



ICAEW Policy - Conduct of Complainants

YOUR RIGHTS AND OBLIGATIONS WHEN YOU MAKE A COMPLAINT TO ICAEW

This Policy document explains your rights and obligations when you make a complaint to ICAEW about an ICAEW Member, Firm (member firm, regulated firm, contracted firm or licensed practice), Affiliate, Provisional Member, Foundation Qualification Holder, Provisional Foundation Qualification Holder or CFAB student.

It explains when and how we will treat a complaint as vexatious or repetitive, in accordance with Investigation and Discipline Regulation 10.1 (IDRs), and the policy we adopt if you are abusive or act unreasonably towards Conduct Department (CD) staff.

We protect the public interest by making sure ICAEW firms, members, provisional members, foundation and provisional foundation qualification holders, CFAB students and affiliates maintain high standards of conduct and competence. ICAEW's disciplinary and regulatory function is kept separate from our membership/representative role, so we can monitor our membership independently and take appropriate disciplinary action if standards are not met.

In this policy, we refer to:

- **Complainants** – people who make complaints to the CD.
- **Vexatious complaints** (as defined in the Investigation and Discipline Regulations (IDRs))– complaints that are made in bad faith, are vindictive or retaliatory in nature, with the intent to cause damage (financial or otherwise), and/or form part of a pattern of conduct that amounts to an abuse of our processes.
- **Repetitive complaints** (as defined in the Investigation and Discipline Regulations (IDRs)) – complaints that are the same, or substantially similar, to complaints that have already been assessed, investigated and/or closed by the CD and/or dealt with by one or more ICAEW disciplinary committee(s).

Our disciplinary process is overseen by an independent **ICAEW Regulatory Board (IRB)**. The IRB is committed to ensuring that the CD:

- deals with complaints raised in accordance with ICAEW's Disciplinary Bye-laws (DBLs) and Investigation and Discipline Regulations (IDRs) in a thorough, fair and efficient manner;
- staff who investigate complaints can do so in a safe working environment; and
- finite resources are used appropriately and efficiently to enable genuine complaints to be investigated in a timely manner.

How we will deal with your complaint

Subject to their compliance with this policy, any person or organisation has the right to raise concerns about the conduct of ICAEW firms, members, provisional members, foundation and provisional foundation qualification holders, CFAB students and affiliates. This is explained in our DBLs.

When we receive a complaint, we will assess first whether there may be grounds for disciplinary action under the DBLs, which can be supported by evidence. If we think that the complaint meets this initial assessment, we will open a case and it will be investigated by a CD case manager.

Your rights

As a complainant, you play an important role in assisting the PCD to investigate your complaint(s).

When liaising with you during the disciplinary process we will:

- help you to articulate your concerns and the key issues of complaint;
- adjust our processes, if necessary, to help you bring or frame your complaint;
- advise you of your rights under the DBLs;
- act courteously towards you;
- respond to your correspondence/requests in a timely manner; and
- act fairly and respectfully towards you in accordance with the Equality Act 2010.

Your obligations

We believe that it is in the public interest for CD's resources to be used effectively and efficiently to ensure that a small number of vexatious or repetitive complaints, or the behaviour of a minority of complainants, doesn't undermine our ability to progress other matters.

We also have a responsibility, under employment law, to protect our staff from abuse and harassment and to ensure a safe working environment.

Therefore, as a complainant, you must:

- act courteously towards ICAEW staff and not act in an abusive, threatening or intimidating manner;
- respond to correspondence and requests for information in a timely manner;
- articulate your concerns clearly and succinctly;
- not make excessive demands on the time/resources of CD staff through lengthy and/or overly frequent correspondence/telephone calls that provide little or no new information/evidence;
- not make complaints about case managers or demand the escalation of your concerns to senior managers without good cause;
- not raise vexatious complaints; and
- not raise repetitive complaints.

Remedies for breaches of this Policy

If you breach these obligations, we have the right under this Policy to adjust the way our case managers interact with you. In extreme cases, we can also refuse to investigate your complaint(s).

Vexatious or repetitive complaints

If the CD Head of Investigation considers a complaint to be vexatious or repetitive, they have the discretion to refuse to investigate the complaint in accordance with IDR 10.1(c) (see **Appendix 1**).

Any assessment in this regard will always focus on the issues that are raised in order to determine whether they have been brought solely with the intent of causing annoyance, worry or trouble for the firm, member provisional member, foundation and provisional foundation qualification holder, CFAB student and affiliate concerned.

If the CD Head of Investigation refuses to investigate your complaint on the basis that they consider it vexatious or repetitive, you will be provided with notice of that fact along with the reasons for the decision. You can ask for a review of this assessment, following which an assessment report will be sent to you. You will be able to provide written submissions in respect of this report, after which it will be considered by the Conduct Committee (CC), who are independent to ICAEW, who will review the decision in accordance with IDR 10.8. If the CC disagrees with the view of the CD Head of Investigation, the matter will be investigated. If the CC agrees with the decision, the matter will not be investigated. The decision of the CC is final.

Abusive behaviour/unreasonable demands

Appendix 2 sets out the steps we may take if you are abusive towards CD staff (either in writing or by telephone) or if you continue to make unreasonable demands on their time and/or resources.

Any issues will be dealt with initially through a warning and a reminder of your obligations under this Policy. If the behaviour continues, we may escalate the matter to senior management and we may take steps to limit or manage how often we communicate with you and in what way. You will always retain your right to make representations in accordance with the DBLs but, in serious cases, we will take steps to restrict communication if we think this is necessary to protect the health and well-being of CD staff.

Any steps we take to restrict or manage communication under this Policy will be proportionate and evidence-based. We will always provide you with an opportunity to modify your behaviour before we impose any restrictions.

APPENDIX 1: VEXATIOUS/REPETITIVE COMPLAINTS AND ABUSE OF PROCESS

Vexatious complaints

A person refers facts or matters to the Conduct Department (CD) which the CD Head of Investigation considers to be made solely with the intention of causing annoyance, worry or trouble for a respondent/respondent firm (a vexatious complaint).

Repetitive complaints / abuse of process

A person refers facts or matters to the Conduct Department (CD) which the CD Head of Investigation considers are substantially similar to a complaint(s) that have been previously investigated and closed by CD or in respect of which the disciplinary process has been concluded (a repetitive complaint).

The CD Head of Investigation will write to the person providing notice of and reasons for the decision. The CD Head of Investigation will provide an assessment report if the person requests a review of the assessment. The person may provide written submissions in response to this report.

The Conduct Committee (CC) will review the decision of the CD Head of Investigation to refuse to accept the referral for assessment/investigation in accordance with IDR 10.8.

If the CC agrees with the PCD Head of Investigation, it will inform the person that the matter will not be accepted for investigation, with a summary of its reasons and its decision will be final. If the CC disagrees with the CD Head of Investigation, it will inform the person of its decision, with a summary of its reasons and the matter will be dealt with in accordance with IDR 12.1 as a conduct matter.



APPENDIX 2: UNACCEPTABLE BEHAVIOUR BY COMPLAINANT

