
Corporate

Institute of Financial Accountants

Disciplinary Regulations

Institute of Financial Accountants

The Podium, 1 Eversholt Street, Euston, London, NW1 2DN
T: +44 (0)20 7554 0730 **F:** +44(0)20 7544 0731 **E:** mail@ifa.org.uk

www.ifa.org.uk

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Adopted by the IFA on 20 April 2016

1. The Conduct Committees

- a) The Council of the IFA shall delegate its powers of disciplinary action against any Member (as defined in section 14 below) for any breach of the Institute's bye-laws or regulations to three committees:
 - 1. The Investigations Committee
 - 2. The Disciplinary Committee
 - 3. The Appeal Committee
- b) Collectively these committees may be described as the "Conduct Committees".
- c) The Conduct Committees shall operate independently from Council, and no current Member of Council shall be appointed to the Conduct Committees.
- d) The Institute reserves the right to proceed with a disciplinary referral, notwithstanding the withdrawal of an official complaint, if there is a prima facie matter which the Chair of the Investigations Committee believes should be considered.
- e) If, at any time after an allegation has been received, or after a complaint has been put to a Member, circumstances arise which in the opinion of the Chair of the relevant Conduct Committee make it clearly inappropriate to proceed, the case may be closed after consideration of a report on those circumstances from the Disciplinary Case Manager. Such circumstances would include, but are not limited to, the death or extreme ill-health of the Member concerned.

2. Lay Members

A lay Member shall be a person who is not and has never been a Member of the IFA or its staff, but may include an accountant qualified by another professional body.

3. Reimbursement of Committee Members

All of those appointed to serve on the Conduct Committees shall be entitled to reimbursement of reasonable out of pocket expenses and remuneration at a daily rate to be agreed from time to time for attending the hearings.

4. General Provisions

- a) No IFA Member or lay person may be a Member at the same time of more than one of the Conduct Committees. No Member may sit on an Appeal Committee if they were previously involved with the disciplinary process of the same case.
- b) The Chairs, IFA Members and lay Members of all Conduct Committees will be required to submit a List of Interests to the IFA on appointment and annually thereafter.
- c) Any person known to, or connected with, either the Member about whom a complaint has been received or the person making the complaint, shall declare an interest and it is then for the Chair of the Committee to determine whether it is appropriate for such person to sit on the Committee for that particular case.
- d) Committees dealing with disciplinary matters shall be formed from a list of individuals who meet pre-agreed objective criteria and who are selected jointly by any Conduct Committee Chair and the Chief Executive, subject to ratification by the Institute's Appointments and Governance Committee.
- e) Clause 12 in the Institute's bye-laws sets out the circumstances when a Member may be liable to disciplinary action, and clause 13 sets out the principles of the disciplinary process.

- f) Where a practising Member fails to renew their practising certificate but evidence shows that they have continued to practice, they shall be referred under these Disciplinary Regulations to the Investigations Committee to consider misconduct.

5. Issuing of Interlocutory Directions

The Chair of the relevant Conduct Committee will have discretion to issue Interlocutory Directions (at any stage prior to the conclusion of the hearing) as guidance to the Parties to the Proceedings and any other Interested Party, for the efficient and equitable progress of the case.

