



# *Guidance on Sanctions*

EFFECTIVE FROM 1 JULY 2019

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## GLOSSARY

<b>Affiliate</b>	<p>A person, or corporate body, who is not a member or member-firm but who has been granted affiliate status under one (or more) of the following:</p> <ul style="list-style-type: none"><li>• general affiliate status under clause 12A of the Supplemental Charter of 21 December 1948;</li><li>• audit affiliate status in accordance with the Audit Regulations and Guidance;</li><li>• insolvency affiliate status in accordance with the Insolvency Licensing Regulations;</li><li>• probate affiliate status in accordance with the Probate Regulations;</li><li>• DPB affiliate status in accordance with the DPB (Investment Business) Handbook;</li><li>• local audit affiliate status in accordance with the Local Audit Regulations;</li><li>• licensed practice affiliate status in accordance with the ICAEW Licensed Practice Handbook.</li></ul>
<b>Aggravating factors</b>	<p>Any matter which, in the opinion of the tribunal, justifies increasing the suggested level of penalty</p>
<b>Appeal Committee</b>	<p>Appointed by ICAEW Council under the schedule to the Disciplinary Bye-laws (appointment of IC, DC and AC)</p>
<b>Consent Order</b>	<p>The sanctions order made by the IC with a member's agreement where liability is admitted</p>
<b>Contracted firm</b>	<p>A sole practice, partnership, limited liability partnership or a body corporate which is not a member firm but which has contracted with ICAEW to be subject to ICAEW Disciplinary Bye-laws and/or to the ICAEW Code of Ethics</p>
<b>Disciplinary action</b>	<p>An adverse finding, plus a penalty and/or other order</p>
<b>Disciplinary Bye-laws</b>	<p>ICAEW's Disciplinary Bye-laws</p>
<b>Disciplinary Committee</b>	<p>Appointed by ICAEW Council under the schedule to the Disciplinary Bye-laws (appointment of IC, DC and AC)</p>
<b>Disciplinary record</b>	<p>In relation to any person or body, comprises all orders, findings, financial penalties and penalties to which the respondent has at any time been subject, being orders, findings, financial penalties or penalties of any description prescribed for the purposes of this definition by regulations</p>
<b>Foundation Qualification Holder</b>	<p>Someone who holds the Foundation Qualification</p>

<b>Foundation Qualification Student</b>	Someone who is registered to study for ICAEW CFAB or the ICAEW Foundation Qualification
<b>Investigation Committee</b>	Appointed by ICAEW Council under the schedule to the Disciplinary Bye-laws (appointment of IC, DC and AC)
<b>Member</b>	A member of ICAEW, and membership shall be construed accordingly
<b>Member firm</b>	<ul style="list-style-type: none"> <li>• a member engaged in public practice as a sole practitioner; or</li> <li>• a partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or</li> <li>• a limited liability partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or</li> <li>• any corporate body (other than a limited liability partnership) engaged in public practice of which: <ul style="list-style-type: none"> <li>– 50 per cent or more of the directors are members; and</li> <li>– more than 50 per cent of the nominal value of the voting shares is held by members; and</li> <li>– more than 50 per cent of the aggregate in nominal value of the voting and non-voting shares is held by members.</li> </ul> </li> </ul>
<b>Mitigating factors</b>	Any matter which, in the opinion of the tribunal, justifies reducing the suggested level of penalty
<b>Panel</b>	Appointed under Disciplinary Bye-law 27(1) to hear an appeal
<b>Penalty</b>	An order made in accordance with Disciplinary Bye-law 22
<b>Public Interest Entity</b>	<p>UK entities with transferable securities (equity/debt) admitted to trading on a regulated market in the EEA</p> <p>UK incorporated banks not already included in any other category, UK building societies,</p> <p>Other UK credit institutions authorised by the Bank of England.</p> <p>Insurance undertakings: Non-listed insurers - those UK insurers authorised by the Bank of England that are required to comply with the Solvency II Directive.</p> <p>Society of Lloyd's</p>
<b>Provisional members</b>	<p>A person who has not been admitted to full membership of ICAEW and;</p> <ul style="list-style-type: none"> <li>• is registered with ICAEW as an ACA student; or</li> </ul>

- is registered with ICAEW under a training agreement with an authorised training employer or an authorised training principal; or
- has attempted an ACA examination and no more than three years have elapsed since the date of the last attempt at an ACA examination; or
- was registered with ICAEW under a training agreement with an authorised training employer or an authorised training principal and no more than three years have elapsed since the training agreement was completed or cancelled; or
- has applied for ICAEW membership outside the period allowed under the regulations and the application has not been finally determined.

<b>Regulatory committee</b>	Either the Audit Registration Committee, Insolvency Licensing Committee, Investment Business Committee, the Probate Committee or Review Committee
<b>Regulatory penalty</b>	A financial penalty ordered by the Audit Registration Committee, Insolvency Licensing Committee, Investment Business Committee or Probate Committee for breach of regulation by an authorised, licensed or regulated firm, or licensed insolvency practitioner
<b>Regulated firm</b>	A DPB licensed firm, a registered auditor, recognised auditor under the Crown Dependency Audit Rules and Guidance, a registered local auditor, a licensed practitioner, or an accredited probate firm
<b>Respondent</b>	Any member, provisional member, foundation qualification holder, provisional foundation qualification holder and CFAB student who is subject to ICAEW Disciplinary Bye-laws;
<b>Respondent firm</b>	A member firm, regulated firm or a contracted firm which is subject to ICAEW Disciplinary Bye-laws;
<b>Sanctions order</b>	The order made by the IC (by a consent order) or a DC tribunal comprising, as appropriate, any or all of the matters set out in Disciplinary Bye-laws 22, 23, 24A (expenses), 33 (costs), or 35 (publicity)
<b>Starting point</b>	An indication of where a tribunal will start when it considers its decision on penalty
<b>Tribunal</b>	Appointed under Disciplinary Bye-law 19(1) to hear a formal complaint
<b>Unpublicised caution</b>	An order made by the IC in accordance with Disciplinary Bye-law 16A

## 1. INTRODUCTION

This guidance was approved by the ICAEW Regulatory Board on 17 April 2018 to apply to all complaints considered by:

The Investigation Committee  
Disciplinary Tribunals of the Disciplinary Committee  
Appeal Panels of the Appeal Committee

(collectively referred to in this guidance as “the Conduct Committees”)

And to all cases referred to:

The Audit Registration Committee  
The Insolvency Licensing Committee  
The Investment Business Committee  
The Probate Committee  
The Review Committee

(collectively referred to in this guidance as “the Regulatory Committees”)

The guidance sets out the methodology which should be followed by the Conduct Committees and the Regulatory Committees in determining the appropriate sanction to impose on an ICAEW member, former member, provisional member, affiliate, foundation qualification holder, foundation qualification student (“respondents”) and member firms, former regulated firms and contracted firms (“respondent firms”).

In addition to the sanctions which might be imposed by the Conduct Committees, the ICAEW Regulatory Board has also introduced a new fixed penalty process whereby certain types of minor complaints will be designated from time to time to be dealt with by way of the issuing of fixed penalty notices by the Head of Investigation on delegation from the Investigation Committee. These penalty notices will only be issued in respect of designated complaints where there has been a full and unequivocal admission when the matter is first raised with the respondent / respondent firm and there will be a separate publication of the sanctions which will be applicable in these cases.

## 2. SANCTIONS POLICY

When any of the Conduct Committees or Regulatory Committees finds a prima facie case or a breach or upholds a complaint and considers what sanction to impose, it should determine the appropriate sanction in relation to the following key principles:

- Protecting the public
- Maintaining the reputation of the profession
- Upholding proper standards of conduct within the profession
- Correction and deterrence of misconduct

### **Protecting the public**

In applying the principle to protect the public, the Conduct and Regulatory Committees should consider not only any clients or third parties who may have suffered as a result of the conduct of the respondent or respondent firm but they should also consider the wider public who might be put at risk by the future conduct of the respondent or respondent firm. In complaints which are based on the competence of the member, the Conduct and Regulatory Committees should consider whether the public can be properly protected and whether, instead of or alternatively to a financial sanction, whether the order should include a requirement for a respondent to undergo training and for a respondent firm to ensure that a training programme is put in place for some or all of its staff.

### **Maintaining the reputation of the profession**

In applying this principle, the Conduct and Regulatory Committees should consider the importance of the public having confidence in the conduct of members of the profession and should bear in mind the relevant extracts from the leading judgment of Lord Bingham in *Bolton v The Law Society* (1994):

*“To maintain this reputation and sustain public confidence in the integrity of the profession, it is often necessary that those guilty of serious lapses are not only expelled but denied readmission... otherwise, the whole profession, and the public as a whole, is injured. A profession’s most valuable asset is its collective reputation and the confidence which that inspires.... The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits but that is a part of the price.”*

### **Maintaining proper standards of conduct within the profession**

In applying this principle, the Conduct and Regulatory Committees should consider whether the respondent or the respondent firm is capable of setting the standards of conduct expected of someone within the profession and, if the issue is competence, whether further training should be considered as part of a sanction in order to improve competence and eliminate the chance of reoccurrence.

### **Correction and deterrence of misconduct**

Although punishment will not itself improve a respondent or respondent firm’s conduct in the future or prevent others committing the same types of misconduct, a punishment can act as a deterrent both in relation to future acts of the respondent and respondent firm but also to dissuade others from acting in the same way through fear of financial and reputational consequence.

### 3. PROCESS FOR DETERMINING APPROPRIATE SANCTIONS

#### **Regulatory Committees**

Although Regulatory Committees can impose regulatory penalties, they do not have the power to apply ICAEW's disciplinary sanctions and must instead refer to the Investigation Committee any fact or matter which suggests that a regulated firm, member or affiliate may be liable to disciplinary action and which, in the opinion of the Regulatory Committee, needs to be investigated.

However, in some cases, the Regulatory Committees may decide that a referral to the Investigation Committee to investigate a failure to comply with the regulations is not appropriate. In these circumstances, and with the agreement of the regulated firm (or insolvency licence holder), the Regulatory Committee may propose a regulatory penalty.

The Committee Secretary will tell the Regulatory Committee about any previous disciplinary record and the regulatory committee should then determine the proposed penalty using the steps outlined in below.

The Regulatory Committee is responsible for publishing its orders or decisions, if it considers this to be appropriate. The circumstances in which the Regulatory Committees might decide not to publish the name of the firm (or insolvency licence holder) are rare and likely to involve risk of harm to the individual or unfair impact on innocent third parties.

There is no right of appeal as a regulatory penalty can only be made with the firm's (or the insolvency licence holder's) agreement. Once a matter has been settled by a regulatory penalty, there will be no further regulatory or disciplinary action in respect of the breaches referred to in the penalty. However, the details of the regulatory penalty will be put on the firm's (or the insolvency licence holder's) record and may be taken into account in the future.

