REGULATION
&CONDUCT

ICAEW INVESTIGATION AND DISCIPLINARY REGULATIONS

EFFECTIVE FROM 1 OCTOBER 2026

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PRELIMINARY

Citation, authority and commencement

1.1 These regulations may be cited as the Investigation and Disciplinary Regulations (***IDRs***) of the Institute of Chartered Accountants in England and Wales (***ICAEW***).

1.2 These ***IDRs*** were made by the ***ICAEW Regulation and Conduct Board*** on 1 June 2023 in accordance with clause 16 of the Supplemental Charter 1948 and Principal Bye-law 49 and further amended on 1 October 2026 and shall come into force on 1 October 2026.

1.3 From 1 June 2023:

a. the Investigation Committee Regulations dated 15 October 2018 shall cease to have effect in respect of any ***assessment*** of a ***complaint*** or ***investigation*** of a ***conduct matter*** on or after the ***effective date*** save as otherwise expressly provided***;***

b. the Disciplinary Committee Regulations dated 1 October 2019 shall cease to have effect in respect of any ***disciplinary proceedings*** where the matter is referred to a ***Tribunal*** by the ***Conduct Committee*** or the ***Conduct department*** on or after the ***effective date;***

c. the Disciplinary Committee (Settlement Order) Regulations dated 1 January 2020 shall cease to have effect in respect of any ***settlement order application*** made on or after the ***effective date;***

d. the Disciplinary Committee (Interim Order) Regulations dated 1 January 2020 shall cease to have effect in respect to any ***interim order application*** made on or after the ***effective date;*** and

e. the Appeal Committee Regulations dated 1 January 2021 shall cease to have effect in respect of any application for permission to appeal filed on or after the ***effective date*** (other than where the period for filing a notice of appeal commences before, but expires on or after, the ***effective date*** and the notice of appeal is filed within that period).

Definitions, interpretation and service of documents

2.1 In these ***IDRs,*** defined terms are indicated in ***bold and italics***. Unless the context otherwise requires, defined terms shall have the following meanings:

ACA means the qualification offered by *ICAEW* to allow a person to become an Associate of the Institute of Chartered Accountants in England and Wales.

Accountancy Scheme means the scheme, as amended from time to time, in which *ICAEW* participates pursuant to an agreement with the Financial Reporting Council and other professional bodies (including their relevant successors) being

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an investigation and discipline scheme for the purposes of clause 1(b)(viiiA) of *ICAEW's* Supplemental Charter of 21 December 1948.

affiliate means a person to whom affiliate status has been granted in accordance with clause 12A of *ICAEW's* Supplemental Charter of 21 December 1948.

allegation means an allegation arising out of a *conduct matter* which is reported to the *Conduct Committee* in accordance with the *Disciplinary Bye-laws* and these *IDRs,* and which specifies the basis for potential liability to disciplinary action under the *Disciplinary Bye-laws*. Where alternative bases are specified in respect of the same *event* or *events,* each of them constitutes a separate *allegation* for the purposes of the *Disciplinary Bye-laws.*

answer means an answer to an application for permission to appeal or *notice of appeal* by a responding *party,* which shall include any documentation appended in support of the response.

appeal means an appeal against one or more *orders* of a *Tribunal* which is brought in accordance with these *IDRs.*

Appeal Committee means the Appeal Committee of *ICAEW* whose members are convened into *Appeal Panels* to consider *appeals* of *orders* made by a *Tribunal*.

Appeal Committee Chair means the person who is appointed from time to time as Chair of *ICAEW's Appeal Committee* by the *RACAC* (or relevant predecessor or successor body).

Appeal Committee Vice-Chair means any person who is appointed from time to time as a Vice-Chair of *ICAEW's Appeal Committee* by the *RACAC* (or relevant predecessor or successor body).

appeal hearing means the substantive *hearing* of an *Appeal Panel* to determine an *appeal.*

Appeal Panel means a panel of the *Appeal Committee* which is convened to hear an *appeal* brought in accordance with these *IDRs.*

Appeal Panel Chair means the member of the *Appeal Committee* who is appointed by the *Appeal Committee Chair* as Chair of an *Appeal Panel* (and who may be the *Appeal Committee Chair* themselves) and who shall chair an *appeal hearing* and conduct any *pre- hearing review.*

application for reconsideration means an application by the *Conduct department* in accordance with *IDR* 29 for the *Conduct Committee* to reconsider its previous

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decision to refer one or more *allegations* as *formal allegations* to the *Tribunals Committee* and, if it considers it appropriate, to recall such *formal allegations* and dispose of them in accordance with *Disciplinary Bye-law* 10.1 or 10.2. Any *formal allegation* which is the subject of the *Conduct department's* application for reconsideration is to be treated as an *allegation* reported to the *Conduct Committee* by the *Conduct department* for these purposes.

assessment means the process undertaken by the *Conduct department* in respect of a *complaint* to determine whether there is a potential liability to disciplinary action under the *Disciplinary Bye-laws* and whether the matter should be the subject of an *investigation.*

assessment report means a report prepared by the *Conduct department* for the *Conduct Committee* in accordance with *IDR* 10.5 including any relevant correspondence and/or documents from the *case file.*

assessment review means a review of a decision taken by the *Conduct department* following an *assessment*, which is carried out by the *Conduct Committee,* pursuant to a request by a *complainant,* under *IDR* 10.7*.*

business day means Monday to Friday, excluding public holidays.

bye-law means all the bye-laws of *ICAEW* in force at the relevant time.

case file means the electronic file (comprising correspondence and documents) created by the *Conduct department* during an *assessment* and/or *investigation* and any hard copy documents and/or correspondence not on the electronic file*.*

case file review means a review of a *case file* carried out by a *reviewer* in accordance with the processes set out in *IDR* 28.

Case Management Chair means any member of the *Tribunals Committee* who has been approved by the *RACAC* (or relevant predecessor or successor body) to chair *Tribunals* and who is appointed by the *Tribunals Committee Chair* to chair a *case management hearing*.

case management hearing means a *hearing* which takes place to decide any preliminary issues of procedure and to give *directions* for the just and expeditious determination of *formal allegations* at a *final hearing* or *sanctions hearing.*

CFAB student means a person who is registered to study for the *ICAEW* Certificate in Finance, Accounting and Business (CFAB) and no more than three years have elapsed since the date of the last attempt at a CFAB examination.

complainant means a person or body (other than an officer or employee of *ICAEW*

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acting in such capacity) who brings a *complaint* to the attention of the *Conduct department*.

complaint means a matter which is reported to, or comes to the attention of, the *Conduct department* concerning the conduct or performance of a *member, firm, affiliate* or *relevant person*.

Complaints Form is the document which provides the prescribed format approved by the ***ICAEW Regulation & Conduct Board*** in which the ***Conduct department*** will receive notice of a ***complaint*** from an individual.

conciliation means the informal dispute resolution process which may be attempted by the *Conduct department* where a *complainant* indicates that they may be satisfied with a resolution of a *complaint* which does not involve disciplinary action.

Conduct Committee means the Conduct Committee of *ICAEW* which considers *allegations* reported to it by the *Conduct department* and which reviews decisions and / or actions taken by the *Conduct department* in assessing *complaints,* and which prosecutes certain *formal allegations* before *Tribunals.*

Conduct Committee Chair means the person who is appointed from time to time as Chair of *ICAEW's Conduct Committee* by the *RACAC* (or relevant predecessor or successor body)***.***

Conduct department means the department within *ICAEW's Regulation & Conduct division* (or relevant predecessor or successor body identified as such in the *IDRs* or *regulations*) which is responsible for assessing *complaints*, investigating *conduct matters*, reporting *allegations* to the *Conduct Committee* or *serious conviction allegations* and non-cooperation allegations to the *Tribunals Committee*, prosecuting *formal allegations* before *Tribunals* (except those prosecuted by the *Conduct Committee*) and for making or responding to *appeals* to the *Appeal Committee.* Any reference to the Conduct department shall be taken to include any third party instructed by the *R&C Chief Officer* to carry out any function of the Conduct department.

Conduct department representative means a barrister or solicitor or a legally qualified person (within *ICAEW's Regulation & Conduct division* or external to *ICAEW*) appointed to represent the *Conduct department* in settlement discussions or leading up to, and at, a *hearing* before a *Tribunal* or *Appeal Panel* in relation to one or more *formal allegations* against a *member, firm, affiliate* or *relevant person.*

conduct matter means one or more *events* which have been assessed by the *Conduct department* as having the potential to give rise to disciplinary action and which are being investigated by the *Conduct department*.

conduct report means a report prepared by the *Conduct department* for the *Conduct Committee* which includes:

a. details of the *allegation(s)* being reported by the *Conduct department;*

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b. a summary of the material facts and evidence relevant to the *allegation(s);* and
c. recommendations of the *Conduct department* in relation to the liability of the *member, firm, affiliate* or *relevant person* in respect of each allegation,

and which includes (in an appendix) copies of all documents referred to in the report.

consent order means an *order* of the *Conduct Committee* made with the agreement of the *member, firm, affiliate* or *relevant person* in accordance with *Disciplinary Bye- law* 10.1(b) which specifies:

a. the *sanction* or *sanctions* to be applied in respect of the *allegation* or *allegations* against the *member, firm, affiliate* or *relevant person*; or
b. an *order* for no further action; and

any *costs order* against the *member, firm, affiliate* or *relevant person.*

contracted firm means 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 the *Disciplinary Bye-laws* and the *ICAEW* Code of Ethics.

