

Revisions to ICAEW Disciplinary Sanctions Guidance: Consultation responses and ICAEW comments

Theme	Respondent	Comment	ICAEW response
Revised guidelines	Member firm	Emphasised the importance of retaining commentary on additional or alternative sanctions under DBL11 as a reminder to committee members. Also highlighted that sanctions for provisional members not included.	Accepted: Sanctions guidance amended to include all available sanctions in preamble.
Discount in Flowchart	Member firm, ICAEW Committee member	Suggested that the discount should be included in the flowchart to help firms and individuals understand its application.	Accepted: This will be included in the visual flowchart to improve clarity and transparency.
Non-cooperation	Member firm	Consider that tiered approach should be maintained.	Addressed in the substantive IRB paper now published
Firm v individual	Member firm	Recommended clarity on the allocation of responsibility for breaches between individuals and firms.	ICAEW agrees that this is an important distinction and considers that the guidance appropriately reflects the different approaches to sanctioning firms versus individuals. However, the decision as to whether to pursue action against a firm or an individual rests with TCD and falls outside the scope of the Sanctions Guidance.

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Illustrative Examples	Member firm, Member firm	Requested more illustrative examples to support interpretation.	ICAEW recognises the intention behind including illustrative examples, but considers that doing so would risk making the guidance overly prescriptive. The purpose of the Sanctions Guidance is to support, not constrain, the exercise of judgment by committees. Including specific examples could inadvertently limit flexibility and undermine the nuanced, case-by-case assessment that is central to fair and proportionate decision-making. The current approach strikes an appropriate balance by setting out clear factors while preserving the necessary discretion for committees to determine the most appropriate sanction in each individual case.
Dishonesty	Member firms, ICAEW committee member	Proposed a dishonesty scale with real-life case examples; suggested adding plagiarism/cheating as a subcategory; greater clarity and proportionality on across dishonesty and ethical clarity categories.	ICAEW considers dishonesty to be fundamentally incompatible with membership, irrespective of its scale or context. Exclusion therefore remains the appropriate starting point, with committees retaining discretion to apply mitigation where justified. This position is fully addressed in the substantive paper.
Financial Penalties	Member firms	Warned against over-reliance on financial penalties, especially for individuals/small firms, and promoted alternative sanctions such as suspension and remedial training.	Accepted: the guidance includes greater emphasis on non-financial sanctions with an inclusion in the preamble on all available sanctions
Audit Sanction Tiers	Member firms,	Endorsed the updated audit sanction tiers and multipliers but asked for more precise definitions.	The definitions within the Sanctions Guidance have been reviewed, and ICAEW considers them to be appropriate. It is noted that some of the queries raised appear to stem from the explanatory notes provided in the consultation document, rather than from the definitions in the guidance itself. These additional considerations were included to support engagement with the consultation process but do not form part of the final guidance.

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Sexual Misconduct	Member firms	Supported financial penalties for misconduct cases where exclusion doesn't prevent continued practice and suggested guidance for addressing sexual misconduct.	ICAEW will publish separate guidance on sexual misconduct to support consistency of approach and ensure that such cases are considered with the appropriate sensitivity, seriousness, and clarity.
Audit section guidance	Member firms	Requested a clear definition of stakeholders in the context of harm caused by seriously defective audit work.	The reference in question appeared in the explanatory notes accompanying the consultation document, rather than in the definitions set out in the guidance itself. These additional considerations were intended to facilitate engagement with the consultation process, but they do not form part of the final Sanctions Guidance.
Professional conduct in relation to taxation	Member firms	<ul style="list-style-type: none"> Suggested that HMRC penalties for PCRT breaches should be taken into account; queried whether exclusion should be the starting point for tax evasion and aggressive avoidance. Requested clarification on how "significant" errors are assessed—at individual or firm level—and whether firm size should be considered. Raised concerns about referencing public attention as an aggravating factor given taxpayer confidentiality. Sought clearer delineation between allegations f–h and i–k, including the relationship between standards, sanctions, and sub-categories. Asked whether regulatory action includes ICAEW sanctions. Requested further clarity on terms like “large amount of tax unpaid” and how misreporting applies where no return is filed. 	Addressed in the substantive IRB paper now published

