



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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# **Enforcement Decision-Making Process**

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## Important Note:

This document explains the decision-making process which the Isle of Man Financial Services Authority (the “**Authority**”) follows when the board of the Authority (the “**Board**”)<sup>1</sup> exercises the Authority’s statutory powers to take any of the significant administrative decisions listed in the table in paragraph 2.1 below (an “**Enforcement Decision**”). This document does not apply to the decision-making process of the officers (i.e. staff) of the Authority (the “**Executive**”), nor does it apply to the decision-making process involved in a non-enforcement decision (e.g. the issue of a licence or authorisation). Furthermore, this document does not apply to the investigative stage of a case, which is not part of the decision-making process.

## 1 Introduction

- 1.1 The Authority is not a judicial body. Court rules and procedures do not apply to the decisions that it takes. The Authority takes administrative decisions in accordance with its statutory powers. In so doing, the Authority will act as supervisor, investigator and decision-maker. It is only the significant enforcement sanctions decision-making process which is the subject of this document.
- 1.2 The point at which an Enforcement Decision is taken is reached via a series of stages that are described below. The decision-making process set out in this document (“**this Decision-Making Process**”) is designed to ensure that the final decision taken:
  - 1.2.1 is one that the Authority is empowered to take;
  - 1.2.2 is one that is made in accordance with the Authority’s regulatory objectives;
  - 1.2.3 has been arrived at in accordance with the principles of natural justice; and
  - 1.2.4 is reasonable<sup>2</sup> based on all relevant information before the Authority at the time.
- 1.3 In taking an Enforcement Decision, the Authority is continually mindful of the “fit and proper” test applicable to regulated or registered entities, key persons and other persons.

## 2 Decisions to which this Decision-Making Process applies

- 2.1 This Decision-Making Process only applies to the following decisions (each of which is a decision of the Board):-

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<sup>1</sup> Any reference to “Board” in this document includes a reference to any committee of the Board convened to take any of the decisions which are the subject of this Decision-Making Process.

<sup>2</sup> The reference to “reasonable” means reasonable in accordance with any reasonableness test applicable to the Authority’s decision making under Isle of Man law at the time the relevant decision was taken.

Statute	Section	Description
Financial Services Act 2008	9	Revocation of a licence
Financial Services Act 2008	9	Suspension of a licence <sup>3</sup>
Financial Services Act 2008	10(1)	Direction (persons unfit to be directors, controllers or key persons)
Financial Services Act 2008	10(2)	Direction (persons unfit to be directors, controllers or key persons)
Financial Services Act 2008	10A	Imposition of a prohibition
Financial Services Act 2008	11	Warning notice
Financial Services Act 2008	16	Discretionary civil penalty
Insurance Act 2008	10(1)	Withdrawal of authorisation in respect of new business
Insurance Act 2008	26	Cancellation or restriction (registered insurance manager or a registered insurance intermediary)
Insurance Act 2008	29A	Imposition of a prohibition
Insurance Act 2008	29E	Warning notice
Insurance Act 2008	29(2)	Direction (persons unfit to perform certain roles)
Insurance Act 2008	29(3)	Direction (persons unfit to perform certain roles)
Insurance Act 2008	37	Discretionary civil penalty
Collective Investment Schemes Act 2008	11A(1)	Direction (persons unfit to be members of governing body)
Collective Investment Schemes Act 2008	11A(2)	Direction (persons unfit to be members of governing body)
Collective Investment Schemes Act 2008	11B	Imposition of a prohibition
Collective Investment Schemes Act 2008	11F	Warning notice
Collective Investment Schemes Act 2008	Schedule 1, para 4	Revocation of authorisation
Retirement Benefits Schemes Act 2000	4	Revocation of authorisation
Retirement Benefits Schemes Act 2000	19(1)	Direction (persons unfit to perform certain roles)
Retirement Benefits Schemes Act 2000	19(2)	Direction (persons unfit to perform certain roles)
Designated Businesses (Registration and Oversight) Act 2015	11	Revocation of registration

<sup>3</sup> In many cases, suspension of part or all of a licence may be dealt with directly by the Supervision Division of the Authority, in which case, references to the Enforcement Division in this document should be read as Supervision Division where the context permits or requires.