#### **Conduct committees**

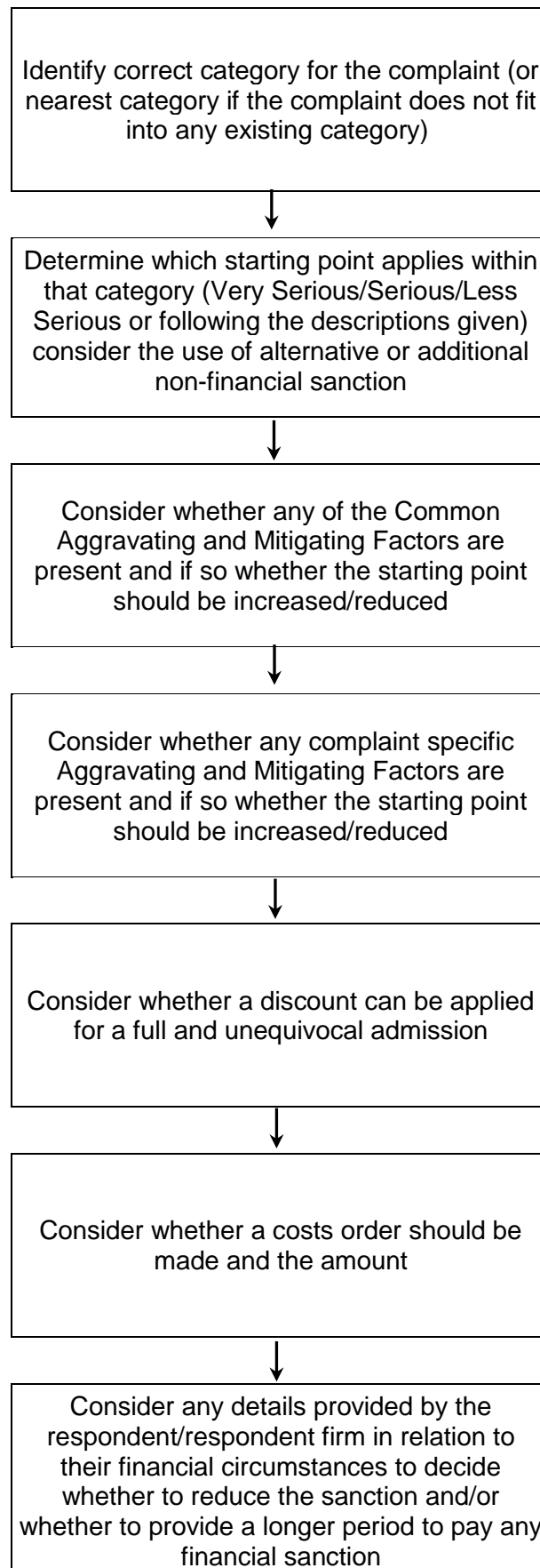
When the Investigation Committee finds a prima facie case or a Disciplinary Tribunal decides that a complaint has been proved, the Investigation Committee / Disciplinary Tribunal must then decide what to include in its sanctions order.

After the Investigation Committee has found a prima facie case or a Disciplinary Tribunal has found a complaint proved, it will be informed whether the respondent or respondent firm has any previous disciplinary record and, if so, whether it is related to the present complaint so that it can decide how much weight to attach to it.

The Investigation Committee / Disciplinary Tribunal should then consider the appropriate sanction bearing in mind that a sanction can comprise either a financial or a non-financial sanction or both. Non-financial sanctions include Exclusion / Suspension / Severe Reprimand / Reprimand / Unpublicised Caution as well as the sanctions listed in the Additional / Alternative Sanctions section below which includes a requirement for training.



The Regulatory and Conduct Committees should then take the following steps to determine the appropriate sanction:



### 3.1 Identify the relevant category of complaint from within this guidance.

The list of possible complaints and behaviour is not exhaustive and, if there is no category which directly corresponds to the present complaint, the Committees / the Tribunal should find the closest category with assistance from the Committee Secretary.

### 3.2 Determine the nature and seriousness of the conduct

For many complaints, there are different starting points for sanctions depending on the nature and seriousness of the conduct.

The seriousness of conduct in relation to some complaints depends on the quality of the work whereas, for other complaints, the seriousness depends on the mindset at the time of the conduct which is the subject of the complaint. For these complaints, the Committee / Tribunal will need to determine which of the following categories the conduct fell into:

- Very serious where the conduct was deliberate, knowing and / or dishonest.
- Serious where the conduct was reckless or the result of wilful blindness.
- Less serious where the conduct resulted from failures carry out certain required or expected acts or breaches of strict liability regulations where there is no evidence of a deliberate act or recklessness.

The starting points for financial sanctions are set in SIX separate categories which will be subject to adjustment from time to time. The current categories are as follows

Category A	£20,000
Category B	£15,000
Category C	£10,000
Category D	£5,000
Category E	£3,000
Category F	£1,000

These sanctions may be imposed instead of, or as well as, a penalty based on fee income, profit estimate (for insolvency) or return or waiver of fees or commission.

Where a Court has made a sentencing order, or where another regulatory body has imposed a sanction, against a respondent or respondent firm, this should be taken into account by the Investigation Committee or Disciplinary Tribunal. Prior orders by the Court or another regulatory body should not, however, prevent the Investigation Committee or a Disciplinary Tribunal from imposing further sanctions, particularly non-financial sanctions, if it considers that it is appropriate to do so.

### **3.3 Consider whether there are aggravating or mitigating factors**

For each category of complaint (and sub-categories depending on seriousness) the guidance provides a 'starting point' sanction. The starting point is not the 'going rate' for that particular complaint, it indicates only where the Investigation Committee / Disciplinary Tribunal might start before it takes into account any aggravating and mitigating factors before deciding, if appropriate, to reduce or increase the penalty. Some aggravating and mitigating factors may be common to most complaints while others may be particular to the complaint in question. Common aggravating and mitigating factors are set out below:

#### **Common aggravating factors**

- Adverse financial or other consequences on the client and / or third parties
- Correct advice given on proper conduct by ICAEW or another but was ignored
- Repeated failures and / or poor conduct over a lengthy period of time
- Previous sanctions imposed by ICAEW or other regulatory bodies for similar breaches

#### **Common mitigating factors**

- Following incorrect advice given by ICAEW or another party
- Isolated failure and / or over a very short period
- No adverse financial or other consequences on the client or third parties
- Full cooperation with ICAEW during the investigation of the complaint
- Self-reported conduct
- Breaches remedied / situation rectified
- Payment of compensation or restitution made to client and / or third parties

The common mitigating and aggravating factors and those that are more complaint specific and listed at the relevant section of the guidance are not exhaustive: the Committee / Tribunal may find others which are relevant to a particular case.

### **3.4 Consider additional or alternative sanctions**

The Committees / Tribunal should consider whether the sanctions order should include, instead of or in addition to any non-financial sanction such as Exclusion / Suspension / Severe Reprimand / Reprimand / Unpublicised Caution or financial sanction any or all of the following orders:

#### **Order to undertake / provide training**

Disciplinary Bye Laws 14 and 24 gives wide-ranging powers to the Investigation Committee and the Disciplinary Tribunal to order that either a respondent should undertake specified training or that a respondent firm should provide training for some or all of its employees.

The Investigation Committee / Disciplinary Tribunal should consider whether the requirement to undertake or provide training might be more appropriate to a financial sanction in achieving the objectives of maintaining professional standards and protecting the public. A requirement for training will only be appropriate to remedy certain conduct due to the nature of the conduct and the availability of relevant training.

The Investigation Committee / Disciplinary Tribunal should also take into account whether the respondent has already undertaken remedial training or whether the respondent firm

has provided remedial training to its employees in response to the complaint (and take this into account as a mitigating factor).

#### **Requirement to take advice**

In appropriate cases (for example poor work or failure to deal with a client's affairs in good time) a tribunal may consider making an order that the respondent or respondent firm seek advice from a specified source at his / her / its own cost and implement the advice obtained.

#### **Waiver or return of fees**

Disciplinary Bye Law 23.1 provides for the making of an order by both the Investigation Committee and a Disciplinary Tribunal that fees charged by a respondent must be waived, or that fees already paid are returned.

#### **The repayment of commission**

The Investigation Committee or a Disciplinary Tribunal may also consider making an order that the respondent or respondent firm pay the complainant or the client a sum related to any commission the respondent or the respondent firm has received or will receive. Such an order is likely to be appropriate in cases where the respondent or respondent firm has been paid commission by agencies for work referred to them or for investment business advice or services that have been provided.

#### **The complainant's expenses**

If a complainant has given notice that he / she / it would like to recover expenses, the Investigation Committee or a Disciplinary Tribunal may consider the request if it finds the complaint proved. However, a complainant may only recover those expenses incurred in either making the complaint in the first place or in making representations to be considered by the Investigation Committee. The maximum amount the Investigation Committee or a Disciplinary Tribunal can order is £1,000.

### **3.5 Discounts**

The Conduct and Regulatory Committees should apply a discount to reduce any financial sanction (determined by adjusting the appropriate sanction starting point for aggravating and mitigating factors) where there has been a full and unequivocal admission by the respondent or respondent firm at the relevant time. Discounts are not applicable to any recommended non-financial sanction.

A discount of up to 30% should be applied in cases where a full admission has been made after the respondent / respondent firm has received the final complaint wording and the draft report prepared for the Investigation Committee. The discount cannot be more than 30%. Earlier admissions and / or full cooperation may be considered as additional mitigating factors in the consideration of the appropriate financial and non-financial sanctions.

### **Investigation Committee**

Admissions should not alter the Investigation Committee's decision to offer a consent order or to refer a complaint to the Disciplinary Tribunal if that is warranted. If there has been a qualifying admission, the discount will be applied to any financial sanction offered by the Investigation Committee in a consent order. If there is more than one complaint, and only one complaint has been fully admitted, the discount will be applied only to the sanction determined for that complaint only.

### **Disciplinary Tribunal**

A discount should still be applied by the Disciplinary Tribunal to the financial sanction relating to any complaint where an admission was made at the relevant time when the Tribunal determines whether or not to uphold the complaint which has been referred to it.

### **Regulatory Committees**

If a Regulatory Committee considers a matter suitable to be dealt with by it by way of a regulatory penalty, the same discount should be applied to the financial sanction if a full and unequivocal admission was made on receipt by the respondent / respondent firm on receipt of the papers to be considered by the Regulatory Committee.

## **3.6 Costs**

The Investigation Committee and a Disciplinary Tribunal have the power, in addition to imposing a non-financial sanction and / or a financial sanction, to order that the respondent / respondent firm pay some or all of the costs incurred by ICAEW in investigating and presenting the complaint(s) or a reasonable proportion of those costs. This is based on the principle that the majority of ICAEW members should not have to subsidise the costs caused by the minority who, through their failings, find themselves within the disciplinary process.

A summary of the costs incurred will be sent to the respondent / respondent firm before the Investigation Committee meeting or the Disciplinary Tribunal hearing the complaint. This is sent with a covering letter which explains that, if the Investigation Committee finds a prima facie case and decides to offer a consent order, the Investigation Committee will determine whether to make a costs order as part of any consent order. Similarly, the letter will explain ahead of a Disciplinary Tribunal hearing that the Tribunal may consider making a costs order if it finds the complaint proved.