Constructive Engagement is a process which can be used for the resolution of a ***conduct matter*** relating solely to ***regulated activities*** if certain criteria are met (as set by the ICAEW Regulation & Conduct Board) which involves the ***Conduct department*** referring the ***conduct matter*** to the relevant ***regulatory committee*** to consider making a ***Constructive Engagement Order***.

Constructive Engagement Order means an order which may be made by the relevant ***regulatory committee*** under the relevant ***regulatory committee regulations*** and in accordance with the ***Constructive Engagement*** process, by which it shall dispose of the ***conduct matter*** referred to that committee.

costs order means an *order* against one *party* for payment of all or part of the costs incurred by the other *party* in connection with:

a. any *interim order application* or any *expedited review;* or
b. the *disciplinary proceedings* (and, in the case of *ICAEW,* the costs incurred during the *investigation* as well as the *disciplinary proceedings).*

costs schedule means a schedule of the costs:

a. incurred by the *Conduct department* during the *investigation* and in preparing and presenting the *formal allegation* or *formal allegations* before a *Tribunal* or an *Appeal Panel,* or
b. incurred by the *Conduct department* in preparing an *interim order application* or responding to a request for an *expedited review;* and
c. incurred in holding any *hearings* before the *Tribunal* or *Appeal Panel* (including the costs of the *Tribunal* / *Appeal Panel*).

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designated allegation means an *allegation* that has been designated by the ICAEW Regulation & Conduct Board as suitable for resolution via the *fixed penalty* process set out at *IDR* 19.

directions means steps or actions which the *parties* agree to take, or are ordered to take, in the course of *disciplinary proceedings.*

director means a director of a body corporate.

Director of Investigation means the person appointed from time to time to the role of Director of Investigation in the Regulation & Conduct division of *ICAEW,* or any employee of that department who is authorised to act in that role by the R&C *Chief Officer*.

Disciplinary Bye-laws means the *Disciplinary Bye-laws* of *ICAEW.*

disciplinary committee means any of:

a. the *Conduct Committee*;
b. the *Tribunals Committee* and any *Tribunals*;
c. the *Appeal Committee* and any *Appeal Panels,*

and any predecessor or successor to any such body, and '*disciplinary committees*' means all of them.

disciplinary proceedings means the process by which:

a. the *Conduct Committee* considers one or more *allegations* against a *member, firm, affiliate* or *relevant person;*
b. a *Tribunal* is convened to hear one or more *formal allegations* against a *member, firm, affiliate* or *relevant person;*
c. an *Appeal Panel* is convened to determine an *appeal* against one or more *orders* of a *Tribunal* in respect of such *formal allegation(s),*

and '*disciplinary proceedings'* includes all or any of the above processes under the *Disciplinary Bye-laws* and the *IDRs.*

disciplinary record means, in relation to any *member, firm, affiliate* or *relevant person,* any previous:

a. (adverse) disciplinary *findings* or *orders* made by a *disciplinary committee* (or relevant predecessor body);(adverse) disciplinary findings or orders made by a Disciplinary Tribunal or Appeal Tribunal of the Financial Reporting Council (or

relevant predecessor or successor body) or by a Joint Disciplinary Tribunal or Appeal Committee of the Joint Disciplinary Scheme;
b. regulatory penalty for a breach or breaches of the Audit Regulations, the Local Audit Regulations, the Designated Professional Body (Consumer Credit) Handbook, the Insolvency Licensing Regulations, the Legal Services Regulations or the Licensed Practice Handbook of *ICAEW*;
c. charge for a breach or breaches of the Designated

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Professional Body (Investment Business) Handbook of *ICAEW;* and

d. Practice Assurance (PA) penalty for a breach or breaches of the Practice Assurance Regulations of *ICAEW.*

effective date means the date on which these *IDRs* take effect being **1 June 2023**

event means an act, omission, fact, matter or circumstance.

expedited review means a review of an *interim order* which takes place prior to the date fixed for the next *review hearing.*

final hearing means the substantive *hearing* when a *Tribunal* meets to determine a *formal allegation* or *formal allegations* against a *member, firm, affiliate* or *relevant person*; it does not include a *case management hearing*.

finding means:

a. in relation to the *Conduct Committee,* a finding that the test set out in *Disciplinary Bye-law* 5.1 is, or is not, met in relation to an *allegation*;

b. in relation to a *Tribunal* or an *Appeal Panel:*

i. a finding that the test for an *interim order* set out in *IDR* 30.2 is, or is not, met (including on any review or *appeal*); or

ii. a finding that the test set out in *Disciplinary Bye-law* 5.2 is, or is not, met in relation to a *formal allegation;*

and, for the purposes of paragraph (b)(ii) above, a 'finding' shall include any factual findings which form the basis of that finding.

firm means:

a. a *member firm**;***
b. a *regulated firm**;***
c. a *contracted firm*; or
d. a *licensed practice.*

fixed penalty means the *sanction* prescribed (and reviewed and updated from time to time) by the *ICAEW Regulation & Conduct Board* which may be proposed by the *Conduct department*, under powers delegated from the *Conduct Committee,* in accordance with the process set out in *IDR* 19;

formal allegation means an *allegation* which:

a. has been referred by the *Conduct Committee* for hearing by a *Tribunal;*

b. has been referred by the *Conduct department* for hearing by a *Tribunal* (in the case of a *serious conviction allegation or a non-cooperation allegation*);

c. may subsequently be considered on *appeal* by an *Appeal Panel*;

d. may be remitted by an *Appeal Panel* for re-hearing by a *Tribunal,* and

which specifies the basis for potential liability to disciplinary action under the

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Disciplinary Bye-laws. Where alternative bases are specified in respect of the same *event* or *events,* each of them constitutes a separate *formal allegation* for the purposes of the *Disciplinary Bye-laws.*

formal allegations report means the report prepared by the *Conduct department representative* and served by the *Head of Adjudication* on a *member, firm, affiliate* or *relevant person* pursuant to *IDR* 39.1 which sets out:

a. the *formal allegation(s)*;
b. a summary of the material facts or matters;
c. a summary or copy of any written representations made by the *member, firm, affiliate* or *relevant person,*

and which includes (in an appendix) all documents referred to in the report.

Foundation Qualification Holder means a person who holds the *ICAEW* Foundation Qualification and is registered to use the relevant designatory letters.

Guidance means guidance issued by the *ICAEW Regulation & Conduct Board* in accordance with
Disciplinary Bye-law 16.

Guidance on sanctions means the guidance issued by the *ICAEW Regulation & Conduct Board* for the *disciplinary committees* in accordance with *Disciplinary Bye-law* 16, which specifies *ICAEW's* policy and framework for applying *sanctions*.

Head of Adjudication means the person within *ICAEW's Regulation & Conduct division* who manages the Adjudication team, provides advice on legal and procedural issues to the *Conduct Committee* and to whom administrative functions may be delegated by the *Tribunals Committee Chair* and the *Appeal Committee Chair*.

hearing means a hearing of a *Tribunal* or an *Appeal Panel,* whether conducted in person or through video or audio-conferencing facilities, and references to a 'hearing' in these *IDRs* includes a re-hearing.

ICAEW means the Institute of Chartered Accountants in England and Wales.

ICAEW Council means the Council of the Institute of Chartered Accountants in England and Wales.

ICAEW Disciplinary Database means the database of published (adverse) *orders* against *members, firms, affiliates* and *relevant persons,* and the related *records of decision,* which can be located on the Regulatory and Conduct pages of the *ICAEW* website.

ICAEW Disciplinary Database policy means the policy governed by the

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ICAEW Regulation & Conduct Board, which is published on the *ICAEW* website which specifies the period during which *findings* or *orders* of the *disciplinary committees* will remain published on the *ICAEW Disciplinary Database.*

ICAEW Regulation & Conduct Board means the board delegated by *ICAEW Council* to have responsibility for the supervision of *ICAEW's* regulatory and disciplinary functions, and which oversees the appointment of members of the *disciplinary committees* and the *regulatory committees* by the *RACAC.*

interim order means an *order* of a *Tribunal* made in accordance with *Disciplinary Bye- law* 11.5, pending the final determination of *allegations* or *formal allegations* under the *Disciplinary Bye-laws*, which may include one or more of the following:

a. suspension of a person's membership of *ICAEW;*
b. suspension of a person's *ICAEW affiliate* status;
c. suspension of a person's registration as a *provisional member, Foundation Qualification Holder, Provisional Foundation Qualification Holder* or *CFAB student* of *ICAEW;*
d. suspension of any *practising certificate*, certificate, licence or registration issued to a *member, affiliate* or *relevant person* by *ICAEW;*
e. the imposition of conditions on any *practising certificate,* certificate, licence or registration held by a *member, affiliate* or *relevant person;*
f. such ancillary *orders* as the *Tribunal* thinks fit including, without limitation, that the *member, affiliate* or *relevant person* appoint an alternate for the period of the suspension and notify the *Conduct department,* their clients and / or other persons or bodies of the identity and contact details of the alternate.

interim order application means an application to the *Tribunals Committee* by the *Conduct department* in accordance with *IDR* 30.1 for an *interim order* against a *member, affiliate* or *relevant person*.

investigation means the process by which the *Conduct department* investigates a *conduct matter* to determine whether a *member, firm, affiliate* or *relevant person* may be liable to disciplinary action under the *Disciplinary Bye-laws.*

lay member means someone who is not and never has been a *member, affiliate* or employee of *ICAEW* or any other accountancy body. Furthermore, solicitors and those with legal training will not be regarded as lay members for the determination of any *allegation* or *formal allegation* about *legal services work* in the *Conduct Committee*, the *Tribunals Committee* and the *Appeal Committee*.