Statute	Section	Description
Proceeds of Crime Act 2008	157	Discretionary civil penalty for AML/CFT contraventions
Terrorism and Other Crimes (Financial Restrictions) Act 2014	68	Discretionary civil penalty for AML/CFT contraventions

- 2.2 The subject of any of the Enforcement Decisions listed above (the “**Subject**”) has a right of appeal under the relevant statute to the Financial Services Tribunal (save for an appeal against a civil penalty imposed under section 50 of the Retirement Benefits Schemes Act 2000, which lies to the High Bailiff).
- 2.3 For the avoidance of any doubt, this Decision-Making Process does not apply:-
- 2.3.1 to administrative decisions taken by the Authority as part of normal or enhanced supervision;
  - 2.3.2 to decisions to request or compel production of documents or attendance for interviews;
  - 2.3.3 where the circumstances require urgent action to be taken (for example, but without limitation, where consumer funds are at risk or where there is evidence of financial crime);<sup>4</sup>
  - 2.3.4 where an alternative process is appropriate and reasonable in the circumstances;
  - 2.3.5 where an application is to be made by the Authority to the Isle of Man Court;
  - 2.3.6 to a direction on the grounds of competence pursuant to section 10(1) of the Financial Services Act 2008, section 29(2) of the Insurance Act 2008, section 11A(1) of the Collective Investment Schemes Act 2008 or section 19(1) of the Retirement Benefit Schemes Act 2000.
- 2.4 Notwithstanding the application of this Decision-Making Process to a particular Enforcement Decision, it will be terminated if, at any stage, it is determined that no further action is required, or that the matter should be addressed through normal or enhanced supervision.
- 2.5 Furthermore, this Decision-Making Process may be suspended where the Executive enters into discussions with the Subject with a view to settlement (see paragraph 3

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<sup>4</sup> If the Authority is minded to issue a prohibition under section 10A of the Financial Services Act 2008, section 11B of the Collective Investment Schemes Act 2008 or section 29A of the Insurance Act 2008, it must give the Subject 28 days’ notice of, inter alia, the proposed prohibition and invite (and, if received, have regard to) representations from the Subject. Any disapplication of this Decision-Making Process in relation to a prohibition will not impact this 28 day statutory notice period. Furthermore, any disapplication of this Decision-Making Process in relation to any other regulatory sanction or power will be subject to any minimum time period set out in the relevant statute (if such time period cannot be disappplied under the terms of the relevant statute).

below) or refers the case to the Police, the Attorney General or any other public authority or agency to review, investigate and potentially prosecute any criminal conduct.

- 2.6 If the Authority determines to adapt any part of this Decision-Making Process in any particular case, it will (unless it is not practicable or appropriate to do so, for example where the case requires an urgent decision), inform the Subject of this fact and the reason for adapting the process.

### 3. Settlement

- 3.1 The Authority expects regulated entities and their key persons to be open and honest in all of their dealings with the Authority. In the case of enforcement action, that expectation remains and the Authority will particularly welcome an open and honest approach to co-operating with the Authority when failings or breaches are identified.
- 3.2 In the event of the imposition of a discretionary civil penalty, the fact that a regulated entity notified the Authority of a breach or failing is a recognised mitigating factor. Furthermore, co-operating with the Authority can result in a 30% discount in any discretionary penalty imposed.<sup>5</sup>
- 3.3 In cases where the Authority is reasonably satisfied that it is both consistent with its regulatory objectives and functions, and it is appropriate to do so, the Authority may enter into discussions (“**settlement discussions**”) with the Subject, with a view to entering into a written agreement (the “**Settlement Agreement**”), concerning the nature of non-compliance by the Subject and the action to be taken by the Authority. For the avoidance of any doubt, the commencement of settlement discussions is entirely at the option of the Authority. The Subject has no right to settlement discussions.
- 3.4 It is important to note that in such cases the Authority may be willing to consider settlement notwithstanding the commencement of an enforcement investigation. Early acknowledgement by a Subject of breaches of regulatory requirements, which effectively saves time and investigative resources, will be considered favourably by the Authority.
- 3.5 In this document, the Authority is communicating publicly that, in appropriate cases, it encourages and welcomes settlement of enforcement investigations.
- 3.6 In order for there to be effective and open discussions, all settlement discussions will be conducted on a “without prejudice” basis. This means that the Authority will not