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Provisional members	Member firm	Highlighted the need for sanctions for provisional members.	Accepted: the guidance now amended to include all available sanctions
Time to pay	Member firm	Noted the absence of an extension for time to pay and requested the current guidance on page 13 be included	Accepted and now included.
Publication on themes from disciplinary matters	Member firm	Suggest publishing a publication to share themes in and learnings from disciplinary matters.	ICAEW currently publishes a disciplinary corner with themes from disciplinary matters. Not relevant for GOS
Regulatory Overlap	Representative firm (legal)	Raised concerns about potential regulatory overlap and double jeopardy.	ICAEW maintains that its disciplinary committees are not bound by sanctions imposed by other professional bodies, as each regulator must uphold its own standards of conduct. While our guidance recognises the importance of proportionality, particularly where a financial penalty has already been imposed, it is ultimately for the committee to determine the appropriate sanction to reflect the seriousness of the misconduct and uphold the integrity of the profession. This approach is set out in detail in Section 5 of the DSG.
Discount for admissions	Member firm, Representative firm (legal)	Called for earlier incentives for settlement and recommended lifting the cap on discounts.	ICAEW has previously considered the issue of the sanction discount in detail, and the IRB determined that the current approach strikes the right balance between incentivising early resolution and maintaining public confidence in the disciplinary process. For these reasons, ICAEW does not propose any changes to the existing approach.
Non-cooperation	Representative firm (legal)	Opposes exclusion as the default sanction – prefers discount and fines are used	Addressed in the substantive paper.

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Audit section and guidance	Member firm	Raised concerns about the additional language relating to turnover and requested detailed guidance on its application.	The additional wording relating to turnover reflects the requirements of SATCAR and aligns with the approach adopted by the FRC, ICAEW's oversight regulator. It is intended to promote consistency and transparency in how financial penalties are assessed. ICAEW considers that proportionality remains a key safeguard in the application of this factor, ensuring that penalties are fair and commensurate with the circumstances of each case. For these reasons, we do not consider that further detailed guidance is required at this stage.
Audit Penalty Bands	Member firm	Supported audit penalty band changes and inclusion of proportionality principles.	ICAEW acknowledges this support and confirms that proportionality is embedded in the revised structure.
Audit fee multipliers	Member firm	Highlights the starting point for the middle category in audit is 1.5 and is disproportionate.	ICAEW does not consider the revised banding to be disproportionate. While 1.5x was previously the highest multiplier, it now sits in the middle of a three-tier structure, reflecting that most cases are expected to fall within this category. The increase to 2x for the most serious failings ensures that 1.5x remains both a fair and proportionate penalty, while also serving as an effective deterrent.
Financial penalty bands increase	Member firm	Noted that increases in CO fines may lead to more contested hearings.	ICAEW recognises the risk and will monitor the impact through internal review mechanisms.
Insolvency Section	Member firm	Made comments on the insolvency section.	Not relevant. This section of the guidance is drafted and approved by the Insolvency Service therefore no changes can be made by ICAEW.
AML Section	Member firm	Expressed satisfaction with the AML section.	Noted
PII Wording	ICAEW regulatory Committee	Suggested amending PII language to include 'sufficient, adequate or appropriate' PII insurance.	Accepted and now included in the guidance.

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Aggravating Factors – PII	ICAEW regulatory Committee	Recommended adding failure to pay premiums of a PII policy as an aggravating feature and to include a new breach of conditions of dispensation as a breach specific aggravating factor.	Accepted and now included in the guidance.
PII section	ICAEW regulatory Committee	Proposed adding gaining a commercial advantage from not holding PII as an aggravating factor.	Accepted however this is adequately covered by the common aggravating factor of adverse financial consequences.
Tax	IESB Board for Accountants	Suggested aligning with the IESBA Code of Ethics definition for public interest entities.	The current definition, which references entities admitted to trading on a regulated market in the EEA, is considered sufficiently clear and consistent with existing regulatory frameworks.
Definitions of seriousness	Regulatory Committee member	Critiqued the focus on intent over outcome in assessing seriousness.	ICAEW considers intent to be a key factor in assessing culpability and therefore seriousness. While outcome, including harm caused, is important, it is appropriately addressed through the aggravating and mitigating factors in the guidance. This approach ensures that both the member's state of mind and the consequences of their actions are properly considered, supporting fair and proportionate outcomes.
Fines Scaling	Regulatory Committee member	Proposed more aggressive scaling of fines and noted current levels are too low to deter misconduct. Compares ICAEW to SRA and calls for consistency giving probate examples specifically	This point has been reviewed and is addressed in the substantive IRB paper.
Fee-Based Penalty Levels	Regulatory Committee member)	Requested more guidance on appropriate fee-based penalty levels.	Already addressed in respect of responses from other respondents.
Overall guidance	ICAEW Committee member	Generally supported the revisions as an improvement over the previous guidance.	Noted.