An order for costs should reflect the costs reasonably incurred and must never be imposed as a penalty. The Investigation Committee and the Disciplinary Tribunal should only consider the question of costs after it has reached its decision on the appropriate penalty for the complaint.

## **3.7 Financial means**

The Investigation Committee, the Disciplinary Tribunals and the Regulatory Committees may consider any information about a respondent or a respondent firm's financial means and circumstances which, they believe, may have a bearing on the sanction to be imposed.

Respondents / respondent firms are advised to provide, in advance of the review / hearing of the complaint, some documentary proof of their financial circumstances. If no proof is

provided, the Investigation Committee, Disciplinary Tribunal and the Regulatory Committees are entitled to assume that the respondent / respondent firm can meet any financial penalty and costs order that it includes as part of the sanction.

As well as, or in addition to, reducing the amount of any financial sanction and reducing the amount of costs to pay, the Investigation Committee, Disciplinary Tribunal and the Regulatory Committees can also extend the time scale within which the respondent / respondent firm can pay the financial element of a sanction as long as the period does not normally extend beyond one year.

### **3.8 Publicity**

Respondents / respondent firms may request for their names not to be included in the published record of decision.

Given the expectation that ICAEW will be acting transparently and in the public interest in discharging its disciplinary and regulatory functions, the Investigation Committee, the Disciplinary Tribunal and the Regulatory Committees should only accede to requests not to publish names in exceptional circumstances and only where publication is likely to involve the risk of harm to the individual or unfair impact on innocent third parties.

#### 4. CRIMINAL CONVICTIONS AND POLICE CAUTIONS

Complaint	Starting Point	Aggravation	Mitigation
Any offence where the member receives a custodial sentence (suspended or not)	Exclusion	Factors that may influence the starting point should be arrived at by considering the sentencing remarks	Factors that may influence the starting point should be arrived at by considering the sentencing remarks
Indictable offence where the member receives a non custodial sentence	Severe Reprimand	As above	As above
Summary only offence where the member receives a non custodial sentence	Reprimand		
Police Cautions and any offences leading to a conditional or absolute discharge	Unpublicised Caution		

## 5. AUDIT

The Committee/Tribunals should take into account, when assessing the appropriate sanction in an audit matter the legislation enacted on 17 June 2016 'The Statutory Auditors and Third Country Auditors Regulations 2016 (SATCAR) which requires that:

'In determining the type and level of sanctions to be imposed under this regulation, the competent authority must take into account all relevant circumstances, including (where A is the respondent) –

- (a) the gravity and duration of the contravention;
- (b) A's degree of responsibility;
- (c) A's financial strength;
- (d) the amount, so far as can be determined, of profits gained or losses avoided by A;
- (e) the extent to which A has co-operated with the competent authority;
- (f) any previous contravention by A of a relevant requirement.'

Complaint	Starting Point	Aggravation	Mitigation
<b>a. Acting as auditor when not registered (Audit Regulation 2.01) Firm</b>			
i. Very serious	Severe reprimand and a category A financial penalty	Extensive audit work undertaken. Numerous clients affected. Audit of plc or public interest entity. Indication of systemic weaknesses.	Isolated instance.
ii. Serious	Severe reprimand and a category B financial penalty	As above.	As above.
iii. Less serious	Reprimand and a category C financial penalty	As above.	As above.

**b. Defective audit work (Audit Regulation 3.10)**



<p>i. Audit work of a seriously defective nature</p>	<p><b>Firm</b> Severe reprimand and a financial penalty equal to 1.5 x audit fee, or a category A financial penalty. Financial penalty to be adjusted upwards if the audit fee was inadequate or if the company subsequently collapsed.</p> <p><b>RI/second review partner</b> Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)</p>	<p>Multiple periods of accounts audited. Audit of plc or public interest entity. Incorrect audit opinion issued. Numerous clients affected. Issues identified in earlier QAD inspection but recommendations not implemented. Intention to mislead other parties. Indication of systemic weaknesses.</p>	<p>Subsequent audits found to comply with the requirements. Faults attributable to the client or third parties.</p>
<p>ii. Lesser forms of bad audit work</p>	<p><b>Firm</b> Reprimand and a financial penalty equal to half of the audit fee, or a category C financial penalty</p> <p><b>RI/second review partner</b> Reprimand and a category D financial penalty and/or order for remedial training</p>	<p>Multiple periods of accounts audited. Audit of plc or public interest entity. Incorrect audit opinion issued. Numerous clients affected. Issues identified in earlier QAD inspection but recommendations not implemented. Intention to mislead other parties. Indication of systemic weaknesses.</p>	<p>No indication that an incorrect audit opinion was issued. Subsequent audits found to comply with the requirements. Faults attributable to the client or third parties.</p>

c. Failure to prevent firm taking audit appointment - when firm not registered (Audit Regulation 2.01) **Individual**

i.	Very serious	Severe reprimand and a financial penalty equal to 1.5 x audit fee or category C and/or order for remedial training	Extensive audit work undertaken. Numerous clients affected. Audit of plc or public interest entity. Indication of systemic weaknesses.	Isolated instance. Steps taken to put matters right.
ii.	Serious	Severe reprimand and a financial penalty equal to the audit fee or category D and/or order for remedial training	As above.	As above.
iii.	Less serious	Reprimand and a financial penalty equal to half of the audit fee or category E and/or order for remedial training	As above.	As above.

d. Audit reports signed by a non-RI (Audit Regulation 4.04) **Individual**

i.	Very serious	Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)	Numerous audit reports signed. Complex audit assignment. Audit of plc or public interest entity. Misrepresented position to client. Took advice and chose not to apply it.	Isolated incidence. Genuine attempt to act in client's interests. Steps taken to put matters right.
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ii.	Serious	Reprimand and a category D financial penalty and/or order for remedial training	As above. Indication of systemic weaknesses.	As above.
iii.	Less serious	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
e. Wrong, unqualified auditor's report (Audit Regulation 3.10)				
i.	Audit work/ processes of a seriously defective nature	<p><b>Firm</b> Severe reprimand and a financial penalty equal to 1.5 x audit fee, or a category A financial penalty. Financial penalty to be adjusted upwards if the audit fee was inadequate or if the company subsequently collapsed.</p> <p><b>RI/second review partner</b> Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)</p>	<p>Audit of plc or public interest entity.</p> <p>Multiple audit reports signed.</p> <p>Issues identified in earlier QAD inspection but recommendations not implemented.</p> <p>Intention to mislead other parties.</p> <p>Clients or third parties affected</p> <p>Indication of systemic weaknesses.</p>	<p>Subsequent audits found to comply with the requirements.</p> <p>Faults attributable to the client or third parties.</p>
ii.	Audit work / processes of a less seriously defective nature	<p><b>Firm</b> Reprimand and a financial penalty equal to half of the audit fee, or a category C financial penalty</p>	As above.	As above.

**RI/second review partner**

Reprimand and a category D financial penalty and/or order for remedial training

f. Issuing an audit report in the incorrect format or name (Audit Regulations 3.10 and 3.16) **Firm/individual**

i.	Very serious	Severe reprimand and a financial penalty 1.5 x the audit fee or category D and/or order for remedial training	Multiple audit reports issued. Audit of plc or public interest entity. Intention to mislead. Indication of systemic weaknesses. Issues identified in earlier QAD inspection but recommendations not implemented.	Isolated instance.
ii.	Serious	Reprimand and a financial penalty equal to the audit fee or category E and/or order for remedial training	As above.	As above.
iii.	Less serious e.g. Genuine mistake or some other technical irregularity	Reprimand and a financial penalty equal to half the audit fee or category F and/or order for remedial training	As above.	As above.

g. Failure to retain audit working papers for the period specified in the Audit regulations (Audit Regulation 3.11) **Firm**

i.	Very serious	Severe reprimand and a category D financial penalty	Number of clients and audit	Isolated instance.
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		and/or order for remedial training	files affected. Indication of systemic weaknesses.	
ii.	Serious	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
iii.	Less serious	Reprimand and a category F financial penalty and/or order for remedial training	As above.	As above.

h. Other breach of the Audit regulations – **Firm/individual**

i.	Very serious	Severe reprimand and a category D financial penalty and/or order for remedial training	Number of clients affected. Number of instances. Intention to mislead. Impact on client or third parties. Indication of systemic weaknesses. Issues identified in earlier QAD inspection but recommendations not implemented.	Isolated instance.
ii.	Serious	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.

iii.	Less serious	Reprimand and a category F financial penalty and/or order for remedial training	As above.	As above.
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## 6. FAILURE TO COMPLY WITH A DECISION OF AN ICAEW DISCIPLINARY OR REGULATORY COMMITTEE

Complaint	Starting Point	Aggravation	Mitigation
a. Failure to take advice or complete required training Failure to comply with an order made for waiver or repayment of fees Failure to comply with a remedial order Other cases where a member has failed to act or acted belatedly to obligations placed upon them			
i. There has been no response at all	Severe reprimand and a category B financial penalty	Blatant disregard, total absence of effort made to comply. Nature of inefficiency and effect on clients.	Breaches corrected immediately following the complaint. Procedures introduced to avoid recurrence. Member is frustrated in complying by matters beyond their control.
ii. There has been a partial response or partial completion of the order.	Severe reprimand and a category C financial penalty	As above.	As above.
iii. The order has been complied with but not within the time frame set by the committee	Reprimand and a category E financial penalty	As above.	As above.

## 7. BREACH OF ICAEW BYE-LAWS AND/OR REGULATIONS

Complaint	Starting Point	Aggravation	Mitigation
a. Engaging in public practice without a practising certificate (Principal bye-law 51a)			
i. Very serious	Exclusion and a category D financial penalty	Principal in a practice with two or more principals. Period of time in excess of a year. Breach not corrected or slow to correct the breach. High risk work such as tax advice or forensic work. Complaint made by third party. Full time role in a practice with practice fees of more than £5,000.	Period of time less than a year. Breach rectified as soon as the complaint was brought to their attention. Work is low risk such as bookkeeping and doesn't involve tax advice or forensic work. Part time business with practice fees of less than £5,000.
ii. Serious	Severe reprimand and a category E financial penalty	As above.	As above.
iii. Less serious	Reprimand and a category F financial penalty	As above.	As above.
b. Engaging in public practice in the UK without holding qualifying PII (3.1 of the PII regulations)			
i. Very serious	Exclusion and a category D financial penalty	Correct advice given by ICAEW or another and ignored. Principal in a practice with two or more principals.	Period of time less than a year. Breach rectified as soon as it was brought to their attention. Work is low risk such as bookkeeping and doesn't

			<p>Period of time in excess of a year.</p> <p>Breach not corrected or slow to correct the breach.</p> <p>High risk work such as tax advice or forensic work.</p> <p>Complaint made by third party.</p> <p>Full time role in a practice with income of more than £5,000.</p>	<p>involve high risk work such as tax advice or forensic work.</p> <p>Part time business with Income less than £5,000.</p>
ii.	Serious	Severe reprimand and a category E financial penalty	As above.	As above.
iii.	Less serious	Reprimand and a category F financial penalty	As above.	As above.
c.	Failure to submit annual CPD declaration (Principal Bye-law 56c)	Reprimand and a category F financial penalty per year (to a maximum of 4 years)	Contact made with member but they fail to submit declaration.	
d.	Failure to submit evidence of CPD undertaken when requested to do so (Principal Bye-law 56c)	Severe Reprimand and a Category D financial penalty	Contact made with member but they refuse to submit records.	
e.	Failure to notify new clients of the name of the principal to whom a complaint should be made and the right to complain to ICAEW (Disciplinary Bye-law 11)	Reprimand and a category F financial penalty	Member informed of requirement by ICAEW and continued to fail to comply.	All clients have now been notified of the complaints procedure.