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<sup>5</sup> Regulation 5(2) of the Financial Services (Civil Penalties) Regulations 2015 provides that the Authority may reduce a discretionary civil penalty if a regulated entity has “(a) cooperated with the Authority in respect of any proceedings or investigation into the serious regulatory failing; and (b) taken appropriate steps to remedy the serious regulatory failing to the Authority’s satisfaction”.

rely upon settlement discussions or without prejudice correspondence at a later stage should the discussions fail and settlement is not achieved.

- 3.7 It is important to note that the Authority expects the Subject to acknowledge wrongdoing or failings in the settlement discussions and to accept responsibility for these in the Settlement Agreement. In this regard, the settlement discussions are different to civil litigation settlement discussions where a party can settle with no admission of liability.
- 3.8 The Authority expects settlement discussions to take place at the earliest possible stage in the investigation. If a Subject chooses not to accept the opportunity to commence settlement discussions when offered by the Authority, it should not be assumed that the Authority will enter into settlement discussions at a later stage. However, it is important to note that if the Authority agrees to enter settlement discussions at a later stage, the terms offered by the Authority may not be as attractive as they would have been at the earlier stage.
- 3.9 A significant advantage of co-operating with the Authority during an enforcement investigation is the potential for a discount in any discretionary civil penalty to be imposed. Regulation 5(2) of the Financial Services (Civil Penalties) Regulations 2015 permits the Authority to apply a 30% discount to the discretionary civil penalty being imposed.<sup>6</sup> In addition, where early settlement is achieved, the Authority is more likely to be minded to apply a lower percentage of relevant income within the applicable penalty bands.<sup>7</sup>
- 3.10 Any settlement reached between the Authority and a Subject will be recorded in a Settlement Agreement executed by the Authority and the Subject. Any settlement will be on the basis of the facts known by, and disclosed to, the Authority at the time the Settlement Agreement is entered into. If the Subject fails to disclose failings, or the full extent of failings, to the Authority during settlement discussions, it will be open to the Authority to take further action in respect of those failings notwithstanding any Settlement Agreement. It is therefore important for a Subject to be full and frank with the Authority during settlement discussions.
- 3.11 It is important to note that any enforcement action included in the Settlement Agreement is an Enforcement Decision to which the Subject has consented. For that reason, the Subject will agree to waive its appeal rights in the Settlement Agreement.
- 3.12 If settlement is not reached, this Decision-Making Process will continue to apply.

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<sup>6</sup> See footnote 5.

<sup>7</sup> See the Authority's Guidance Note on Discretionary Civil Penalties under the Financial Services Act 2008 (link [here](#)) for full details of the discretionary civil penalty regime. The two available penalty levels are "Level 1 – up to 5% of relevant income" and "Level 2 – up to 8% of relevant income".

## 4. Review by Case Review Panel

- 4.1 This Decision-Making Process comprises five distinct stages (see below). Before it is invoked, the Authority will conclude its investigation into the Subject and present a report setting out the findings of that investigation, the material failings of the Subject and the recommended enforcement action (the “**Draft Enforcement Report**”). The Draft Enforcement Report will be prepared by the case officer(s) responsible for the investigation (the “**Case Officer**”).
- 4.2 The Case Officer will present the Draft Enforcement Report to a case review panel comprising members of the Executive team (the “**Case Review Panel**”). The Case Review Panel is convened on a case by case basis and will include members of the Executive team who are involved in the investigation and other members who are not directly involved in it.
- 4.3 The Case Review Panel will consider the Draft Enforcement Report and will determine, from a range of possible options, the most appropriate way of dealing with the matter (the “**First CRP Review**”).
- 4.4 The First CRP Review involves consideration by the Case Review Panel of the information presented by the Case Officer, paying particular attention to:
  - 4.4.1 the Authority’s regulatory objectives;<sup>8</sup>
  - 4.4.2 matters indicating non-compliance;
  - 4.4.3 any aggravating factors;
  - 4.4.4 any mitigating factors;
  - 4.4.5 any adverse impact on the reputation and integrity of the Isle of Man as an international financial centre;
  - 4.4.6 any other appropriate way of dealing with the matter (for example, in the case of a personal data breach, referring the matter to the Information Commissioner).
- 4.5 The Case Review Panel may take any action at this stage, including without limitation:-
  - 4.5.1 determining that the matter requires no further action and that the investigation should be discontinued;
  - 4.5.2 determining that further investigation is necessary (in which case, the Case Officer will bring an updated Draft Enforcement Report back to the CRP when

