

Disclosure Policy - Enforcement Case Work

Instigation of a new matter

- We aim to complete the initial assessment of any matter entered into our casework system within 5 working days. On that basis, we generally will not advise the person or body that is the subject of the complaint until we have undertaken the initial assessment.
- If a period of more than 5 days is required for the initial assessment we will inform the subject that a complaint has been made and that we are assessing the matter.
- If pending an initial assessment there has been a press enquiry about the matter, we will, unless we are able to finalise the assessment at that time, notify the subject of the complaint and confirm that we will contact them once the initial assessment has been completed. We will acknowledge receipt of the allegation to the media.
- We will confirm receipt of the allegation to the complainant.

Closure of matter after Initial Assessment

- Where we have completed our Initial Assessment in relation to an allegation received and decided to close the matter, we will advise the subject of the allegation that we have looked into the matter and concluded that there is no case to answer. We will also advise the complainant of the outcome.

Cases under Review

- We will advise the subject and the complainant that the Case is under Review and will also advise them of the outcome of the Review.
- We will not proactively publicise the fact that a Case is under Review. We will acknowledge there is a Case under Review, if specifically asked about it by the media, and will notify the subject of the initial media enquiry.
- However, if we receive a specific enquiry relating to a Case under Review, and the matter has been reported in the media we will confirm that the case is either under review or not.
- Requests for details of ongoing Reviews under the Freedom of Information Act 2000 will be considered on their merits in accordance with the legislation. Exemptions from release of information for reasons of e.g. 'Investigation' within the terminology and meaning of the legislation are likely to apply.

Investigations

Commencement

- Once we have taken the decision to instigate an investigation, the subject and complainant will be advised and we will issue a press release and place information on our website advising that we are undertaking an investigation, unless there is a good reason not to do so (such as the possible adverse impact on the investigation).

During an Investigation

- We will not provide ongoing updates during the course of an Investigation other than to confirm that the investigation is ongoing.
- Requests for details of ongoing investigations under the Freedom of Information Act 2000 will be considered on their merits in accordance with the legislation. Exemptions from release of information for reasons of e.g. 'Investigation' within the terminology and meaning of the legislation are likely to apply.

Conclusion of matter

- At the conclusion of an Investigation, or at the end of a Review where a sanction (other than a fixed monetary penalty, a compliance notice or a restoration notice) has been imposed, we will advise the subject and the complainant of the outcome of the Investigation or Review and provide them with a summary report which will include in summary:
 - The name of the subject and complainant;
 - A description of the allegation;
 - The matters that were considered;
 - The facts of the matter;
 - Any investigatory powers used;
 - The rationale for our decision; and
 - Any further action taken, including sanction imposed or referral for advice and guidance.
- In a case where a civil sanction of a fixed monetary penalty, a variable monetary penalty, a compliance notice or restoration notice has been imposed, we will advise the subject of the outcome by way of the final notice specified in our Enforcement policy (sections 11-13). We will also notify the complainant of the outcome.
- If our Investigation concludes that the allegation has not been substantiated, we will advise the subject that we intend to publicise the conclusion of the Investigation. Although we will take into account any representations made by the subject about publication, our general practice is to issue a press release and place information on our website advising of the outcome of the Investigation and providing a link to the summary report.
- If our investigation or Review concludes that the subject has breached the law, we will issue a press release and place information on our website advising of

the outcome of the Investigation, including any further action and providing a link to the summary report.

Closed matters

- Requests for details of closed Initial Assessments, Reviews or Investigations under the Freedom of Information Act 2000 will be considered on their merits in accordance with the legislation. Passage of time and impact of release of information on the effective operation as a regulator will be included in considering whether exemptions (e.g. from release of information for reasons of 'Investigation' within the terminology and meaning of the legislation) may apply.

Referral to the Police, prosecution or civil litigation

- A referral to the Police, prosecution or civil litigation (such as forfeiture), will always be publicised by way of a press release and information will be placed on our website.

Annual report

Under schedules 19B and 19C, PPERA, we are required to report annually on the use of our investigatory powers and civil sanctions. The annual report will include:

- **Reviews (where we have not used our statutory powers)** – statistics on the number of case reviews and investigations undertaken with reference to an annex of summary reports (anonymised reports will be provided for those reviews where no sanction was imposed)
- **Use of statutory investigatory powers** – statistics on the number of disclosure notices issued (supervisory and investigatory), properties entered for inspection, interviews held, and applications to the High Court for disclosure orders, and the number of disclosure orders made, with reference to an annex of summary reports (both full and anonymised)
- **Use of civil sanctions** – statistics (where the penalty was not overturned on appeal) on the number of fixed money penalties, the number and type of discretionary requirements imposed, stop notices served, and enforcement undertakings accepted, with reference to an annex of summary report
- **Legal process** – statistics on referrals to the police, prosecutions, or civil litigation (such as forfeiture)

December 2010