

# Indicative Disciplinary Sanctions Guidance

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## 1. Interpretation

Throughout this guidance, unless the context otherwise requires, the interpretation set out in Bye-law 2 shall apply.

## 2. Purpose of the guidance

This guidance aims to provide a framework to the Institute's (otherwise known as the Institute of Financial Accountants (IFA)) Regulatory, Investigations, Disciplinary and Appeal Committees (otherwise known as Conduct Committees) to make sentencing decisions regarding its members, students, affiliates, member firms and contracted firms. The guidance covers the roles and sanctioning powers of the Conduct Committees as well as the decision-making process for sanctions to be imposed once a finding has been made against a member, student, affiliate, member firm and contracted firm.

This guidance will help to ensure that the IFA's disciplinary process is robust, fair, consistent, proportionate, dissuasive and transparent. It is also important that the members, students, affiliates, member firms and contracted firms know, prior to decisions being made by the Conduct Committees, which sanctions are available to them and what matters the Conduct Committees will consider when reaching their decisions.

It is important to reiterate that this guidance includes indicative sanctions and is not prescriptive. The Conduct Committees will exercise their judgement and discretion in considering the appropriate sanctions for each case, based on the facts and merits of the case and taking into account the IFA Bye-laws, Code of Ethics, regulations and guidance that are available at the time. The guidance will be reviewed as the need arises.

## 3. Oversight

The IFA Board has appointed independent Conduct Committees to discharge its disciplinary responsibilities. The Conduct Committees will endeavour to operate efficiently and effectively when discharging these responsibilities.

The Office for Professional Body Anti-Money Laundering (AML) Supervision (OPBAS) is the oversight body for AML professional body supervision. As part of this oversight, the IFA, as AML supervisor under Schedule 1 to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (referred to thereafter as Money Laundering Regulations), is required to adhere to the [OPBAS Sourcebook for professional body anti-money laundering supervisor](#) and ongoing oversight.

OPBAS is housed within the Financial Conduct Authority. As part of the IFA's AML supervisory duties, the IFA reports annually to HM Treasury in order to improve the transparency and accountability of supervision and encourage good practice.

## 4. Key principles

The key principles which apply to decisions on sanctions are:

### 4.1 Maintaining the reputation of the profession

Lord Bingham, in [Bolton v The Law Society \[1993\] 2 All ER 486](#), emphasised the importance of protecting the reputation of the profession as a justification for a sanction. He said:

“To maintain this reputation and sustain public confidence in the integrity of the profession, it is often necessary that those guilty of serious lapses are not only expelled but denied readmission. Otherwise, the whole profession and the public as a whole is injured. A profession's most valuable asset is its collective

reputation and the confidence which that inspires.”

He concluded that:

“The reputation of the profession is more important than the fortunes of any individual member. Membership of the profession brings many benefits, but that is part of the price.”

## **4.2 Protecting the public**

When considering sanctions, the Conduct Committees should consider the member’s clients and the public at large and whether the public can be properly protected. The purpose of imposing sanctions is not simply to discipline an individual or firm for any wrongdoing nor is it intended to be punitive. A key aim is to protect the public and maintain the reputation of the profession.

## **4.3 Upholding the standards of professional conduct in the profession**

The IFA demonstrates its commitment to high ethical and professional standards by having Bye-laws, regulations and guidance for its members, students, affiliates, member firms and contracted firms, but also by monitoring adherence to those standards.

The five key ethical principles that must be followed by IFA members, students, affiliates, member firms and contracted firms are: integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. These ethical principles in the Code of Ethics, together with the IFA Bye-laws and regulations encapsulate the professional standards that are expected to be followed by IFA members, students, affiliates, member firms and contracted firms.

The IFA’s disciplinary process is a crucial part of the process for maintaining professional standards by imposing sanctions and also publishing its findings publicly.

## **5. Sanctioning powers of conduct committees**

The role of the Conduct Committees and the sanctions available to them are set out in the Disciplinary Regulations that took effect on 1 January 2021. The range of powers of sentencing varies for each Conduct Committee, as outlined below.

### **5.1 Investigations Committee and Regulatory Committee**

In accordance with the [IFA’s Disciplinary Regulations](#), the sanctions available to the Investigations Committee and Regulatory Committee by way of Consent Order are:

- (a) caution;
- (b) reprimand; and
- (c) a fine and/or costs.