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<sup>8</sup> Section 2(2) of the Financial Services Act 2008 sets out the Authority’s regulatory objectives, which are: (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity; (b) the reduction of financial crime; and (c) the maintenance of confidence in the Island’s financial services, insurance and pensions industries through effective regulation, thereby supporting the Island’s economy and its development as an international financial centre.



the further investigation is concluded and the process set out in this paragraph 4 will apply to that updated Draft Enforcement Report);

- 4.5.3 determining that the matter should be addressed through normal or enhanced supervision;
  - 4.5.4 instructing the Case Officer to commence settlement discussions with the Subject; or
  - 4.5.5 determining that the case should proceed to **Stage 1** of this Decision-Making Process (Disclosure of Draft Enforcement Report).
- 4.6 For the avoidance of any doubt, the First CRP Review is not part of the formal decision-making process. The Case Review Panel is merely performing a recommendation role, not a decision-making role. The formal decision-making process comprises Stages 3-5. Stages 1-2 are preliminary stages.

## 5. Stage 1: Disclosure of Draft Enforcement Report

- 5.1 If the Case Review Panel determines that the Draft Enforcement Report (or, if applicable, the updated Draft Enforcement Report) discloses a case to answer and that it is appropriate to proceed under this Decision-Making Process, the Case Review Panel will instruct the Case Officer to disclose the Draft Enforcement Report to the Subject together with a copy of this Decision-Making Process.
- 5.2 The Subject will be invited to:-
- 5.2.1 confirm that the facts set out in the Draft Enforcement Report are correct or, if not, set out precisely what factual corrections they suggest to the Draft Enforcement Report. The Subject should provide evidence at this stage to support any proposed correction;
  - 5.2.2 submit any additional information which they consider is material or relevant in any way to the matter;
  - 5.2.3 submit any comments they may wish to make in relation to the recommendations (including, if prepared at this stage, the content of any draft public statement) contained in the Draft Enforcement Report.
- 5.3 The Case Review Panel will determine the date by which the response should be provided by the Subject (the “**Initial Response Date**”),<sup>9</sup> taking into account the nature and volume of information and the extent to which individual items have been previously available to the Subject for review and comment.

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<sup>9</sup> The Authority considers that an Initial Response Date of 21 days from the date of the letter enclosing the Draft Enforcement Report will in most cases be sufficient. In exceptional cases, the Subject may be granted a longer period of time. It is important to note that the Subject will have a further opportunity to make written representations during Stage 4 and oral submissions during Stage 5.

- 5.4 Any submissions made by the Subject at this **Stage 1** should be in writing and must be received by the Initial Response Date.
- 5.5 In some cases, the Authority may judge it appropriate to meet with the Subject to discuss the Draft Enforcement Report. This opportunity will only be offered to the Subject at this stage provided that the response is received by the Initial Response Date and it is appropriate to do so. The Authority will not countenance a meeting which is considered to be a delaying tactic.
- 5.6 Although the position of the Authority is that settlement discussions should take place at the earliest possible stage in order to save the time and resource involved in an enforcement investigation, this disclosure stage will generally be the last opportunity for a Subject to request settlement discussions with the Authority. As stated in paragraph 3.8 above, any settlement offer at this stage will likely be on less attractive terms than those which would have been available had the Subject agreed to settle at an early stage in the investigation.
- 5.7 The purpose of this disclosure stage is to give the Subject notice of the general nature of the case against them and an opportunity to make factual corrections and representations. The Case Officer will consider and evaluate carefully any comments or representations received in writing from the Subject (the “**Initial Representations**”).