legal assessor means a barrister or solicitor who is not a member of staff of *ICAEW* and who is appointed by the *Head of Adjudication* to provide advice on legal and procedural matters to:

a. a *Case Management Chair;* or

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b. a *Tribunal.*

legal services work comprises any work that is considered under the jurisdiction of the Legal Ombudsman under the definitions set out by the ombudsman in accordance with section 164(10) of the Legal Services Act 2007.

licensed practice means a *firm* licensed by *ICAEW* under the *ICAEW* Licensed Practice Handbook.

lie on file means, where a person has been excluded from *ICAEW* membership or had their *affiliate* or *provisional member* status withdrawn, that no further steps may be taken in an *assessment* of any *complaint,* an *investigation* of any *conduct matter* or in relation to *disciplinary proceedings* in respect of one or more *formal allegations* without the prior permission of the person or body which determined the application that such *complaint, conduct matter* or *formal allegation* 'lie on file', and 'lying on file' shall be construed accordingly.

member means a member of *ICAEW* and 'membership' shall be construed accordingly.

member firm means:

a. a *member* engaged in *public practice* as a sole practitioner; or
b. 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
c. 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
d. any body corporate (other than a limited liability partnership) engaged in *public practice* of which:
    i. 50 per cent or more of the *directors* are *members*; and
    ii. more than 50 per cent of the nominal value of the voting shares is held by *members*; and
    iii. more than 50 per cent of the aggregate in nominal value of the voting and non-voting shares is held by *members*.

Non-cooperation allegations means an allegation arising from a failure to comply with a notice issued under Disciplinary Bye-law 8, served by the Conduct department in accordance with IDR 16.1

notice means a notice in writing, which may include an electronic communication.

notice of appeal means a *notice* filed by a *member, affiliate* or *relevant person* in accordance with *IDR* 70.1 appealing an *interim order* made against them.

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order means an *order* of the *Conduct Committee*, a *Tribunal* or an *Appeal Panel* under the *Disciplinary Bye-laws.*

parties means, in relation to any *disciplinary proceedings,* the *Conduct department* and the *member, firm, affiliate* or *relevant person* who, or which, is the subject of the *allegation(s)* or *formal allegation(s)* (save in the case where, in accordance with these *IDRs,* the *Conduct Committee* has conduct of the proceedings before a *Tribunal* or an *Appeal Panel* where it shall be a party to the proceedings rather the *Conduct department)* and 'party' shall refer to any one of them.

practising certificate means a certificate issued to a *member* by *ICAEW* authorising them to engage in *public practice.*

pre-hearing review means a *hearing* conducted in accordance with *IDR* 64.1 to enable an *Appeal Panel Chair* make *directions* and/or determine any applications of the *parties* prior to an *appeal hearing.*

principal means sole practitioner, a partner in a partnership, a member of a limited liability partnership or a *director* of a body corporate.

private hearing application means an application by either *party* for all or part of a *sanctions hearing, final hearing* or an *appeal hearing* to be held in private.

Provisional Foundation Qualification Holder means a person who is registered to study for the *ICAEW* Foundation Qualification.

provisional member means for the purposes of the *Disciplinary Bye-laws* and these *IDRs* a person who, at the time a matter is determined to be a *conduct matter* for the purposes of the *Disciplinary Bye-laws*, has not been admitted to full membership of *ICAEW* and:

a. is registered with *ICAEW* as an *ACA* student; or
b. is registered with *ICAEW* under a *training agreement* with an Authorised Training Employer or an Authorised Training Principal; or
c. 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
d. 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
e. has applied for *ICAEW* membership outside the period allowed under the *regulations* and the application has not been finally determined.

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public practice means practice as a public accountant in any part of the world otherwise than as an employee, subject to any *regulations* made pursuant to Principal Bye-law 51(b) and to the ICAEW Statement on Engaging in Public Practice as may be amended from time to time by the *ICAEW Council*.

R&C Chief Officer means the person appointed to the role of Chief Officer of *ICAEW's Regulation & Conduct division* from time to time.

RACAC means the Regulatory and Conduct Appointments Committee which is responsible for the appointment and reappointment of members of the *disciplinary committees* and the *regulatory committees,* and which is accountable to the *ICAEW Regulation & Conduct Board.*

readmission / re-registration application means an application for readmission to membership of, or re-registration with, *ICAEW* made in accordance with the Readmission and Re-registration Application and Appeal Regulations of *ICAEW* for the time being in force.

record means the record of proceedings before a *Tribunal* or *Appeal Panel.*

record of decision means the document approved by the *Tribunal* or the *Appeal Panel* which records a summary of the reasons for the *finding(s*) and any *orders* of the *Tribunal* or *Appeal Panel***,** including any term or condition on which the *order* or *orders* were made and the reasoning of the *Tribunal* or *Appeal Panel* in respect of any *costs order* made.

registered address means:

a. in the case of a *member* in *public practice,* an *affiliate* or a *firm*, the place of business registered by the *member, affiliate* or *firm* with *ICAEW* or, if more than one place of business is so registered, the one registered as the principal place of business;
b. in the case of a *member* not in *public practice* or a *relevant person*, the address registered by them with *ICAEW*;
c. in the case of a former *member,* former *firm,* former *affiliate* or former *relevant person* the latest address registered with or notified to *ICAEW* by the person or body in question.

registered email address means the email address registered with *ICAEW* by the *member, firm, affiliate* or *relevant person* and, if more than one email address is registered, the one registered as the principal email address.

regulated firm means a *firm* regulated by *ICAEW* in its capacity as:

a. a Recognised Supervisory Body under the Companies Act 2006 or the Local Audit and Accountability Act 2014;
b. a Designated Professional Body under the Financial Services and Markets Act 2000; or

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c. an Approved Regulator and Licensing Authority under the Legal Services Act 2007;

or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations.

regulations means regulations made by the *ICAEW Council* or any committee or sub- committee under clause 16 of the Supplemental Charter and Principal Bye-law 49 (power to make regulations) but does not include the *IDRs* or *statutory regulations*.

regulatory committee means:

a. Audit Registration Committee;
b. Insolvency Licensing Committee;
c. Investment Business Committee;
d. Legal Services Committee;
e. Practice Assurance Committee;
f. Professional Indemnity Insurance Committee,

and any predecessor or successor to any such committee and 'regulatory committee' means any of them.

relevant information means, for the purposes of *IDR* 16.1, such information, explanations, books, records and documents (in hard copy or electronic form) as are available to the *member, firm, affiliate* or *relevant person,* whether or not in their physical possession at the time of the request*,* as the *Conduct department* considers necessary to enable it to perform its functions under the *Disciplinary Bye- laws* and these *IDRs.*

relevant persons means the following persons who are subject to the *Disciplinary Bye- laws* and these *IDRs:*

a. provisional members;
b. Foundation Qualification Holders;
c. Provisional Foundation Qualification Holders;
d. CFAB students.

repetitive complaint means a *complaint* which, in the opinion of the *Director of Investigation,* is substantially similar to a *complaint* or *complaints* that have been assessed and/or investigated and closed previously by the *Conduct department,* or in respect of which *disciplinary proceedings* have been concluded.

representative means a solicitor or barrister or an *ICAEW member* who has been appointed by a *member, firm, affiliate* or *relevant person* to represent them or it at a *case management hearing* or before a *Tribunal,* or at a *pre-hearing review* or before an *Appeal Panel,* or any other person who has been approved to appear by

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a *Case Management Chair,* a *Tribunal Chair* or an *Appeal Panel Chair*.

required number has the meaning given to it in ***IDR*** 5.3.

response form means the form sent to the *member, firm, affiliate* or *relevant person* by the *Head of Adjudication* under *IDR* 39.1 and which requires the *member, firm, affiliate* or *relevant person* to confirm their position in relation to the *formal allegation(s)*.

response statement means the statement served by the *member, firm, affiliate* or *relevant person* which contains the information set out in *IDR* 39.3.

reviewer means a person appointed out of the *reviewer pool* by the *Conduct Committee Chair* to carry out a *case file review* in accordance with *IDR* 28.

reviewer pool means persons who have been approved to carry out *case file reviews* by the *RACAC* including former *lay members* of any of the *disciplinary committees.*

review hearing means a *hearing* of a *Tribunal* conducted in accordance with the *IDRs* to review whether an *interim order* against a *member, affiliate* or *relevant person* should continue in force or be varied or discharged.

review report means the report prepared for the *Conduct Committee Chair* by a *reviewer* setting out the outcome of the *case file review* carried out in accordance with *IDR* 28.

sanction means any of the financial or non-financial sanctions set out in *Disciplinary Bye-law* 11.1.

sanctions hearing means a *hearing* held to determine what sanction (if any) is to be imposed in a case where all *formal allegations* have been admitted by the *member, firm, affiliate* or *relevant person* prior to the *final hearing.*
serious conviction means a criminal conviction which has been designated by the *ICAEW Regulation & Conduct Board* as suitable to be reported directly by the *Conduct department* to the *Tribunals Committee,* without prior consideration by the *Conduct Committee,* in accordance with the process set out in the *IDRs.* A list of designated criminal convictions will be maintained on the disciplinary pages of the *ICAEW* website.