## 8. CLIENTS' MONEY OFFENCE WHERE THERE IS NO ALLEGATION OF DISHONESTY OR MISAPPROPRIATION (WHICH WOULD BE DEALT WITH IN SECTION 14)

Complaint	Starting Point	Aggravation	Mitigation
a. Clients' money paid into a firm's office bank account where the office bank account is in credit			
i. Less than £20,000 held in the office bank account for less than seven days	Reprimand and a Category F financial penalty and/or order for remedial training	Large number of clients involved or repeated failures over a long period of time. Significant financial benefit.	Breaches corrected immediately following the breach being identified. Procedures introduced to avoid recurrence.
ii. Less than £20,000 held in the office bank account for more than seven days or repeated holding of sums less than £20,000	Reprimand and a Category E financial penalty and/or order for remedial training	As above.	As above.
iii. Between £20,000 and £100,000 held in the office bank account for less than seven days	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
iv. Between £20,000 and £100,000 held in the office bank account for more than seven days	Reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.
v. Between £100,000 and £500,000 held in the office bank account for less than seven days	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.

vi. Between £100,000 and £500,000 held in the office bank account for more than seven days	Severe reprimand and a category C financial penalty and/or order for remedial training	As above.	As above.
vii. More than £500,000 held in the office bank account for less than seven days	Severe reprimand and a category C financial penalty and/or order for remedial training	As above.	As above.
viii. More than £500,000 held in the office bank account for more than seven days	Severe reprimand and a category B financial penalty and/or order for remedial training	As above.	As above.
b. Clients' money paid into a firm's office bank account where the office bank account is overdrawn			
i. Less than £20,000 held in the office bank account for less than seven days	Severe reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
ii. Less than £20,000 held in the office bank account for more than seven days or repeated holding of sums less than £20,000	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.
iii. Between £20,000 and £100,000 held in the office bank account for less than seven days	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.

iv. Between £20,000 and £100,000 held in the office bank account for more than seven days	Severe reprimand and a category C financial penalty and/or order for remedial training	As above.	As above.
v. Between £100,000 and £500,000 held in the office bank account for less than seven days	Severe reprimand and a category C financial penalty and/or order for remedial training	As above.	As above.
vi. Between £100,000 and £500,000 held in the office bank account for more than seven days	Severe reprimand and a category B financial penalty and/or order for remedial training	As above.	As above.
vii. More than £500,000 held in the office bank account for less than seven days	Severe reprimand and a category A financial penalty and/or order for remedial training	As above.	As above.
viii. More than £500,000 held in the office bank account for more than seven days	Exclusion and a category A financial penalty	As above.	As above.
c. More than £10,000 held for more than 30 days in the general client bank account without being transferred to a designated client bank account	Reprimand and a category F financial penalty and/or order for remedial training	As above.	As above.
d. Failure to obtain notification from the bank confirmation of the trust status of the client bank accounts	Reprimand and a category F financial penalty and/or order for remedial training	Breach remains uncorrected. Long period of time before the breach was corrected after notified of complaint.	Breach corrected immediately following the identification of the breach.

e. Use of the client account for non-client transactions such as the firm's or own personal expenses	Reprimand and a category C financial penalty and/or order for remedial training	Large sums of monies involved. Repeated failings.	Breach corrected immediately following identification of the breach. Procedures introduced to avoid recurrence.
f. Withdrawal from a client bank account without the client's written authority or in accordance with a written contract between the firm and the client	Severe reprimand and a category C financial penalty and/or order for remedial training	Large number of clients involved. Significant financial benefit.	Breach corrected immediately following the complaint. Procedures introduced to avoid recurrence. Verbal authority obtained from client which is later confirmed in writing.
g. Withdrawal from a client bank account for or towards payments of fees without either an agreement in writing to the precise amount by the client or 30 days have elapsed since the delivery of the fee note	Severe reprimand and a category C financial penalty and/or order for remedial training	As above.	As above.
h. Failure to ensure that the total credit balances held for all clients is at least equal to the total balance held in the client bank account	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	Breach corrected immediately following identification of the breach. Procedures introduced to avoid recurrence. Clients compensated for loss of interest.

i. Failure to maintain appropriate records, including reconciliations and documenting the annual compliance review	Reprimand and a category E financial penalty and/or order for remedial training	As above.	Breach corrected immediately following identification of the breach. Procedures introduced to avoid recurrence
j. Failure to ensure that the client bank account is only used for lawful and legitimate purpose and for bona fide transactions	Exclusion and a category B financial penalty	Significant financial benefit	Procedures introduced to avoid recurrence.

## 9. ETHICAL

Complaint	Starting Point	Aggravation	Mitigation
a. Lack of independence due to personal/family relationship/previous material professional relationship/pecuniary interest			
i. Very serious	<p><b>Individual</b> Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)</p> <p><b>Firm</b> Severe reprimand and a category A financial penalty or a financial penalty based on an appropriate percentage of the fees earned, if the fees were significantly higher or lower than category A and consideration of withdrawal of firm's licence or registration (if applicable)</p>	<p>Lack of independence where public interest issues are involved or associated with collapse of company. Significant level of public attention or high public importance. Fraud. Amount involved substantial. Member in a position of trust, eg, as employee. Deliberate act to gain personal advantage.</p>	<p>Reprehensible conduct/ correspondence on the part of the client. Took professional advice.</p>
ii. Serious	<p><b>Individual</b> Severe reprimand and a category D financial penalty and/or order for remedial training</p> <p><b>Firm</b> Severe reprimand and a category B financial penalty or a financial penalty based on an</p>	As above.	As above.

appropriate percentage of the fees earned

iii. Less serious

**Individual**  
Reprimand and a category E financial penalty and/or order for remedial training

As above.

As above.

**Firm**  
Reprimand and a category C financial penalty or a financial penalty based on an appropriate percentage of the fees earned

b. Conflict of interest / treating one party favourably to the detriment of another

i. Very serious

**Individual**  
Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)

As above.

As above.

**Firm**  
Severe reprimand and a category A financial penalty or a financial penalty based on an appropriate percentage of the fees earned, if the fees were significantly higher or lower than category A and consideration of withdrawal of firm's licence or registration (if applicable)

ii. Serious

**Individual**

Severe reprimand and a category D financial penalty and/or order for remedial training

As above.

As above.

**Firm**

Severe reprimand and a category B financial penalty or a financial penalty based on an appropriate percentage of the fees earned

iii. Less serious

**Individual**

Reprimand and a category E financial penalty and/or order for remedial training

As above.

As above.

**Firm**

Reprimand and a category D financial penalty or a financial penalty based on an appropriate percentage of the fees earned

c. Failure to comply with the Fundamental Principle of Integrity

i. Very serious

Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)

Public interest matters.  
Amount involved substantial.  
Member in a position of trust, eg, as employee.

Reprehensible conduct/  
correspondence on the part of the client.  
Action taken at request of client/took professional advice.



		Deliberate act to gain personal advantage.	
ii. Serious	Exclusion and a category D financial penalty and/or order for remedial training (if not excluded)	As above.	As above.
iii. Less serious	Severe reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
d. Failure to comply with the Fundamental Principle of Objectivity			
i. Very serious	Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)	As above.	As above.
ii. Serious	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.
iii. Less serious	Severe reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
e. Providing false or misleading information			
i. Very serious	Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)	As above.	As above.

ii. Serious	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.
iii. Less serious	Severe reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
f. Breach of fiduciary duty (not otherwise covered)			
i. Very serious	Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)	As above.	As above. Corrective action taken on discovery of breach.
ii. Serious	Severe reprimand and a category D financial penalty and/or order for remedial training	As above.	As above. Corrective action taken on discovery of breach.
iii. Less serious	Severe reprimand and a category E financial penalty and/or order for remedial training	As above.	As above. Corrective action taken on discovery of breach.
g. Breach of confidentiality			
i. Very serious	Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)	As above.	As above.
ii. Serious	Severe reprimand and a category D financial penalty	As above.	As above.

and/or order for remedial training

iii. Less serious

Severe reprimand and a category E financial penalty and/or order for remedial training

As above.

As above.

h. Failure to communicate/ cooperate with existing appointment holder/failure to provide handover information, lien wrongly exercised.

i. Very serious

Severe reprimand and a category D financial penalty and/or order for remedial training. Consider reimbursement of any late filing penalties.

Multiple partner practice.  
Conduct has caused or may cause financial loss to the client (late filing penalties).  
Information still outstanding.

Isolated failure.  
Member not solely responsible for delays.  
Delays have a reasonable explanation.  
Part responses provided.

ii. Serious

Reprimand and a category E financial penalty and/or order for remedial training. Consider reimbursement of any late filing penalties.

As above.

As above.

iii. Less serious

Reprimand and a category F financial penalty and/or order for remedial training. Consider reimbursement of any late filing penalties.

As above.

As above.

i. Aggressive course of conduct and/or the use of obscene and grossly offensive language/similar

Severe reprimand and a category D financial penalty and/or order for remedial training

Use of discriminatory language.  
Continued behaviour when it was highlighted as unacceptable.

Not in a professional capacity.

k. Unethical promotion practices should not make exaggerated claims for the services they are able to offer to make disparaging or unsubstantiated references to the work of others	Reprimand and a category F financial penalty and/or order for remedial training		Actions taken by a third party.
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I. Failure to obtain consent to retain commission

i. Very serious	Severe reprimand and a category D financial penalty and/or order for remedial training Consider the return of the commission to the client.	Deliberate act to gain personal advantage. Multiple clients affected.	
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ii. Serious	Severe reprimand and a category E financial penalty and/or order for remedial training. Consider the return of the commission to the client.	As above.	
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iii. Less serious	Reprimand and a category F financial penalty and/or order for remedial training. Consider the return of the commission to the client.	As above.	
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m. Failing to act competently

i. Acting without having the required expertise or despite having that expertise work was of a very poor nature	Severe reprimand and a category D financial penalty and/or order for remedial training	Amount involved substantial.	Took professional advice.
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ii. poor work of a less serious nature

Reprimand and a category F financial penalty and/or order for remedial training

As above.

As above.