## **6. Stage 2: Review of Final Enforcement Report by Case Review Panel**

- 6.1 Following a careful review and evaluation of the Initial Representations,<sup>10</sup> the Case Officer will update the Draft Enforcement Report as appropriate and necessary (the “**Final Enforcement Report**”).
- 6.2 The Case Officer will present the Final Enforcement Report and the Initial Representations to the Case Review Panel.<sup>11</sup>
- 6.3 The Case Review Panel will consider the Final Enforcement Report and will determine, from a range of possible options, the most appropriate way of dealing with the matter (the “**Second CRP Review**”).
- 6.4 The Second CRP Review involves consideration by the Case Review Panel of the Final Enforcement Report, paying particular attention to the Initial Representations and the

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<sup>10</sup> If the Subject has not provided any Initial Representations, the Case Officer will update the Draft Enforcement Report to record (a) the fact that an opportunity to do so was given to the Subject, (b) the Subject’s decision not to take this opportunity and (c) whether any material change has taken place since the date of the Draft Enforcement Report which is material to the recommendation contained in that report. Where no Initial Representations are received, this updated report is the “**Final Enforcement Report**” for the purposes of this Decision-Making Process.

<sup>11</sup> The membership of the Case Review Panel at this stage does not need to be the same as the Case Review Panel which convened prior to Stage 1 (Disclosure) provided that its membership complies with the requirements of paragraph 4.2 above.

Case Officer's assessment of such representations. The Case Review Panel will continue to have regard to the matters set out in paragraph 4.4 above.

- 6.5 The Case Review Panel can take any action at this stage, including without limitation, determining that:-
- 6.5.1 the matter requires no further action and that the investigation should be discontinued;
  - 6.5.2 the matter should be addressed through normal or enhanced supervision;
  - 6.5.3 the Final Enforcement Report (with or without further amendment) should be passed to the Board for consideration of the recommendation contained therein.
- 6.6 For the avoidance of any doubt, the Second CRP Review is not part of the formal decision-making process. The Case Review Panel is merely performing a recommendation role, not a decision-making role. The formal decision-making process comprises Stages 3-5. Stages 1-2 are preliminary stages.

## **7. Stage 3: First Meeting of the Board (Consideration of Final Enforcement Report)**

- 7.1 If the Case Review Panel determines to refer the matter to the Board, the Executive shall provide the Board with the Final Enforcement Report and the Initial Representations and request a Board meeting to consider the matter.
- 7.2 The Board will convene a meeting at which it will consider the Final Enforcement Report and the Initial Representations. The Case Officer or a member of the Case Review Panel will present the Final Enforcement Report and answer any questions raised by the Board.
- 7.3 After considering the Initial Representations and the Final Enforcement Report (and the action recommended therein) carefully, the Board may take any action at this stage, including without limitation:-
- 7.3.1 requesting further information;
  - 7.3.2 determining that the matter requires no further action, and the enforcement case should be discontinued, in which case this Decision-Making Process will terminate;
  - 7.3.3 determining that it is minded to take the recommended action, or some other action (which may be a lesser or more severe action than that recommended by the Executive).
- 7.4 If the Board is minded to exercise one or more of the Authority's statutory powers to impose a regulatory sanction, the Subject will be notified in writing of that fact and

the matter will proceed to **Stage 4** of this Decision-Making Process. It is important to note that in issuing a “minded-to” notice to the Subject, the Board has not made any decision. It is merely communicating to the Subject that based on the evidence before it (which, at this Stage includes the Subject’s own Initial Representations), there appears to be a case to answer. The Board will keep an open mind in considering both the Executive’s case and the Subject’s response to it.

- 7.5 The Chairman will determine the procedure to be followed in relation to the First Meeting of the Board.

