

Institute of Financial Accountants Sanctions Guidance

Effective date 1 July 2022

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1. Introduction

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

This document provides a framework to guide the Institute's Conduct Committees through the sanctioning process. The roles and sanctioning powers of the Conduct Committees are set out within the [Disciplinary Regulations](#). This guidance sets out the key principles that underpin the decision-making process and the process itself for determining appropriate sanction(s) to be ordered where a finding has been made against a member, student, affiliate, member firm or contracted firm.

This guidance seeks to ensure that the IFA's adjudication and enforcement procedures are robust, fair, consistent, proportionate, dissuasive and transparent. IFA members, students, affiliates, member firms and contracted firms must, at all times, be aware of the sanctions and other orders available to the Conduct Committees and what matters the Conduct Committees will consider when reaching their decisions.

This guidance includes indicative sanctions, which are not prescriptive. The Conduct Committees shall exercise judgement in determining the appropriate sanction(s) in each case, based on the facts and circumstances of the case and taking into account the IFA Bye-laws, Regulations and Code of Ethics.

The IFA Board has appointed independent Conduct Committees to discharge its disciplinary responsibilities relating to adjudication and enforcement. The Conduct Committees, and those who serve on them, shall not allow their decision-making to be fettered by any interests other than the interests of justice when discharging their responsibilities.

The guidance will be reviewed and updated by the Institute as the need arises.

2. Key principles

The ordering of sanctions is not intended to be punitive. The key principles that shall guide a Conduct Committee's decision-making when determining the appropriate sanction(s) are:

- maintaining the reputation of the profession: this is more important than the fortunes of any individual member, student of firm
- protecting and promoting the public interest: considering respondents' clients and employers and the wider public
- upholding standards: appropriate sanctions help to demonstrate the Institute's commitment to upholding high technical and professional standards
- deterrence of misconduct: ordering robust and proportionate sanctions which are published.

The work of the Conduct Committees sits within the Institute's wider regulatory framework, which observes the better regulation principles of

- proportionality,
- accountability,
- consistency,
- transparency and
- targeting.

3. Investigations Committee and Regulatory Committee

In accordance with the [Disciplinary Regulations](#), the only finding available to the Investigations and Regulatory Committees is whether there is sufficient evidence that the respondent is liable to disciplinary action. The sanctions then available to the Investigations Committee and Regulatory Committee by way of Consent Order are:

- (a) a reprimand,
- (b) a severe reprimand and
- (c) a fine.

In addition, the Committee may make a regulatory order that a monitoring review of a firm be conducted by the Institute and may order that the review be undertaken at the firm's expense.

In all cases, the respondent must agree to the terms of the Consent Order within 15 working days. If there is no consent to the order the Complaint shall be referred to the Disciplinary Committee.

4. Disciplinary Committee

The sanctions and orders available to the Investigations and Regulatory Committees are also available to the Disciplinary Committee. In addition, the following regulatory orders are available to the Disciplinary Committee:

- (a) that the respondent 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);
- (b) that a condition shall be imposed on the respondent's eligibility to remain on the register of members or register of students, as applicable;
- (c) that the respondent 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;
- (d) that the respondent shall be permanently removed from the register of members or register of students, as applicable;
- (e) in the case of a member in practice
 - (i) that their practising certificate be suspended for a stated number of years and/or until a specified condition is met
 - (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;
- (f) in the case of a contracted firm, that its contract with the Institute shall be terminated.

5. Appeal Committee

An Appeal Committee may make one or more of the following findings:

- (a) that the findings and orders of the Disciplinary Committee shall be upheld in full;
- (b) that one or more orders of the Disciplinary Committee shall be varied or rescinded;
- (c) that one or more orders of the Disciplinary Committee shall be substituted by one or more other orders that were available to the Disciplinary Committee;
- (d) that one or more findings of the Disciplinary Committee shall be varied or set aside;
- (e) that the complaint shall be heard afresh by a new Disciplinary Committee.

6. The sanctions

6.1 Reprimand

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

- it is appropriate to express formal and public disapproval of the respondent's conduct;
- the liability to disciplinary action arose out of an isolated incident, which was not deliberate;
- the misconduct was at the lower end of the spectrum of seriousness;
- the respondent shows genuine insight and remorse;
- the respondent has admitted the alleged facts early in the proceedings;
- there have been steps to make good any loss;
- the respondent was previously of good character;
- there are exceptional personal circumstances.