## 10. FAILURE TO COMPLY WITH DBL13 REQUIREMENT- REGARD SHOULD BE GIVEN TO THE POTENTIAL SERIOUSNESS OF THE UNDERLYING CONDUCT IN EVERY CASE

Complaint	Starting Point	Aggravation	Mitigation
a. Failure to respond to a letter sent in accordance with DBL13 (first offence)			
i. There has been no response at all.	Severe reprimand and a category D financial penalty	The information is supplied at the last possible moment. The underlying complaint is a serious one.	Member has had difficulty accessing the information.
ii. There has been a response but not all information and explanations have been provided	Severe reprimand and a category E financial penalty	As above.	As above.
iii. The response has been difficult and tedious rather than calculated to obstruct and the information has been provided between the date of the IC preferring the complaint and the date of the hearing	Reprimand and a category F financial penalty	As above.	As above.
b. Failure to respond to a letter sent in accordance with DBL13 (second such complaint in five years)			
i. As (i) above	Severe reprimand and a category C financial penalty	As above.	As above.
ii. As (ii) above	Severe reprimand and a category D financial penalty	As above.	As above.
iii. As (iii) above	Severe reprimand and a category E financial penalty	As above.	As above.

c. Failure to respond to a letter sent in accordance with DBL13 (third such complaint in five years)

i. As (i) above	Exclusion and a category B financial penalty	As above.	As above.
ii. As (ii) above	Exclusion and a category C financial penalty	As above.	As above.
iii. As (iii) above	Severe reprimand and a category D financial penalty	As above.	As above.

**Any penalty offered should also include an order to provide the information and explanations requested.**

## 11. OTHER REGULATORY AND COMPLIANCE ISSUES

Complaint	Starting Point	Aggravation	Mitigation
a. Failure to notify ICAEW of a change in address or appointment of a principal	Reprimand and a category F financial penalty and/or order for remedial training	Breach of more than a year. Wilful failure. Multiple partner practice.	Immediate action taken once became aware of the breach.
b. Failure to obtain affiliate status when required by regulations	Reprimand and a fine equal to the fees saved and/or order for remedial training	As above.	As above.
c. Use of the description 'Chartered Accountants' when not eligible to do so	Reprimand and a fine equal to the fees saved and/or order for remedial training	As above.	As above.
d. Breach of the eligibility requirements for audit registration or DPB registration	Reprimand and a fine equal to the fees saved and/or order for remedial training	As above.	As above.
e. Failure to submit an annual return to ICAEW	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
f. Inaccurate annual return submitted to ICAEW (significant error)	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
g. Failure to carry out an annual compliance review	Reprimand and a category F financial penalty and/or order for remedial training	As above.	As above.
h. Refusing to accept a visit from QAD	Exclusion or order for remedial training (if not excluded)	As above.	As above.



i. Failure to cooperate following a QAD visit, including failure to respond to correspondence	Severe reprimand and a category D financial penalty and/or order for remedial training Consider withdrawing practising certificate or any regulatory registration	As above.	As above.
j. Failure to comply with an assurance/undertaking given to the Practice Assurance Committee, Audit Registration Committee or Investment Business Committee	<b>Single breach</b> Reprimand and a category F financial penalty <b>Multiple breaches</b> Severe reprimand and a category F financial penalty per breach	As above.	Action now taken to ensure that the firm is no longer in breach.
k. Failure to comply with a condition or restriction imposed by the Audit Registration Committee, Probate Committee or Investment Business Committee			
i. There has been a complete failure to comply	Exclusion and a category B financial penalty	Breach of more than a year. Multiple partner practice.	Action now taken to ensure that the firm is no longer in breach.
ii. There has been partial compliance	Severe Reprimand and a category C financial penalty	As above.	As above.
iii. There has been full compliance but not within the required timescale	Reprimand and a category E financial penalty	As above.	As above.

## 12. FINANCIAL MISMANAGEMENT

Complaint	Starting Point	Aggravation	Mitigation
a. Failing to account for VAT/income tax	Exclusion and a category C financial penalty	Breach of more than 6 months. Percentage of value owed to HMRC significant compared to level of turnover. Preferring personal creditors to business creditors.	Effective arrangements to make good deficiency.
b. Multiple acts of financial mismanagement (including dishonoured payments) or second financial mismanagement complaint in five years	Exclusion and a category C financial penalty		
c. Failing to comply with terms of voluntary arrangements with creditors or other matters charged against a respondent in an individual voluntary arrangement	Exclusion and a category D financial penalty	Failure to disclose/or to disclose accurately assets to supervisor.	
d. Member or principal of a firm or body corporate engaged in public practice which enters into an insolvency procedure, as listed in DBL 4.2 (e) (i), (iii) or (iv) or DBL 4.2 (f) (i), (iii) or (iv)			

i. As a result of member's gross financial mismanagement	Severe reprimand	Making substantial drawings in excess of profits in period prior to entry into insolvency process. Failure to disclose/or to disclose accurately assets to Insolvency Practitioner.	Problem resulted from deliberate act by properly supervised/trusted member of staff. Small practice made insolvent by acts of another principal.
		Failure to cooperate with Insolvency Practitioner failing to account to HMRC for VAT / Income Tax and period of failing.	
		Preferring of one or more creditors prior to the appointment of the Insolvency appointment.	
		Warning signs ignored.	
		Failure to identify and mitigate key risks.	
ii. As a result of less serious financial mismanagement	Reprimand	As above.	As above.
iii. As a result of misfortune	Unpublicised Caution	As above.	As above.
e. Non-payment of judgment debt	Severe Reprimand and category E financial penalty (if solvent)		
f. Entry by a member into an IVA (or Protected Trust Deeds or Trust Deeds)		Failure to disclose/or to disclose accurately assets to supervisor.	High recovery to creditors eg in excess of 75p in the £

- i. As a result of member's gross financial mismanagement
- ii. As a result of less serious financial mismanagement
- iii. As a result of misfortune

- i. Severe Reprimand
- ii. Reprimand
- iii. Unpublicised Caution

Low recovery to creditors eg less than 10p in the £

Failing to account to HMRC for VAT / Income Tax and period of failing

Disposal of assets at an undervalue with the object of personal gain

- g. Member or principal of a firm or body corporate engaged in public practice which has entered into a CVA or PVA

- i. Severe Reprimand
- ii. Reprimand
- iii. Unpublicised Caution

Failure to disclose/or to disclose accurately assets to supervisor. Small practice and issues caused by the acts of another principal.

Failing to account to HMRC for VAT / Income Tax and period of failing.

Warning signs ignored.

Failure to identify and mitigate key risks.

- i. As a result of member's gross financial mismanagement
- ii. As a result of less serious financial mismanagement
- iii. As a result of misfortune

### 13. GENERAL ACCOUNTANCY FAILINGS

Complaint	Starting Point	Aggravation	Mitigation
a. Poor work on accounts			
i. Work that is seriously poor (if the required expertise was absent the complaint should be considered under section 12m competence)	Severe reprimand, and a category D financial penalty and/or order for remedial training. Consider return of fees.	Nature of inefficient or incompetent work, eg, failure to reconcile client ledger balances with funds available to meet them.  Collusion to cover up failings.  Member responsible for bookkeeping.	Immediate corrective action taken once aware.  Frustrated in correcting the breach.  Client deceived the member.  Client unhelpful in providing records or information; gave misleading information.  Files lost through natural catastrophe, eg, fire, flood.
ii. Less poor work	Reprimand and a category E financial penalty and/or order for remedial training. Consider return of fees.	As above.	As above.
b. Accounts not in correct statutory format			
i. Work that is seriously defective (if the required expertise was absent the complaint should be considered under section 12m competence)	Severe reprimand, and a category D financial penalty and/or order for remedial training. Consider return of fees.	As above.	As above.
ii. Less defective work	Reprimand, and a category E financial penalty and/or order for remedial training. Consider return of fees.	As above.	As above.

c. General neglect of client affairs

i.	Very serious	Severe reprimand and a category D financial penalty. Consider return of fees	Covered up failings. Information still outstanding.	Immediate corrective action taken once aware. Files lost through natural catastrophe, eg, fire, flood.
ii.	Serious	Severe reprimand and a category E financial penalty. Consider return of fees.	As above.	As above.
iii.	Less serious	Reprimand and a category F financial penalty	As above.	As above.

d. Wrongly signed report/inaccurate report, accounts do not comply with Solicitor's Accounts Rules or similar

i.	Work that is seriously defective (if the required expertise was absent the complaint should be considered under section 12m competence)	Severe reprimand and a category D financial penalty and/or order for remedial training. Consider return of fees.	Nature of inefficient or incompetent work, eg, failure to reconcile client ledger balances with funds available to meet them. Collusion to cover up failings. Member responsible for bookkeeping.	Immediate corrective action taken once aware. Frustrated in correcting the breach Client deceived the member Client unhelpful in providing records or information; gave misleading information.
ii.	Work that is less seriously defective	Reprimand and a category E financial penalty and/or order for remedial training. Consider return of fees.	As above.	Files lost through natural catastrophe, eg, fire, flood.

e. Lack of attention or delays in dealing with client affairs				
i.	Long delays or serious lack of attention	Severe reprimand and a category D financial penalty and/or order for remedial training. Consider return of fees		Immediate action taken once became aware of the breach.
ii.	Shorter delays or less serious lack of attention	Reprimand and a category E financial penalty and/or order for remedial training. Consider return of fees		
f. Poor tax work (compliance or advice)				
i.	Work that is seriously poor (if the required expertise was absent the complaint should be considered under section 12m competence)	Severe reprimand, and a category D financial penalty and/or order for remedial training. Consider return of fees	Nature of inefficient or incompetent work. Collusion to cover up failings.	Immediate corrective action taken once aware. Frustrated in correcting the breach. Client deceived the member. Client unhelpful in providing records or information; gave misleading information. Files lost through natural catastrophe, eg, fire, flood.
ii.	Less poor work	Reprimand and a category E financial penalty and/or order for remedial training. Consider return of fees	As above.	As above.

## 14. INSOLVENCY COMMON SANCTIONS GUIDANCE

### Part 1

#### 1. Background

There are five recognised professional bodies (RPBs) that license insolvency practitioners. Once an RPB has investigated the conduct of any insolvency practitioner it licenses, it can (under its own disciplinary processes) impose sanctions on that licence holder. Such sanctions can follow an investigation of a complaint or as a result of a finding on a monitoring visit carried out by the RPB or following the receipt of any other intelligence.

The regulatory objectives introduced in 2015 provide the RPBs with a clearer, enhanced structure within which to carry out their functions of authorising and regulating insolvency practitioners. A RPB will, when discharging regulatory functions, be required to act in a way which is compatible with the regulatory objectives.

#### **Regulatory objectives means the objectives of -**

- a. having a system of regulating persons acting as insolvency practitioners that:
  - i. secures fair treatment for persons affected by their acts and omissions,
  - ii. reflects the regulatory principles, and
  - iii. ensures consistent outcomes,
- b. encouraging an independent and competitive insolvency-practitioner profession whose members
  - i. provide high quality services at a cost to the recipient which is fair and reasonable,
  - ii. act transparently and with integrity, and
  - iii. consider the interests of all creditors in any particular case,
- c. promoting the maximisation of the value of returns to creditors and promptness in making those returns, and
- d. protecting and promoting the public interest.