## **8. Stage 4: Issue of Minded-to Notice and Invitation to Subject to Make Representations**

- 8.1 The Authority recognises the importance of the Subject receiving a copy of all documentation provided by the Executive to the Board in **Stage 3**.

- 8.2 At this **Stage 4**, the Subject will be provided with a copy of the Final Enforcement Report and any other written material provided by the Executive to the Board at **Stage 3** (the “**First Board Meeting Pack**”).<sup>12</sup>

- 8.3 The Board will provide the Subject with written notification of its “minded-to” notice. That notification will:-

8.3.1 enclose a copy of the First Board Meeting Pack;

8.3.2 state the date on which the Board will meet (the “**Second Board Meeting**”) to consider the matter and make a decision on what enforcement sanction (if any) to impose;<sup>13</sup>

8.3.3 invite the Subject to make a written submission to the Board within a specified time frame<sup>14</sup> setting out the Subject’s case in relation to the material failings identified in the Final Enforcement Report, the recommended enforcement sanction, the content of any draft public statement and the reasons given by the Executive for any sanction or public statement. It is important to note that the Subject is being given the opportunity to present its case and, if it considers appropriate, to make representations to the Board as decision-maker as to why the recommended sanctions should not be imposed;

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<sup>12</sup> For the avoidance of any doubt, the Executive will also disclose to the Subject a copy of any Board paper or memorandum prepared by the Executive in order to present the matter to the Board.

<sup>13</sup> If the Board is minded to take some action other than that recommended in the Final Enforcement Report, it will state that fact clearly in the “minded-to” notice and specify the action it is minded to take.

<sup>14</sup> The Board will determine what this time period should be in each case. Any time period imposed by the Board will, in any event, comply with any applicable statutory time limits in respect of a particular enforcement sanction (e.g. 28 days in the case of a proposed prohibition under section 10A of the Financial Services Act 2008).

- 8.3.4 request that the Subject advises the Board within a specified time frame whether the Subject intends to attend, make oral submissions or be legally represented<sup>15</sup> at the Second Board Meeting; and
- 8.3.5 set out the consequences of failing to respond within the time frame set.
- 8.4 Where a written submission is made by, or on behalf of, the Subject within the Authority's specified time frame, the Executive may prepare comments on that submission.

## **9. Stage 5: Second Meeting of Board (Decision)**

- 9.1 Prior to the Second Board Meeting, the Executive will provide the Board and the Subject with:-
  - 9.1.1 any information or documents that have been added to the First Board Meeting Pack;<sup>16</sup>
  - 9.1.2 any written submissions made by, or on behalf of, the Subject;
  - 9.1.3 the comments of the Executive on any such written submission;
  - 9.1.4 the latest draft of any recommended public statement.
- 9.2 The Board will convene for the Second Board Meeting.
- 9.3 Members of the Executive may attend the Second Board Meeting. The Board may also invite anyone else that it considers will assist it in its deliberations. The Subject (with, if applicable, their legal advisors or other person accompanying them) has the right to be in attendance.
- 9.4 At the start of the Second Board Meeting, the Chairman will welcome all attendees and set out the procedure to be followed during the course of the Second Board Meeting.
- 9.5 During the course of the Second Board Meeting, the Chairman will invite:-
  - 9.5.1 the Executive<sup>17</sup> to present its case (including the reasons for the recommended regulatory sanction and any recommended public statement);

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<sup>15</sup> At this time, the Subject shall also inform the Authority of the identity of all proposed attendees at the Second Board Meeting, including any legal advisors or other person who will accompany them to the meeting. For the avoidance of any doubt, the Board may refuse to permit the Subject to be accompanied by a particular person at the Second Board Meeting if that person is involved as a subject or key witness of the relevant or related investigation. The Executive will also inform the Board and the Subject of the identity of its proposed attendees.

<sup>16</sup> If any information or documentation is added to the First Board Meeting Pack, the Executive will give a brief written explanation for such addition to the Board and the Subject before the Second Board Meeting.