6.2 Severe reprimand

A severe reprimand may be appropriate where a reprimand would be insufficient with regard to the key principles set out within this guidance and the Conduct Committee determines that a fine would be a disproportionately severe sanction. It may also be ordered *alongside* a fine, if necessary to express the extent of the Conduct Committee's disapproval of the respondent's conduct

6.3 Fine

A fine may be imposed as an alternative or in addition to a reprimand or severe reprimand. In the case of a Disciplinary Committee, the respondent shall be given the opportunity to address the Conduct Committee if the Committee is minded to order a fine.

When determining the amount of any fine, the Conduct Committee shall take into account:

- the seriousness of the allegation found proved;
- the consequences and potential consequences of the respondent's conduct;
- the value of any financial gain that may have accrued to the respondent as a result of the conduct giving rise to disciplinary action;
- whether the respondent has shown genuine insight and remorse;
- whether the respondent has admitted the alleged facts early in the proceedings;
- the respondent's disciplinary history;
- any aggravating and mitigating factors;
- the respondent's ability to pay the fine.

7. Conduct Committees' approach to ordering sanctions

Having made one or more findings against the respondent, the Conduct Committee shall adopt the following approach in determine the appropriate sanction(s):

- Determine the seriousness of the allegation that has been found proved.
- Refer to the Institute's table of indicative sanctions and determine an appropriate starting point.
- Identify any aggravating and mitigating factors and the impact those factors should have on the indicative sanction(s).
- Consider the respondent's ability to pay and reduce any proposed fine to the extent necessary.
- Consider an order for costs, based on any application made by the Institute.

8. Seriousness

Before referring to the Institute's table of indicative sanctions, the Conduct Committee must agree on the seriousness of the respondent's conduct, the facts of which have been found proved. The Committee shall determine whether the conduct giving rise to the relevant allegation(s) was serious, very serious or less serious according to the following scale:

Very serious: the conduct was deliberate and/or dishonest

Serious: the conduct was reckless

Less serious: the conduct amounts to an inadvertent breach.

Prior to forming this assessment, the Institute's Case Manager will have made the Conduct Committee aware of the respondent's disciplinary history.

9. Indicative sanctions

In respect of each allegation found proved, the Conduct Committee shall consider the appropriate sanction to order by referring to the least severe sanctions first (known as a 'bottom up' approach). If a sanction is considered inadequate, the Committee shall consider the next more severe sanction (or combination of sanctions) and continue this process until the appropriate sanction (or combination of sanctions) is reached.

The process is aided by the table of indicative sanctions in the appendix to this guidance. In the interests of consistency, the table sets out indicative sanctions according to the seriousness of the respondent's conduct. The indicative sanctions are for guidance only and are not intended to fetter the independent decision-making of the Conduct Committees.

10. Aggravating and mitigating factors

Having determined the appropriate starting point for sanctioning, all factors that may be regarded as aggravation or mitigation shall be identified. The objective at this stage is to assess whether aggravating factors outweigh any mitigating factors or vice versa. Although these factors may impact the type of sanction ordered, it will more often be the case that the amount of a fine is increased due to aggravation or decreased due to mitigation. The extent of any increase or decrease is a matter of judgement for the Conduct Committee. The factors identified in aggravation and/or mitigation must be stated in the Committee's written reasons.

10.1 Aggravating factors

The following aggravating factors may be taken into consideration by a Conduct Committee in determining sanction. The weight to be given to each factor is a matter of judgement for the Conduct Committee. This list is not exhaustive but offers some examples of circumstances that the Committee may consider relevant.

- One or more parties suffered (or might have suffered) adverse financial or other consequences
- Improper financial or other gain to the respondent
- Correct advice previously given was ignored
- Repeated failures and/or multiple breaches
- Failure to promptly remedy an identified breach
- Poor conduct and/or breach(es) over a lengthy period
- No indication of remorse or insight
- Firm exposed to significant AML risk
- Assets were received in breach of POCA
- The respondent is a multiple partner practice
- The respondent knew, or should have known, that they acted in breach.

10.2 Mitigating factors

The following mitigating factors may be taken into consideration by a Conduct Committees in determining sanction. The weight to be given to each factor is a matter of judgement for the Conduct Committee. This list is not exhaustive but offers some examples of circumstances that the Committee may consider relevant.