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Clarity and Structure	ICAEW Committee member	Confirmed clarity in updated seriousness categories and sanction framework.	Noted.
Audit Categorisation	ICAEW Committee member	Supported the new audit categorisation and proportionality in penalties.	Noted.
Overall guidance	ICAEW Committee member	Believed the revised guidance better reflects modern regulatory expectations and public interest.	Noted.
Aggravating/Mitigating Factors	ICAEW Committee member	Suggested stating that the list is non-exhaustive and that committees may consider other factors.	This is already clarified within the revised guidance at paragraph 3.4 (page 13)
Discount	ICAEW Committee member	Recommended including the admission discount in the flowchart.	Accepted: Guidance will be amended to include.
Consistency & Training	ICAEW Committee member	Highlighted potential inconsistency and need for decision-maker training.	ICAEW agrees and training is planned alongside implementation.
Definitions of seriousness and distinctions included for other sections e.g. audit' aggravation and mitigation	ICAEW Committee member	Found definitions of seriousness differing for some breaches confusing; recommended renaming common factors to other factors.	ICAEW has reviewed this issue and considers the current approach to be appropriate. The distinction in definitions of seriousness reflects the nature and regulatory context of different types of breaches, and was developed in response to feedback seeking greater clarity and consistency for disciplinary committees. The use of tailored definitions allows for more meaningful assessment of seriousness within each breach category. Similarly, the term 'common factors' accurately captures considerations that may apply across all types of misconduct. As such, no change is proposed.
Multiple Allegations	ICAEW Committee member	Noted lack of guidance on financial penalties for multiple similar allegations.	Accepted: Will be included in the Disciplinary Committee Handbook.

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Dishonesty Deterrence	ICAEW Committee member	Commented that dishonesty is difficult to deter and needs careful handling.	Accepted – inclusion of greater detail in the narrative will be included in the Disciplinary Committee Handbook.
Sexual misconduct	ICAEW Committee member	Concerned that public/media attention is used as an aggravating factor. Neutral as to financial penalties for the conduct noting that public perception may be that we put a price on the behaviour.	Accepted and removed from breach-specific aggravation. Sexual misconduct approach addressed in substantive IRB paper.
Flowchart Suggestion	ICAEW Committee member	Suggested a visual chart showing regulatory and disciplinary committee interaction.	This is already available on the website and will be included in the Disciplinary Committees handbook.
Non-Cooperation	ICAEW Committee member	Agree with exclusion as starting point for non-cooperation.	Noted.
Proportionality	ICAEW Committee member	Found proportionality helpful; suggested removal of common vs. breach-specific separation.	ICAEW does not propose to remove the distinction between common and breach-specific factors. This structure was introduced to support consistency in decision-making while allowing for appropriate flexibility. Common factors provide a baseline set of considerations that apply across all cases, whereas breach-specific factors reflect the particular context and nuances of each type of misconduct. Removing this separation would risk reducing clarity and undermining the tailored approach the guidance is designed to promote.
Tax Mitigation	ICAEW Committee member	Suggested that genuine but incorrect diligence should be a mitigating factor.	The list of mitigation is not exhaustive.
Position of Trust	ICAEW Committee member	Suggested distinguishing senior vs. junior roles as a factor.	The guidance has added language to reflect seniority where appropriate.

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Rule Tightness	ICAEW member	Emphasised the importance of drawing rules as tightly as possible to avoid exploitation.	Noted
Exclusion Period	ICAEW member	Suggested that the period of exclusion should be clear when it is part of the sanction.	ICAEW's position is that while the Tribunals Committee may, in appropriate cases, recommend a specified period of exclusion, there is no requirement for it to do so. There is no de minimis threshold below which exclusion is deemed inappropriate — all exclusions are determined based on the facts and seriousness of the case.
Sanction Timing	ICAEW member	Recommended that sanctions follow the rules in force at the time of the offence.	ICAEW does not accept that sanctions must follow the guidance in force at the time of the offence. Committees are expected to apply the current Sanctions Guidance to support consistency and fairness. The guidance does not create new obligations or alter the underlying rules, but assists in the proper exercise of discretion.
Offence and Sanction Link	ICAEW member	Suggested a clear link between the offence and the sanction.	ICAEW considers that the guidance provides a clear and structured link between the nature of the breach and the likely sanction, while preserving the necessary discretion for committees. Unlike some other sanctioning regimes, the guidance sets out specific breach categories, starting points, and relevant factors, offering more clarity without being overly prescriptive. This strikes the right balance between consistency and flexibility in decision-making.