

# **SLCC policy on public interest complaints made by the SLCC**

## Draft policy on public interest complaints

The SLCC has the power to initiate an eligible conduct or regulatory complaint which would then be passed to the Relevant Professional Organisation (RPO) or Approved Regulator (AR) for investigation.

The SLCC may decide to initiate a complaint where:

- in the handling of a complaint/ complaints, it identifies a matter which could be a conduct or regulatory complaint but which has not been raised by the complainer;
- it identifies in its dealing with the practitioner a matter which could be a conduct or regulatory complaint; or
- it becomes aware of a matter which could be a conduct or regulatory complaint but where no complaint has been made to it.

A decision to initiate a complaint should consider whether making the complaint:

- is in the public interest; and/ or
- could support public protection.

In the public interest means where the public could reasonably expect the SLCC to act for the good of society.

Public protection means protecting consumers or potential consumers from significant, avoidable harm.

In assessing whether to make a complaint, the SLCC may take into account factors such as whether the available information suggests a pattern of behaviour by the practitioner or a risk to existing or future clients. In doing so the SLCC can have regard to any information, explanation or evidence provided to the SLCC in any prior complaints (even if not concerning the practitioner in question), and any other information which has come to the SLCC's attention in the course of its activities.

Prior to making a complaint, the SLCC will normally issue a notice to the relevant practitioner(s) identifying:

- the substance of the proposed complaint
- the categorisation of the proposed complaint
- the reasons why the SLCC considers that the proposed complaint would be eligible for investigation and determination
- the reasons for the proposed making of the complaint and
- the opportunity to make representations on the substance of the complaint within the period specified in the notice.

The decision to make a complaint must be taken by a Committee or a Member. The decision will take account of any representations received from the practitioner. Where the SLCC decides to make an SLCC-initiated complaint, it will send a copy of the complaint and an explanation of the reasons for making it to the practitioner and the relevant professional organisation or approved regulator.

DRAFT

# Appendix 1: Legislative basis for public interest complaints made by the SLCC

(N.B. text in black is the existing 2007 Act, text in red relates to new provisions in the 2025 Act, amending the 2007 Act.)

## **2A Complaints initiated by the Commission**

(1) In addition to receiving a conduct complaint or a regulatory complaint mentioned in section 2(1), the Commission may itself initiate a complaint against a practitioner which, had it been received from a person mentioned in section 2(2), would be a conduct complaint or a regulatory complaint.

(2) Section 2(1A) applies to a complaint under subsection (1) as it applies to a complaint referred to in section 2(1).

(3) References in this Part (other than in this section) and in sections 47 to 52B to a conduct complaint or a regulatory complaint include references to a conduct complaint or a regulatory complaint that is initiated by the Commission under subsection (1).

(4) The Commission may not initiate a complaint under subsection (1) if it would not be an eligible complaint in accordance with any provision in rules made under section 32(1).

## **Schedule 1, paragraph 13(2) (delegation of functions)**

(aa) a decision under section 2A(1) to initiate a complaint to be taken only by—

- (i) any of its committees, or
- (ii) one of the Commission's members.

## Example scenarios

In developing this policy we have identified examples of potential uses of the policy. This has been helpful to guide development of the policy and may be useful indicative examples for stakeholders considering this consultation. However, these examples will not form part of the policy and will not restrict the application of the policy to other circumstances.

The examples are:

- non-compliance with a statutory request by the SLCC for information
- non-compliance with an award made by SLCC or non-payment of the complaint levy
- a trend or pattern of behaviour identified from information received by the SLCC in the context of existing consumer complaints (if it meets public interest/ protection test)
- a trend or pattern of behaviour displayed by a practitioner in their dealings with the SLCC
- an issue identified from existing consumer complaint but not raised by complainer (if it meets public interest/ protection test)
- where evidence has been shared with the SLCC but no complaint has been made (if it meets public interest/ protection test).