c. directions to the Executive Counsel to make preliminary enquiries⁷;
- d. decisions to commence an investigation⁸; and
- e. decisions to amend the scope of an investigation⁹.

11. The Committee will consider whether it is appropriate in all the circumstances to make an announcement in relation to a matter set out in paragraph 10. The Committee will consider the factors set out in paragraphs 13 to 16 below as relevant before coming to its conclusion.

12. Other announcements may be made by the Committee where it considers that such an announcement is desirable in achieving its objectives or would otherwise be in the public interest.

Referrals to commence an investigation, decisions to decline a referral and directions to make preliminary enquiries

13. It will not normally be appropriate for the Committee to decide to publish referrals, decisions to decline a referral or directions to make preliminary enquiries.

14. The factors which are to be taken into consideration when deciding whether it is appropriate to publish an announcement in relation to such a matter include the:

⁵ Paragraph 6(2) Actuarial Scheme.

⁶ Paragraph 6(7) Accountancy Scheme and paragraph 6(7) Actuarial Scheme.

⁷ Paragraph 6(10) Accountancy Scheme and paragraph 6(10) Actuarial Scheme.

⁸ Paragraph 7(4)(iii) Accountancy Scheme and paragraph 7(4)(iii) Actuarial Scheme.

⁹ Paragraphs 7(8)(iii) and 7(9)(ii) Accountancy Scheme, and paragraphs 7(8)(iii) and 7(9)(ii) Actuarial Scheme.

- a. level of public interest in relation to the matter under consideration;
- b. likely impact of such an announcement on public confidence in the accountancy and/or actuarial professions;
- c. likely impact of such an announcement on fairness to all concerned in relation to the matter in question;
- d. legitimate purpose served by such an announcement; and
- e. requirements imposed by legislation, including applicable data protection laws, the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 to either publish such information or to release such information into the public domain upon request.

Decisions to commence an investigation

- 15.** The Committee will not normally decide to publish the fact of its decision to commence an investigation unless it considers:
- a. that such publication is necessary in all the circumstances; and
 - b. any potential prejudice to the subject of an investigation is outweighed by the factors in favour of publication.
- 16.** In order to determine that an announcement is necessary in all the circumstances, the Committee must consider that an announcement will:
- a. help to maintain public confidence in the accountancy or actuarial professions;
 - b. help to maintain public confidence in the regulation of these professions;
 - c. protect users of financial statements;
 - d. protect investors;
 - e. help to prevent malpractice that is potentially widespread;
 - f. contribute to the effectiveness of the investigation itself, for example by bringing forward witnesses;
 - g. help to allay concern; or
 - h. help to contain speculation or rumour.

Content of publication

Investigations

- 17.** Where the Committee decides to publish a matter relating to a decision to commence an investigation, the announcement will include sufficient information to enable the reader to understand in broad terms the matter which is being investigated.
- 18.** The Committee will not normally publish the names of any Member whose conduct is under

investigation except:

- a. where failure to do so would defeat the purpose of the announcement, for example because it would not be possible to understand the nature of the matters under investigation without doing so;
- b. where the identity of the person is already a matter of public knowledge;
- c. where the identity of the person is obvious from the description of the matter; or
- d. there are other circumstances which, in the opinion of the Committee, make it appropriate to identify individuals under investigation.

- 19.** Where the Committee decides to publish an announcement regarding the outcome of an investigation, publication will include:
- a. sufficient information to enable the reader to understand in broad terms the matter under investigation;
 - b. the outcome of the investigation;
 - c. whether or not the Executive Counsel has delivered a Formal Complaint;
 - d. if a Formal Complaint has been delivered, the nature of the complaint and against whom the complaint is being brought; and
 - e. if the identity of the Member investigated has been previously published, the identity of that Member.

Settlement Agreements

- 20.** The Committee will usually make approved Settlement Agreements available on the FRC's website. Settlement Agreements may be edited for publication. Any accompanying press announcement will summarise the Settlement Agreement and any sanctions and costs orders imposed.

Tribunal Reports

- 21.** The Committee will usually make the report of the Tribunal available on the FRC's website. Tribunal reports may be edited for publication. Any accompanying press announcement will summarise the Tribunal's findings and any sanctions and costs orders imposed.

Third Parties & Advance Notification

- 22.** Save as otherwise set out in this policy, the identity of third parties will usually be anonymised in any announcements and/or related documents published pursuant to the Schemes and under this Policy, unless or to the extent that publication of that party's identity is considered fair and necessary in all the circumstances and is in compliance with any applicable data protection laws.

23. The entity in relation to which the respondent's conduct is the subject of the investigation will usually be identified in any announcements and/or related documents published in relation to the outcome of such investigation under the Scheme, unless or to the extent that identification of that entity is considered to be unfair and unnecessary in the circumstances.
24. Save where the Committee decides that a lesser period is appropriate (e.g. more urgent publication is desirable to safeguard the public interest), any Member or Member Firm and, where appropriate, any other party named or identifiable in an announcement will be given a copy of its proposed terms a minimum of seven days before its intended publication. Where any comments are received in response to such advance notice and to enable the FRC to give due consideration to the comments received, the announcement will not usually be published before the expiry of a further seven days from the original intended publication date unless otherwise agreed or where the FRC considers earlier publication to be in the public interest.
25. Advance notification of publication of an announcement under this Policy will usually also be given to the relevant Scheme Participants and any regulatory body or prosecuting authority with a known interest in the matter in question.
26. Amendments to the wording of press announcements will not generally be accepted, except in relation to matters of factual inaccuracy.

Price Sensitive Information

27. The FRC shall have due regard to the potential risk of the release of price sensitive information which may arise out of or in connection with announcements made under the Scheme and shall keep a price sensitive communications policy in operation and under review from time to time in the interests of ensuring the simultaneous release to the market under appropriately controlled conditions of such information. The advance notice period in paragraphs 24 and 25 will not apply in these circumstances.

Timing and Manner of Publication

28. Publication of a press announcement and any associated documents will normally take place as soon as is practicable.
29. If the Committee considers that there are public interest reasons to do so, the Committee may decide to defer or delay publication for a period of time or until such time as it considers appropriate. The Committee will keep any such decision to defer or delay publication under review.
30. Save as otherwise set out in this Policy or required by law, publication will usually take the form of:
 - a. a short statement on the FRC's website setting out the brief factual details of the decision or action in question; and

31. Where considered appropriate in all the circumstances, a link to any related detailed decision(s) or documents.
32. Press announcements and any associated documents will usually be published and circulated in a manner determined by the FRC Executive. The press announcement may contain a link to the website statement and any accompanying report or document.
33. In certain circumstances and where not contravening any publication requirements under the Schemes, the FRC Executive may decide to vary the form or procedure in which it publishes an announcement made under this Policy.
34. Decisions about investigations and reports of Disciplinary Tribunals and Appeal Tribunals will remain on the FRC website until such time as the Committee decides they should be removed and in any case for a minimum of seven years from the date of publication.

**Issued by the Conduct Committee of the FRC
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