The Common Sanctions Guidance aims to ensure consistency with the regulatory objectives so that it enables RPBs to have a system in place which secures fair treatment for people affected by the acts of insolvency practitioners, is transparent, accountable, proportionate, and ensures consistent outcomes.

The circumstances that lead to a complaint and the issues that arise as part of the complaint will vary, possibly significantly, on a case-by-case basis. Not all complaints about an insolvency practitioner lead to them being disciplined. For example, errors of judgment and innocent mistakes are not generally considered to be misconduct. If, however, an insolvency practitioner has made a serious error or a repeated number of less serious errors, this may mean they've performed their work inefficiently or incompetently to such an extent or on such a number of occasions as to have brought discredit to themselves, their regulator, or the insolvency profession.

The Common Sanctions Guidance is not intended to be a tariff and does not bind each RPB's processes to a fixed sanctions regime. Although it gives an indication of the level of sanction to be imposed, each disciplinary committee or tribunal will use its own judgment to set a sanction appropriate to the circumstances of the individual case.



When a disciplinary committee or tribunal considers what would be an appropriate sanction, it will refer to this guidance and may, within its discretion, vary the sanction depending on aggravating and mitigating factors. Where a decision varies from the guidance the reasons for this should be clearly documented and explained by the RPB.

## 2. Sanctions

When a disciplinary committee or tribunal considers:

- whether to impose a sanction; and
- what sanction to impose,

it should consider the following factors:

- protecting and promoting the public interest;
- maintaining the reputation of the profession;
- upholding the proper standards of conduct in the profession; and
- correcting and deterring breaches of those standards.

When a disciplinary committee or tribunal decides that a complaint has been proved or where it is admitted, the committee or tribunal will decide the appropriate sanction. In doing so, the committee or tribunal will form its view based on the particular facts of the case. If the committee or tribunal decides a penalty (for example, exclusion, reprimand or a financial penalty) is necessary it will identify the relevant category of complaint and the relevant behaviour.

There are two types of sanction available to the disciplinary committee or tribunal: non-financial sanctions and financial sanctions. The indicative sanctions (an indication of the sanction an insolvency practitioner might be given for a particular type of wrong doing) are set out in the table in Part 2. The actual sanction will be determined by the RPB's own rules and regulations and having regard to any aggravating and mitigating factors (see below).

### Non-financial sanctions

These can range from a reprimand; severe reprimand; suspension of a licence or membership; withdrawal of a licence; to exclusion from membership, as set out in the RPB's bye laws.

The disciplinary committee or tribunal can use non-financial sanctions to indicate to the insolvency practitioner that their conduct falls short of the standards required. A non-financial disciplinary sanction will form part of that insolvency practitioner's disciplinary record. In some circumstances, a non-financial sanction (such as exclusion from membership or removal of the insolvency practitioner's licence) will affect an individual's ability to practise as an insolvency practitioner.

### Financial sanctions

For each type of complaint there is a suggested starting point for a financial sanction. This is not a tariff or a "going rate" for the complaint but it simply indicates where the committee or tribunal might start when it looks at all the factors relevant to deciding the penalty. Once the committee or tribunal has agreed the most appropriate starting point, it takes into account any aggravating and mitigating factors before deciding whether it is appropriate to reduce or increase the penalty. The committee or tribunal may decide on a more or less severe penalty than the starting point depending on all the circumstances of the case.

### 3. Aggravating and mitigating factors

The indicative sanction may need to be adjusted depending on the facts of particular cases.

A disciplinary committee or tribunal will normally consider the aggravating and mitigating factors summarised below before it decides on the appropriate level of sanction. The list is not exhaustive and not all the factors will apply to a particular case.

Once the disciplinary committee or tribunal has identified the factors it considers relevant, it should decide what weight to give to each of them.

### 4. Costs

Disciplinary committees and tribunals have the power to order the insolvency practitioner to pay the costs incurred during an investigation into a complaint. Orders for costs may reflect the costs reasonably incurred in investigating the complaint and are not imposed as a sanction. A disciplinary committee or tribunal will only consider the 'costs' element after it has decided the appropriate sanction for the complaint.

### 5. Publicity

When a disciplinary committee or tribunal makes an adverse finding and order, the RPB will publish the record of decision in the manner it thinks fit. The insolvency practitioner should be named in that publicity unless a disciplinary committee or tribunal orders no publicity or publicity on an anonymous basis, in which case reasons for not doing so will be provided by the disciplinary committee or tribunal. Disciplinary committees or tribunals will rarely order that there should be no publicity associated with an adverse finding.

From 1 November 2014, all published disciplinary sanctions are included on the [Insolvency Service's website](#) in an agreed format. The publication includes details of the IP, the nature of the complaint, the finding and any sanction together with reasons for the decision including aggravating and mitigating factors considered as part of that decision.

## Part 2 – Indicative sanctions for various breaches of the Insolvency Act 1986, other relevant legislation and Statements of Insolvency Practice

The table below gives an indication of the level of sanction which may be imposed but should not be regarded as a tariff. Each disciplinary committee or tribunal will use its own judgment to set a sanction appropriate to the circumstance of the individual case, depending on the seriousness of the breach and the aggravating and mitigating factors.

Each sanction is split into three categories depending on the seriousness of the misconduct:

- **Very serious (a):** This will generally mean that the insolvency practitioner's conduct was deliberate and/or dishonest.
- **Serious (b):** This will generally mean that the insolvency practitioner's conduct was reckless.
- **Less serious (c):** This will generally mean the conduct by the insolvency practitioner amounts to an inadvertent breach. Where breaches are adjudged to be inadvertent, a financial or published sanction may not always be appropriate depending on the facts of the case and the aggravating and mitigating factors considered.

Where the conduct has resulted in a likely profit to the insolvency practitioner or their firm or any other connected party, the disciplinary/investigation committee or tribunal may issue a financial penalty equivalent to the likely profit gained. The starting point for determining the likely profit will be 30% of the total fees charged by the insolvency practitioner or their firm or any other connected

party for the engagement in question. A financial penalty of this nature will only be adjusted (downwards) if the firm can produce cogent and reliable evidence that the financial benefit (profit) gained is less than the financial penalty proposed.

Where a disciplinary/investigation committee or tribunal proposes to issue a financial penalty for a breach that has led to a profit for the insolvency practitioner or their firm or any other connected party, the disciplinary/investigation committee or tribunal will issue a single financial sanction which will include both the financial penalty for the estimated profit gained explained above as well as a variable financial penalty listed in Part 3 below which will depend on seriousness of the misconduct, the facts of the case and be tiered alongside the appropriate non-financial sanction. When considering allegations relating to unauthorised or excess remuneration, disciplinary committees or tribunals will in the first instance have regard to whether the unauthorised or excess remuneration has been repaid to the estate before deciding on an appropriate financial sanction.

Allegation		Non-financial sanction		Starting point for financial sanction	
1	Acts of dishonesty resulting in criminal convictions and/or adverse findings by regulatory and other bodies.		Exclusion and licence withdrawal		A financial penalty may not be appropriate in every case. Where a financial penalty is considered appropriate, the starting point should be £15,000
2	Misappropriation of funds into own account, other estates or third parties	a	Exclusion and licence withdrawal	a	Financial penalty of £20,000
3	Acting as an insolvency practitioner without a licence	a	Exclusion	a	Financial penalty of £10,000
		b	Severe reprimand	b	Financial penalty of £5,000
		c	Reprimand	c	Financial penalty of £1,500
4	Drawing unauthorised remuneration	a	Severe reprimand	a	Financial penalty equivalent to the level of the unauthorised fee drawn, or £10,000, whichever is greater
		b	Severe reprimand	b	Financial penalty of £5,000
		c	Reprimand	c	Financial penalty of £2,000
5	Drawing of excess remuneration that has been deemed unfair or unreasonable	a	Severe reprimand	a	Financial penalty of £7,500
		b	Severe reprimand	b	Financial penalty of £5,000
		c	Reprimand	c	Financial penalty of £1,500
6	Failure to submit returns (eg, CDDA returns) or a delay in submitting returns where the delay is likely to impact on the conduct of the insolvency appointment	a	Severe reprimand	a	Financial penalty of £5,000
		b	Reprimand	b	Financial penalty of £2,000
		c	Reprimand	c	Financial penalty of £1,000
7	Failure to convene a creditor's meeting or a delay in convening a creditor's meeting where the delay is likely to impact on the conduct of the insolvency appointment	a	Severe reprimand	a	Financial penalty of £5,000
		b	Reprimand	b	Financial penalty of £2,000
		c	Reprimand	c	Financial penalty of £1,000
8	Accepted an appointment as administrator when no statutory purpose achievable	a	Severe reprimand	a	Financial penalty of £7,500
		b	Reprimand	b	Financial penalty of £2,000

9	Failure to comply with the principles of a SIP, the Insolvency Act and rules and regulations thereunder	a	Severe reprimand	a	Financial penalty of £7,500
		b	Severe reprimand	b	Financial penalty of £5,000
		c	Reprimand	c	Financial penalty of £1,500
10	Failure to take adequate steps to realise assets	a	Severe reprimand	a	Financial penalty of £7,500
		b	Reprimand	b	Financial penalty of £2,000
		c	Reprimand	c	Financial penalty of £1,500
11	Delay in progressing administration of an insolvency estate	a	Severe reprimand	a	Financial penalty of £5,000
		b	Reprimand	b	Financial penalty of £2,000
		c	Reprimand	c	Financial penalty of £1,500
12	Failure to respond at all, or a delay in responding to letters, telephone calls or emails	a	Severe reprimand	a	Financial penalty of £2,500
		b	Reprimand	b	Financial penalty of £1,500
		c	Reprimand	c	Financial penalty of £500

### Part 3 – Indicative sanctions for various breaches of the Insolvency Code of Ethics

Allegation		Non-financial sanction		Starting point for financial sanction	
1	Failure to comply with the fundamental principle of integrity	a	Exclusion and consideration of licence withdrawal	a	Financial penalty of £10,000
		b	Severe reprimand	b	Financial penalty of £5,000
2	Failure to comply with the fundamental principle of objectivity	a	Exclusion	a	Financial penalty of £10,000
		b	Severe reprimand	b	Financial penalty of £5,000
		c	Reprimand	c	Financial penalty of £2,000
3	Failure to comply with the fundamental principle of professional competence and due care	a	Exclusion	a	Financial penalty of £7,500
		b	Severe reprimand	b	Financial penalty of £5,000
		c	Reprimand	c	Financial penalty of £2,000
4	Failure to comply with the fundamental principle of confidentiality	a	Exclusion	a	Financial penalty of £5,000
		b	Severe reprimand	b	Financial penalty of £3,000
		c	Reprimand	c	Financial penalty of £1,500
5	Failure to comply with the fundamental principle of professional behaviour	a	Exclusion	a	Financial penalty of £5,000
		b	Severe reprimand	b	Financial penalty of £3,000
		c	Reprimand	c	Financial penalty of £1,500

