

# **The CIPFA Disciplinary Scheme**

## **A Guide for Members and Students**

September 2009

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 only UK professional accountancy body to specialise in public services, CIPFA's qualifications are the foundation for a career in public finance.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services for our public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance around the world.

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## INTRODUCTION

CIPFA exists to promote and encourage high standards in public finance and accountancy. We take our integrity and reputation, and that of our members, seriously.

The Institute's Bye-Laws and Disciplinary Regulations are important in helping us maintain the reputation of, and the public's confidence in, the Institute, our members and the accountancy profession. The Disciplinary Regulations have been designed to investigate and deal with complaints honestly and fairly. The Institute's disciplinary procedures are the subject of independent scrutiny by the Financial Reporting Council and its constituent bodies.

The remit of CIPFA's disciplinary scheme is set out in Bye-Law 23 (in respect of Members, Affiliate members and Associate members Bye-Law 25 (in respect of Registered Students). The outline structure of the disciplinary scheme is set out in Bye-Law 24. The remit of the disciplinary scheme also extends to former members of each category of membership. Bye-Laws 23, 24 and 25 can be found at Appendix 1.

This document will refer to "Members" throughout. However, it should be born in mind that the same procedures apply to former Members, Registered Students and former Registered Students, Affiliate and Associate members and former Affiliate and former Associate members.

This document outlines the Institute's procedures for investigating complaints about the conduct of CIPFA Members. Its aim is to assist Members to understand the procedural provisions set out in the Disciplinary Regulations, the roles and responsibilities of those involved and what Members should do if they are notified that the Institute has received a complaint concerning their conduct.

Numbers appearing in italics in the margins of this document refer to the corresponding paragraph(s) in the Disciplinary Regulations effective 4 August 2008.

## **CONSTITUTIONAL STRUCTURE**

A description of the various entities and individuals involved in the processing of a complaint appears below.

### **The Investigations Unit**

The Investigations Unit is responsible for conducting investigations into complaints about members and will be your point of contact if a complaint is received about you. The Investigations Unit does not determine the outcome of any case, which is a matter for one or more of the committees mentioned below.

### **The Committees**

Each of the committees below includes both CIPFA members and independent (i.e. non-CIPFA) representatives. Independent members make up at least 40% of each committee (60% in the case of the Appeal Committee) and each committee is chaired by an independent member.

The work of the Investigations and Disciplinary Committees is conducted by panels of those committees.

All committees have access to advice from a legal assessor who is a qualified solicitor or barrister and who is independent of the Investigations Unit.

#### *The Investigations Committee*

An Investigations Committee panel considers all potential disciplinary matters which come to the attention of the Institute and determines whether they should be investigated. At the conclusion of an investigation, a separate panel of the committee determines whether there is a case to answer and, if so, the future conduct of the case.

The Investigations Committee may, with the consent of the Member, impose an Entry on Record or Reprimand.

The Investigations Committee may also make an award as to compensation on behalf of the Institute to a complainant to compensate him or her for the reasonable costs of bringing a matter to the attention of the Institute, subject to a maximum of £1000. If the matter progresses to the Disciplinary Committee an order may be made requiring the Member to reimburse the Institute.

### *The Disciplinary Committee*

The Disciplinary Committee conducts formal hearings into cases referred to it by the Investigations Committee and is able to impose a wider range of sanctions than the Investigations Committee, namely Entry on Record, Reprimand, Severe Reprimand, Suspension and Expulsion.

In addition or as an alternative to these sanctions, the Committee may withdraw any Practising Certificate held by a Member, fine a Member up to £10,000 and/or order that a Member pay up to £5000 by way of compensation to a complainant or third party in respect of fees paid by that individual to the Member<sup>1</sup> and/or order that the Member reimburse the Institute any sum ordered to be paid by the Investigations Committee to a complainant in respect of the costs of bringing a matter to the attention of the Institute.

### *The Appeal Committee*

The Appeal Committee considers appeals, by Members, against decisions made and sanctions imposed by the Disciplinary Committee. The Appeal Committee is able to vary, rescind or confirm these.

### **The Reviewer of Complaints**

The Reviewer of Complaints is a senior lawyer appointed to review certain decisions of the Investigations Committee at the request of a complainant.