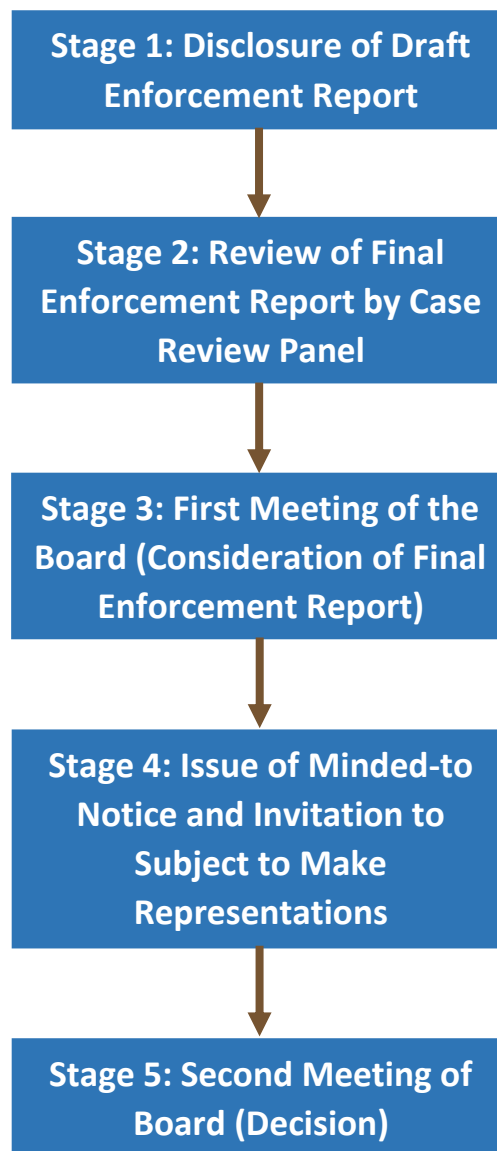
<sup>17</sup> Any reference to the Executive or the Subject in paragraph 9.5 includes a reference to any legal advisor in attendance on behalf of either party.

