**Disciplinary and enforcement Project – Working Draft Principles**

The current draft principles are as follows:

| **Proportionality** |
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| Processes and procedures should be outcome-focused, but actions taken by regulators during investigations should be proportionate to the purported misconduct or breach.<br><br>Throughout the enforcement process, regulators should intervene in response to allegations of misconduct and the action taken should take account of the seriousness of concerns raised. The process for investigating a complaint should be proportionate to the issue under investigation. Action taken in the enforcement process should be appropriate to the risk posed by the alleged misconduct. It should not be more severe or less severe than the risk posed. If allegations are proved, the sanction must be appropriate to the harm caused to consumers. |
| **Transparency** |
| Decision-making criteria should be clear, objective, and accessible to the public and to the regulated community. Outcomes should be clear, accessible, and understandable.<br><br>Regulators should make it clear as to how decisions throughout the enforcement process are taken by the body or team responsible and the reasons behind them. Throughout the enforcement process, regulators should provide regular updates to keep parties up to date on progress of work and investigations, including the outcome of the investigation. Disciplinary decisions should be publicly available. This includes interim orders.<br><br>Mechanisms used by regulators to measure performance in relation to the enforcement process should publicly available so that it can be made clear whether the regulator is providing acceptable levels of service. |
| **Timeliness** |
| Regulators should set average timeliness targets for each stage of the enforcement stage and regulators should make this information publicly available so that consumers and the public are aware of what to expect.<br><br>Regulators should act promptly and proximate to when they become aware of potential or actual misconduct. Regulators should ensure that cases progress at an appropriate speed through the enforcement process. If multiple teams within an organisation are responsible for a case (from initial triage to investigation and decisions), the regulator should have mechanisms in place to ensure joined up working and co-operation which can result in smooth transition of case matters and the prevention of delays in cases. |

Regulators should regularly monitor and review metrics and data relating to the time taken to progress and complete cases to ensure that cases are progressing quickly and efficiently. This strategy can allow for adjustments to be made in cases where expectations are not being met. It will also enable the LSB to identify and respond to trends and significant discrepancies between regulators.

Efforts to meet this principle should be proportionate and efforts to improve timeliness should not come at the cost of the quality of the investigation or of decision making.

**Consistency**

Processes, procedures, and policies should be applied fairly and consistently.

A consistent process requires regulators to take similar steps through the enforcement process from initial assessment or triage down to the sanctioning stage. Consistency of the process can take account of specific differences between regulated communities that may have an impact on the circumstances of the cases that are being dealt with. In seeking consistency, we would like to see the consistent use of sanctions including interim sanctions.

Regulators should ensure that their processes and sanctions are alike when dealing with similar cases. In seeking this outcome, we aim to avoid scenarios where regulated persons face sanctions that significantly differ for misconduct that is the same or similar due to the regulatory body that oversees the enforcement process. We are looking to achieve a similarity of outcome for similar offences and similar circumstances which should result in an increased presence of equality across the board.

In seeking consistency, we would like to highlight that we are not requiring identical behaviour from regulators as we acknowledge that some differences in practices will need to be in place to take account of the differences across the regulated space. Consistency in the overall approach should account for this and allow for discretion when making decisions.

**Monitored**

Processes, procedures, and policies are subject to review and quality assurance to test whether they are operating as intended and effectively.
Regulators should be able to provide assurance of the quality of their decisions throughout the enforcement process. For regulators to assure the quality of their enforcement procedures, there must be a clear pathway of accountability.

Regulators must have enforcement work under the authority of a senior staff member responsible for the end-to-end enforcement process. Regulators should provide data on their performance, and this should be publicly accessible. This data should be regularly reviewed by senior staff responsible for enforcement processes and the board to ensure that standards are being upheld.

Regulators should have measures in place which will enable them to identify opportunities to learn from their enforcement activities so that they can continuously improve their processes and procedures. This can include conducting reviews of processes, to ensure that decision making is efficient and in order to make changes to their processes if standards are found to be falling.

To meet this standard, regulators can also conduct case studies and hold regular lessons learned sessions.