serious conviction allegation means an *allegation* relating to a *serious conviction.*

settlement agreement means an agreement between the *Conduct department* and the *member, firm, affiliate* or *relevant person* to dispose of the *formal allegation* (where there is only one) or all *formal allegations* (where there is more than one) against that *member, firm, affiliate* or *relevant person* which sets out:

a. the *formal allegation(s)* and those that are admitted by the

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member, firm, affiliate or *relevant person;*

b. the proposed *sanction(s*) and any *costs order;* and
c. any conditions of settlement,

and which has appended to it a draft *settlement order.*

Settlement Chair means any member of the *Tribunals Committee* who has been approved by the *RACAC* to act as a *Tribunal Chair* and who has been appointed to consider whether to approve a proposed *settlement agreement.*

settlement order is an *order* which may be made by a *Settlement Chair* on behalf of the *Tribunals Committee* in accordance with *Disciplinary Bye-law* 11.8 in relation to one or more *formal allegations* referred to the *Tribunals Committee* by the *Conduct Committee* or the *Conduct department,* and which specifies one or more of the *orders* (including any *costs order*) available to the *Tribunals Committee* in respect of the *member, firm, affiliate* or *relevant person* under *Disciplinary Bye-laws* 11.1 and 11.3(a).

settlement order application means an application to a *Settlement Chair* to make a *settlement order* in accordance with *Disciplinary Bye-law* 11.8, which contains the information and documentation specified in *IDR* 46.3.

standard directions means the standard directions for case management which are in force at the time of the referral of the *formal allegations* to the *Tribunals Committee* for determination.

statutory regulations means:

a. any regulations made by *ICAEW* in its capacity as:
    i. a Recognised Supervisory Body under the Companies Act 2006;
    ii. a Recognised Supervisory Body under the Local Audit & Accountability Act 2014;
    iii. a Recognised Professional Body under the Insolvency Act 1986;
    iv. a Designated Professional Body under the Financial Services and Markets Act 2000; or
    v. an Approved Regulator and Licensing Authority under the Legal Services Act 2007;

b. the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations

supplemental conduct report means a supplementary report prepared by the *Director of Investigation* for the *Conduct Committee* in accordance with *IDR* 28.6 following a *case file review.*

Tribunal means a *Tribunal* convened from members of the *Tribunals Committee* in accordance with the *IDRs* to consider any matter falling to be

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determined by the *Tribunals Committee.*

Tribunal Chair means a member of the *Tribunals Committee* who has been approved by the *RACAC* (or relevant predecessor or successor body) to chair *Tribunals* and who has been appointed by the *Tribunals Committee Chair* to chair a *Tribunal.*

Tribunals Committee means the Tribunals Committee of *ICAEW* whose members are convened into *Tribunals* to consider:

a. *formal allegations* referred to it by the *Conduct Committee;*
b. *serious conviction allegations and non-cooperation allegations* referred to it by the *Conduct department;*
c. *formal allegations* referred back to it for re-hearing by an *Appeal Panel*; and
d. *interim order applications,* and whose members (if so authorised by the *RACAC*) can approve *settlement orders* in relation to *formal allegations* in accordance with the processes set out in the *IDRs*.

Tribunals Committee Chair means the person who is appointed from time to time as Chair of *ICAEW's Tribunals Committee* by the *RACAC* (or relevant predecessor or successor body).

vexatious complaint means a *complaint* which, in the opinion of the *Director of Investigation*:

a. has been made in bad faith; and/or
b. is vindictive or retaliatory in nature with the intent to cause damage (financial or otherwise) to the *member, firm, affiliate* or *relevant person*); and/or
c. forms part of a pattern of conduct by the *complainant* that amounts to an abuse of the assessment and/or investigative processes of *ICAEW*.

2.2 The Interpretation Act 1978 applies to these ***IDRs*** in the same way as it applies to an enactment.

2.3 In these ***IDRs***:

a. unless the context otherwise requires:
   i. words denoting any gender include all genders and words denoting the singular include the plural and vice versa;
   ii. any headings are inserted for convenience only and shall not affect the construction of these ***IDRs;***
   iii. any reference to a numbered ***IDR*** is a reference to the ***IDR*** so numbered among these ***IDRs;*** and
   iv. any reference to a report or document includes any appendices to such report or document;
b. any references to legislation include any amendments thereto or replacement legislation;

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c. references to the date of an ***order*** made by the ***Conduct Committee*** under ***Disciplinary Bye-law*** 10.1(b) (***consent orders***) refer to the date on which the ***consent order*** was signed on behalf of the ***Conduct Committee*** pursuant to ***IDR*** 24.3;
d. references to the date of an ***order*** made by a ***Tribunal*** or ***Appeal Panel*** refer to the date on which the ***order*** was made either at, or following, the ***hearing*** of the ***formal allegation(s)*** or the ***appeal*** in question;
e. any reference to a '***notice***' or to matters being 'notified' means ***notice*** in writing, which may include an electronic communication;
f. any reference to a decision being taken by the ***Conduct department*** refers to a decision being taken by the ***Director of Investigation*** or by staff in that department under delegated powers.

2.4 Subject to ***IDR*** 2.5, any ***notice*** or other document required to be served for the purposes of the ***Disciplinary Bye-laws*** and/or these ***IDRs*** on a ***member, firm, affiliate*** or ***relevant person*** may be served in person or sent:
a. by pre-paid post to the ***member, firm, affiliate*** or ***relevant person*** at their ***registered address*** or, if none, to their last known or usual place of residence or business; or
b. by electronic mail to the ***member, firm, affiliate*** or ***relevant person's registered email address.***

2.5 If at any time the ***member, firm, affiliate*** or ***relevant person*** makes a written request to ***ICAEW*** that an alternative postal or email address be used to their ***registered address*** or ***registered email address***, that alternative postal or email address shall be used for the purposes of service of ***notices*** or other documents under the ***Disciplinary Bye-laws*** and/or these ***IDRs.***

2.6 Any ***notice*** or other document required to be served by a ***member, firm, affiliate*** or ***relevant person*** for the purposes of the ***Disciplinary Bye-laws*** and/or these ***IDRs*** may be served in person or sent:
a. by pre-paid post addressed to the Head of Adjudication, ICAEW, Regulation & Conduct, Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ; or
b. by electronic mail to an address at which the ***Head of Adjudication*** has agreed to receive ***notices*** and documents under the ***Disciplinary Bye-laws*** and/or these ***IDRs.***

2.7 Service of a document under ***IDRs*** 2.4, 2.5 or 2.6 shall be deemed to have been effected:
a. where served in person, on the date of service;
b. where sent by first class, pre-paid post, on the second ***business day*** after posting;
c. where sent by electronic mail on or before 16:00, on the day it is sent, and if sent after 16:00 on the next ***business day.***

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Application of these IDRs

3.1 These ***IDRs*** apply to:

a. **members;**

b. **firms**

c. **affiliates;** and

d. **relevant persons.**

3.2 For the purposes of these ***IDRs*** and in accordance with the ***Disciplinary Bye-laws,*** the liability to disciplinary action of a ***member***, ***firm***, ***affiliate*** or ***relevant person*** under the ***Disciplinary Bye-laws*** on a ***conduct matter, allegation*** or ***formal allegation,*** whether the ***conduct matter, allegation*** or ***formal allegation*** came to the attention of the ***Conduct department*** before or after the ***effective date,*** is to be determined in accordance with the provisions of the ***Disciplinary Bye-laws*** and regulations and ***IDRs*** in force at the time the ***event(s)*** giving rise to the ***conduct matter, allegation*** or ***formal allegation*** occurred; but

a. all ***assessments*** of ***complaints*** and ***investigations*** of ***conduct matters*** under the ***Disciplinary Bye-laws*** are to be conducted in accordance with the provisions of the ***Disciplinary Bye-laws*** and regulations or ***IDRs*** in force at the time of the ***assessment*** or ***investigation,*** save that the ***Disciplinary Bye-laws*** dated 14 October 2019 shall continue to apply to:

i. any application for a review of a decision taken prior to the ***effective date*** by the Investigation Committee to dismiss a complaint, and

ii. any reconsideration of a decision made prior to the ***effective date*** by the Investigation Committee to refer a complaint to the Disciplinary Committee for hearing ("Investigation Committee", "Disciplinary Committee" and "complaint" being defined in the ***Disciplinary Bye-laws*** dated 14 October 2019)***;***

b. all proceedings before a ***Tribunal*** under the ***Disciplinary Bye-laws*** are to be conducted in accordance with the provisions of the ***Disciplinary Bye-laws*** and regulations or ***IDRs*** in force at the time of the referral of the matter to the ***Tribunal*** by the ***Conduct Committee*** or the ***Conduct department***; and

c. all proceedings before an ***Appeal Panel*** under the ***Disciplinary Bye-laws*** are to be conducted in accordance with the provisions of the ***Disciplinary Bye-laws*** and regulations or ***IDRs*** in force at the time the application for permission to appeal is filed (other than where the period for filing the notice of appeal commences before, and expires on or after, the ***effective date*** and the notice of appeal is filed within that period).

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THE DISCIPLINARY COMMITTEES

4.1 Members of the ***disciplinary committees*** may participate in meetings or ***hearings*** of the ***disciplinary committees*** via any audio or video conferencing facilities which allow all persons in the meeting or ***hearing*** to communicate with each other simultaneously. Where a member of a ***disciplinary committee*** participates in a meeting or ***hearing*** via such audio or video conferencing facilities, they shall be deemed present at that meeting or ***hearing*** and counted in the quorum***.***

The Conduct Committee

5.1 The ***Conduct Committee*** shall consist of no fewer than 10 members of whom at least the
required number must be ***lay members.***

5.2 Members of the ***Conduct Committee*** are appointed by the ***RACAC*** (or relevant predecessor or successor body) for an initial term of 3 years, which term may be renewed and extended at the discretion of the ***RACAC*** up to a maximum of 9 years.