#### Aggravating factors

- 1 Concealment of wrongdoing
- 2 Lack of cooperation with regulator
- 3 Repeated course of conduct
- 4 Re-occurrence of conduct previously subject of reminder, warning or other sanction
- 5 The conduct has caused or is likely to cause the loss of significant sums of money to the insolvency estate and/or any third party
- 6 Poor disciplinary or regulatory history
- 7 Lack of understanding or acceptance of charge

### **Mitigating factors**

- 1 Self-reporting, acceptance of conduct issues and prompt voluntary and immediate rectification
- 2 Self-reporting and prompt voluntary and immediate repayment of (unauthorised) fees
- 3 Personal mitigation: financial circumstances (when considering the financial part of the sanction only) Where the insolvency practitioner has difficulties in repaying a financial sanction, consideration should be given to offering payment in instalments
- 4 Personal mitigation; ill health
- 5 Age of issues under consideration in respect of less serious matters where there are no aggravating behaviours
- 6 Generally, minimal risk of re-occurrence or repetition where new procedures have been implemented and verified by the RPB
- 7 Absence of any loss of monies to the insolvency estate and/or any third parties

## 15. INVESTMENT BUSINESS / LICENSED FIRMS UNDER DPB ARRANGEMENTS (INC CONSUMER CREDIT)

Complaint	Starting Point	Aggravation	Mitigation
a. Carrying on investment business without authorisation or without a DPB licence or providing credit related activities when ineligible to do so			
i. Very serious	Exclusion and a category C financial penalty and/or order for remedial training (if not excluded)	<p>Multiple partner practice.</p> <p>Failure to make clients aware of the risks.</p> <p>Failure to pass on risk warnings in product literature.</p> <p>Failure to document/ record justification for advice/ recommendation.</p> <p>High value of commission earned.</p> <p>Significant volume of transactions.</p>	<p>Immediate action taken once became aware of the breach.</p> <p>Steps taken to tighten up/improve office procedures.</p>
ii. Serious	Severe Reprimand and a category D financial penalty and/or order for remedial training	As above.	As above.
iii. Less serious	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
b. Breach or breaches of Investment Business Regulations or Designated Professional Body (Investment Business or Consumer Credit) Handbooks			
i. Very serious	Severe reprimand and a category D financial penalty and/or order for remedial	<p>Multiple partner practice.</p> <p>Breach not corrected</p>	Immediate action taken once became aware of the breach.



		training. Consider order of waiver or return of related remuneration or commission		Steps taken to tighten up/improve office procedures
ii.	Serious	Severe reprimand and a Category E financial penalty and/or order for remedial training. Consider order of waiver or return of related remuneration or commission		
iii.	Less serious	Reprimand and a category F financial penalty and/or order for remedial training		
c.	Failure by firm to investigate complaint concerning investment business or credit related activities	Severe reprimand and a category D financial penalty. Consider order of waiver or return of related remuneration or commission	As above.	As above.
d.	Charging excessive fees or commission			
i.	Very serious	Severe reprimand and a category D financial penalty and/or order for remedial training. Consider order of waiver or return of related remuneration or commission	Multiple partner practice. Continued behaviour. Significant volume of transactions.	Return of commission. Steps taken to tighten up/improve office procedures.
ii.	Serious	Severe reprimand and a category E financial penalty and/or order for remedial training. Consider order of	As above.	As above.

		waiver or return of related remuneration or commission		
iii.	Less serious	Reprimand and a category F financial penalty and/or order for remedial training. Consider order of waiver or return of related remuneration or commission	As above.	As above.
<b>e. Quality of Investment Advice</b>				
i.	Advice that is seriously defective (if the required expertise was absent the complaint should be considered under section 12m competence)	Severe reprimand and a category D financial penalty and/or order for remedial training. Consider order of waiver or return of related remuneration or commission	<p>Multiple partner practice</p> <p>Failure to make clients aware of the risks</p> <p>Failure to pass on risk warnings in product literature</p> <p>Failure to document/record justification for advice/recommendation</p> <p>High value of commission earned</p> <p>Significant volume of transactions</p>	<p>Steps taken to correct the advice / impact of the advice</p> <p>Steps taken to tighten up/improve office procedures</p>
ii.	Less seriously defective advice	Reprimand and a category E financial penalty and/or order for remedial training Consider order of waiver or return of related remuneration or commission	As above.	As above.
f.	Pre-N2 complaints			

i.	Conduct of investment business outside authorisation category	Severe reprimand and a category D financial penalty	<p>Wilful failure.</p> <p>Multiple partner practice.</p> <p>Continued behaviour.</p> <p>Failure to make clients aware of the risks.</p> <p>Failure to pass on risk warnings in product literature.</p>	<p>Steps taken to correct the advice / impact of the advice.</p> <p>Steps taken to tighten up/improve office procedures.</p> <p>Technical breach.</p>
ii.	Holding investment business client monies in excess of £50,000 without bonding	Severe reprimand and a category D financial penalty	Failure to document/record justification for advice/recommendation.	
iii.	Pension advice without taking required steps	Severe reprimand and a category D financial penalty	High value of commission earned.	
iv.	Failure to complete pension transfer and opt-outs review	Severe reprimand and a category E financial penalty	Significant volume of transactions.	

Where a breach relates to the distribution of insurance-based investment products, the financial penalty for a legal person must be at least €5,000,000 or up to 5 % of the total annual turnover according to the last available accounts, or up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined. For a natural person the penalty must be at least € 700 000 or up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined. This is a requirement of the Insurance Distribution Directive.

## 16. PROBATE

Complaint	Starting Point	Aggravation	Mitigation
a. Carrying out probate work without authorisation under the Probate Regulations	Exclusion and a category C financial penalty	<p>Multiple instances.</p> <p>Breach of more than a year.</p> <p>Conduct was dishonest, reckless or intentional.</p> <p>Multiple partner practice.</p> <p>Concealment of wrongdoing.</p> <p>Conduct has caused or may cause significant financial loss to the estate or a third party.</p> <p>Vulnerable client/abuse of position.</p> <p>Post-dates issuance of ICAEW regulatory guidance.</p>	<p>Self-reported.</p> <p>Immediate action taken once became aware of the breach.</p> <p>No financial loss or loss reimbursed.</p> <p>Isolated failure.</p> <p>Up to date regulatory or monitoring information suggesting issues have been addressed.</p> <p>Pre-dates issuance of ICAEW regulatory guidance.</p>
b. Failure by the accredited probate firm to ensure that individuals conducting or controlling the conduct of probate work are Authorised Individuals under the Probate Regulations	Severe reprimand and a category D financial penalty or 1.5 x probate fee	As above.	As above.
c. Failure by a licensed probate firm to ensure that it has at all times a Head of Legal Practice and a Head of Finance and Administration who are approved in that capacity by ICAEW	Withdrawal of accreditation and a category D financial penalty	<p>Breach of more than a year.</p> <p>Wilful failure.</p> <p>Significant work completed while in breach.</p> <p>Multiple partner practice.</p>	<p>Self-reported.</p> <p>Immediate action taken once became aware of the breach.</p> <p>Short period of breach.</p> <p>Minimal work completed while in breach.</p>

d.	Failure by a licensed probate firm to ensure that at all times any non-authorized persons holding material interests in the firm are approved in that capacity by ICAEW	Severe Reprimand and withdrawal of accreditation and a category D financial penalty	As above.	As above.
e. Breach by the Head of Legal Practice or Head of Finance and Administration of their duties under the Probate Regulations and the Legal Services Act 2007				
i.	Very serious non-compliance with the requirements	Disqualification and a category D financial penalty and/or order for remedial training	Breach of more than a year. Wilful failure. Significant work completed while in breach. Multiple partner practice.	Self-reported. Immediate action taken once became aware of the breach. Short period of breach. Minimal work completed while in breach.
ii.	Serious non-compliance with the requirements	Severe reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.
iii.	Less serious non-compliance with the requirements	Reprimand and a category F financial penalty and/or order for remedial training	As above.	As above.
f. Failure by the Accredited Probate firm to comply with the requirements of the Probate Regulations				
i.	Very serious non-compliance with the requirements	Severe reprimand and a category D financial penalty and/or order for remedial training . Consider order of waiver or return of related remuneration or commission.	Breach of more than a year. Wilful failure. Significant work completed while in breach. Multiple partner practice.	Self-reported. Immediate action taken once became aware of the breach. Short period of breach. Minimal work completed while in breach.

ii. Serious non-compliance with the requirements	Severe reprimand and a category E financial penalty and/or order for remedial training. Consider order of waiver or return of related remuneration or commission.	As above.	As above.
iii. Less serious non-compliance with the requirements	Reprimand and a category F financial penalty and/or order for remedial training	As above.	As above.
g. Probate work of a defective nature			
i. Work of a seriously defective nature	Severe reprimand and a category D financial penalty and/or order for remedial training Consider order of return of fees.	Multiple instances of failing. Nature of inefficient or incompetent work. Effect on client, eg, subject to penalties. Collusion to cover up failings. Extended period of failure. Conduct was dishonest, reckless or intentional. Conduct has caused or may cause significant financial loss to the estate or a third party.	Self-reported. Immediate corrective action taken once aware. Frustrated in correcting the breach. Files lost through natural catastrophe, eg, fire, flood. No financial loss or loss reimbursed. Isolated failure.
ii. Work of a less seriously defective nature	Reprimand and a category F financial penalty and/or order for remedial training	Vulnerable client/abuse of position	

<p>h. Acts of dishonesty, criminal convictions, adverse findings by regulatory and other bodies where the underlying conduct involves dishonesty</p>	<p>Exclusion and withdrawal of accreditation. Consider order of waiver or return of related remuneration or commission.</p>	<p>Concealment of behaviour. Multiple instances. Beneficiaries disadvantaged.</p>	<p>Self-reported. Corrective action taken. No financial loss or loss reimbursed</p>
<p>i. Failings/errors in administering the estate</p>			
<p>i. Work of a seriously defective nature</p>	<p>Severe reprimand and a category D financial penalty and/or order for remedial training.  Consider order of waiver or return of related remuneration or commission.</p>	<p>Multiple instances of failing. Nature of inefficient or incompetent work. Effect on client, eg, subject to penalties, loss of business opportunity. Collusion to cover up failings. Extended period of failure. Conduct was dishonest, reckless or intentional. Conduct has caused or may cause significant financial loss to the estate or a third party. Vulnerable client/abuse of position.</p>	<p>Immediate corrective action taken once aware. Frustrated in correcting the breach. Files lost through natural catastrophe, eg, fire, flood. No financial loss or loss reimbursed. Isolated failure.</p>
<p>ii. Work of a less seriously defective nature</p>	<p>Reprimand and a category F financial penalty and/or order for remedial training.  Consider order of waiver or return of related remuneration or commission.</p>	<p>As above.</p>	<p>As above.</p>

j. Delays in progressing the administration of the estate			
i. Serious delays	<p>Severe reprimand and a category D financial penalty and/or order for remedial training</p> <p>Consider order of waiver or return of related remuneration or commission.</p>	<p>Multiple instances.</p> <p>Breach of more than a year.</p> <p>Conduct was dishonest, reckless or intentional.</p> <p>Multiple partner practice.</p> <p>Concealment of wrongdoing.</p> <p>Conduct has caused or may cause significant financial loss to the estate or a third party.</p> <p>Vulnerable client/abuse of position</p>	<p>Self-reported.</p> <p>Immediate action taken once became aware of the breach.</p> <p>No financial loss or loss reimbursed.</p> <p>Isolated failure.</p> <p>Up to date regulatory or monitoring information suggesting issues have been addressed.</p>
ii. Less serious delays	<p>Reprimand and a category E financial penalty and/or order for remedial training</p> <p>Consider order of waiver or return of related remuneration or commission.</p>	<p>As above.</p>	<p>As above.</p>
k. Breach of an undertaking			