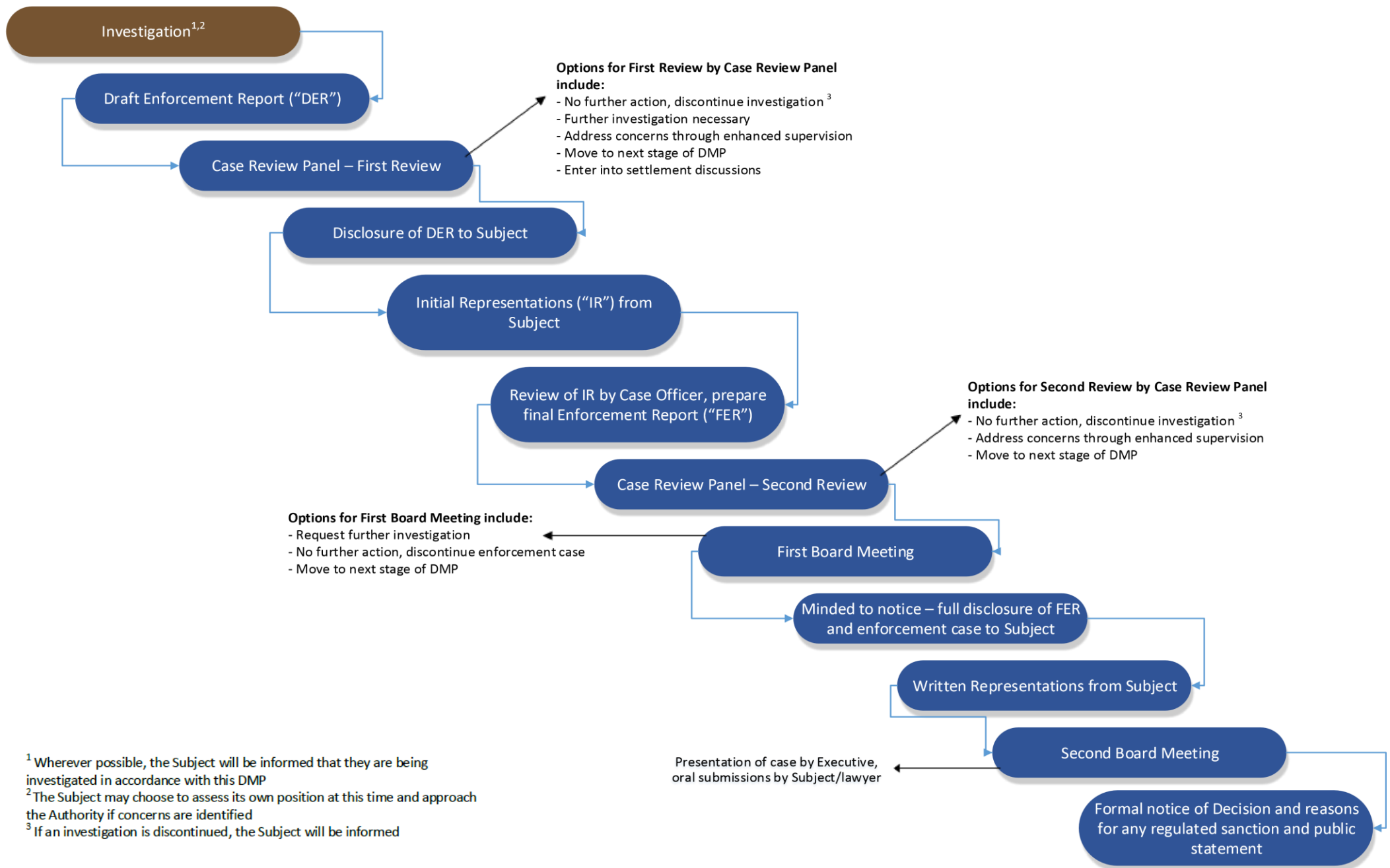
- 9.5.2 the Subject to make oral submissions on the Executive’s case, paying particular attention to why the recommended action (including the content of any public statement) is not appropriate or justified;
- 9.5.3 the Executive and the Subject to comment on any matter raised (either at the meeting or in written materials) by the other party or to clarify any matter or to answer any questions the Board may have.
- 9.6 The Second Board Meeting is intended to be interactive rather than adversarial in nature. For the avoidance of doubt, court rules, process and procedures do not apply. The Chairman will determine the procedure to follow at the meeting.
- 9.7 The Second Board Meeting will be formally recorded through the use of audio equipment. The Subject may request a copy of the audio recording after the meeting.
- 9.8 When the Board has received all submissions, the Subject, all officers of the Executive (including the Chief Executive Officer) and all persons who are not Members of the Board, the Board Secretary (or any alternate) or the Board’s legal advisors, will leave the meeting.
- 9.9 If any new information or matters emerge during the Board’s deliberations, the Subject and the Executive will be given an opportunity to comment thereon. In such a case, the Board will delay taking its final decision for a reasonable period to allow the persons concerned to make comments.
- 9.10 In reaching its decision, the Board will have regard to the written and oral submissions received and all other information in the documents before it. It is for the Board to decide which, of the matters before it, it accepts and which it does not.
- 9.11 As soon as reasonably practicable, the Board will give the Subject and the Executive written notice of the Board’s decision. If that decision is to exercise one or more of the Authority’s statutory powers to impose a regulatory sanction, the notice will include a written statement of the reasons for the decision. If the Board has resolved to issue a public statement, the Board will send a copy of the public statement (along with the reasons for the public statement) to the Subject.
- 9.12 If the Board has resolved to issue a public statement, the Board will delay publication of that statement for the applicable statutory time period (if any).<sup>18</sup>
- 9.13 The Board’s notice to the Subject will also set out any right of appeal the Subject may have.

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<sup>18</sup> Where the relevant statute permits the Authority to publish a public statement immediately where immediate action is required, the Board will inform the Subject of this disapplication of the statutory time period in the notice setting out its decision.

## Appendix – DMP Staged Process flowchart





<sup>1</sup> Wherever possible, the Subject will be informed that they are being investigated in accordance with this DMP

<sup>2</sup> The Subject may choose to assess its own position at this time and approach the Authority if concerns are identified

<sup>3</sup> If an investigation is discontinued, the Subject will be informed