6. The Conduct Committees

6.1. The Investigations Committee

- a) The Investigations Committee shall consist of a Lay Chair who is legally qualified, an additional Lay person and a Member of the IFA (in the grade of Associate or Fellow). The quorum shall be 3. There may be a majority decision.
- b) The purpose of the Investigations Committee is to investigate the alleged breach by the Member (as defined in 14 i) below) of Bye-Law 12 of the IFA Bye-Laws and determine if there appears to be a case to answer with consequent liability to disciplinary action.
- c) The Investigations Committee will receive evidence and submissions in each case referred from the Disciplinary Case Manager, the Member having been given no less than 21 working days in which to respond.
- d) If the Investigations Committee is of the opinion that there is prima facie evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye-Law 12 and which may warrant a more severe penalty than the Investigations Committee is empowered to impose, then it shall send to the last notified address of the Member within 14 working days of the decision a summary of the facts and circumstances to be considered by the Disciplinary Committee.
- e) Where the Investigations Committee is of the opinion that there is sufficient evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye-Law 12 but do not warrant a more severe penalty than the Investigations Committee is empowered to impose, and, in addition, the Investigations Committee considers that a referral to the Disciplinary Committee is not otherwise appropriate (for example, as a matter of general application or interest), the Investigations Committee may impose by way of a “consent order” one or more of the following sanctions if the Member so consents:
- i. Entry on Record
 - ii. Reprimand
- f) In considering what sanction to offer by way of a consent order upon the Member, the Investigations Committee shall have regard to any previous breaches of Bye-Law 12, and any facts, admissions and decisions relating to any current Entry on Record against the Member. The Committee may offer a consent order in respect of the matter under consideration, and/or may combine it with other disciplinary matters relating to the Member. The Investigations Committee has the authority to keep consent order decisions confidential.
- g) If the Member concerned does not accept in writing within 21 working days a consent order when offered by the Investigations Committee, the case must automatically be referred to the Disciplinary Committee.

- h) Where the Investigations Committee is of the opinion that there is no sufficient evidence that facts or circumstances have occurred or arisen which constitute a breach of the said Bye-Law 12, the Investigations Committee shall dismiss the case against the Member. In this event, no further action will be taken and there will be no record made against the Member's name.
- i) Complaints which arise from the conviction of a Member in a court of law may be referred in the first instance to the Chair of the Investigations Committee who may direct the case to the Disciplinary Committee without preliminary consideration by the Investigations Committee. A prima facie case will be presumed to exist.

6.2 The Disciplinary Committee

- a) The Disciplinary Committee shall consist of a Lay Chair who is legally qualified, an additional Lay person and an appropriately qualified Member of the IFA (in the grade of Associate or Fellow). The quorum shall be 3. There may be a majority decision.
- b) The terms of reference of the Disciplinary Committee shall be to consider those matters in respect of a Member (as defined in 14 i) below) referred to the Disciplinary Committee by the Investigations Committee.
- c) The Member will be informed (by signed for delivery sent to the last notified address of the Member at least 21 working days before the meeting) of the particulars of the meeting of the Disciplinary Committee convened to consider their case – date, time, venue etc. The notice of hearing which is sent to the Member shall set out the particulars of the alleged breach against the Member and be accompanied by copies of all documents upon which the Presenting Officer intends to rely.
- d) The Member will have a right to attend the hearing and should inform the IFA of their intention to attend, and any witnesses they intend to bring on their behalf. The Member shall at least 10 working days before the hearing provide the Disciplinary Committee with copies of all documents upon which they intend to rely in evidence.
- e) The Member may be accompanied at the hearing by a Representative or arrange for a Witness to attend to give evidence. The Member may elect to send a Representative of their choice to attend on their behalf if the Member is not attending in person.
- f) All fees and expenses of the Representative/Witness must be met in full by the Member. These are not the responsibility of the IFA. Further, the Member must instruct the Representative/Witness of the date, time, venue etc. of the hearing. Again, this is not the responsibility of the IFA.
- g) The Presenting Officer may invite a Complainant and any individual who in the opinion of the Presenting Officer is an Interested Person to attend the hearing to give evidence.
- h) Where facts relating to the particulars are in dispute, the burden of proving such facts shall rest on the Presenting Officer, and the standard of proof required is the balance of probabilities, such that the Committee considers that the facts are more likely than not to have happened.
- j) Where a Member has been convicted of a criminal offence, a copy of the certificate of conviction, certified by a competent officer of that Court in the United Kingdom, shall be conclusive proof of the conviction. The findings of fact upon which the conviction is based shall be admissible as proof of those facts. The findings of fact set out in a final judgment of a Judge of a Court in the United Kingdom shall be admissible as conclusive proof of those facts.