Mitigating matters

- No party suffered any adverse financial or other consequences
- There was no financial or other gain to the respondent
- Incorrect advice was followed
- The failure or breach was an isolated incident
- The failure or breach was promptly remedied
- The poor conduct or breach was over a very brief period
- Evidence of genuine remorse and insight
- Full cooperation with the Institute and previously unblemished disciplinary record
- Poor conduct and/or breach(es) were reported to the Institute by the respondent
- Full and unequivocal admission of the breach
- The personal circumstances of the respondent, such as ill health or personal crisis
- No evidence of lack of due care.

11. Ability to pay

Having arrived at an appropriate level of fine, according to the seriousness of the allegation and the aggravating and mitigating circumstances, the Conduct Committee shall always consider the respondent's ability to pay. It is not in the public interest to order a fine that cannot be paid or to require the payment of a fine which may give rise to undue hardship for the respondent and any dependants.

However, the written reasons of the Conduct Committee, and its published decisions, must make clear the amount of any fine ordered before any reduction for the respondent's inability to pay. This gives a clear public message regarding the sanction and the adjudged seriousness of the respondent's conduct. The extent of any reduction in the level of a fine is a matter of judgement for the Conduct Committee.

The combination of fines and costs (discussed below) should not be beyond the ability of the respondent to pay. If, in the opinion of the Conduct Committee, the combination of the two would be above this level, the costs should be reduced in priority to any fine.

12. Regulatory orders

In addition to the sanctions of reprimands, severe reprimands and fines, further orders are available to a Conduct Committee, which are listed in sections 3 and 4 above. While these are not financial penalties, they may have significant consequences for the respondent. However, their purpose is not to impose a further sanction on the respondent but to protect the public. Having determined the appropriate sanction(s), the Conduct Committee shall consider the need for a regulatory order.

In the case of the Investigations Committee and the Regulatory Committee, the only regulatory order available to them is that of a firm monitoring review to be conducted by the Institute (which may be undertaken at the firm's expense). If the Investigations or Regulatory Committee determines that the seriousness of an allegation requires a regulatory order that can only be made by the Disciplinary Committee, the Investigations or Regulatory Committee, as appropriate, shall refer the case to the Disciplinary Committee.

12.1 Suspension from the register

A Member may be suspended by the Disciplinary Committee (or by the Appeal Committee) from the register of members or register of students, as applicable, in which case they shall be ineligible for return to the register for a stated number of years and/or until a specified condition has been met.

A Suspension may be appropriate where there has been a serious breach or misconduct, such that there has been harm to a third party, or else there is a risk of harm that is capable of being appropriately mitigated during the period of suspension from the register. As an alternative to suspension, the Committee might impose a suitable condition on the respondent's eligibility to remain on the register of members or register of students, as applicable.

12.2 Removal from the register

The Disciplinary Committee (or Appeal Committee) may determine that a member or student may be permanently removed from the register of members or register of students, as applicable. Removal means expulsion from the Institute indefinitely. In some cases, the Committee may state that the member or student may reapply to the Institute after a specified number of years. In the case of a contracted firm, the Committee may order that its contract with the Institute shall be terminated.

As with a temporary suspension, removal from the register (or the termination of a firm's contract) may be appropriate where there has been a serious breach or misconduct, such that there has been harm to a third party, or else there is a risk of future harm. In the case of removal (or termination of a firm's contract), the Committee will have determined that no lesser order would be adequate and that the respondent's conduct is fundamentally incompatible with the respondent's continued association with the Institute. This might be where there is evidence of dishonesty, fraud and/or intent to deceive.

12.3 Practising certificates

The Disciplinary and Appeal Committees have available to them an order to withdraw or suspend a member's practising certificate while allowing them to remain on the register of members. This has the impact of removing the member's right to practice, which would not necessarily be the case if they were removed from the register of members.

Withdrawal of a practising certificate may be appropriate where the welfare of a member's clients and potential clients would be put at risk were the member allowed to continue in practice without implementing appropriate safeguards. For example, the member may be ordered to undertake extensive CPD before reapplying for a practising certificate.

Finally, a Committee may order that a member who does not hold a practising certificate, or a student, shall be ineligible for the award of a practising certificate (either permanently or for a stated number of years or until a specified condition is met).