In all cases, the member, student, affiliate, member firm and contracted firm must agree to the terms of a Consent Order in writing within 21 working days. If there is no consent to the order the Complaint will be automatically referred to the Disciplinary Committee.

### **5.2 Disciplinary Committee**

In accordance with the IFA’s Disciplinary Regulations, the sanctions available to the Disciplinary Committee are:

- (a) caution;
- (b) reprimand;
- (c) severe reprimand;
- (d) impose conditions on the member, student, affiliate, member firm and contracted firm including:
  - (i) that the member shall be ineligible for the award of a practising certificate in future (or for a stated number of years and/or until a specified condition is met);
  - (ii) that a condition shall be imposed on the member or student eligibility to remain on the register of members or register of students, as applicable;
  - (iii) that the member or student shall be removed from the register of members or register of students, as applicable, and shall be ineligible for reinstatement for a stated number of years and/or until a specified condition has been met;
- (e) that the member or student shall be permanently removed from the register of members or register of students, as applicable;
- (f) in the case of a member in public practice:
  - (i) that their practising certificate be suspended for a stated number of years and/or until a specified condition is met such as co-operating and implementing the actions identified from an AML monitoring review at the expenses of the firm, restricting the firm from holding clients' money until regulatory requirements have been met and restricting the services the firm can provide for a period of time until evidence of continuing professional development (CPD) in certain areas is provided;
  - (ii) that their practising certificate be withdrawn, and that they shall be ineligible to reapply for a practising certificate for a stated number of years;
  - (iii) that their practising certificate be withdrawn and that they shall be permanently ineligible to reapply for a practising certificate. More than one sanction may be imposed. As an alternative or in addition to the above sanctions, the Disciplinary Committee has the power to levy a fine and/or order that the member, student, affiliate, member firm and contracted firm pay the costs incurred in investigating and considering the complaint. There shall be no maximum fine and unlimited costs shall be recoverable at the discretion of the Disciplinary Committee.

### **5.3 Appeal Committee**

The sanctions available to the Appeal Committee are that it:

- (a) may confirm, vary or rescind any sanction imposed by the Disciplinary Committee, as detailed above;
- (b) may impose any sanction that could be imposed by the Disciplinary Committee and likewise order costs that could be imposed by the Disciplinary Committee;
- (c) may also order the member, student, affiliate, member firm and contracted firm, to pay the costs incurred in relation to the appeal proceedings even where an appeal is withdrawn. The Appeal Committee has also the power to levy a fine and/or order that the member, student, affiliate, member firm and contracted firm pay the costs incurred in investigating and considering the complaint. There is no maximum fine and unlimited costs shall be recoverable at the discretion of the Appeal Committee;
- (d) may direct that the complaint shall be heard afresh by a new Disciplinary Committee.

## **6. General sentencing principles**

These principles are for guidance only and are not exhaustive. Each case will be considered and determined on its facts and merits.

### **6.1 General objectives of the IFA**

When a Conduct Committee considers whether to impose a sanction and what sanction to impose, it should consider a number of factors, in particular the general objectives of the IFA, outlined below.

The IFA exists to:

- (a) maintain the reputation of the accountancy profession;
- (b) protect the public interest; and
- (c) promote, encourage, and maintain high professional standards.

## 6.2 Objectives of the Conduct Committees

The Conduct Committees carry out a public function in accordance with the duty to protect the public interest and in accordance with the principles set out in *Bolton v The Law Society* [1994] 2 All ER 486.

The Conduct Committees have important objectives to:

- (a) maintain the reputation of the profession
- (b) protect the public
- (c) uphold the proper standards of conduct in the profession

## 6.3 Principles

The interests of the public include both protection of the public and maintaining public confidence in the profession. In deciding what sanctions to impose the Conduct Committees should apply the principle of proportionality, weighing the interests of the public with those of the member, student, affiliate, member firm and contracted firm, as outlined in [Allister Walker v BSB \[2013\] PC2011/0219](#).

In accordance with the principles stated in *Bolton*, the primary purpose of disciplinary proceedings is not punitive and in considering the interests of the member, student, affiliate, member firm and contracted firm many of the traditional grounds of mitigation may be given less weight as a result. In assessing proportionality, the committee's consideration will include the factors set out below. The committee will bear in mind the predominant purpose of the disciplinary proceedings as described above. Having considered this, it is for the Conduct Committees to consider what weight to attach to any aggravating factors or mitigating factors of the misconduct in question, the personal circumstances of the member, student, affiliate, member firm and contracted firm and any mitigation given in support of the member, student, affiliate, member firm and contracted firm.