5.3 The ***required number*** for the purpose of ***IDRs*** 5.1, 6.1 and 7.1 is:

a. one half of the total number of members of the Committee; or
b. if the total number of members of the Committee is not divisible by two, one half of the first higher number that is so divisible.

5.4 The quorum for meetings of the ***Conduct Committee*** shall be 4 members, of whom 2 members shall be ***ICAEW members*** and 2 members shall be ***lay members.***

5.5 Where ***allegations*** concerning ***legal services work*** are being considered, the ***Conduct Committee*** will delegate its functions and duties to a Legal Services Sub- committee whose composition meets the requirements of ***IDR*** 5.4.

5.6 The functions of the ***Conduct Committee*** shall include, among other matters:

a. reviewing any decision of the ***Conduct department*** not to investigate a ***complaint*** following ***assessment***;
b. determining whether the test set out in ***Disciplinary Bye-law*** 5.1 has been met in respect of one or more ***allegations*** referred to it by the ***Conduct department*** under ***IDR*** 22.1;
c. determining what, if any, action should be taken in accordance with ***Disciplinary Bye-law*** 10.1 in respect of any ***allegation(s)*** where it finds the test set out in ***Disciplinary Bye-law*** 5.1 to be met;
d. re-examining ***allegations*** which it has previously dismissed following a ***case file review*** carried out in accordance with ***IDR*** 28***;***
e. reconsidering ***allegations*** which it has previously referred to the ***Tribunals Committee*** in the circumstances, and in accordance with the processes, set out in ***IDR*** 29***;*** and

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f. extending the period within which any financial penalties or ***costs orders*** must be paid by a ***member, firm, affiliate*** or ***relevant person*** under powers delegated by ***ICAEW Council*** in accordance with Principal Bye-law 7(c).

5.7 The ***Conduct Committee Chair*** may delegate to the ***Head of Adjudication*** administrative functions in relation to the appointment of ***reviewers*** in accordance with these ***IDRs.***

5.8 The ***Conduct Committee Chair*** may co-opt as temporary members of the ***Conduct Committee*** members of the ***Tribunals Committee,*** the ***Appeal Committee*** and/or the ***regulatory committees*** to deal with specific cases, provided that:

a. no person shall be appointed to the ***Conduct Committee*** and consider one or more ***allegations*** against a ***member, firm, affiliate*** or ***relevant person*** if, while as a member of a ***regulatory committee,*** they took part in a decision to refer that matter to the ***Conduct department;*** and
b. the ***required number*** of ***lay members*** is maintained.

5.9 No member of the ***Tribunals Committee*** or the ***Appeal Committee*** shall be appointed to a ***Tribunal*** or an ***Appeal Panel*** to consider a case which they considered previously as a co- opted member of the ***Conduct Committee.***

The Tribunals Committee

6.1 The ***Tribunals Committee*** shall consist of no fewer than 10 members of whom at least the ***required number*** must be ***lay members.***

6.2 Members of the ***Tribunals Committee*** are appointed by the ***RACAC*** (or relevant predecessor or successor body) for an initial term of 3 years, which term may be renewed and extended at the discretion of the ***RACAC*** up to a maximum of 9 years.

6.3 The quorum for meetings of the ***Tribunals Committee*** shall be 4 members, of whom 2 shall be ***ICAEW members*** and 2 shall be ***lay members.***

6.4 The functions of the ***Tribunals Committee*** are:

a. to determine whether the test set out in ***Disciplinary Bye-law*** 5.2 has been met in respect of ***formal allegations*** referred to it for hearing in accordance with the ***Disciplinary Bye-laws*** and these ***IDRs;***
b. to make such ***orders*** as it considers appropriate in respect of such ***formal allegations*** where it determines the test set out in ***Disciplinary Bye-law*** 5.2 has been met;
c. to reconsider any ***formal allegations*** which are remitted back to it by the **Appeal Committee;**
d. to determine any ***interim order applications*** in accordance with

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Disciplinary Bye-law 11.5 and the process set out at ***IDRs*** 30 – 33 and to review whether any existing ***interim orders*** shall remain in place (on the same or varied terms); and

e. to consider proposed ***settlement agreements*** in accordance ***Disciplinary Bye- law*** 11.8 and the process set out at ***IDRs*** 46 - 48.

6.5 The functions of the ***Tribunals Committee*** set out in ***IDR*** 6.4 above shall be discharged by ***Tribunals*** or by individual members of the ***Tribunals Committee*** appointed by the ***Tribunals Committee Chair*** to carry out its functions in accordance with these ***IDRs.***

6.6 A ***Tribunal*** shall comprise 3 members of the ***Tribunals Committee,*** being one ***ICAEW member*** and 2 ***lay members*** (with one of the 2 ***lay members*** being appointed ***Tribunal Chair***).

6.7 The ***Tribunals Committee Chair*** may delegate to the ***Head of Adjudication*** administrative functions in relation to the appointment of members of the ***Tribunals Committee*** to ***Tribunals*** and / or the appointment of ***Settlement Chairs*** in accordance with these ***IDRs.***

6.8 The ***Tribunals Committee Chair*** may co-opt as temporary members of the ***Tribunals Committee*** members of the ***Conduct Committee,*** the ***Appeal Committee*** and/or the ***regulatory committees*** to deal with specific cases, provided that:

a. no person shall be appointed to a ***Tribunal*** and consider one or more ***formal allegations*** against a ***member, firm, affiliate*** or ***relevant person*** if they previously considered that specific case as a member of their own committee***;*** and
b. the ***required number*** of ***lay members*** is maintained.

6.9 No member of the ***Appeal Committee*** shall be appointed to an ***Appeal Panel*** to consider a case which they considered previously as a co-opted member of the ***Tribunals Committee.***

The Appeal Committee

7.1 The ***Appeal Committee*** shall consist of no fewer than 10 members of whom at least the ***required number*** must be ***lay members.***

7.2 Members of the ***Appeal Committee*** are appointed by the ***RACAC*** (or relevant predecessor or successor body) for an initial term of 3 years, which term may be renewed and extended at the discretion of the ***RACAC*** up to a maximum of 9 years.

7.3 The ***Appeal Committee Chair*** and any ***Appeal Committee Vice-Chair*** must each be either a barrister or a solicitor and neither of them shall be an

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accountant.

7.4 The quorum for meetings of the ***Appeal Committee*** shall be 4 members, of whom 2 shall be ***ICAEW members*** and 2 shall be ***lay members.***

7.5 The functions of the ***Appeal Committee*** include, among other matters, determining ***appeals*** against ***orders*** (including ***interim orders*** and ***costs orders)*** of ***Tribunals*** in disciplinary cases under the ***Disciplinary Bye-laws.***

7.6 ***Appeal Panels*** shall be convened to hear ***appeals*** in accordance with the ***Disciplinary Bye-laws*** and these ***IDRs*** comprising 5 members of the ***Appeal Committee***, being:

a. the ***Appeal Panel Chair*** who shall be either the ***Appeal Committee Chair*** or any **Appeal Committee Vice-Chair**;
b. two ***ICAEW members;*** and
c. two ***lay members***.

7.7 Where ***appeals*** in relation to ***legal services work*** are being considered, an ***Appeal Panel*** shall have a majority of members who are ***lay members,*** although the ***Appeal Panel*** shall still be chaired by either the ***Appeal Committee Chair*** or an ***Appeal Committee Vice- Chair*** who shall be either a barrister or solicitor.

7.8 The ***Appeal Committee Chair*** may delegate to the ***Head of Adjudication*** administrative functions in relation to the appointment of members of the ***Appeal Committee*** to ***Appeal Panels*** in accordance with these ***IDRs.***

7.9 The ***Appeal Committee Chair*** may co-opt as temporary members of the ***Appeal Committee*** members of the ***Conduct Committee,*** the ***Tribunals Committee*** and/or the ***regulatory committees*** to deal with specific cases, provided that:

a. no person shall be appointed to an ***Appeal Panel*** and consider one or more ***formal allegations*** against a ***member, firm, affiliate*** or ***relevant person*** if they have previously considered that specific case as a member of their own committee***;*** and
b. the ***required number*** of ***lay members*** is maintained.

INTERNAL INVESTIGATION OF COMPLAINTS BY FIRMS

8.1 In accordance with ***Disciplinary Bye-law*** 7, every ***firm*** shall have in place an internal process for investigating and resolving complaints raised by clients and former clients, and every ***firm*** shall ensure that all new clients are informed in writing of:

a. the name of the person to be contacted if they wish to complain to the ***firm***

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about its services; and

b. their right to complain to ***ICAEW*** about the ***firm***.

8.2 If a ***firm*** receives a complaint about any services that it has provided, or has failed to provide, to a client or former client, it shall ensure that the complaint is investigated

promptly by a ***principal*** or other person of sufficient seniority within the ***firm*** who can carry out the investigation in an independent capacity. In the case of a sole practice, the ***principal*** shall ensure that the complaint is subject to an independent investigation***.***

8.3 A ***firm*** shall not charge a client or former client for investigating a complaint in accordance with ***IDR*** 8.2.

8.4 If, as a result of an investigation under ***IDR*** 8.2, the ***firm*** is of the opinion that the complaint is wholly or partly justified, it shall take whatever steps are appropriate to resolve the complaint, whether by way of remedial work, apology, the provision of information, the return of documents, the reduction or repayment of fees or otherwise.

