

PROFESSIONAL STANDARDS

Who is this helpsheet for?

This helpsheet is for anyone who has made a complaint about an ICAEW member or member firm and the Investigation Committee (IC) has decided that there is no case for the member or firm to answer. We call these people complainants.

This helpsheet explains what to do if you believe the IC's decision is wrong.

What is a reviewer of complaints?

There are three reviewers of complaints. They are appointed in accordance with the Institute's bye-laws. They are solicitors who each work independently and consider the IC's finding of 'no case to answer'. They have to decide whether, in their opinion, the IC should look at the complaint again. Their role is not to substitute their own judgement for that of the IC.

When would I go to a reviewer of complaints?

If the IC has decided that there is no case for the member or firm to answer, it will explain why it came to this conclusion. Please read these reasons carefully. If you think you have good reason to be dissatisfied with this decision, you can ask a reviewer of complaints to look into your case.

How do I get my case reviewed?

You must write to us within six months of the date the IC decided there was no case to answer. If you apply after this date, a reviewer will only consider your application for a review if satisfied:

- that there is good reason why you couldn't have applied before the six-month deadline or
- that fresh evidence has been received which justifies considering your application.

A reviewer will be able to see all the written material relating to the case which the Professional Conduct Department has kept on file.

When can the reviewer of complaints ask the IC to reconsider its decision?

When the reviewer has finished the review, he may recommend the IC reconsider its decision, but only if one or more of the following conditions applies:

- fresh evidence of a material nature has been received since the date of the finding
- either Institute staff or the IC have failed to follow the procedure for considering and processing complaints laid down in the bye-laws and regulations and the committee's consideration of your complaint has been prejudiced as a result
- there is reason to suspect that a member of the IC involved in considering your complaint was not independent and the committee's consideration of your complaint has been prejudiced as a result
- the IC's finding was not one which could reasonably have been arrived at on consideration of the facts and matters before it.

The decision letter

The reviewer will explain his decision in a letter to you and to the member or firm and will send a copy to us. If the decision is that the IC should reconsider the matter, we will put the letter before the committee.

The Investigation Committee considers the matter again

The IC will consider the matter again and take into account the reviewer's decision and decide afresh whether there is a case to answer. A case manager may need to investigate matters further before the IC can reach its decision.

If the IC still considers that there is no case to answer, it must first inform the reviewer so that he can comment before the IC reaches a final decision. If it then concludes that there is no case to answer, we will send you the IC's reasons for this decision and close the case.

If, however, the IC decides that there is a case to answer, it will decide whether to take action and, if so, what.

What can the IC do?

If the IC wants to take disciplinary action, it may decide to offer the member or firm a disciplinary order; this may include a fine. Members can accept this order or, if they are not prepared to agree to the order, they can choose to have the case considered by a tribunal of the Disciplinary Committee (DC). The member or firm (or their representatives) can attend and present the case.

In more serious cases, the IC may refer the case directly to a tribunal of the DC.

Where can I find out more?

Disciplinary Bye-law 22 in section 2.1 of the *Members' Handbook* (www.icaew.com/membershandbook) sets out the range of penalties available to the IC and DC.

The *Guidance on Sentencing* gives guidance to all committees that impose penalties and is available at www.icaew.com (search for 'guidance on sentencing').

If you would like more information on the Institute's disciplinary arrangements, please consult:

- the Disciplinary Bye-laws
- the Investigation Committee Regulations
- the Disciplinary Committee Regulations
- the Appeal Committee Regulations

in the *Members' Handbook* (www.icaew.com/membershandbook).

Conclusion

The reviewers of complaints help to demonstrate to the public that complaints are considered fully and impartially.

If you want an independent reviewer of complaints to review your complaint, please write to:

The Secretary to the Investigation Committee
Professional Conduct Department
The Institute of Chartered Accountants in England and Wales
Metropolitan House
321 Avebury Boulevard
Milton Keynes
MK9 2FZ

www.icaew.com