

ICAEW



CONCILIATION

THE KEY TO RESOLVING COMPLAINTS



BUSINESS WITH CONFIDENCE

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WHO IS THIS BOOKLET FOR?

This booklet is for:

- ICAEW members and firms who may be the subject of a complaint and
- anyone who has made a complaint (the complainant)

when we believe conciliation may provide a satisfactory outcome for both parties.

WHAT IS THIS BOOKLET ABOUT?

This booklet explains how we can help you. It doesn't matter whether:

- a client (or sometimes their new accountant) complains to the accountant and the parties are unable to resolve the matter;
- either party puts the matter into the hands of their solicitor; or
- ICAEW receives a complaint directly and the member or firm only becomes aware that a complaint has been made when a conciliator contacts them;

we will help both parties try and reach a mutually acceptable outcome which resolves the complaint through a process known as conciliation.

WHY CONCILIATION?

If a member or firm appears possibly to be in breach of an ICAEW bye-law or regulation or to have departed from our guidance, where appropriate, we offer conciliation to help find a practical solution to the problem; for example, seeking an explanation, exchanging information or reaching an agreed settlement.

The alternative to conciliation is investigation, but it's a more formal and time-consuming process that may result in disciplinary action being taken against a member or firm. Investigation will

not necessarily resolve the underlying problem, however, and ICAEW has no power to award compensation to the person who has made the complaint.

In conciliation, we do not make any judgement about who is right or wrong; it's simply that there may be a problem we can help to resolve.

Members and firms should always consider whether they need to tell their professional indemnity insurer about the complaint.

WHAT IS CONCILIATION?

It is a process that aims to reach a mutually acceptable outcome without recourse to ICAEW's formal disciplinary processes. It is:

Voluntary

You decide whether you want to engage in the process.

Flexible

There is much greater scope to reach a mutually acceptable outcome through conciliation than through either ICAEW's investigation process or litigation.

Confidential

You can say you want your documents to remain confidential between you and ICAEW, however, please see page 3.

Your decision

You decide whether to offer or accept any proposals to settle the complaint.

HOW DOES CONCILIATION WORK?

A conciliator helps both parties consider various options with a view to finding a settlement on which they can agree.

Both parties must agree to try and resolve the situation through conciliation and, later on, decide to make or accept any proposals to settle the complaint.

Conciliators are neutral and are not there to represent either party, pass judgement or make orders. Instead, they help clarify the issues, give guidance and test the strength of both parties' positions to help them reach a settlement.

The conciliator will outline the complaint, clarify the facts, discuss the kind of outcome the complainant is looking for and explain the options. It helps if we can send to the other party a copy of any letters or information you send us. However, you can always mark documents 'For ICAEW use only' if you don't want information to be disclosed.

The conciliator will normally ask the accountant to respond within a specified period either directly to ICAEW or to the complainant. This gives the accountant the opportunity to outline their position and provide any supporting information that might be relevant.

The conciliator will discuss and summarise the main issues with both parties and explain the other party's position. If appropriate, the conciliator will ask questions and offer guidance to help reach a mutually acceptable outcome. Most of this is done by letter, email or phone but we can arrange meetings if necessary.

Please try and remain open-minded. A complaint often arises because of a lack of communication or a simple misunderstanding. Whatever it is, our role is to help you both, and the more you communicate with us, the more efficient the process will be.

HOW ARE CASES USUALLY CONCLUDED?

The matter is finalised by exchanging letters or by signing a legally binding agreement (also known as a conciliated settlement). This sets out the terms with which both

parties are legally required to comply. Once the parties have implemented the solution, that is the end of our involvement.

WHAT IF CONCILIATION DOESN'T WORK?

Although most complaints referred for conciliation are resolved, it doesn't work in every case and the person who has made the complaint can ask us to review the matter to see whether there still appears to be a disciplinary liability that should be investigated.

If we decide not to investigate, we will write to both parties and explain why. The complainant can nevertheless ask for the Investigation Committee to decide whether it should be investigated.

HOW LONG DOES IT TAKE?

Much depends on the nature and complexity of the complaint. We try to agree an initial time frame for resolution and we review the files regularly to make sure we're making progress.

AT A LATER STAGE, CAN THE OTHER PARTY USE INFORMATION SHARED DURING CONCILIATION AGAINST ME?

Conciliation is confidential and 'without prejudice'. This means that you can't use any of the documents or information that the other party discloses for any other purpose without their consent, unless ordered by a court or arbitrator.

By entering the conciliation process, both parties accept this condition.

The only exception is documents or information that would have to be disclosed as part of any litigation, arbitration or investigation process.

As a world-class professional accountancy body, ICAEW provides leadership and practical support to over 134,000 members in more than 160 countries, working with governments, regulators and industry to maintain the highest standards.

Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. ICAEW ensures these skills are constantly developed, recognised and valued.

Because of us, people can do business with confidence.

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