8.5 Where the ***Conduct department*** receives a ***complaint*** or ***complaints*** about a ***firm*** (not being a ***complaint*** or ***complaints*** that may require referral to the ***Accountancy Scheme***) the ***Director of Investigation*** may, where they consider it appropriate to do so, refer the ***complaint*** or ***complaints*** to the ***firm*** for investigation in accordance with ***Disciplinary Bye- law*** 7 and these ***IDRs,*** rather than deal with the matter in accordance with ***IDR*** 9.1.

ASSESSMENT OF COMPLAINTS

Assessment process – general

9.1 Subject to restrictions in 9.2, the ***Conduct department*** shall assess whether any ***event(s)*** identified in a ***complaint***, or identified by itself or a ***regulatory committee***, could indicate that a ***member***, ***firm***, ***affiliate*** or ***relevant person*** may be liable to disciplinary action under the ***Disciplinary Bye-Laws*** or the ***Accountancy Scheme***.

9.2 The ***Conduct department*** shall not carry out an ***assessment*** process in respect of any complaints which do not comply with the requirements of the ***Complaint Form*** unless the ***Director of Investigation*** agrees to a different format as part of a reasonable adjustment.

9.3 Where a ***complaint*** has been made against a person who has been previously excluded or whose status as an ***affiliate*** or ***provisional member*** has been previously withdrawn, or where the exclusion or withdrawal occurs during the ***assessment*** of the ***complaint***, the ***Conduct department*** may make an application

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to the ***Conduct Committee*** in accordance with ***IDR*** 21 for the ***complaint*** to ***lie on file***.

Where a complaint will be closed following assessment

10.1 Subject to ***IDR*** 10.10, a ***complaint*** will not be treated as a ***conduct matter*** for the purposes of an ***investigation*** or ***conciliation*** (pursuant to ***IDR*** 15), if the ***Conduct department*** determines, following ***assessment***, that:

a. the ***event*** or ***events*** do not give rise to a potential liability to disciplinary action under the ***Disciplinary Bye-laws*** or the ***Accountancy Scheme***; and/or

b. more than 3 years have elapsed since:

i. the date on which the ***event(s)*** giving rise to the ***complaint*** first occurred, or, if later

ii. the date on which the ***event(s)*** giving rise to the ***complaint*** first came, or ought reasonably to have come, to the attention of the ***complainant,***

and an ***investigation*** is not necessary for the protection of the public or otherwise in the public interest; and/or

c. the ***complaint*** is either a ***repetitive complaint*** or a ***vexatious complaint*** and an ***investigation*** is not necessary for the protection of the public or otherwise in the public interest.

10.2 Where the ***Conduct department*** determines that a ***complaint*** falls into any of the categories of ***complaint*** set out at ***IDR*** 10.1, it shall serve a ***notice*** on the ***complainant*** setting out the reasons why the ***complaint*** will not be treated as a ***conduct matter*** for the purposes of an ***investigation*** or ***conciliation*** and advising the ***complainant*** of their right to request an ***assessment review***.

10.3 A ***complainant*** may request an ***assessment review*** by notifying the ***Director of Investigation*** within 28 days of the date of service of the ***notice*** of the ***Conduct department's*** decision under ***IDR*** 10.2.

10.4 Where the ***Director of Investigation*** receives a request for an ***assessment review*** after the expiry of the 28 day period specified in ***IDR*** 10.3, the ***assessment review*** shall only proceed where the ***Director of Investigation*** is satisfied that there was a good reason why the application could not have been submitted by the ***complainant*** within the 28 day period.

10.5 Upon receipt of a request for an ***assessment review*** within the period specified in ***IDR*** 10.3, or any longer period permitted by the ***Director of Investigation*** pursuant to ***IDR*** 10.4, the ***Conduct department*** shall produce an ***assessment report*** as soon as reasonably practicable setting out the reasons for the decision not to investigate and shall serve a copy of the ***assessment report*** on the ***complainant***.

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10.6 The ***complainant*** may submit any written representations on the ***assessment report*** to the ***Conduct department*** within 28 days of the date of service of the ***assessment report*** on them***.***

10.7 Following the expiry of the period for response under ***IDR*** 10.6, or the receipt of representations from the ***complainant*** (if earlier), the ***Conduct department*** shall provide the ***assessment report*** and any written representations from the ***complainant*** to the ***Head of Adjudication*** who shall arrange for the ***assessment report*** and any representations to be considered by the ***Conduct Committee*** as soon as reasonably practicable.

10.8 In determining whether to uphold the ***assessment*** decision taken by the ***Conduct department*** in accordance with ***IDR*** 10.1, the ***Conduct Committee*** shall consider:

a. whether, in respect of an ***assessment*** decision made pursuant to ***IDR*** 10.1(a), there is a potential liability to disciplinary action based on the summary of facts set out in the ***assessment report*** and any written representations from the ***complainant;***

b. whether, in respect of an ***assessment*** decision made pursuant to ***IDR*** 10.1(b), the ***complaint*** was brought to the attention of the ***Conduct department*** outside of the specified time limits and, if so, whether the ***Conduct department*** was right to conclude that an ***investigation*** is not necessary for the protection of the public or otherwise in the public interest;

c. whether, in respect of an ***assessment*** decision made pursuant to ***IDR*** 10.1(c), it was reasonable for the ***Conduct department*** to conclude that the ***complaint*** was either a ***repetitive complaint*** or a ***vexatious complaint*** and that an ***investigation*** is not necessary for the protection of the public or otherwise in the public interest.

10.9 Where the ***Conduct Committee*** upholds the ***Conduct department's*** decision not to investigate a ***complaint***, the ***Conduct Committee*** shall provide a summary of its reasons to the ***Head of Adjudication*** who shall notify the ***complainant*** and the ***Conduct department*** of the ***Conduct Committee's*** decision and provide them with a copy of the summary of reasons. The ***Head of Adjudication*** shall also confirm to the ***complainant*** that no further action will be taken in respect of the ***complaint*** which was the subject of the ***assessment report***.

10.10 Where the ***Conduct Committee*** determines, after reviewing an ***assessment report*** and any representations of the ***complainant,*** that an ***investigation*** should be carried out into a ***complaint***, the ***Head of Adjudication*** shall notify the ***complainant*** and the ***Conduct department*** of the ***Conduct Committee's*** decision and provide them with a summary of the ***Conduct Committee's*** reasons, and the matter shall be dealt with in accordance with ***IDR*** 12.1.

Power to reopen a complaint following an assessment

11.1 The ***Conduct department*** may reopen a ***complaint*** which has previously been

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closed following an ***assessment*** where the ***Director of Investigation*** has reason to believe that:

a. the decision not to proceed with the ***complaint*** may have been materially flawed (for any reason); or
b. there is new information or evidence which may have led, wholly or partly, to a different decision; or
c. the ***member, firm, affiliate*** or ***relevant person*** concerned may have previously withheld relevant information; or
d. the ***member, firm, affiliate*** or ***relevant person*** concerned may have previously misled the ***Conduct department;*** or
e. in the opinion of the ***Director of Investigation***, further consideration of the ***complaint*** is necessary for the protection or the public or otherwise in the public interest.

11.2 Where the ***Conduct department*** decides to reopen a ***complaint*** it shall, as soon as reasonably practicable, notify the reasons for its decision to the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***complaint,*** and any ***complainant***.

Where the Conduct department concludes following an assessment that there is a potential liability to disciplinary action

12.1 Where, following an ***assessment,*** the ***Conduct department*** concludes that the ***complaint*** may give rise to a potential liability to disciplinary action under the ***Disciplinary Bye-laws*** or the ***Accountancy Scheme,*** the ***complaint*** will be treated as a ***conduct matter*** and investigated unless the ***Conduct department***:

a. considers that the ***complaint*** should be referred to the ***Conduct Committee*** for a possible referral under the ***Accountancy Scheme*** (in which case ***IDR*** 14 applies); or
b. considers that the ***conduct matter*** is suitable for an attempted ***conciliation*** in accordance with ***IDR*** 15

12.2 Where, during an ***investigation***, a person who is the subject of a ***conduct matter*** is excluded or has their ***affiliate*** or ***provisional member*** status withdrawn, the ***Conduct department*** may make an application to the ***Conduct Committee*** in accordance with ***IDR*** 21 for the ***conduct matter*** to ***lie on file***.

Serious conviction allegations

13.1 Where, during an ***assessment*** or ***investigation***, the ***Conduct department*** identifies one or more ***serious convictions*** in relation to a ***member, firm, affiliate*** or ***relevant person***, the ***Conduct department*** may make enquiries of the ***member, firm, affiliate*** or ***relevant person*** to obtain relevant information regarding such ***serious convictions*** and shall report the ***serious conviction(s)*** as one or more ***serious conviction allegations*** in a ***formal allegations report*** to the ***Tribunals Committee*** pursuant to ***IDR*** 39.1. In such circumstances, the ***serious conviction***

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allegation(s) shall be treated for the purposes of these ***IDRs*** as if it, or they, had been referred formally by the ***Conduct Committee*** to the ***Tribunals Committee*** in accordance with ***Disciplinary Bye-law*** 10.1(a).