13. Costs against the respondent

In bringing disciplinary proceedings, the IFA exercises a public function which it is required to perform in the public interest. In considering an award of costs against a respondent, a Conduct Committee shall consider the financial prejudice to the particular individual or firm, weighed against the need for the Institute, as a professional body, to be able to exercise its regulatory functions in the public interest without fear of undue exposure to financial risk.

The Conduct Committee's power to award costs against an individual or firm is discretionary. The main factors to consider when awarding costs are:

- the principle of justice: that the majority of professionals should not subsidise the minority who, through their own failings, have brought upon themselves disciplinary proceedings
- the principle of reason: that the costs are appropriate and reasonably incurred, in light of the conduct of the respondent or appellant before and during the disciplinary process.

It would be unusual for a Conduct Committee to not award costs against a respondent where a Committee has made a finding against them which has not been successfully appealed. Therefore, if a Conduct Committee does not award costs under such circumstances, it must give clear reasons for its decision.

An order for costs is not a sanction. The amount awarded to the Institute in respect of costs has no upper limit, but it must relate to the costs actually incurred by the Institute in the disciplinary proceedings. These may include, but are not limited to, the following:

- costs of the Institute's disciplinary staff in processing the case
- costs of the Institute's presenting officer
- fees and expenses payable to Conduct Committee members
- administrative costs of Conduct Committee meetings and hearings, including room hire
- legal fees, including those of a legal assessor
- witnesses' expenses.

In cases where some allegations are proved and others are not, the Conduct Committee shall consider whether to reduce the award for costs. The Institute considers it appropriate to reduce the award for costs only if the majority of the allegations and/or the most serious allegations are not proved.

14. Publicity

When a Conduct Committee makes a finding, its decision will be published according to the Disciplinary Regulations. Publicity will usually name the respondent (or appellant) and include details of the allegation(s), together with the finding(s) and any order(s). Details are published on the Institute's website and in the official journal of the Institute. A Conduct Committee's full written reasons for its decisions are confidential to the Committee and the parties to the disciplinary process, including the Institute.

After three years, the publicity will be removed from the Institute's website, except where an order of removal from the register of members has become effective. In such cases, the publicity may remain on the Institute's website indefinitely.

Publicity is not an order of a Conduct Committee. Instead, it is a requirement of the Disciplinary Regulations in the interests of regulatory transparency. Therefore, only in exceptional circumstances will a Conduct Committee determine that full publicity would be unjust, which would usually be due to its impact on third parties, such as a client of the respondent. In such a situation, the Conduct Committee may order that publicity should be withheld or that the name of the respondent (or appellant) should not be disclosed.

Appendix: Indicative sanctions

1. Anti-money laundering breaches

Regulation	Breach	Non-financial sanction / order			Financial sanction		
		Less serious	Serious	Very serious	Less serious	Serious	Very serious
18	Failure to risk assess the business	Severe reprimand	Severe reprimand	Consider right to practise	£2,000	£4,000	£6,000
19	Failure to establish and communicate effective AML policies	Severe reprimand	Severe reprimand	Consider right to practise	£1,500	£2,500	£3,500
21	Failure to screen relevant employees	Severe reprimand	Severe reprimand	Consider right to practise	£1,500	£2,500	£3,500
21	Failure to appoint a compliance officer and inform the Institute	Severe reprimand	Severe reprimand	Severe reprimand	£1,000	£2,000	£3,000
21	Failure to conduct a compliance review where necessary	Severe reprimand	Severe reprimand	Consider right to practise	£1,500	£2,500	£3,500
21	Failure to appoint a nominated officer and inform the Institute	Reprimand	Severe reprimand	Severe reprimand	£1,000	£2,000	£3,000
24	Failure to provide training for relevant employees	Reprimand	Severe reprimand	Severe reprimand	£1,500	£2,500	£3,500
26	BOOM acting without approval	Reprimand	Severe reprimand	Severe reprimand	£1,500	£2,500	£3,500

