

## **ANNEX 3**

# **CILEx REGULATION PUBLICATION POLICY**



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## **INTRODUCTION**

This policy is constituted in accordance with Part V Rule 38 of the Investigation, Disciplinary and Appeals Rules (IDAR) 5 January 2015. It sets out the arrangements for publishing disciplinary decisions made by the Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel (Conduct Panels). This policy has been developed in order to provide a service to the public and the profession and complies with Art 6(1) of ECHR as applied by HRA 1998 s6 (1) which provides for 'judgement [to] be pronounced publically'. Publication is also in accordance with S31 of the Data Protection Act 1998.

## **GENERAL**

1. CILEx Regulation has the power to publish all adverse findings and orders made against a Relevant Person or Applicant determined by the Conduct Panels. Publication is not a sanction but is necessary to protect the public and to promote high standards across the profession. An order not to publish will be made in exceptional circumstances only. Only proven misconduct decisions will be published. A decision shall be published after the appeal period has expired or after any substantive appeal hearing and an order for publication is made.
2. Disciplinary decisions will be retained permanently on CILEx records once any publication period has passed and will be processed in accordance with CILEx and CILEx Regulation data protection policies or as permitted by law.

## **ORDER FOR PUBLICATION**

3. Where an allegation of misconduct is proved, the Conduct Panels must publish all decisions in accordance with Rule 31 (1).
4. The Conduct Panels may decide not to publish in accordance with their power under Rule 38 (6).

5. In considering whether to exercise its power under Rule 38 (6) the Conduct Panels should have in mind proportionality, accountability, consistency and transparency. The Conduct Panels shall consider what effect publication will have on the parties to the proceedings; whether publication is necessary for the protection of the public; or whether publication is necessary to inform the membership of changing or improving work practices.
  
6. Factors to support publication:
  - to provide information to the public about regulatory action taken. This can include where there is a specific public interest and the matters affect a large group of individuals or relate to the administration of justice
  - to provide transparency and show consistency in decision making, to the public and regulated community
  - to provide learning points to the regulated community
  
7. Factors to support non publication:
  - where there is a risk that an individual's sensitive personal data would be disclosed not in accordance with the law
  - where there is a risk that an individual's confidential or legally privileged information would be disclosed
  - where it will prejudice legal, regulatory or disciplinary investigations or proceedings
  - where there would be a breach of the law
  - where the effect of publication on the individual would be disproportionate to the regulatory function

8. Neither list in regard to the factors on publication is exhaustive. There may be other factors specific to individual cases that require consideration and them to be taken into account.

### **TYPES OF INFORMATION THAT WILL BE PUBLISHED**

9. The following information will be included in published decisions:
  - date the matter was decided
  - name
  - CILEx Membership and Authorisation status
  - a description of the allegation or charges
  - the decision of the conduct panel and a summary of their reasons

### **FORMAT OF PUBLICATION FOR THE PROFESSIONAL CONDUCT PANEL (PCP)**

10. PCP decisions that are published shall include the name of the Relevant Person or Applicant, the date of the decision, the allegations found proved against them and the findings and order of the PCP.

### **FORMAT OF PUBLICATION FOR THE DISCIPLINARY TRIBUNAL (DT)**

11. DT decisions that are published shall include the name of the Relevant Person or Applicant, the date of the decision, the charges against them and the findings and order of the DT.
12. A copy of the recorded DT hearing will be available, on request, a charge may be applied.

### **FORMAT OF PUBLICATION FOR THE APPEALS PANEL (AP)**

13. AP decisions are published where a decision of the DT or PCP has been affirmed. The publication will be in accordance with the format of the conduct panel that heard the original matter. The publication will include the decision of the AP.

## **PLACE OF PUBLICATION**

14. Findings of the Conduct Panels will be recorded against the relevant entry in the CILEx Regulation or CILEx register and directory. Publication will also include in the CILEx Journal and the CILEx Regulation website.
15. Decisions may be published in other publications ordered by the Conduct Panels. CILEx Regulation may also issue press releases of disciplinary decisions where it is in the public interest to do so.