13.2 Where the ***member, firm, affiliate*** or ***relevant person*** is at the same time the subject of:

a. other ***complaints*** that are being assessed; and/or
b. other ***conduct matters*** that are being investigated; and/or
c. other ***formal allegations*** that are the subject of ***disciplinary proceedings*** before the ***Tribunals Committee,***

the ***Conduct department*** may suspend its ***assessment*** of those ***complaints,*** its ***investigation*** of those ***conduct matters***, or the ***disciplinary proceedings*** in respect of the other ***formal allegations***, pending the final determination of the ***serious conviction allegation(s)*** by a ***Tribunal*** or, if there is an ***appeal***, by an ***Appeal Panel.***

13.3 Where, following the final determination of the ***serious conviction allegation(s)*** by a ***Tribunal*** or an ***Appeal Panel***:

a. the ***member*** is excluded from membership of ***ICAEW***; or
b. the ***affiliate's*** status is as an ***affiliate*** is withdrawn; or
c. the ***relevant person's*** status as a ***provisional member*** is withdrawn,

the ***Conduct department*** may apply to the ***Conduct Committee*** or the ***Tribunals Committee*** for some or all of the matters referred to in ***IDR*** 13.2 to ***lie on file*** in accordance with ***IDRs*** 21 and/or 38.

13.4 Where, following the final determination of the ***serious conviction allegation(s)*** by a ***Tribunal*** or ***Appeal Panel,*** no ***order*** is made excluding the person from ***ICAEW*** membership or withdrawing their ***affiliate*** or ***provisional member*** status (as applicable), the ***Conduct department*** shall re-start its ***assessment*** of any ***complaints,*** or its ***investigation*** of any ***conduct matters,*** or the ***disciplinary proceedings*** which were suspended in accordance with ***IDR*** 13.2.

Referrals under the Accountancy Scheme

14.1 If a ***complaint*** is assessed by the ***Conduct department*** as giving rise to a potential liability to disciplinary action under the ***Disciplinary Bye-laws*** or the ***Accountancy Scheme*** pursuant to ***IDR*** 12.1, and the ***Conduct department*** considers that it may be appropriate for the ***complaint*** to be dealt with under the terms of the ***Accountancy Scheme***, the ***Conduct department*** shall prepare a report summarising the facts and evidence relating to the ***complaint*** obtained during the ***assessment*** and shall provide it to the ***Head of Adjudication*** to place before the ***Conduct Committee*** as soon as reasonably practicable.

14.2 If, after considering the report from the ***Conduct department***, the ***Conduct Committee*** determines that the ***complaint*** should be referred to the Financial Reporting Council (or relevant successor body) under the terms of the

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Accountancy Scheme, it shall request the ***Director of Investigation*** to make the referral.

14.3 If the ***Conduct Committee*** determines that the ***complaint(s)*** should not be referred under the ***Accountancy Scheme***, or if the Financial Reporting Council (or relevant successor body) does not accept the referral, the ***Conduct Committee*** shall request the ***Director of Investigation*** to start an ***investigation***.

Conciliation

15.1 If a ***complaint*** is assessed by the ***Conduct department*** as giving rise to a potential liability to disciplinary action under the ***Disciplinary Bye-laws***, and the ***Director of Investigation*** considers that:

a. the ***complainant*** may be satisfied with a resolution which does not involve disciplinary action and the ***member, firm, affiliate*** or ***relevant person*** may consider such a resolution;
b. the ***complaint*** does not raise any wider issues regarding the conduct of the ***member, firm, affiliate*** or ***relevant person*** which require an ***investigation*** to be carried out, and/or ***disciplinary proceedings*** to be pursued, in the public interest, and
c. no ***allegations*** would be brought under ***Disciplinary Bye-laws*** 4.1(a) or 4.2(a) in any event,

the ***Conduct department*** may attempt to resolve the ***complaint*** by ***conciliation.***

15.2 If the ***conciliation*** is successful, the ***Conduct department*** shall take no further action with respect to the ***complaint***.

15.3 If, at any time, the ***Conduct department*** concludes that a ***conciliation*** will not be possible, the ***Conduct department*** shall begin an ***investigation*** in accordance with ***IDR*** 12.1 with a view to determining whether any ***allegations*** should be reported to the ***Conduct Committee*** or dealt with by way of ***fixed penalty***.

COOPERATION WITH ASSESSMENT/INVESTIGATION

16.1 If, while a ***complaint*** is being assessed or a ***conduct matter*** is being investigated, a ***member, firm, affiliate*** or ***relevant person*** (whether or not the subject of the ***complaint*** or ***conduct matter***) fails to respond to requests by the ***Conduct department*** for the production of ***relevant information***, the ***Director of Investigation*** may serve a ***notice*** on that ***member***, ***firm***, ***affiliate*** or ***relevant person*** requiring the supply of such ***relevant information*** within 14 days of the date of service of the ***notice*** (or such longer period as may be specified) in accordance with ***Disciplinary Bye-law*** 8.

16.2 If a ***member, firm, affiliate*** or ***relevant person*** fails to comply with a ***notice*** served by the ***Conduct department*** in accordance with ***IDR*** 16.1***,*** the matter may be reported in a formal non-cooperation allegations report to the ***Tribunals Committee*** pursuant to ***IDR 39.1.*** In such circumstances, the failure to comply with Disciplinary Bye-law 8

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shall be treated for the purposes of these ***IDRs*** as if it, or they, had been referred formally by the ***Conduct Committee*** to the ***Tribunals Committee*** in accordance with Disciplinary Bye-law 10.1(a).

16.3 A ***member, firm, affiliate*** or ***relevant person*** shall not charge a ***complainant*** for time spent, or costs incurred, in responding to the ***Conduct department's*** enquiries during its ***assessment*** of a ***complaint*** or its ***investigation*** of a ***conduct matter.***

16.4 Where, following the final determination of the ***non-cooperation allegation(s)*** by a ***Tribunal*** or an ***Appeal Panel:***

i. the ***membe***r is excluded from membership of ***ICAEW***; or
ii. the ***affiliate's*** status is as an ***affiliate*** is withdrawn; or
iii. the ***relevant person's*** status as a ***provisional member*** is withdrawn,

the ***Conduct department*** may apply to the ***Conduct Committee*** or the ***Tribunals Committee*** for
any or all of the following matters referred to ***lie on file*** in accordance with ***IDRs*** 21 and/or 38:

a) any other complaints currently under assessment;
b) any other conduct matters under investigation; and/or
c) any other formal allegations that are the subject of disciplinary proceedings before the Tribunals Committee.

CONCLUSION OF AN INVESTIGATION

17.1 Save where the matter is dealt with under ***IDRs*** 13.1, 14.1 or 19.3, where, at the conclusion of an ***investigation***, the ***Conduct department*** considers that the test set out in ***Disciplinary Bye-law*** 5.1 has been met in respect of one or more ***allegations*** arising out of the ***conduct matter,*** it shall report those ***allegations*** to the ***Conduct Committee*** in accordance with ***IDR*** 20.

17.2 Where the ***conduct matter*** relates solely to a regulatory activity and the ***Conduct department*** considers the matter to be suitable for ***constructive engagement***, and a provisional arrangement has been agreed with the ***member*** or ***firm***, the ***Conduct department*** should not report the allegations to the ***Conduct Committee*** unless the relevant regulatory committee decides not to make a ***constructive engagement order.***

17.3 Where the ***Conduct department*** considers that the test set out in ***Disciplinary Bye-law***
5.1 has not been met in respect of any ***allegations*** arising out of a ***conduct matter*** investigated in accordance with ***IDR*** 12.1, the ***Conduct department*** shall notify the ***complainant*** of its intention not to report such ***allegations*** to the ***Conduct Committee***.

17.4 Where a ***complainant*** considers that some or all of the ***allegations*** referred to in ***IDR*** 17.3 should be considered by the ***Conduct Committee***, the ***complainant*** shall

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notify the ***Conduct department*** in writing within 28 days of the date of service of the ***notice*** under ***IDR*** 17.3 of their request for the ***Conduct Committee*** to consider the rejected ***allegations.*** Any request must set out why, in the ***complainant's*** opinion, the rejected ***allegation(s)*** give rise to a liability to disciplinary action under the ***Disciplinary Bye- laws.***

17.5 After receiving ***notice*** pursuant to ***IDR*** 17.4, the ***Conduct department*** shall report the rejected ***allegation(s)*** to the ***Conduct Committee*** in accordance with ***IDR*** 20 either on their own, or alongside other ***allegations*** where the ***Conduct department*** considers the test set out in ***Disciplinary Bye-law*** 5.1 has been met. If more than 28 days have elapsed since the date of service of the ***notice*** under ***IDR*** 17.3, the rejected ***allegation(s)*** shall only be reported to the ***Conduct Committee*** if the ***Director of Investigation*** is satisfied that the ***complainant*** could not reasonably have been expected to respond to the ***notice*** within 28 days.

17.6 The ***Conduct department*** shall notify the ***member, firm, affiliate*** or ***relevant person*** of the ***allegations*** that it intends to report to the ***Conduct Committee,*** including any rejected ***allegations*** which the ***complainant*** has asked to be considered by the ***Conduct Committee*** in accordance with ***IDR*** 17.4.

Power to reopen a conduct matter after the closure of an investigation

18.1 The ***Conduct department*** may reopen a ***conduct matter*** which has been closed following an ***investigation*** where the ***Director of Investigation*** has reason to believe that:

a. the decision not to proceed with the ***conduct matter*** may have been materially flawed (for any reason); or
b. there is new information or evidence which may have led, wholly or partly, to a different decision; or
c. the ***member, firm, affiliate*** or ***relevant person*** concerned may have previously withheld relevant information; or
d. the ***member, firm, affiliate*** or ***relevant person*** concerned may have previously misled the ***Conduct department***; or
e. in the opinion of the ***Director of Investigation***, further consideration of the ***conduct matter*** is necessary for the protection or the public or otherwise necessary in the public interest.