## 6.4 Aggravating factors

The following factors may be taken into consideration by the Conduct Committees in determining sanction. This is not an exhaustive list, nor will the relative position of an individual factor on the list below necessarily determine its importance in any particular case. The weight to be given to each factor is a matter for the individual committees to decide.

- A finding of dishonesty, fraud or intent to mislead including whether it involved breaches of criminal law or findings of dishonesty or fraud in a civil court. A very serious view will be taken of lack of honesty in the behaviour of professional accountants or those aspiring to become Members of the profession.
- Misconduct which is also a breach of criminal law. Regard may be had to the nature and seriousness of the offence.
- The nature and seriousness of the consequences of the breach of the IFA's Bye-law 11.
- Whether the member, student, affiliate, member firm and contracted firm intentionally or recklessly failed to meet the Institute's requirements.
- Any past Disciplinary Record, including date, nature, seriousness and penalty. Lack of action or follow up resulting from a Conduct Committee recommendation.

- The period over which the misconduct occurred or was repeated.
- Loss to third parties including the public generally.
- Improper direct or indirect gain to the member, student, affiliate, member firm and contracted firm.
- Obstruction or non-cooperation with the Institute during the investigation of the Complaint.
- A breach of trust in relation to the public and/or the employer and the extent to which this was planned.

## 6.5 Mitigating factors

The member, student, affiliate, member firm and contracted firm will be given an opportunity to address the committee in mitigation of the penalty. The following may be treated as mitigating factors, depending on the facts and seriousness of the case. This is not an exhaustive list, nor will the relative position of a factor in the list below necessarily determine its importance in any particular case. The weight to be given to each factor is a matter for the committee.

- Any admission of misconduct as defined in the IFA's Bye-law 11. Regard will be had to when such admission is made. An earlier admission may have greater weight than one given later in the proceedings.
- Whether the conduct was inadvertent or isolated.
- Whether the conduct/offence was committed in a professional capacity.
- Genuine indications of remorse or insight.
- Attempts by the member, student, affiliate, member firm and contracted firm to take corrective action such as correcting the work free of charge or mitigating any loss to third parties or the public generally.
- Delay by any Complainant in bringing a matter to the attention of the Institute or by the Institute in pursuing disciplinary action – but delay may have less weight than, for example, in the criminal jurisdiction as the primary consideration of the committee is protection of the public.
- Personal circumstances of the member, student and affiliate which affects their ability to work, such as evidence of ill health by a doctor's medical report or family tragedy. However, personal circumstances may have less weight than, for example, in the criminal jurisdiction as the primary consideration of the Conduct Committee is protection of the public.
- Evidence of previous good character, including an unblemished Disciplinary Record.
- Testimonials by third parties.

## 7. Conduct Committee's general approach to imposing sanctions

When considering sanctions, the Conduct Committee should ensure that its decision is:

- proportionate in that the proposed sanction should be no more stringent than is necessary to address the allegations that have been identified;
- consistent, with all reasonable endeavours being taken to ensure that similar disciplinary cases receive similar sanctions;
- transparent: with reasons and decisions set out in writing.

In considering the correct sanction to impose the Conduct Committee should consider first the least serious sanction. If this sanction is inappropriate, it should consider the next most serious and so on until the appropriate sanction is determined. The committee may impose one or more sanctions. In considering what sanctions to impose the committee shall have regard to any previous breaches of Bye-law 11 and any entry on the disciplinary record of the member, student, affiliate, member firm and contracted firm.

The Committee should give reasons why it arrived at the sanction imposed. Its rationale should explain what issues and evidence were considered such that its decision can be clearly understood by a third party.

The member, student, affiliate, member firm and contracted firm may appeal against any sanction imposed by the Disciplinary Committee to the Appeal Committee which may confirm, rescind or vary it and impose

any sanction which could have been imposed by the Disciplinary Committee.

These principles are for guidance only and are not exhaustive. Each case will be considered and determined on its facts and merits.

## **8. The process of determining an order**

When a Conduct Committee decides that a complaint has been proved or when a respondent admits a Complaint, the Conduct Committee must then decide what to include in its order.