## **PUBLICATION OF FORTHCOMING DT AND AP HEARINGS**

16. CILEx Regulation shall publish, four weeks in advance, on the CILEx Regulation website details of all forthcoming DT and AP hearings which will include the name of the Relevant Person, their area and location of practice and the date of the hearing. This is removed at the conclusion of the hearing.

## **DURATION OF PUBLICATION**

17. Disciplinary orders will be published for the following periods and will run from the date the member was informed of the decision. They also apply to all decisions made by Conduct Panels prior to the implementation of this Policy.

<b>SANCTION</b>	<b>DURATION OF PUBLICATION</b>
Reprimand	1 year
Warning	1 year
Undertakings	3 years unless otherwise ordered
Conditions	Until a successful application to revoke the order is made. On revocation, publication will immediately cease
Fine	3 years
Interim Suspension*	Until the suspension is lifted

SANCTION	DURATION OF PUBLICATION
Exclusion	Indefinitely or until a successful application for reinstatement of CILEx membership or authorisation is made
Indefinite exclusions or Exclusions with no time specified	Indefinitely or until a successful application for reinstatement of CILEx membership or authorisation is made
Indefinite exclusion with a minimum time specified before an individual can reapply to CILEx**	These remain published until the minimum time has been reached. ( <b><i>Example – if a person is excluded for a minimum of four years publication will cease once four years have passed).</i></b>
Indefinite exclusion for a minimum period with no reference to reapplication to CILEx**	These remain published until the minimum time has been reached ( <i>example – as above.</i> )
Exclusion where there is an ongoing requirement to inform another party by the CILEx member/authorised person of the exclusion**	Indefinitely or until a successful application to vary the ongoing requirement is made

\* An interim suspension is a power available to the Conduct Panels pending the outcome of investigations or proceedings only. Once a decision of the conduct panel has been made an application for the interim suspension to be lifted will be made and will cease to be published.

\*\* Where exclusion has been expressed to include a minimum time and that time has passed the effect of this is to remove publication only. It does not denote the end of the sanction of Exclusion.

18. Where more than one disciplinary order was made they will all remain published until the period for the sanction with the latest publication period has expired.

## **APPLICATION TO REMOVE PUBLICATION FROM THE WEBSITE**

19. In some limited circumstances CILEx Regulation will consider whether it is in the interests of the public to remove the published disciplinary decision of a CILEx member or CILEx authorised person. Paragraphs 19 to 21 are not intended to be exhaustive.
20. Where a CILEx member or authorised person becomes deceased CILEx Regulation will remove the published decision on receipt of evidence confirming the same. Types of evidence that CILEx Regulation will consider suitable are:
- copy of a certified death certificate
  - documentary evidence signed by a medical practitioner such as a medical certificate of death
  - documentary evidence signed by an officer of the law
  - proof of death such as a funeral directors proof of death
  - copy of the Grant of Probate
21. Where a CILEx member or authorised person becomes impaired CILEx Regulation will consider applications from next of kin or a person with a lawful power of attorney for the removal of the published decision. Types of evidence required by CILEx Regulations are:
- medical evidence from a UK registered practitioner or equivalent for any other country
  - documentary evidence from another UK certified health provider
  - documentary evidence signed by an officer of the law
22. CILEx Regulation will require evidence from the person applying for removal that they are the next of kin or have a valid power of attorney and that the CILEx



Member or CILEx Authorised person is either deceased, or impaired and is no longer a risk to the public.

23. Any application for removal of a published decision must be made in writing to CILEx Regulation at Kempston Manor, Manor Drive, Kempston MK42 7AB or by email to [info@cilexregulation.org.uk](mailto:info@cilexregulation.org.uk).
24. This publication policy will be reviewed annually. The date of last review was June 2015.

