

FIXED PENALTY POLICY

Introduction

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

Effective 1 January 2025, the IFA Disciplinary Regulations have been amended to allow for complaints to be dealt with by way of a fixed penalty (Regulation 5 of the Disciplinary Regulations). This enables non-compliance with the IFA Bye-laws and Regulations to be concluded more quickly and in a proportionate manner without the matter progressing to a Conduct Committee.

This document explains the circumstances that might give rise to a fixed penalty, how fixed penalties are issued and what a fixed penalty includes. It also includes details on the process following the acceptance or non-acceptance of a fixed penalty. IFA members, students, affiliates, member firms and contracted firms must, at all times, be aware of the fixed penalties and how they work.

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

Key principles

The ordering of fixed penalties is not intended to be punitive. The key principles that shall guide a case manager's decision-making when determining whether a fixed penalty is appropriate are:

- Maintaining the reputation of the profession: this is more important than the fortunes of any individual member, student, affiliate or firm.
- Protecting and promoting the public interest: considering the Member's clients and employers and the wider public.
- Upholding standards of conduct and behaviour: 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.

Fixed penalties are a feature of the Institute's wider regulatory framework which observes the better regulation principles of:

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

Complaints dealt with by way of a fixed penalty

In accordance with the [Disciplinary Regulations](#), the only finding available to the case manager is whether there is sufficient evidence that there is a *prima facie* case to answer. If the case manager finds that the complaint or complaints disclose a *prima facie* case the case manager may decide to propose a fixed penalty to the member, member firm or contracted firm. A “fixed penalty” means a financial sanction imposed on a member, member firm or contracted firm by a case manager without undergoing a conduct committee process.

Examples of cases that might be dealt with by way of a fixed penalty include, but are not limited to; CPD failures, failure to submit an annual member/firm return, failure to appoint an alternate and failure to have adequate PII.

Fixed Penalty Notice

In accordance with the [Disciplinary Regulations](#), the case manager shall serve on the member, member firm or contracted firm a notice specifying:

- the nature of the breach/es under the IFA Bye-laws, Regulations or Code of Ethics;
- the sum of the proposed penalty and the costs in relation to the initial assessment.
- a summary of the proposed publication of the sanction/s on the IFA website and bimonthly magazine.

Fixed penalties are not designed to be an alternative to compliance but to incentivise swift and professional resolution of breaches of the IFA Bye-laws and Regulations. To facilitate this, fixed penalties are conditional on the resolution of the breach, the terms of which will be set out in the fixed penalty notice. Failure to evidence the rectification of the breach as set out in these terms will result in an immediate referral to the appropriate conduct committee.

If the member, member firm or contracted firm accepts the fixed penalty, in writing, within 15 working days of receiving the proposed fixed penalty, the Institute shall administer the collection of any financial penalty and/or costs and the appropriate publicity arrangements.

Fixed penalty by breach

Due attention has been given to the IFA Sanctions Guidance and fixed penalties sit at the lowest end of the scale of severity. This reflects the fact that the issuance of a fixed penalty is intended to apply only to compliance-type breaches that do not feature any aggravating factors as set out in the Sanctions Guidance (Section 11.1). However, fixed penalties are also designed to negate any potential financial benefits of non-compliance.

The Institute also applies an administration fee, which covers the costs of the Institute’s disciplinary staff, to all fixed penalties individually under the following principles:

- 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 member’s conduct before and during the disciplinary process.

The following table contains the fixed financial penalty and administrative fee associated with each breach.

Breach	Fixed penalty	Admin fee
Failure to hold adequate professional indemnity insurance cover in accordance with regulation 6 of the IFA Public Practice Regulations.	£350	£150
Failure to submit an annual return in accordance with regulation 4.2, 5.1(c) or 6.2(c) of the IFA Membership Regulations.	£350	£150
Failure to issue letter/s of engagement in accordance with regulations 7.1 – 7.4 of the IFA Public Practice Regulations.	£350	£150
Failure to implement adequate internal complaints-handling arrangements in accordance with regulations 10.1 – 10.5 of the IFA Public Practice Regulations.	£175	£150
Failure to make adequate arrangements to ensure the continuity of the member's practice in the event of their long-term incapacity in accordance with regulations 11.1 – 11.8 of the IFA Public Practice Regulations.	£175	£150
Failure to comply with the IFAs CPD Regulations	£450	£150

Issuing a fixed penalty in the event of multiple breaches

Where a member has multiple allegations, and one or more may be dealt with by way of a fixed penalty, the following guidance applies.

- Where allegations overlap or a single set of circumstances give rise to more than one breach, and all breaches may be dealt with by way of a fixed penalty, a case manager may issue up to two fixed penalties in a five-year period. Separate penalties apply to each breach and each financial penalty/cost applied should be as outlined in the table above. If there are three or more breaches, the complaint shall be referred to the Director of Professional Standards. They, in conjunction with the case manager, would decide whether the breach/es can be dealt with by way of issuing fixed penalties or whether they should be referred to the appropriate conduct committee.
- Where a member has multiple allegations within a five-year period, the second breach may be dealt with by way of a fixed penalty. In these circumstances the financial penalty (comprising the fixed penalty and the administration fee) will be doubled. The doubled penalty will be based on the prescribed financial penalty as at the time of the second breach and will not be based on the penalty applied for the first breach. If there are three or more breaches by a member within a five-year period, the breach/es shall be referred to the Director of Professional Standards. They, in conjunction with the case manager, would decide whether the breach/es can be dealt with by way of issuing fixed penalties or whether they should be referred to the appropriate conduct committee.
- The calculation of a five-year period runs from the date of the acceptance of the first fixed penalty and ends at midnight on the day of its fifth year.

Where the case manager identifies a mixture of breaches, some of which can be dealt with by fixed penalty and other matters which cannot, the complaint shall be referred to the appropriate conduct committee in tandem.

Publicity

Fixed penalties shall include a summary of the proposed publication of the sanction/s. When a case manager orders a fixed penalty, and that order is accepted, the decision will be published according to the Disciplinary Regulations. Publicity will usually name the member and include details of the breach/es and any order(s). Details are published on the Institute's website and in the official magazine of the Institute.

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

After three years, the publicity will be removed from the Institute's website.

Failure/refusal/non acceptance of a fixed penalty

If the member does not accept the fixed penalty offered in writing within 15 working days of receiving the proposed fixed penalty, the Institute shall progress the complaint to the relevant conduct committee in accordance with the Disciplinary Regulations.

If the member accepts the fixed penalty but fails to comply with the terms set out therein to rectify their non-compliance, the matter will be immediately referred to the appropriate conduct committee. Any sums paid by the member will be deducted from any subsequent order made by a conduct committee. Any outstanding sums will be added to the total overall costs put forward by the Institute in progressing the matter to the relevant conduct committee.