<b>Individual</b>			
i. Very serious	Exclusion and a category C financial penalty	Breach of more than a year. Multiple partner practice. Concealment of wrongdoing. Conduct has caused or may cause significant financial loss to the estate or a third party. Multiple instances	Action now taken to ensure that the firm is no longer in breach. No financial loss or loss reimbursed. Isolated failure. Up to date regulatory or monitoring information suggesting issues have been addressed.
ii. Serious	Severe reprimand and a category D financial penalty	As above.	As above.
iii. Less serious	Reprimand and a category E financial penalty	As above.	As above.
<b>Firm</b>			
i. Very serious	Severe reprimand and a category C financial penalty	As above.	As above.
ii. Serious	Severe reprimand and a category D financial penalty	As above.	As above.
iii. Less serious	Reprimand and a category E financial penalty	As above.	As above.
I. Misappropriation of funds into own account, other estates or third parties	Exclusion and licence withdrawal	Multiple partner practice. Concealment of wrongdoing. Conduct has caused or may cause significant financial loss to the estate or a third party. Multiple instances.	Self-reported. Immediate action taken once became aware of the breach. Isolated failure.

m. Drawing unauthorised remuneration

i. Not subsequently authorised	Exclusion and a category C financial penalty	Breach of more than a year. Multiple partner practice.	Action now taken to ensure that the firm is no longer in breach. Loss reimbursed. Isolated failure.
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## 17. MISCONDUCT AS A COMPANY DIRECTOR

Complaint	Starting Point	Aggravation	Mitigation
a. Disqualification, including by undertaking, as company director in three bands to reflect the categorisation by the Courts			
i. Disqualification 11-15 years (this is reserved for particularly serious cases)	Exclusion and a category B financial penalty	Carrying on business with intent to defraud creditors. Amount of deficiency is company is insolvent.	Acting on directions from dominant other party.
ii. Disqualification 6-10 years (this is applied to serious cases which do not merit more than 10 years)	Exclusion and a category C financial penalty	As above.	As above.
iii. Disqualification 2-5 years (if the case is not very serious)	Exclusion/severe reprimand and a category D financial penalty	As above.	As above.
b. Misuse of company funds	Exclusion and a category B financial penalty	As above.	As above.
c. Issue of post dated cheques, dishonoured when presented	Exclusion and a category D financial penalty	As above.	As above.
d. Approval of defective accounts or accounts not in a statutory format			
i. Seriously defective accounts	Severe reprimand and a category D financial penalty and/or order for remedial training	Collusion to hide deficiencies.	Relied on another to prepare the accounts.
ii. Less seriously defective accounts but material errors	Reprimand and a category E financial penalty and/or order for remedial training	As above.	As above.

## 18. MISCONDUCT AS TRUSTEE AND OTHER POSITIONS OF TRUST

Complaint	Starting Point	Aggravation	Mitigation
a. Misappropriation of funds from trust or employer	Exclusion and a category C financial penalty	Conduct was deliberate or reckless. Multiple partner practice. Concealment of wrongdoing. Vulnerable client/abuse of position.	Immediate action taken once became aware of the failing. Up to date information suggesting issues have been addressed. Contribution to delay by others or lack of attention.
b. Trustee acts contrary to beneficiaries' interests	Severe reprimand and a category D financial penalty and/or remedial training. Consider return of fees charged.	As above.	As above.
c. Serious failings/errors in administration of a trust	Severe reprimand and a category D financial penalty and/or order for remedial training. Consider return of fees charged.	As above.	As above.
d. Delay/lack of attention as executor or trustee	Severe reprimand and a category D financial penalty and/or remedial training. Consider return of fees charged.	As above.	As above.

## 19. MONEY LAUNDERING REGULATIONS (NO CRIMINAL CONVICTION)

Complaint	Starting Point	Aggravation	Mitigation
<p>a. Failure by <b>firm</b> to:</p> <ul style="list-style-type: none"> <li>have appropriate policies, controls and procedures (Regulation 19 and 20, and Parts 3, 4 and 5)</li> <li>have appropriate training for staff (Regulation 24)</li> </ul>			
<p>i A complete failure to comply being: no appropriate policies, controls and procedures and no appropriate training for staff</p>	<p>Starting point of a Severe Reprimand and financial penalty of the greater of £3,000 per principal capped at *£150,000 / £75,000 or a category C financial penalty</p> <p>* £150,000 for firms with turnover in last financial year of more than £100m; £75,000 for firms with turnover in the last financial year of up to £100m</p>	<p>The failure resulted in clients being taken on and/or money/assets being received/handled in breach of the money laundering regulations</p> <p>Breach and failure to take suitable remedial steps for more than 6 months</p> <p>Wilful, reckless failure</p> <p>Multiple partner practice</p> <p>Multiple procedures involved</p> <p>Prior notification of need to improve (through QAD review, internal compliance findings or training)</p> <p>Failure exposed the firm to significant risk or actual enabling of money laundering</p>	<p>Immediate action taken once firm became aware of the breach</p> <p>Lack of procedure not exposing the firm to any significant risk of enabling money laundering</p> <p>No evidence of actual enabling of money laundering</p> <p>Isolated instance of failure</p> <p>No evidence of lack of due care or prior identification that the procedure was inadequate</p>

ii Partial compliance, being non-compliance with one or several, but not all, of the requirements across any element of the firm's client base	Starting point of a Severe Reprimand and financial penalty of the greater of £2,000 per principal capped at £100,000 / £50,000* or a category D financial penalty	As above	As above
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\* £100,000 for firms with turnover in the last financial year of more than £100m; £50,000 for firms with turnover in the last financial year of up to £100m

b. Failure by **firm** to:

- implement the firm's policies and procedures and/or
- have appropriate internal controls to monitor compliance with policies, controls and procedures (Regulation 21)

i complete failure to implement the firm's own policies, controls and procedures and / or a general failure to monitor compliance by the firm's principals and employees with the firm's policies or controls	Starting point of a Severe Reprimand and financial penalty of the greater of £3,000 per principal capped at *£150,000 / £75,000 or a category C financial penalty	The failure resulted in clients being taken on and/or money/assets being received/handled in breach of the money laundering regulations	Immediate action taken once firm became aware of the breach
	* £150,000 for firms with turnover in last financial year of more than £100m; £75,000 for firms with turnover in the last financial year of up to £100m	Breach and failure to take suitable remedial steps for more than 6 months	Lack of procedure not exposing the firm to any significant risk of enabling money laundering
		Wilful, reckless failure	No evidence of actual enabling of money laundering
		Multiple partner practice	Isolated instance of failure

Multiple procedures involved

Prior notification of need to improve (through QAD review, internal compliance findings or training)

Failure exposed the firm to significant risk or actual enabling of money laundering

No evidence of lack of due care or prior identification that the procedure was inadequate

<p>ii Partial compliance, being failure to implement, one or several, but not all, of the firm's own policies, controls and procedures across a part or whole of the firm's client base and / or specific, but not general, failure to monitor compliance by principals and employees with the firm's policies and procedures</p>	<p>Starting point of a Severe Reprimand and financial penalty of the greater of £2,000 per principal capped at *£100,000 / £75,000 or a category D financial penalty</p> <p>* £100,000 for firms with turnover in the last financial year of more than £100m; £50,000 for firms with turnover in the last financial year of up to £100m</p>	<p>As above</p>	<p>As above</p>
<p>iii <b>Firm</b> has failed to take reasonable care to ensure no-one is appointed to act, or continues to act, as an officer or manager of the firm without approval by ICAEW (Regulation 26(4))</p>	<p>Severe reprimand and a category D financial penalty</p>	<p>Period of time acted without approval</p> <p>Indication of systematic weakness</p>	<p>Isolated instance</p>
<p>iv Failure by <b>firm</b> to report an approved person with a relevant criminal convictions to ICAEW within 30 days of the date on which</p>	<p>Severe reprimand and a category D financial penalty</p>	<p>Period of time acted without notification to ICAEW</p>	<p>Isolated instance</p>

the firm became aware of the approved person's conviction (Regulation 26(10))		Indication of systematic weakness		
v	Failure by <b>firm</b> to ensure appropriate AML supervision is in place (Regulation 7) or <b>Firm</b> acting as a TCSP when not included on HMRC's TCSP register (Regulation 56)	Reprimand and a category F financial penalty	<p>Period of time acted without supervision</p> <p>Knowingly acted without supervision</p> <p>Firm hadn't identified lack of supervision</p>	<p>Very short period of time acted without supervision</p> <p>Mistakenly believed to be a member firm</p> <p>Firm disclosed to ICAEW</p>
<b>c. INDIVIDUAL</b>				
i	Failure to report	Exclusion and a category B financial penalty	<p>Multiple clients involved</p> <p>Single client</p> <p>Co-operated with authorities</p> <p>Action now taken to ensure that the firm is no longer in breach</p>	
ii	Deliberate tipping off	Exclusion and a category B financial penalty	<p>Multiple clients involved</p> <p>Single client</p> <p>Co-operated with authorities</p> <p>Action now taken to ensure that the firm is no longer in breach</p>	
iii	Tipping off without intent	Severe Reprimand and a category D financial penalty and/or order for remedial training	<p>Multiple clients involved</p> <p>Single client</p> <p>Co-operated with authorities</p>	



Action now taken to ensure that the firm is no longer in breach

iv Failure to follow firm's policies, controls and procedures

Very serious

Severe reprimand and a category C financial penalty and order for remedial training

The failure resulted in clients being taken on and/or money/assets being received/handled in breach of the money laundering regulations

No evidence of actual enabling of money laundering

Failure not exposing the firm to any significant risk of enabling money laundering

Failure exposed the firm to significant risk or actual enabling of money laundering

Isolated instance of failure

Poor training provided by firm

Multiple procedures involved

Attended training courses provided by firm

Serious

Severe reprimand and a category D financial penalty and order for remedial training

As above.

As above.

Less serious

Severe reprimand and a category E financial penalty and order for remedial training

As above.

As above.

v Any other significant breach

Severe reprimand and a category  
D financial penalty and/or order  
for remedial training

As above