- i) If the Disciplinary Committee concludes that a complaint against a Member has been upheld wholly, or in part, it shall state a finding to that effect. In the event of such a finding, it may make any one, or more, of the following orders against the Member, having regard to the case stated by the Member, and the committee's view as to the nature and seriousness of the complaint or any other circumstances, which the committee considers relevant. The orders that may be made by the Disciplinary Committee against a Member whom they agree is guilty of misconduct are that:
- (i) They be admonished
 - (ii) They be reprimanded
 - (iii) They be severely reprimanded
 - (iv) Not being a holder of a practising certificate, they be deemed ineligible for the award of a practising certificate in future (or for a stated number of years)
 - (v) If in practice, their practising certificate be withdrawn
 - (vi) They be suspended from Membership, with their re-instatement being subject to conditions as decided by the Disciplinary Committee
 - (vii) They be expelled from the Institute and/or other entities of the IPA Group.

More than one sanction may be imposed, at the discretion of the committee. In deciding the appropriate sanction(s) the Disciplinary Committee may take into account previous disciplinary sanctions imposed by the IFA against the Member.

- j) A fine and/or costs may be levied on the Member by the Disciplinary Committee, in addition to any sanction imposed, if the committee believes it to be appropriate to do so. There shall be no maximum fine and additionally or instead (as the Committee decides) unlimited costs shall be recoverable. Due regard, in setting the level of fines, will be given to formal guidelines on sanctions, the severity of the case and statutory limits (including EU Directives). All fines and costs imposed shall be payable within 30 calendar days and late payments shall be subject to interest at a reasonable rate (normally 1% over the Bank of England's base rate). An unpaid fine or costs shall be a debt enforceable before the English courts by any remedy available for contract debt, and non-payment after a period of three calendar months shall cause the Member to be liable to further disciplinary action.
- k) In considering whether to impose a fine and the amount of any fine, the Disciplinary Committee (inter alia) may consider the nature and seriousness of the breach, any other sanction and/or costs order to be made against the Member, and the personal/financial circumstances of the Member.
- l) Where the Disciplinary Committee is of the opinion that there is no, or insufficient, evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye-law 12, the Disciplinary Committee shall dismiss the case against the Member, without requiring the Member to give evidence.
- m) The Member will be informed in writing (by signed for delivery sent to the last notified address of the Member) within 10 working days of the decision of the Disciplinary Committee.
- n) If the Member wishes to exercise their right to appeal, they must notify the Institute in writing, stating the grounds for the appeal, within 21 working days of receiving the decision of the Disciplinary Committee.

- o) Any sanctions, costs and/or fines levied against the Member will be effective from the date of the notice of communicating (by signed for delivery) the same to him/her, subject to these being postponed in the event of the right of appeal being exercised in (n) (above) until that appeal has been abandoned or determined by the Appeal Committee.
- p) The proceedings of the Disciplinary Committee are in public (subject to (s) below). All deliberations of the Chair and Members of the committee are not in the public domain.
- q) The Presenting Officer shall be entitled to be present at the hearing of the Disciplinary Committee, and shall be given a reasonable opportunity to present the case against the Member.
- r) A Legal Assessor may be appointed at the discretion of the IFA, and shall be present at the hearing of the Disciplinary Committee unless their presence is not required by the Committee. The Legal Assessor will advise the Committee on any legal points which arise and all advice must be given and/or repeated in the presence of the parties in attendance. The Legal Assessor does not form part of the decision making process pertaining to the outcome of the hearing.
- s) The conduct of the proceedings within the Disciplinary Committee is entirely at the discretion of the Chair.

