

Guidance Note

Released:

07 June 2019

Version: 3

Key concepts:

Efficient use of CCC and Appeals Tribunal resources.

Related information:

FGL Operating Rules

7.4 and 7.7

Recommended Audience:

Compliance Managers

Legal Counsels

Chief Executives and Managing Directors

Previous Issues:

Nil

GN 46 - Consolidation of Disciplinary Proceedings

Introduction

FGL Operating Rule 7.7.1 provides the Compliance and Conduct Committee (CCC) with the power to combine proceedings against more than one Respondent when commencing to consider the same or similar circumstances. This power is granted to the CCC for reasons of practical efficiency.

Guidance

Notification to Respondents by FGL

Whenever proceedings are considered appropriate to consolidate, all Respondents will be advised through receipt of a formal notice (sent under Rule 7.4.2) from FGL on behalf of the CCC that their proceedings are proposed to be consolidated. This notification will be provided to Respondents in sufficient time such that any Respondent wishing to object to the consolidation of proceedings by the CCC can adequately do so.

Consideration of Objections

Whilst there is no obligation upon the CCC to automatically grant a separation of proceedings after receiving an objection to a proposed consolidation, providing the Respondent has a reasonable case as to why proceedings should be separated, it will be normal practise of the CCC to separate out proceedings for any Respondent that objects. Spurious objections are highly unlikely to be accepted as cause for separation of proceedings. All objections received will be considered by the CCC and a decision regarding the objection will be delivered to the Respondent prior to the commencement of any proceedings.

This objection must be received within the time periods outlined within the FGL Operating Rules.

No cause for Appeal

Respondents should note carefully that while they have a right to object to consolidation, the fact that a proceeding has been consolidated, or has been proposed to be consolidated, objected to by a Respondent and left consolidated because the objection was not deemed reasonable by the CCC, the consolidation status does not give rise to any grounds for appeal against the outcome of the proceedings.

Further, when proceedings have been carried out on a consolidated basis, the Appeals Tribunal may also choose to hear appeals on a consolidated basis.

This document provides information only and may be subject to change without notice. No responsibility is accepted for any inaccuracies contained in the matters published. FEX Global Pty Limited (ACN 124 127 224) (FGL) and its related bodies corporate (FEX Group) make no representation or warranty with respect to the ongoing accuracy, reliability or completeness of this information. To the maximum extent permitted by law, FEX Group and its employees, officers and contractors shall not be held liable for any loss or damage arising in any way, including by way of negligence, in connection with this information.