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<sup>1</sup> It is not the central purpose of the Institute's professional disciplinary scheme to provide financial redress to complainants or third parties. However, where misconduct has been proved and it is appropriate in all the circumstances to provide some form of compensation to a complainant or third party, this sanction is available to the Committee. The mechanism for implementing this sanction requires the Institute to make payment to the complainant or third party and the Member to reimburse the Institute. In considering this sanction, the Committee will take into account all the circumstances of the case, including: (i) the fact that the Committee must make a Reimbursement Order requiring the Member to reimburse the Institute; (ii) any evidence regarding the financial circumstances of the Member; (iii) any other sanctions imposed on the Member and any Cost Order made against the Member; (iv) the extent to which the Member may have profited from the misconduct; (v) the extent to which the Member's conduct has caused loss to a complainant or third party; (vi) the extent to which a complainant or third party may have received benefit or value from a Member's services notwithstanding the Member's misconduct (Regulation 7.2(f)).

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## COMPLAINTS AND THEIR INVESTIGATION

### General

Complaints may originate from a number of sources including members of the public, employers, audit reports, press reports, other regulatory bodies and the Institute itself.

It is not necessary for a complainant to have either used or exhausted other processes or remedies (for example, your employer's internal complaints procedure) prior to making a complaint.

There is no time limit within which complaints must be made. However, the time that has elapsed since the alleged misconduct took place may be relevant to how the complaint is handled.

All complaints are referred to the Investigations Committee in the first instance. This may follow some preliminary enquiries conducted by the Investigations Unit to clarify the nature of the complaint. A full investigation into a complaint will arise only if the Investigations Committee determines that the complaint may form the basis of proceedings under Bye-Law 23 (or Bye-Law 25 in the case of Registered Students or former Registered Students). *4.1(a)-(c)*

### **If a complaint is made against you and a formal investigation is commenced**

CIPFA's Investigations Unit will notify you of this fact and provide you with brief details of the scope of the investigation. *4.1(e)(i)*

The Investigations Unit will then carry out an investigation that will assist the Investigations Committee in deciding whether there is a case to answer. These enquiries may include seeking further information from the complainant and third parties who have some connection with the matter under consideration, for example your employer. *4.1(e)(ii)*

In some cases, the Investigations Unit may request you to provide relevant information or authorisations in relation to the complaint. It is in your best interests to give the Investigations Unit your full and prompt co-operation throughout the investigation and any subsequent disciplinary proceedings. Failure to provide such information and/or authorisations may form the basis for disciplinary proceedings, regardless of the merits of the original complaint. *4.1(g)*

As a general rule, CIPFA's disciplinary investigations are private and confidential to the parties involved. This means that all copies of documents sent to you, or your representative, are private and confidential and should not be disclosed to third parties. An important exception to the rule is that most Disciplinary and Appeal Committee hearings will be held in public. This issue is discussed in further detail in the Institute's guide to disciplinary and appeal hearings.

At the end of these preliminary enquiries, the Investigations Unit will review the evidence and determine whether formal allegations should be put to you. If the Investigations Unit decides not to put formal allegations it will refer the matter to the Investigations Committee. The Investigations Committee will review the complaint and the evidence and decide either to dismiss the case (in which case, the Investigations Unit will let you know) or to instruct the Investigations Unit to carry out further investigations and/or to put formal allegations to you following the procedures described below. 4.1(e)(iv)  
4.3(c)

If, after thorough investigation, the Investigations Unit believes there may have been a breach of one or more of the provisions of Bye-Laws 23 or 25, detailed allegations will be drafted and sent to you together with the evidence gathered by the Investigations Unit. 4.1(f)

You will have 21 days, or such longer period as the Investigations Unit decides, to file a response to the allegations. It is in your interests to do so and to meet the timescale set down. 4.1(f)(i)

At the end of this process, the Investigations Unit will review any response you have made to the allegations and consider whether, in the light of this, the allegations should be amended. You must always be given an opportunity to make written submissions on any allegations which are to be reported to the Investigations Committee. 4.1(f)(ii)

At the conclusion of this process, the Investigations Unit will refer the matter to the Investigations Committee, which will decide on the future conduct of the case. 4.1(f)(iv)

**Investigations Committee determinations**

The Investigations Committee may:

- In the case of a former Member, former Affiliate member, former Associate member or former Registered Student determine that the time that has elapsed since he or she belonged to the Institute 4.3(d)

would make it unfair or inappropriate to proceed.

- Dismiss the case because on the evidence, there is no case to answer.
- With your consent impose an Entry on Record or Reprimand. In the event that you do not consent to the proposed sanction, the matter will be referred to the Disciplinary Committee for hearing.
- Refer the matter to the Disciplinary Committee for hearing.

