

An Employer's Guide to CIPFA's Disciplinary Scheme

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CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services.

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1. Introduction

CIPFA is one of the leading professional accountancy bodies in the UK and the only one which specialises in the public services. It is responsible for the education and training of professional accountants and for their regulation through the setting and monitoring of professional standards. CIPFA Members are respected throughout the public services for their high technical and ethical standards, and professional integrity.

Regulation of CIPFA Members, which encompasses Student, Affiliate and Associate members as well as former members, is achieved through CIPFA's disciplinary scheme.

Professional regulation is a vital public interest function which is central to maintaining confidence in the CIPFA qualification, the accountancy profession and the public services that are served by CIPFA Members. CIPFA is committed to ensuring that employers in all sectors can continue to place reliance on the sound ethical judgements and technical competencies for which CIPFA Members are renowned.

CIPFA Members are expected to comply with high professional standards, some of which are set out in CIPFA's Standards of Professional Practice covering the following areas: ethics, auditing, budgetary planning and control, financial transactions management, financial reporting, suspected fraud and corruption, tax management and treasury management.

Breach of the Standards of Professional Practice or other CIPFA guides to conduct, principles or rules, is a disciplinary matter which, in the most serious cases, may result in expulsion from membership of the Institute.

Members of CIPFA are also required to refrain from what is described as 'misconduct'.

Misconduct includes, but is not limited to, conduct which has brought or is likely to bring discredit upon the Member, his or her employer, the Institute or the profession of accountancy. Misconduct includes being subject to a criminal conviction in which a sentence of imprisonment may be imposed and having been found, in any civil or criminal proceedings, to have acted in a dishonest or fraudulent manner.

Finally, Members are required to refrain from conduct which prejudicially affects the status, reputation or welfare of CIPFA.

The disciplinary scheme considers complaints brought to its attention by individuals or organisations, including members of the public and employers of CIPFA Members. It also considers matters which come to the attention of the scheme through, for example, independent inquiries by external auditors.

2. Independence and Oversight

As a regulatory body, CIPFA is subject to oversight by the Financial Reporting Council ('FRC'). The disciplinary scheme is specifically subject to scrutiny by the Professional Oversight Board for Accountancy, a subsidiary of the FRC.

The disciplinary scheme is Human Rights Act compliant, was drafted on the basis of legal advice and implemented following wide consultation. Significant independent (i.e. non-CIPFA) involvement is a key feature.

Investigations are undertaken by CIPFA's in-house lawyers and external legal consultants (the 'Investigations Unit'). The final determination of each regulatory case is made by independent committees chaired by a non CIPFA member.

The Investigations Committee is chaired by Mr Peter Cadman, a partner with the law firm Russell-Cooke LLP. Disciplinary hearings are conducted by the Disciplinary Committee which is chaired by Ms Athene Haynes, a solicitor, mediator and retired member of the judiciary. Appeals are heard by the Appeal Committee, chaired by Mr Mark Wyeth QC.

3. Outline of the Disciplinary Scheme

The Disciplinary Regulations provide the procedural code for the investigation and determination of complaints.

All complaints are referred to CIPFA's Investigations Unit which conducts preliminary enquiries. The outcome of these enquiries is passed to a panel of the Investigations Committee for initial consideration. The panel of three members, including an independent chair, considers whether there is, or may be, a basis for commencing proceedings and, if so, whether it is appropriate for proceedings to be commenced. If it finds in the affirmative on both points, it refers the matter to CIPFA's Investigations Unit to carry out an investigation. This initial consideration of cases ensures that complaints which are frivolous or which cannot amount to a breach of the Bye-Laws do not progress to a formal investigation and are closed.

Assuming the Investigations Committee panel decides to request a formal investigation, the Investigations Unit will carry out investigations. This may include taking witness statements, gathering further documentation or instructing an expert to provide a report. The Investigations Unit will provide the Member with an opportunity to consider and comment upon particulars of breach of the Bye-Laws if any such particulars are to be considered, in due course, by a panel of the Investigations Committee.

At the conclusion of the investigation the Investigations Unit makes a further report to a panel of the Investigations Committee including all relevant evidence gathered during the investigation and any response from the CIPFA Member.

On the second referral, the Investigations Committee panel determines whether there is prima facie evidence of matters which represent a breach of the Bye-Laws and whether or not the matter warrants a penalty more severe than can be imposed by the Investigations Committee.

The Investigations Committee has the power to dispose of minor cases by way of:

- Entry on Record (effectively an unpublicised caution); or
- Reprimand (a formal sanction which is publicised).