6.3 The Appeal Committee

- a) The Appeal Committee shall consist of a Lay Chair who shall be legally qualified, an additional Lay Member and a suitably qualified Member of the IFA (in the grade of Associate or Fellow). The quorum shall be 3. There may be a majority decision. The grounds upon which a Member (as defined in 14 i) below) may appeal are a perceived error of the application of the Disciplinary Regulations, either as to findings of fact or sanction, including costs and/or a perceived procedural irregularity.
- b) The Member will be informed (by signed for delivery sent to the last notified address of the Member at least 21 working days before the meeting) of the particulars of the meeting of the Appeal Committee convened to consider their case – date, time, venue etc.
- c) The Member will have the right to attend the hearing and should inform the IFA of their intention to attend, and any witnesses they are bringing on their behalf at least 10 working days before the meeting.
- d) The Member may send a Representative of choice to attend on their behalf or elect to send such Representative in their stead. All fees and expenses of the Representative must be met in full by the Member. These are not the responsibility of the IFA. Further, the Member must instruct the Representative of the date, time, venue etc. of the hearing. Again, this is not the responsibility of the IFA.
- e) The Presenting Officer may invite a Complainant and any individual who in the opinion of the Presenting Officer is an Interested Person to attend the hearing to give evidence.
- f) The Appeal Committee may decide:
 - (i) to uphold the findings and sanctions of the Disciplinary Committee wholly or partly
 - (ii) to overturn the findings and sanctions of the Disciplinary Committee wholly or partly
 - (iii) to uphold the findings of the Disciplinary Committee and to impose more or less severe sanctions.
 - (iv) to make an award of costs against the Member in respect of the appeal.

- g) The decision of the Appeal Committee shall be final and there shall be no further right of appeal. There shall be no right of appeal to Council.
- h) The Member will be informed in writing of the decision of the Appeal Committee within 10 working days of the hearing.
- i) Any sanctions, fines and/or costs made against the Member will be effective from the date of the notice communicating (by signed for delivery) the same to him/her.
- j) A fine and/or costs may be levied on the Member by the Appeal Committee, in addition to any sanction imposed, if the committee believes it to be appropriate to do so. There shall be no maximum fine and additionally or instead (as the Committee decides) unlimited costs in respect of the appeal shall be recoverable. Due regard, in setting the level of fines, will be given to formal guidelines on sanctions, the severity of the case and statutory limits (including EU Directives). All fines and costs imposed shall be payable within 30 calendar days and late payments shall be subject to interest at a reasonable rate (normally 1% over the Bank of England's base rate). An unpaid fine or costs shall be a debt enforceable before the English courts by any remedy available for contract debt, and non-payment after a period of three months shall cause the Member to be liable to further disciplinary action.
- k) The proceedings of the Appeal Committee are in public (subject to (o) below). All deliberations of the Chair and Members of the Committee are not in the public domain.
- l) The Presenting Officer shall be entitled to be present at the hearing of the Appeal Committee and shall be given a reasonable opportunity to present the case against the Member.
- m) The appeal is conducted as a complete re-hearing. The standard of proof is the balance of probabilities, with the onus of proving the allegations resting on the IFA.
- n) A Legal Assessor may be appointed at the discretion of the IFA, and shall be present at the hearing of the Appeal Committee unless their presence is not required by the Committee. The Legal Assessor will advise the Committee on any legal points which arise and all advice must be given and/or repeated in the presence of the parties in attendance. The Legal Assessor does not form part of the decision making process pertaining to the outcome of the hearing. The Legal Assessor must not have been the Legal Assessor for the Disciplinary Committee in the same case.
- o) The conduct of the proceedings within the Appeal Committee is entirely at the discretion of the Chair.

7. Member's Duty to Co-operate with Investigations and Hearings of Conduct Committees

Any Member (as defined in 14 i) below) requested to do so shall provide their full and prompt co-operation to the Presenting Officer of the IFA (or any person acting on behalf of the Presenting Officer) and any Conduct Committee in connection with an investigation or committee hearing involving the Member or Student. Failure to co-operate shall constitute a breach of these Regulations and may render the Member or Student liable to disciplinary action.

