

As at 26 July 2021

NEW LETTER OF CENSURE (LOC) DISCIPLINARY REGIME UNDER THE ESTATE AGENTS (AMENDMENT) ACT 2020

1. The new LOC disciplinary regime is one of the key amendments to the Estate Agents Act. Under the regime, CEA can issue LOCs and impose financial penalties against errant real estate salespersons (RESs) and estate agents (EAs) for minor disciplinary breaches.

Rationale

2. Over the years, the majority of RESs and EAs have carried out estate agency work professionally and ethically. However, despite our continuous efforts with the industry to raise the professionalism and service standards of RESs and EAs, there are still errant RESs and EAs who commit disciplinary breaches and criminal offences under the Estate Agents Act. Both CEA and the industry are mindful that such errant behavior would tarnish the professional image of the industry. There is hence a need to send a stronger deterrence signal to the industry to prevent errant behavior by RESs and EAs.

3. With the operationalisation of the Amendment Act from 30 July 2021, CEA will roll out the LOC disciplinary regime as a new component of its overall disciplinary regime, which will now comprise:

- a. Court prosecution for criminal offences committed under the Estate Agents Act;
- b. CEA Disciplinary Committee (DC) hearings for serious disciplinary breaches where the DC can revoke, suspend, attach new conditions or vary any existing condition attached to the registration or licence of a RES or EA respectively, and/or impose a financial penalty of up to \$100,000 for RESs and \$200,000 for EAs per case; and
- c. LOC disciplinary regime for minor disciplinary breaches where CEA can issue LOCs with or without a financial penalty of up to \$5,000 per case.

4. For all three components, information on the criminal offences and disciplinary breaches committed by RESs and EAs are publishable in the CEA Public Register as a further deterrent.

5. The new penalties under the LOC disciplinary regime enable CEA to handle minor disciplinary breaches in a more effective and timely manner. This helps to better deter errant conduct, strengthen professionalism and instill greater consumer confidence in the real estate agency industry.

LOC Disciplinary Regime

Key features

6. The LOC disciplinary regime will be applicable for disciplinary breaches which are assessed to be minor. Where a breach is assessed to be serious, the matter will generally be referred to the DC for consideration. Some key considerations in assessing that a breach is minor are:

- a. The breach results in no or low financial loss or consequence to the parties involved in the transaction.
- b. The errant RES or EA had no or low wrongful gain.
- c. The errant RES or EA was not dishonest, fraudulent or had an intention to mislead.

7. The penalties will be imposed in a calibrated manner:

- a. CEA will consider if the errant RES or EA who committed a minor disciplinary breach had previous record(s) of committing a disciplinary breach or criminal offence under the Estate Agents Act. Records include Letter of Warning (LOW)¹, LOC with or without a financial penalty imposed by CEA; past disciplinary actions taken by the DC; and/or records of criminal offences committed under the Estate Agents Act and its subsidiary legislation.
- b. For the RES or EA who committed a minor disciplinary breach without a previous record, CEA will generally issue a LOW, unless the circumstances of the case warrant a more severe penalty under the LOC disciplinary regime. The LOW will not be published in the CEA Public Register but may be taken into consideration for future breaches under the LOC disciplinary regime.
- c. If the RES or EA who committed the minor disciplinary breach had a previous LOW and/or another record of a disciplinary breach or criminal offence, a stronger deterrence signal would be sent, and CEA may issue a LOC with or without a financial penalty.
- d. Penalties will generally be enhanced if the RES or EA commits another minor disciplinary breach after having received a penalty under the LOC disciplinary regime. For example, the financial penalty imposed for the next disciplinary breach will be higher than that imposed for the previous disciplinary breach.

¹ With the rollout of the LOC disciplinary regime, CEA will issue Letters of Warning (LOW) instead of Letters of Advice (LOA) for complaints or information received by CEA on or after 30 July 2021.

- e. Further, if the RES or EA repeatedly commits minor disciplinary breaches or commits a minor breach and has a track record of past DC sanctions and/or criminal offences, CEA may refer the case to the DC, where more severe penalties can be imposed.

8. CEA takes a serious view of RESs or EAs who commit disciplinary breaches and criminal offences repeatedly. This notwithstanding, since the LOC disciplinary regime is new, CEA has decided to consider only those records of criminal offences or disciplinary breaches resulting from complaints or information received by CEA on or after 30 July 2021 as a “previous record” when deciding on the penalties to be imposed under the LOC disciplinary regime. This is **a fair and reasonable consideration** as it gives RESs and EAs who have record(s) resulting from complaints received prior to 30 July 2021 a “fresh start” and more importantly, gives them an opportunity to rehabilitate and improve their conduct.

9. Ultimately, each case will be assessed on its own facts and circumstances. CEA retains discretion in determining the action that is appropriate under the LOC disciplinary regime for minor disciplinary breaches. For example, if the case involves a few disciplinary breaches, CEA may consider that it should be surfaced to a DC for consideration.

10. The new penalties under the LOC disciplinary regime will only apply to information or complaints received by CEA on or after 30 July 2021.

Procedures

11. CEA will conduct investigations into complaints or information received to assess if action should be taken against the errant RES or EA under the LOC disciplinary regime.

12. When the case is substantiated, CEA will serve a written “notice of intent” to the RES or EA on CEA’s intent to issue a LOC with or without a financial penalty. The RES or EA will have 14 days to show cause as to why the disciplinary action should not be taken, by submitting a written explanation to CEA.

13. If CEA decides that action should be taken after reviewing the written explanation or if no written explanation was submitted, CEA will give a “notice of decision” to the RES or EA, which will take effect 14 days after the notice is served. During this 14-day period, the RES or EA may either request CEA to reconsider its decision or file an appeal to the Ministry of National Development (MND) Appeals Board. If the RES or EA has requested for CEA to reconsider its decision, an appeal to the MND Appeals Board can still be filed 14 days after the RES or EA is notified of CEA’s decision after reconsideration.

14. You may click [here](#) to see the diagrammatic explanation of the LOC disciplinary regime and click [here](#) to refer to the frequently-asked questions on the LOC disciplinary regime for your information.

Conclusion

15. Building a professional and trusted real estate agency industry is a collective responsibility of the EAs, RESs and CEA. The aim of the new LOC disciplinary regime is ultimately to prevent errant behavior of RESs and EAs, and to raise the service standards and professionalism of the industry over time.