An Entry on Record will remain on the CIPFA Member's record for a period of up to two years and the matter may be reopened if the Member commits any further breach within that time. An Entry on Record will be taken into account in determining the outcome of any subsequent CIPFA investigation or disciplinary proceedings which commence or are based upon matters which take place during the period for which the Entry on Record remains.

A Reprimand remains on a Member's record with no limit of time and may be taken into account in determining the outcome of any future CIPFA disciplinary proceedings.

A complaint may be referred by the Investigations Committee panel to the Disciplinary Committee for hearing. After the hearing before a panel of the Disciplinary Committee, that panel may impose any of the following sanctions:

- Entry on Record
- Reprimand
- Severe Reprimand
- Suspension
- Expulsion

In addition or as an alternative to the above the Member may be fined a sum of up to £10,000 and/or ordered to pay up to £5,000 by way of compensation to a complainant or third party in respect of fees paid by that complainant or third party to the Member.

The CIPFA Member has a right of appeal to the Appeal Committee which may confirm, vary or rescind any finding or sanction of the Disciplinary Committee.

A Reprimand or more serious sanction will be publicised on CIPFA's website, in the membership magazine and by way of a general press.

Where an investigation is closed by the Investigations Committee, the complainant in the case may request that the matter be reviewed by the Reviewer of Complaints. Further details of this process can be obtained from the Investigations Unit.

4. Employers and Investigations

As the employer of a CIPFA Member who is under investigation, your primary contact will be with the Investigations Unit during the course of the investigation. If you were not the originator of the complaint, the Investigations Unit is likely to contact you once a formal investigation has been commenced with a request for information and documentation relating to the complaint.

In particularly complex or technical cases, the Investigations Unit will appoint an independent expert accountant to carry out the investigation, liaise with the employing organisation in order to obtain the necessary evidence and produce a report assessing the complaint.

The Investigations Unit and/or the appointed expert may request interviews with individuals who have knowledge of the circumstances surrounding the complaint.

It is important that information and documentation is provided as quickly as possible. The Investigations Unit is required to report to CIPFA Council if any significant delays are incurred. The Professional Oversight Board for Accountancy also places considerable emphasis upon timely investigations. Significant delay may frustrate attempts to bring or conclude disciplinary proceedings if it amounts to a breach of the Member's human rights.

Information and documentation provided to the Investigations Unit is treated as strictly confidential, although it is important to appreciate that all information disclosed to the Investigations Unit will be passed on to the CIPFA Member. If the case is a serious one, it may result in a disciplinary hearing, which is usually open to members of the public. Reference may be made to documents (and the contents of documents) gathered during an investigation at such a public hearing.

If you have any particular concerns about the confidentiality of certain documentation/ information involved in a investigation it is best to raise this as an issue with the Investigations Unit or the expert investigator.

At the conclusion of the investigation, the Investigations Unit may send formal allegations (particulars of breach) to the Member, who is given 21 days, or such longer period as is necessary, to respond to them. The Member may seek information for use in his response. Legal advice may be sought by the Member in connection with the response.

Any decision made by the panel of the Investigations Committee is notified to the Member, the complainant (if any) and any party with a proper interest in the outcome of the proceedings, which generally includes the Member's employer.

5. Employers and Disciplinary Committee Hearings

If, as an employer, your organisation has been involved in an investigation, you will be notified of the date of a Disciplinary Committee hearing and invited to send a representative to observe the proceedings.

It is the policy of the Investigations Unit to base any disciplinary case as much as possible on documentary evidence. However, it is sometimes necessary to request individuals to attend and give evidence before the Disciplinary Committee panel. In addition, a Member may request that an individual who has provided information to CIPFA during an investigation attend the hearing to answer questions about the information they have provided.

CIPFA cannot compel the attendance of witnesses but it should be borne in mind that in particular cases the absence of witnesses might prove fatal to any disciplinary case.

CIPFA Members are, however, under an obligation to co-operate with CIPFA's disciplinary proceedings and a failure to do so could give rise to disciplinary proceedings or additional allegations of breach of the Bye-Laws based on such a failure.

A Member's employer will generally be notified of the outcome of a Disciplinary Committee hearing as a party with an interest in the outcome if not as the complainant. If the Member's employer is identified in any CIPFA press release about the outcome of a Disciplinary Committee hearing, the employer would be provided with advance notice of any press release about the case.

6. Employers and the Appeal Committee

In certain, limited, circumstances a Member may appeal a decision of the Disciplinary Committee. Such an appeal would be considered and decided by CIPFA's Appeal Committee at an Appeal hearing. A Member's employer would be notified of the outcome of the Appeal hearing. Further information on the appeal process can be obtained from the Investigations Unit.

7. Useful Sources of Further Information

CIPFA professional conduct website: www.cipfa.org.uk/conduct

Financial Reporting Council website: www.frc.co.uk