At the Investigations Committee or Regulatory Committee neither member, student, affiliate member firm and contracted firm, complainant nor IFA staff appear in person. If the committee decides by majority decision that there is a liability to disciplinary action under Bye-law 11 the committee will decide first of all whether a referral to the Disciplinary Committee is appropriate (for example, as a matter of public interest, or if the matter warrants a more severe penalty than the Investigations Committee or Regulatory Committee is empowered to make). Otherwise, the Investigations Committee or Regulatory Committee will offer by way of a Consent Order one or more of the sanctions set out in section 3(i). The Chair of the relevant Committee will be in possession of the Disciplinary Record of the member, student, affiliate, member firm and contracted firm and will add this to the discussion only if a liability to disciplinary action has been decided. The IFA's costs, and any application for a fine or costs order, will have been disclosed by the case manager separately to the report being circulated.

The list below summarises the sequence of events at the Disciplinary Committee and Appeal Committee.

The Presenting Officer will:

- outline the relevant facts;
- tell the conduct committee about any previous Disciplinary Record and Statement of Means form if one is provided;
- make an application for costs to be paid by the Respondent.

The Respondent or their representative will explain any mitigating factors relating to the facts of the Complaint and to personal circumstances.

The Conduct Committee will consider its decision in private, including the order. At the hearings, including virtual hearings, the Conduct Committee will ask attendees to leave and rejoin the hearing at designated times. The Institute's order covers sanctions, costs and publicity, as detailed in the IFA Bye-laws and disciplinary regulations.

## **9. The sanctions**

### **9.1 Caution**

This is the least serious sanction. It constitutes an unpublicised entry placed on the record of the member, student, affiliate, member firm and contracted firm for a maximum period of three years from the date of the meeting or hearing. It may be regarded as a "warning sign" or "rest on file" of potential problems rather than as a judgement and for this reason it is neither publicised nor permanent.

A Caution can be imposed by the Investigations Committee or Regulatory Committee only with the consent of the member, student, affiliate, member firm and contracted firm. Where the Investigations Committee or Regulatory Committee is considering imposing a Caution and the member, student, affiliate, member firm and contracted firm does not consent the matter will be referred to the Disciplinary Committee.

The Disciplinary and Appeal Committees can impose a Caution without the consent of the member, student, affiliate, member firm and contracted firm.

If the Member consents to a Caution by the Investigations Committee or Regulatory Committee no further action will be taken against the member, student, affiliate, member firm and contracted firm, in respect of the



subject matter of the finding of misconduct unless, within the designated period, there is a further Complaint against the member which is referred to the Conduct Committees. If the Conduct Committee then finds the allegations against the individual or firm proven, it must take into account the previous Caution when considering sanctions. This sanction may be appropriate where most of the following factors are present:

- the behaviour was not so serious as to indicate a fundamental incompatibility with continued membership of the Institute;
- the breach was an isolated incident which was not deliberate;
- there is a breach at the lowest end of the spectrum of seriousness;
- little or no appreciable harm has been caused to individuals, employers, the Institute or the general public;
- the member, student, affiliate, member firm and contracted firm has admitted their actions, particularly where admission is made early in the proceedings;
- the member, student, affiliate, member firm and contracted firm shows genuine insight or remorse;
- there have been steps to make good any loss;
- previous good character;
- relevant and appropriate testimonials;
- no repetition of the behaviour since the incident;
- exceptional personal circumstances; and
- where it might be appropriate to register a warning about the Member's conduct.

## **9.2 Reprimand**

A reprimand may be imposed by the Investigations Committee or Regulatory Committee, but only with the consent of the member, student, affiliate, member firm and contracted firm. If the member, student, affiliate, member firm and contracted firm does not consent to the order, the matter will be referred to the Disciplinary Committee.

The Disciplinary and Appeal Committees may impose a reprimand without the consent of the Member.

This sanction may be appropriate where most of the following factors are present:

- it might be appropriate to express formal and public disapproval of the member's, student, affiliate, member firm or contracted firm's conduct;
- the breach was an isolated incident, which was not deliberate;
- the behaviour was not so serious as to indicate a fundamental incompatibility with continued membership of the Institute;
- the behaviour is at the lower end of the spectrum of seriousness but is more serious than would be appropriate for a Caution;
- little or no harm has been caused to individuals, employers, the Institute or the general public;
- the member, student, affiliate, member firm and contracted firm shows genuine insight and remorse;
- the member, student, affiliate, member firm and contracted firm may have admitted their actions, particularly where admission has been made early in the proceedings;
- there have been steps to make good any loss;
- previous good character;
- relevant and supportive testimonials; and
- exceptional personal circumstances.