The Investigations Committee may also make an award as to compensation on behalf of the Institute to a complainant to compensate him or her for the reasonable costs of bringing a matter to the attention of the Institute, subject to a maximum of £1000. If the matter progresses to the Disciplinary Committee an order may be made requiring you to reimburse the Institute. 4.3(j)  
4.3(k)

The Entry of Record is recorded on your membership record for a period of up to two years during which period no action will be taken in respect of the subject matter of the finding of misconduct unless similar complaints or allegations are received within the specified period, when the Investigations Committee may refer the matter and any other matters to the Disciplinary Committee or, with your consent, issue an order for a reprimand, as appropriate.

A Reprimand is a disciplinary sanction which will be publicised by the Institute (see below).

You are entitled to written reasons setting out the basis of the decision.

### **Complainants' rights following the decision of the Investigations Committee**

Where, following an investigation, the Investigations Committee dismisses a disciplinary complaint, the complainant may, within 21 days, request a review of the decision by the Reviewer of Complaints. 4.4

You will be given 21 days to comment upon the complainant's submissions before the matter is considered by the Reviewer of Complaints.

The Reviewer of Complaints will consider the evidence before the Investigations Committee and submissions by you and the complainant and may, if he or she considers that the Investigations Committee's decision is incorrect or flawed or it is appropriate for some other reason, refer the 6

matter back to the Investigations Committee for reconsideration. The Investigations Committee will be required to reconsider the matter in light of the Reviewer of Complaints' referral and the new material from the complainant and yourself. Ultimately, however, the decision whether or not to dismiss a complaint is a matter for the Investigations Committee.

**INDEPENDENT DISCIPLINARY SCHEME**

CIPFA, together with a number of other professional accountancy regulatory bodies, is a participant of the independent disciplinary scheme operated by the Accountancy and Actuarial Discipline Board ('AADB'). The AADB disciplinary scheme considers cases raising important issues affecting the public interest in the United Kingdom. The normal route for AADB cases is referral by the participating body. At CIPFA, the Investigations Committee may at any stage of the process (prior to referral of a case to the Disciplinary Committee) refer a potential AADB case to CIPFA Council, which will consider referral to the AADB disciplinary scheme.

Where a complaint is assumed by the AADB, proceedings under CIPFA's disciplinary scheme will be suspended, unless there are matters which the AADB does not assume and which it is necessary to continue to investigate under CIPFA's disciplinary scheme.

**SANCTIONS GUIDE**

The disciplinary scheme committees have issued a Sanctions Guide setting out the sanctioning powers of each of the committees and general principles that will be applied in determining the appropriate sanction in any individual case.

The Sanctions Guide is available from the Investigations Unit.

**DISCIPLINARY AND APPEAL COMMITTEE HEARINGS**

A further guide explaining the process at disciplinary and appeal stages of the procedure is available from the Investigations Unit.

## **PUBLICITY**

A Reprimand imposed by the Investigations Committee and any sanctions imposed by the Disciplinary Committee and Appeal Committee will be published on CIPFA's website and in *Spreadsheet* and may be subject of a general press release as appropriate.

**This document is a guide to legal procedures only and does not seek to cover the provisions in the Disciplinary Regulations exhaustively. In all cases the conduct of CIPFA disciplinary proceedings will be in accordance with the Disciplinary Regulations in force at the Institute at the time the complaint is being considered. Members should not rely on this document to the exclusion of the current Disciplinary Regulations and, in the event of any conflict between this document and the Disciplinary Regulations, the regulations will take precedence.**

**Bye-Laws 23, 24 and 25**

23 If it comes to the notice of the Council that:

- (a) a complaint or allegation has been made concerning the professional competence or professional conduct of a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member;
- (b) a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member by delay, failure, omission or default has or appears to have breached one or more of the guides to conduct, principles or rules (whether or not professional) from time to time prescribed and published by the Council;
- (c) a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member has or appears to have conducted himself in such a way so as prejudicially to affect the status, reputation or welfare of the Institute;
- (d) a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member is or appears to be guilty of misconduct and for these purposes "misconduct" includes (but without limitation):
  - (i) any act or default which has brought or is likely to bring discredit upon himself, his employer, the Institute or the profession of accountancy;
  - (ii) any conviction suffered by a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member in any proceedings in relation to which a sentence of imprisonment may be imposed;
  - (iii) a finding or other determination in any civil or criminal proceedings that a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member has acted dishonestly or fraudulently;

then and in such an event the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member (as the case may be) shall be subject to the provisions of the disciplinary scheme applicable

to Members and former Members, Affiliate members or former Affiliate members, Associate members or former Associate members from time to time established by the Council and, in the event that charges are admitted by or are found by any disciplinary body established pursuant to that scheme (or, on appeal, any appeal body so established) to be substantiated against the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member, the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member (as the case may be) shall be subject to disciplinary action in accordance with that scheme.

