

## *Council Guidelines on Publicity for the Disciplinary and Regulatory Processes*

Made under former Bye-Law 89A, now Disciplinary Bye-law 36

**1** These guidelines apply to any announcement under Disciplinary Bye-law 36 concerning the affairs of a member or member firm, whether the member or member firm is named in the announcement or not.

**2** In order to comply with the Disciplinary Bye-law such announcement:

- a. must be confined to the consideration by any relevant Committee of
  - i. any matter relating to or connected with the carrying out by the Institute of functions assumed by it under any statute; or of
  - ii. any complaint; and
- b. must be or involve a matter of public concern.

**3** What amounts to a matter of public concern is largely subjective and a matter for judgement at the time, but the following will always be a matter of public concern:

- a. the collapse with substantial loss of funds of a listed or other public interest company;\*
- b. any other matter in which the conduct of a member or member firm is the subject of criticism from an official body or gives rise to widespread public discussion;
- c. except where it is insubstantial, unsupported by evidence or manifestly unsound:
  - i. any complaint in which a member of the Council of the Institute is personally concerned; and
  - ii. any complaint that the Institute or any of its officers, Committees or officials has acted corruptly, improperly or negligently.

**4** Any announcement under Disciplinary Bye-law 36 will be made by the Chairman of the Investigation Committee or the Chairman of the appropriate regulatory Committee (or in their absence the Vice Chairman of the relevant Committee).

**5** Examples of the sort of announcement which might be made under the paragraph are:

‘The ICAEW has received from the Secretary of State a copy of the report of Inspectors appointed under section [ ] to look into the affairs of XYZ plc. The report is being studied and will be dealt with in accordance with the procedures laid down in the Institute’s bye-laws. If those procedures should result in a finding adverse to any member or member firm, the finding will normally be the subject of a further announcement.’

‘The ICAEW has received a complaint concerning the auditors of XYZ plc at the time of its collapse. It is being dealt with in accordance with procedures laid down in the Institute’s bye-laws. If those procedures should result in a finding adverse to any member or member firm, that finding will normally be the subject of a further announcement.’

‘The ICAEW is studying the collapse of XYZ plc with a view of determining whether there are grounds for investigating the conduct or competence of any member or member firm. If that examination should result in a finding adverse to any member or member firm, that finding will normally be the subject of a further announcement.’

‘The ICAEW has considered a complaint against Messrs A, B & C and decided that there are no grounds for disciplinary or other action.’ (Only to be used where the fact of the complaint is public knowledge or at the request of the member/firm concerned.)

‘A Professional Conduct Committee of the ICAEW has found Mr AB not guilty of misconduct in relation to. . . .’ (Only to be used where the fact of the complaint is public knowledge or at the request of the member/firm concerned.)

**6** No announcement will name or otherwise identify a member or member firm unless this is necessary or desirable in order to maintain public confidence in the Institute or its members. It will be necessary or desirable to name a member or member firm:

- i. where failure to do so would defeat the purpose of the announcement, for example because it would not be possible to relate the announcement to the subject of public concern; or
- ii. where the name is already a matter of public knowledge.

**7** Save where urgent action is desirable to maintain confidence in the profession or the Institute or its members any member or member firm named in an announcement will be given, not less than 48 hours before the making of an announcement, a copy of its terms.

**8** An announcement under the Bye-law will be accompanied by a short written statement in standard form describing the disciplinary and regulatory arrangements of the Institute, including the representation of non-accountants on relevant Committees and the relationship of the Professional Conduct Committees to the Joint Disciplinary Scheme.

**9** Once an announcement has been made, no further announcement will be made prior to the conclusion of any investigation, save in explanation of the Institute’s procedures following a finding of not proved or the upholding of an appeal against a finding of proved or unless circumstances change in such a way as to make the original announcement incorrect or misleading.

\* The term 'listed company' means:

- a. a company whose shares or securities have been admitted to listing by a recognised stock exchange; and
- b. a company whose equity share capital is marketed under the regulations of a recognised stock exchange, e.g. companies whose shares are dealt in on the Unlisted Securities Market.

The term 'other public interest company' means a company or other organisation in either the private and public sectors which is 'in the public eye' because of its size or the product or services it provides. Examples of such companies and organisations would be large charitable organisations and trusts, major monopolies, duopolies, building societies, industrial and provident societies or credit unions, deposit-taking organisations, and those holding investment business client money.