## **9.3 Severe reprimand**

A severe reprimand may be imposed by the Disciplinary and Appeal Committees.

A severe reprimand may be appropriate where most of the following factors are present:

- the behaviour was above the lower end of the spectrum of seriousness and where a lesser sanction is not sufficient;
- the behaviour was not so serious as to indicate a fundamental incompatibility with continued membership of the Institute;
- the incident may not have been a single incident but the incidents taken together do not suggest a deliberate continuation of breaches of the Institute's Bye-laws over a period;
- the member, student, affiliate, member firm and contracted firm has shown genuine insight and remorse;
- the member, student, affiliate, member firm and contracted firm may have admitted their actions but the admission may have been made late in the proceedings; and
- there may be exceptional personal circumstances.

#### **9.4 Suspension: temporary removal**

A Member may be suspended by the Disciplinary or Appeal Committees. A member or student may be removed from the register of members or register of students, as applicable, and shall be ineligible for reinstatement for a stated number of years and/or until a specified condition has been met.

Suspension in relation to a member or student means an order that any application received from that member, student, affiliate, member firm and contracted firm for re-admittance to the Institute during the suspension period shall be rejected.

A Suspension may be appropriate where many of the following factors are present:

- there is a serious breach of the Bye-laws which is of a nature or extent which cannot properly be met by a lesser sanction;
- there has been harm to an individual, employer, the Institute or the general public;
- there is no evidence of a fundamental incompatibility with membership of the Institute after the end of the Suspension and compliance with any conditions imposed;
- there is no significant evidence of continuing risk to the individuals or the general public after the end of the Suspension and compliance with any conditions imposed; and
- there may be exceptional personal circumstances.

#### **9.5 Withdrawal of practising certificate**

The Disciplinary and Appeal Committees can order the withdrawal of a member's practising certificate. The Institute will find it helpful to have the minimum period for withdrawal specified.

Withdrawal of a practising certificate may be appropriate where many of the following factors are present:

- there is a serious breach of the Bye-laws which is of a nature or extent which cannot properly be met by a lesser sanction;
- there has been harm to a client or the general public;
- there is evidence of fundamental failings within the member's practice;
- there is evidence of continuing risk to clients or the general public.

#### **9.6 Removal**

A member or student may be permanently removed from the register of members or register of students, as applicable, by the Disciplinary or Appeal Committees. Removal means expulsion from the Institute indefinitely.

Removal in relation to a member or student means an order that if that former member, or student at any

time applies to be re-admitted to membership or studentship of the Institute the application shall be treated in accordance with Bye-law 8.

Removal from membership and studentship may be appropriate where any of the following factors are present:

- there has been a serious breach of the Bye-laws and no lesser sanction is appropriate;
- there has been serious harm to an individual, employer, the Institute or the general public;
- there is evidence of a fundamental incompatibility with Membership of the Institute due to serious departure from relevant professional standards;
- the individual has shown little or no genuine insight or remorse for their behaviour or actions;
- there has been dishonesty, fraud or intent to deceive;
- individuals, employers, the general public or the Institute remain at risk;
- abuse of position or trust;
- there has been a deliberate course of conduct over a period of time.

## **9.7 Fine**

A fine may be imposed as an alternative or in addition to any of the above sanctions. The amount of the fine has no upper limit. The member, student, affiliate, member firm and contracted firm should be given an opportunity to address the committee before imposing a fine if they are present at the hearing.

In considering whether to impose a fine and the amount of any fine the Conduct Committee will take into account:

- the nature and seriousness of the misconduct;
- the nature and seriousness of the consequences of the misconduct;
- the nature and seriousness of the regulatory breach;
- whether the individual or firm has profited from the regulatory breach, for example, if the member has been engaged in public practice without an anti-money laundering supervision, one element of the fine might reflect the cost of AML supervision they ought to have paid throughout the period;
- any other sanction imposed upon the member, student, affiliate, member firm and contracted firm and the value of any Cost Order made against the member, student, affiliate, member firm and contracted firm;
- any evidence before the committee or submissions made to the committee, including the individual's ability to pay as evidenced by their statement of means form.