24 The disciplinary scheme (inter alia) shall provide for the following structure:

- (a) The Investigations Committee - the Investigations Committee shall carry out such preliminary and other enquiries and investigations as it shall think fit and, subject thereto, may if it then so sees fit:
  - (i) refer the matter in writing to the Disciplinary Committee; or
  - (ii) issue an order whereby the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member may accept a reprimand; in which case there will be no referral to the Disciplinary Committee; the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member shall have a right of referral to the Disciplinary Committee where the reprimand is not accepted; or
  - (iii) issue an order whereby the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member may accept an Entry on Record for a period not exceeding two years; in which case there will be no referral to the Disciplinary Committee and no further action will be taken under the disciplinary scheme unless similar complaints or allegations regarding the Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member are received within the specified period when the Investigations Committee may refer the matter and any other matters to the Disciplinary Committee as set out in paragraph (i) above or issue an order as set out in paragraph (ii) above; a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member shall have a right of referral to the Disciplinary Committee where the Entry on Record is not accepted;

- (b) The Disciplinary Committee – the Disciplinary Committee shall in those cases referred to it by the Investigations Committee, investigate the circumstances so referred in accordance with the Disciplinary Committee’s terms of reference and determine the nature and extent of any penalty, sanction or cost order to be imposed on a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member and if appropriate the extent of any cost order to be imposed on the Institute; a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member shall have a right of appeal to and/or review by the Appeal Committee against the imposition on him of a penalty, sanction or cost order by the Disciplinary Committee; the Institute shall have a right of review by the Appeal Committee against the imposition on it of a cost order by the Disciplinary Committee.
- (c) the Appeal Committee – the Appeal Committee shall hear appeals from and/or conduct reviews of certain decisions of the Disciplinary Committee or as to the nature and extent of any penalty, sanction or cost order imposed by the Disciplinary Committee in accordance with the Appeal Committee terms of reference; and where the Appeal Committee considers it to be appropriate, impose, confirm, rescind or vary a penalty, sanction or cost order in relation to a Member or former Member, Affiliate member or former Affiliate member, Associate member or former Associate member, or impose, confirm, rescind or vary a cost order in relation to the Institute.
- (d) the Reviewer of Complaints – The Reviewer of Complaints shall upon the application of a complainant review certain decisions of the Investigations Committee in accordance with the Reviewer of Complaint’s terms of reference and, if appropriate, may remit the matter to the Investigations Committee with a recommendation that the whole or part of the matter be reconsidered.

## B – REGISTERED STUDENTS

25 If it comes to the notice of the Council that:

- (a) a complaint or allegation has been made concerning the competence or conduct of a Registered Student or former Registered Student;
- (b) a Registered Student or former Registered Student by delay, failure, omission or default has or appears to have breached one or more of the guides to conduct, principles or rules from time to time prescribed and published by the Council;

- (c) a Registered Student or former Registered Student has or appears to have conducted himself in such a way so as prejudicially to affect the status, reputation or welfare of the Institute;
- (d) a Registered Student or former Registered Student is or appears to be guilty of misconduct; and for these purposes "misconduct" includes (but without limitation):
  - (i) any act or default which has brought or is likely to bring discredit upon himself, his employer, the Institute or the profession of accountancy;
  - (ii) any conviction suffered by a Registered Student or former Registered Student in any proceedings in relation to which a sentence of imprisonment may be imposed;
  - (iii) a finding or other determination in any civil or criminal proceedings that a Registered Student or former Registered Student has acted dishonestly or fraudulently;

then and in such an event the Registered Student or former Registered Student (as the case may be) shall be subject to the provisions of the disciplinary scheme applicable to Registered Students or former Registered Students from time to time established by the Council and, in the event that charges are admitted by or are found by any disciplinary body established pursuant to that scheme (or, on appeal, any appeal body so established) to be substantiated against the Registered Student or former Registered Student, the Registered Student or former Registered Student (as the case may be) shall be subject to disciplinary action in accordance with that scheme. The disciplinary scheme shall provide for the same structure as that applicable to Members or former Members, as set out in Bye-Law 24, but as suitably varied.