8. Publicity

The outline details of decisions against named Members or Students made at the Disciplinary Committee hearings (provided that after a Disciplinary Committee meeting an appeal has not been made within the requisite time) and the Appeal Committee hearings shall be published in the Institute's magazine and on the Institute's website.

9. Register

A permanent register shall be kept of all proceedings and outcomes of disciplinary cases.

10. Minutes

Minutes shall be kept of the proceedings of the Conduct Committees including the names of those present and the decisions reached.

11. Liability of Member for subscriptions owed following disciplinary action

A person who shall have ceased to be a Member or Student by virtue of disciplinary action shall be liable for all subscriptions or other sums due from him/her to the Institute at the date of cessation of their Membership. **A Member cannot resign from the Institute whilst conduct proceedings are continuing.**

12. General Note

- a) These Regulations should be read in conjunction with the IFA Bye-laws and Articles of Association.
- b) Fees disputes will not be dealt with through the disciplinary process.
- c) There is no provision in the Disciplinary Regulations or the IFA Bye-laws to order compensation of any kind or costs to the Complainant or any Interested Party.
- d) There is no provision for the Complainant or any Interested Party to make an appeal against the outcome of a conduct committee.
- e) These Regulations apply to all complaints received after 20th April 2016.

13. Definitions and Interpretations

In these Regulations, unless the context or the Bye-Laws otherwise require, the following expressions shall have the following meanings:

- a) "Bye-Laws" means the Bye-Laws of the IFA as amended from time to time;
- b) "Complainant" means a person(s) making a bona fide complaint against a Member (as defined) that is not in relation to a fees dispute. For the avoidance of doubt, the Complainant is not a Party to the Proceedings;
- c) "Council" means the Directors and the Governing Body of the IFA;
- d) "Costs Order" means an award of costs to be paid by the Member so as wholly or partly to reimburse the IFA such reasonable costs and expenses as are incurred in connection with the investigation and determination of the disciplinary action including any appeal;

- e) “Entry on Record” means an entry placed on the Membership record of the Member for a period not exceeding two years that no further action will be taken under the disciplinary scheme in respect of a matter, unless further bona fide complaints or allegations, regarding the Member are received within the specified period, in which case the original matter may be reconsidered alongside any new matter and taken into account by a Conduct Committee in deciding what if any sanction to impose on the Member;
- f) “Expulsion” means, in relation to a Member or Student, expulsion from Membership or Studentship of the IFA indefinitely, and, in relation to a former Member or former Student means an order that if the former Member or former Student at any time applies to be re-admitted to Membership or Studentship the application shall be treated in accordance with Bye-Law 3 and 4;
- g) “Interested Person” means an individual or body with a proper interest in the outcome of any proceedings under these Disciplinary Regulations. For the avoidance of doubt, the Interested Person is not a Party to the Proceedings;
- h) “Legal Assessor” means a person appointed by the IFA to provide legal advice to the Disciplinary and/or Appeal Committees and who shall be independent from those committees.
- i) “Member” means for the purpose of these Regulations only, a person elected or registered (as appropriate) in accordance with Bye-Law 3, and includes (inter alia) a Member (as defined in the Bye-Laws), a DipFA/Financial Accountant Executive and an Affiliate of the IFA, and also to Members of entities within the IPA Group including the Federation of Tax Advisers. For the avoidance of doubt, the term “Member” shall, where appropriate, include a Student registered with the IFA.
- j) “Practising Certificate” means a certificate issued to a Member under the IFA’s practice regulations.
- k) “Presenting Officer” means a person appointed by the IFA to represent the Institute at a hearing of a conduct committee.
- l) “Suspension” means, in relation to a Member or Student, suspension of Membership or Studentship of the IFA for a definite period of time, and, in relation to a former Member or Student of the IFA, means an order that any application received from that former Member or Student for re-admittance to Membership or Studentship during the definite period shall be rejected.

**By Order of the Council of the Institute of Financial Accountants
24 May 2016**