## **10. Costs**

### **10.1 Against the member, student, affiliate, member firm and contracted firm**

In bringing disciplinary proceedings, the IFA exercises a public function which it is required to perform in the public interest. It has been said by the courts that in considering an award of costs against a member, student, affiliate, member firm and contracted firm the Conduct Committee must consider on the one hand the financial prejudice to the particular individual and firm, weighed against the need to encourage public bodies to exercise their public function of making reasonable and sound decisions without fear of exposure to undue financial prejudice, if the decision is successfully challenged.

The Conduct Committee's power to award costs against the individual or firm is discretionary. The main factors to be taking into account when awarding costs are:

- The principle of justice. The presumption that a member, student, affiliate, member firm and contracted firm should pay costs is based on the principle that the majority of professional members should not subsidise the minority who, through their own failings, have brought upon themselves disciplinary

proceedings. Therefore, it would require exceptional circumstances for a Conduct Committee not to award costs against a member, student, affiliate, member firm and contracted firm. If the Conduct Committee does not award costs, it must give reasons for its decision.

- The principle of reason. The award of costs against the individual or firm is subject to the overriding principle that the costs are appropriate and reasonably incurred. In making this decision, the Conduct Committee may consider the conduct of the individuals concerned before and during the disciplinary process.

To be transparent, a summary of disciplinary costs incurred by the IFA is sent to a member, student, affiliate, member firm and contracted firm before the committee meeting or hearing together with a covering letter explaining that if the Complaint is found proven an application will be made by the Conduct Committee for an order for the costs to be paid. The costs incurred by the IFA in any disciplinary proceeding may include, and are not limited, to the following:

- Costs of the IFA disciplinary staff in processing the case.
- Costs of the IFA Presenting Officer.
- Appropriate proportion of fees and expenses payable to Conduct Committee members.
- Appropriate proportion of costs of the Conduct Committee meetings and hearings, including room hire and administrative support.
- Legal fees and expenses of the Conduct Committee.
- Witness expenses.

Costs against a member, student, affiliate, member firm and contracted firm may include the costs of investigating the allegation as well as the costs of the committee meeting(s) or hearing(s). Accordingly, a Costs Order will not be imposed as any form of penalty against the member, student, affiliate, member firm and contracted firm. The amount of costs awarded against the individual and firm has no upper limit.

Further, the IFA exercises various supervisory functions in accordance with legislation and its own Bye-laws. Sometimes the disciplinary action in question will relate to the member, student, affiliate, member firms' and contracted firms' evasion of the costs of such regimes (such as anti-money laundering (AML) supervision or practising without a practising certificate). In such cases the IFA may seek recompense for the fees lost to it by the individual's actions.

In cases where some allegations are proved and others are not, the Conduct Committees will need to consider whether it would be reasonable to reduce the costs for which the individual and firm is liable. In general, it would be appropriate to reduce the costs only if the majority of the allegations or the most serious allegations are not proved.

As part of the disciplinary process, members, students, affiliates, member firms and contracted firms are invited to complete a statement of means. This statement of means will be requested by the Institute as part of the disciplinary process. If the individual has been invited to provide information about their financial circumstances by way of a statement of means and has failed, or declined to do so, a Conduct Committee will assume that the individual is able to meet any financial penalty or costs that the Conduct Committee orders. The member, student, affiliate, member firm and contracted firm will be given an opportunity to address the Conduct Committee on the issue of costs as part of the disciplinary process, if they are present at the hearing.

The combination of fines and costs should not be beyond the ability of the member, student, affiliate, member firm and contracted firm to pay. If the combination of the two is above this level, the costs should be reduced, not the fine.

## **10.2 Against the IFA**

Costs will not normally be awarded against the Institute where some or even all the allegations are

successfully challenged. The courts have cited dishonesty or lack of good faith on the part of a regulatory body as the only circumstances where costs may be awarded against the regulator [Baxendale-Walker v Law Society \[2006\] 3 All ER 675 \[2008\] 1 WLR 426 CA](#).

### **10.3 Payments of fines and costs**

Payment of fines and costs by the individual or firm will be due on the date stated on the invoice if no representations were made by the member, student, affiliate, member firm and contracted firm regarding their ability to pay as part of the disciplinary process. Such representations would normally be a completed statement of means form.

Subject to the above, the member, student, affiliate, member firm and contracted firm may be given a reasonable time to pay, if necessary, by instalments. However, this is a matter for agreement between the IFA and the individual not for the Conduct Committees.

