

Market Bulletin

Ref: Y5369

Title	Enforcement Proceedings – Atrium Underwriters Limited
Purpose	To provide information regarding enforcement proceedings
Type	Event
From	William Rayner Secretary to the Lloyd's Enforcement Board
Date	Wednesday 16 March 2022
Deadline	N/A
Related links	N/A

In proceedings before the Lloyd's Enforcement Board, Atrium Underwriters Limited ("**Atrium**") has accepted three charges of detrimental conduct. These charges relate to non-financial misconduct by Atrium employees and the way in which Atrium responded to allegations of such misconduct.

The following terms have been agreed by the parties and approved by the Lloyd's Enforcement Board:

- a) This public censure;
- b) A fine of £1,050,000; and
- c) The payment of Lloyd's costs in the sum of £562,713.50

The Notice of Censure gives details of the matters giving rise to these proceedings.

Notice of Censure Atrium Underwriters Limited

In proceedings brought before the Lloyd's Enforcement Board, Atrium Underwriters Limited (“**Atrium**”) has accepted three charges of detrimental conduct. These charges relate to non-financial misconduct by Atrium employees and the way in which Atrium responded to allegations of such misconduct.

Background

In Market Bulletin Y5252, Lloyd's set out its policy in relation to conduct involving harassment, bullying, discrimination, alcohol or drugs. In that bulletin it was made clear that in addition to the actions of individuals:

‘[o]f equal importance is the culture of the firm for whom the individual works and whether it supports or tolerates a culture of unacceptable personal behaviour towards others’.

The proceedings against Atrium were brought as a result of serious failures by the firm (set out below in the Misconduct accepted section) including failures by senior managers. Instances of non-financial misconduct are evident as having taken place over a number of years which, in Lloyd's view, precipitated a culture which tolerated instances of unacceptable conduct involving discrimination, harassment and bullying.

Misconduct accepted

Atrium has accepted the following three charges of detrimental conduct.

Charge 1

Atrium failed to notify Lloyd's of the facts and matters relating to an employee's (“**Employee A**”) misconduct, which were all matters of which Lloyd's ought reasonably to have been informed. This constituted a failure by Atrium to be open, honest and transparent with Lloyd's. In doing so, Atrium was in breach of paragraph 4 of the Enforcement Byelaw and Principle 8 of the Enforcement Principles, which constitutes detrimental conduct contrary to paragraph 3(b) of the Enforcement Byelaw.

Charge 2

Atrium engaged in the following conduct, which breached Principles 6 and/or 10 of the Enforcement Principles and was in any event detrimental conduct pursuant to paragraph 3(b) of the Enforcement Byelaw:

a. Employee A's general conduct was well known within Atrium, including by senior managers, but no adequate steps were taken to deal with it. Employee A's behaviour included a systematic campaign of bullying against a junior employee over a number of years. Atrium failed adequately to protect the junior employee once it became aware of the bullying. At the time that this aspect of misconduct came to light, in breach of its own procedures and policies, Atrium failed to investigate Employee A's conduct and apply appropriate disciplinary measures;

b. Atrium failed properly to identify and investigate complaints made by another employee about Employee A in accordance with its policies in force at the relevant time, and thereby also failed adequately to protect the employee;

c. Atrium failed to take disciplinary action against Employee A, even though its own investigation made findings of serious misconduct against him and recommended disciplinary action. Instead, Atrium negotiated a settlement package with Employee A, and allowed him to resign from Atrium rather than face disciplinary sanction (a course proposed by an Atrium senior manager and agreed to by Employee A). This was motivated in part by the desire of a senior manager to protect Atrium from bad publicity as well as the desire to limit the impact on the business unit involved;

d. Atrium failed to acknowledge or challenge Employee A's discriminatory and bullying conduct, motivated in part by the desire of senior managers to protect Atrium from bad publicity;

e. Atrium instructed the employee who had complained about Employee A's conduct not to speak about the outcome of the investigation or the allegations made, motivated in part by the desire of senior managers to protect Atrium from bad publicity; and

f. At the conclusion of the internal investigation, Atrium commenced an investigation in accordance with its disciplinary policy into what were and ought to have been treated as retaliatory and victimising complaints made by Employee A against the employee who had raised a complaint against him. Atrium's approach to the investigation failed to comply with its own policies and procedures and to adequately protect the employee who had made the complaints.

Charge 3

Atrium engaged in the following conduct which amounted to detrimental conduct contrary to Principles 6 and 10 of the Lloyd's Principles and paragraph 3(b) of the Enforcement Byelaw:

Sanctioning and tolerating over a period of a number of years up until 2018 an annual "Boys' Night Out" during which some male members of staff, (including two senior executives in leadership roles) engaged in unprofessional and inappropriate conduct, including initiation games, heavy drinking and making inappropriate and sexualised comments about female colleagues, which were both discriminatory and harassing to female members of staff. Some of this conduct was led, participated in and condoned, by the two senior managers in attendance.

Settlement terms

As a result of Atrium accepting this misconduct, the following terms have been agreed between the parties and approved by the Lloyd's Enforcement Board –

- d) This public censure;
- e) A fine of £1,050,000; and
- f) The payment of Lloyd's costs in the sum of £562,713.50.

In agreeing the level of the fine, Lloyd's Enforcement Board has accepted a 30% discount on the fine that it would have applied. This is because Atrium settled these proceedings at the earliest opportunity. Without the discount, the fine would have been £1,500,000.

Mitigation

In assessing the penalties, account has been taken of mitigating factors, including but not limited to the following:

1. Atrium has at all times co-operated with Lloyd's in the inquiry and subsequent enforcement proceedings.
2. Atrium has had a previously good disciplinary record.
3. Atrium has now implemented changes reflecting Lloyd's expectations, set out in Market Bulletin Y5252. This has included updating its policies and procedures relating to disciplinary issues, whistleblowing and diversity and inclusion, as well as its guidance and training for senior managers.
4. Atrium has implemented changes focused on culture and diversity and inclusion, including staff engagement surveys, a flexible working charter and mandatory training for managers on inclusive recruitment and being an active bystander. Atrium has enhanced its governance by introducing a Board level Culture Committee and implementing a values framework to ensure employees understand the behaviours expected of them.
5. In further recognition of the seriousness of this matter, Atrium engaged an independent third party in 2021 to investigate the matters identified. Atrium is now taking prompt action to implement the third party's recommendations which include:
 - (i) strengthening its internal process in misconduct cases;
 - (ii) mandatory discrimination and harassment and Equality Act 2010 training; and
 - (iii) internal disciplinary proceedings, where appropriate.

Ongoing Oversight

Lloyd's will engage with Atrium at a supervisory level to ensure that the issues identified in these enforcement proceedings are fully rectified.

Lloyd's Enforcement Board