26	Failure to notify the Institute of a relevant conviction	Severe reprimand	Severe reprimand	Consider right to practise	£1,500	£2,500	£3,500
27, 30 & 31	Failure to undertake CDD / withdraw from a case when required	Severe reprimand	Severe reprimand	Consider right to practise	£2,000	£3,500	£5,000
28, 30A & 33	Failure to conduct adequate CDD	Severe reprimand	Severe reprimand	Consider right to practise	£1,000	£2,500	£4,000
35	Failure to address the risk relating to a PEP	Severe reprimand	Severe reprimand	Consider right to practise	£1,500	£2,500	£3,500
37	Failure to justify simplified CDD	Reprimand	Severe reprimand	Severe reprimand	£1,000	£2,000	£3,000
39	Inappropriate reliance on third parties	Severe reprimand	Severe reprimand	Consider right to practise	£1,000	£2,000	£3,000
40	Inadequate records and retention	Reprimand	Severe reprimand	Severe reprimand	£1,500	£2,500	£3,500
41	Inappropriate use of AML data	Severe reprimand	Severe reprimand	Severe reprimand	£2,000	£3,000	£4,000
66, 69 & 70	Failure to provide information and explanations	Reprimand	Severe reprimand	Consider right to practise	£1,500	£2,500	£3,500
	Failure to report money laundering or terrorist financing	Reprimand	Severe reprimand	Consider right to practise	£2,000	£3,500	£5,000
	Tipping off	Severe reprimand	Severe reprimand	Consider right to practise	£2,000	£3,000	£4,000
	Failure of a relevant person to ensure they are supervised for AML compliance	Severe reprimand	Severe reprimand	Consider right to practise	£2,000	£3,500	£5,000

Acting as a TCSP when not included on HMRC's TSCP register	Reprimand	Severe reprimand	Severe reprimand	£1,000	£2,000	£3,000
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2. Breaches of the IFA Code of Ethics

Breach	Non-financial sanction / order			Financial sanction		
	Less serious	Serious	Very serious	Less serious	Serious	Very serious
Breach of the fundamental principle of <i>integrity</i>	Severe reprimand	Severe reprimand	Suspension / removal from the register	£2,000	£4,000	£6,000
Breach of the fundamental principle of <i>objectivity</i>	Reprimand	Severe reprimand	Severe reprimand	£1,500	£3,000	£4,500
Breach of the fundamental principle of <i>professional competence and due care</i>	Reprimand	Severe reprimand	Suspension / removal from the register	£1,500	£3,500	£5,500
Breach of the fundamental principle of <i>confidentiality</i>	Severe reprimand	Severe reprimand	Suspension / removal from the register	£1,500	£3,500	£5,500
Breach of the fundamental principle of <i>professional behaviour</i>	Severe reprimand	Severe reprimand	Suspension / removal from the register	£2,000	£4,000	£6,000

3. Breaches of the IFA Regulations

Breach	Non-financial sanction / order			Financial sanction		
	Less serious	Serious	Very serious	Less serious	Serious	Very serious
Practising without a practising certificate	Reprimand	Severe reprimand	Consider right to practise	£1,000	£2,500	£4,000
Failure to obtain affiliate status when required by the regulations	Reprimand	Severe reprimand	Severe reprimand	£1,000	£2,500	£4,000
Practising without adequate professional indemnity insurance	Reprimand	Severe reprimand	Consider right to practise	£1,000	£2,000	£3,000

Failure to co-operate in respect of attempts by the Institute to undertake monitoring	Reprimand	Severe reprimand	Consider right to practise	£1,000	£2,000	£3,000
Failure to cooperate with the investigatory / disciplinary process	Reprimand	Severe reprimand	Suspension / removal from the register	£1,000	£2,000	£3,000
Failure to provide an annual return or other information required by the Institute	Reprimand	Severe reprimand	Suspension / removal from the register	£1,000	£2,000	£3,000
Failure to accurately complete an annual return	Reprimand	Reprimand	Severe reprimand	£500	£1,000	£1,500
Failure to comply with the Public Practice Regulations in respect of Clients' Money	Reprimand	Severe reprimand	Consider right to practise	£1,000	£2,000	£3,000
Failure to provide engagement letter to client	Reprimand	Severe reprimand	Severe reprimand	£1,000	£2,000	£3,000
Failure to implement internal complaints-handling arrangements	Reprimand	Severe reprimand	Severe reprimand	£500	£1,000	£1,500
Failure to make adequate continuity arrangements in case of death or incapacity	Reprimand	Severe reprimand	Severe reprimand	£500	£1,000	£1,500
Failure to comply with the CPD Regulations	Reprimand	Severe reprimand	Consider right to practise	£750	£1,500	£2,250
Failure to notify the Institute of a change of address	Reprimand	Reprimand	Severe reprimand	£500	£1,000	£1,500