An unpaid fine or costs shall be a debt enforceable before the English courts by any remedy available for contract debt. In accordance with Bye-laws 4.5 and 4.7, a member or student may be removed as a member or student for non-payment of fines and costs imposed by a Conduct Committee.

## **11. Publicity**

With the exception of Consent Order cautions, when the Conduct Committee finds a Complaint proven and makes an order, the record of its decision will be published as soon as practicable, unless the matter is still outstanding due to referral to the Disciplinary Committee or Appeals Committee.

Where, following a meeting of the Investigations Committee or the Regulatory Committee, a Consent Order has been agreed by a respondent, the details of the relevant complaint, together with the finding(s) and order(s), should be published on the Institute's website and the official journal of the Institute, including the name of the respondent, town, country, and order(s) made against them.

Following a hearing of the Disciplinary Committee or the Appeals Committee, in line with the disciplinary regulations, after 21 working days have lapsed, the details of the relevant complaint, together with any finding(s) and/or order(s), should be published on the Institute's website and the official magazine of the Institute, including the name of the respondent, town, country, and order(s) made against them.

The full written reasons and supporting evidence considered for decisions made by the Conduct Committees are confidential to the Committee and the parties to the disciplinary process. The written reasons shall not be published.

The IFA will publish findings and orders against a respondent or appellant on the website for approximately three years from the dates of the Conduct Committee Hearing or meeting. After three years, the finding will be removed from the website, except in the cases where the finding results in expulsion or suspension of membership. In such cases, the finding will remain on the IFA's website indefinitely or for a specified period of time in cases where the respondent or appellant has been excluded or suspended for a specific time period by the Conduct Committee.

### **11.1 Discretion for Conduct Committees on publicity**

In line with the disciplinary regulations 20.15-20.20, save in exceptional circumstances, there is a presumption that all findings and orders from the Conduct Committees will be publicised. However, there is discretion not to order publicity of the name of the respondent or appellant or the details of orders made against them.

In accordance with disciplinary regulation 20.20, decisions by the Conduct Committee not to publicise should only be considered in response to a request from the respondent or appellant.

The discretion not to publicise should be exercised infrequently and in exceptional circumstances as it is a departure from the principle of open justice. A Conduct Committee might consider not publicising the findings or order where the conduct by the respondent or appellant was not serious and where publication would be unduly harsh and have an adverse impact on the respondent or appellant's mental or physical health and safety. The overriding objective is to consider applications fairly and justly and should be exercised judicially, taking into account all relevant factors.

Factors supporting a decision not to be published include the following:

- there is an appeal outstanding;
- the decision cannot be published without disclosing confidential, medical or legally privileged information;
- prejudicing legal proceedings or legal or regulatory or disciplinary investigations;
- significant risk of breaching [article 8 in the Human Rights Act 1998](#), the right to respect for your family and private life, your home and your correspondence;
- the impact of the publication would be disproportionate.

## 12. APPENDIX – Categories of Complaint

<b>Criminal convictions</b>	<b>Suggested starting sanction</b>
Criminal convictions for acts of dishonesty/breach of trust/money laundering and other offences or adverse findings by regulatory and disciplinary bodies where the underlying conduct involves dishonesty, including breach of trust/money laundering	Removal as a member or student
An offence not committed in a professional capacity nor followed by a prison sentence or community penalty	Suspension
Criminal convictions unrelated to professional work	Severe reprimand and a fine of £3000

<b>Ethical</b>	<b>Suggested starting sanction</b>
Inappropriate personal conduct as to bring the member, the IFA or the accountancy profession into disrepute	Removal as a member or student
Serious breach of fundamental principles	Severe reprimand and a fine of £3000
Less serious breach of fundamental principles	Reprimand and a fine of £1000
Failure to communicate with successor or transfer information due to changes in professional appointments	Reprimand and a fine of £1000

<b>Lack of professional Competence</b>	<b>Suggested starting sanction</b>
Repeated seriously defective work	Removal as a member or student
Single occurrence of work that is seriously defective Lesser forms of poor accounting, payroll, assurance, tax or other client service Failure to have regard to the proper statutory, professional or technical requirements	Severe reprimand and a fine of £1000
Bad advice	Reprimand and a fine of £1000

<b>Failure to take due care</b>	<b>Suggested starting sanction</b>
Failure to conduct work commissioned by, paid for, or promised to the client	Reprimand and a fine of £1000
Defective accountancy work e.g. poor quality,	Reprimand and a fine of £1000

late filing, not in statutory format	
Poor advice, expressing a professional opinion not justified by the evidence, delays in advising client's affairs or neglecting client's affairs	Reprimand and a fine of £1000
Failure to exercise adequate supervision of the practice, including failure to ensure that fees are fair in relation to work performed for the client	Reprimand and a fine of £1000

<b>Inadequate professional service</b>	<b>Suggested starting sanction</b>
Failure to provide an overall standard or quality of services to which the client is entitled	Reprimand and a fine of £1000

<b>Breaches of Money Laundering Regulations (2017 and amended in 2019) (not involving criminal conviction or dishonesty)</b>	<b>Suggested starting sanction</b>
Failure to report money laundering and terrorist financing by a member, student and affiliate	Removal as a member, student, affiliate and a fine of £5000
Numerous failures to comply with the Money Laundering Regulations: no customer due diligence, no risk assessments, no policies, controls and procedures, no record keeping, no appropriate staff training, no monitoring	Severe reprimand and a fine of £3000
Tipping off without intent by a member, student and affiliate	Severe reprimand and a fine of £1500
The member firm has not taken reasonable care to ensure that no-one is appointed to act, or continues to act, as a beneficial owner, an officer or manager of the firm without approval by the IFA	Severe reprimand and a fine of £1500
Failure by the member firm to report a beneficial owner, officer or manager of the firm with a relevant criminal conviction to the IFA within 30 days of the date on which the firm became aware of the individual's conviction	Severe reprimand and a fine of £1500
A complete failure to implement the member firm's policies, controls, procedures and/or general failure to monitor compliance with the firm's policies, controls and procedures	Severe reprimand and a fine of £1500
General failure by a member, student and affiliate to follow the member firm's policies,	Severe reprimand and a fine of £1000



controls and procedures	
Any other significant breach	Severe reprimand and a fine of £1000
A partial failure to implement one or several, but not all, the member firm's policies, controls, procedures and/or partial failure to monitor compliance with the firm's policies, controls and procedures	Reprimand and a fine of £1000
Failure of the member firm to ensure appropriate AML supervision is in place	Reprimand and a fine of £500
Member firm acting as a Trust or Company Service Provider (TCSP) when not included on HMRC's TCSP Register	Reprimand and a fine of £500
Partial failure by a member, student and affiliate to follow the member firm's policies, controls and procedures. Partial failure includes failure to follow on or several policies, controls and procedures	Reprimand and a fine of £500

<b>Other breaches of IFA Bye-laws, Code of Ethics, Regulations</b>	<b>Suggested starting sanction</b>
Practising without a practising certificate	Reprimand and a fine of £1500
Practising without carrying adequate professional indemnity insurance	Reprimand and a fine of £1500
Failure to cooperate with arranging or following a monitoring visit	Reprimand and a fine of £1000
Failure to cooperate with the disciplinary process	Reprimand and a fine of £1000
Failure to complete an annual return by members, affiliates, member firm or contracted firms	Reprimand and a fine of £1000
Inaccurate membership, affiliates, member firm, contracted firm returns (significant error)	Reprimand and a fine of £1000
Failure to obtain affiliate status when required by the regulations	Reprimand and a fine of £1000
Failure to comply with the Public Practice Regulations in respect of Clients' Money	Reprimand and a fine of £1000
Failure to provide engagement letter to client	Reprimand and a fine of £1000

Failure to respond properly to professional enquiry or handover	Reprimand and a fine of £1000
Failure to implement internal complaints-handling arrangements	Reprimand and a fine of £1000
Failure to respond on a timely basis to communications from the IFA	Reprimand and a fine of £500
Failure to notify of change of address	Reprimand and a fine of £500
Holding out to be in practice or using the IFA's designatory letters when not authorised to do so	Reprimand and a fine of £500
Failure to comply with CPD requirements	Reprimand and a fine of £500
Failure to make adequate arrangements for absence, incapacity or death	Reprimand and a fine of £500

<b>Failure to comply with an order from the Conduct Committees</b>	<b>Suggested starting sanction</b>
Failure to comply with the order and/or failure to take advice	Severe reprimand and a fine of £1000
Other cases where a member, affiliate, student failed to act or acted belatedly on an order	Reprimand and a fine of £750
Failure to act on a or any Regulatory Committee recommendation(s)	Reprimand and a fine of £750