18.2 Where the ***Conduct department*** decides to reopen a ***conduct matter*** pursuant to ***IDR*** 18.1 it shall, as soon as reasonably practicable, notify the reasons for its decision to the ***member***, ***firm***, ***affiliate*** or ***relevant person*** who, or which, is the subject of the ***conduct matter***, and any ***complainant.***

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When the Conduct department may offer fixed penalties

19.1 Where, following an ***investigation,*** the ***Conduct department***:

a. concludes the test set out in ***Disciplinary Bye-law*** 5.1 is met in respect of a designated allegation; and

b. does not consider the test set out in ***Disciplinary Bye-law*** 5.1 to be met in respect of any other ***allegations****,*

the ***Conduct department*** may, acting under powers delegated by the ***Conduct Committee,*** propose that a ***designated allegation*** be dealt with by the acceptance of a ***fixed penalty*** in accordance with ***IDR*** 19.3

19.2 Where the ***Conduct department*** decides to propose a ***fixed penalty*** in respect of the ***designated allegation,*** it shall serve a ***notice*** on the ***member, firm, affiliate*** or ***relevant person*** specifying:

a. the details of the ***designated allegation***;
b. the terms of the proposed ***fixed penalty***;
c. the period for compliance with the proposed ***fixed penalty***; and
d. the extent to which the proposed ***fixed penalty*** may be published by ***ICAEW****.*

19.3 Where, within the period stated in the ***notice*** served pursuant to ***IDR*** 19.2, the ***member, firm, affiliate*** or ***relevant person*** confirms in writing their acceptance of the ***fixed penalty,*** the ***fixed penalty*** will become a final ***order*** and, where applicable, will be published and remain on the ***ICAEW Disciplinary Database*** for the period specified in the ***ICAEW Disciplinary Database policy.***

19.4 Where the ***member, firm, affiliate*** or ***relevant person*** receiving a ***notice*** pursuant to ***IDR*** 19.2 does not agree to the terms of the proposed ***fixed penalty,*** or does not respond to the ***notice***, the ***designated allegation*** will be referred to the ***Conduct Committee*** in accordance with ***IDR*** 22.1.

19.5 Any financial penalty agreed under ***IDR*** 19.3 may be paid by the ***member, firm, affiliate*** or
relevant person by way of instalments with the agreement of the ***Director of Investigation****.*

REPORTING ALLEGATIONS TO THE CONDUCT COMMITTEE

Preparation of a conduct report

20.1 Where, following an ***investigation***, the ***Conduct department*** considers that one or more ***allegations*** arising out of a ***conduct matter*** meet the test set out in ***Disciplinary Bye-law*** 5.1, the ***Conduct department*** shall prepare a ***conduct report*** and shall provide a copy of such report to the ***member***, ***firm***, ***affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s)*** prior to the ***conduct report*** being considered by the ***Conduct Committee***. The ***Conduct department*** shall also inform the ***member, firm, affiliate*** or

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relevant person of the costs incurred in investigating the ***conduct matter,*** which costs shall be notified to the ***Conduct Committee***.

20.2 Where the ***member, firm, affiliate*** or ***relevant person*** wishes to make written representations on the ***conduct report*** for consideration by the ***Conduct Committee***, the ***member***, ***firm***, ***affiliate*** or ***relevant person*** shall provide such written representations to the ***Conduct department*** within 14 days of service of the ***conduct report*** or such extended period as may be agreed by the ***Conduct department***.

20.3 Subject to ***IDR*** 20.4, after the expiry of 14 days, or any extended period agreed by the ***Conduct department*** pursuant to ***IDR*** 20.2, the ***Conduct department*** shall provide to the ***Head of Adjudication*** copies of the following documents:

a. the ***conduct report***;
b. any relevant written representations received in accordance with ***IDR*** 20.2 from the ***member, firm, affiliate*** or ***relevant person;*** and
c. any relevant written representations received from the ***complainant*** (if applicable),

and the ***Head of Adjudication*** shall arrange for these documents to be considered by the ***Conduct Committee*** as soon as reasonably practicable.

20.4 Where the ***Conduct department*** makes any substantive revisions to the ***conduct report*** after receipt of any written representations, it shall provide a copy of the revised ***conduct report*** to the ***member***, ***firm***, ***affiliate*** or ***relevant person*** who shall have 14 days from the date of service of the ***conduct report*** (or such extended period as may be agreed by the ***Conduct department***) to make any further representations before the revised ***conduct report*** is submitted to the ***Head of Adjudication***.

Application to the Conduct Committee for complaints or conduct matters to lie on file

21.1 Where the ***Conduct department*** identifies either:

a. at the start of an ***assessment*** that a person against whom a ***complaint*** is made has been excluded or has had their ***affiliate*** or ***provisional member*** status withdrawn; or
b. during the ***assessment*** or an ***investigation*** that the person who is the subject of the ***complaint*** or ***conduct matter*** has been excluded from ***ICAEW*** membership or has had their ***affiliate*** or ***provisional member*** status withdrawn, the ***Conduct department*** may submit an application to the ***Conduct Committee*** requesting the ***Conduct Committee*** to allow the ***complaint*** or ***conduct matter*** to ***lie on file***. Such application shall confirm the current status of the ***assessment*** or ***investigation*** and shall follow the process set out in ***IDRs*** 21.2 and 21.3.

21.2 An application made in accordance with ***IDR*** 21.1 must be made in writing and a copy provided to the ***member, affiliate*** or ***relevant person*** who is the subject of the

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complaint or ***conduct matter,*** and any ***complainant,*** who shall each have 14 days from the date of service of the application to make written representations. Upon the expiry of 14 days, or the receipt of representations from all persons served with a copy of the application (whichever is the earlier), the ***Head of Adjudication*** shall provide all relevant documents to the ***Conduct Committee*** to determine whether the ***complaint*** or the ***conduct matter***
should ***lie on file***.

21.3 Where the ***Conduct Committee*** determines that a ***complaint*** or a ***conduct matter*** should ***lie on file***, its decision shall be notified to the ***member, affiliate*** or ***relevant person,*** and any ***complainant***, and no step shall be taken to assess the ***complaint*** or investigate the ***conduct matter*** unless, or until, an application is made by the ***Director of Investigation*** to the ***Conduct Committee*** to review the ***complaint*** or ***conduct matter*** lying on file (following a ***readmission / re-registration application*** made by the former ***member***, former ***affiliate*** or former ***relevant person***).

21.4 Where an application is made by the ***Director of Investigation*** to the ***Conduct Committee*** to review ***complaints*** and/or ***conduct matters*** lying on file, a copy of the application (indicating whether the ***Head of Investigation*** considers that any or all of the ***complaints*** and/or ***conduct matters*** should be re-opened) and any supporting documents shall be provided by the ***Head of Adjudication*** to:

a. the former ***member***, former ***affiliate*** or former ***relevant person*** who is the subject of the ***complaints*** and/or the ***conduct matters*** lying on file; and
b. any ***complainant*** connected to such ***complaints*** and/or ***conduct matters,*** who shall both have 14 days from the date of service of the application to provide any representations in writing to the ***Head of Adjudication*** prior to the application for review being considered by the ***Conduct Committee.***

21.5 In considering the application for review, the ***Conduct Committee*** shall take into account the ***Director of Investigation's*** submissions and any representations made by the former ***member,*** former ***affiliate*** or former ***relevant person,*** and by any ***complainant,*** before determining whether any or all ***complaints*** and/or ***conduct matters*** should be re-opened.

21.6 The ***Conduct Committee*** shall order that all ***complaints*** and/or ***conduct matters*** lying on file shall be re-opened unless it considers that reopening any or all of the ***complaint(s)*** and/or ***conduct matter(s)*** is not in the public interest, or if it considers that there are exceptional circumstances justifying the closure of any or all of the ***complaints*** and/or ***conduct matters*** lying on file. Where an ***order*** is made to close any of the ***complaints*** and/or ***conduct matters*** lying on file, no further action shall be taken in respect of those matters unless they are re-opened in accordance with ***IDRs*** 11 and/or 18.

21.7 Where the ***Conduct Committee*** orders that the ***complaints*** or ***conduct matters*** lying on file be re-opened***,*** they shall be dealt with in accordance with the ***IDRs***.

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CONSIDERATION BY THE CONDUCT COMMITTEE

22.1 On receipt of a ***conduct report***, the ***Conduct Committee*** shall consider whether the test set out in ***Disciplinary Bye-law*** 5.1 is met in respect of the ***allegation(s).*** Before making any determination, the ***Conduct Committee*** shall satisfy itself that the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s)***, has been given an opportunity to make written representations to the ***Conduct Committee*** (and, if this has not been the case, the ***Conduct Committee*** shall defer its consideration of the ***conduct report*** to allow this to happen).

22.2 Where the ***Conduct Committee*** finds that the test set out in ***Disciplinary Bye-law*** 5.1 is met in respect of one or more of the ***allegations*** against the ***member, firm, affiliate*** or ***relevant person,*** it may, having had regard to the ***Guidance on Sanctions*** and the ***disciplinary record*** (if any) of the ***member***, ***firm***, ***affiliate*** or ***relevant person***, do one of the following:

a. refer such ***allegation*** or ***allegations*** to the ***Tribunals Committee*** for ***hearing*** as a ***formal allegation*** or ***formal allegations*** in accordance with ***Disciplinary Bye-law*** 10.1(a); or
b. propose a ***consent order*** in accordance with ***Disciplinary Bye-law*** 10.1(b) in respect of all ***allegations*** for which it finds the test set out in ***Disciplinary Bye-law***
5.1 to be met; or
c. adjourn its consideration of the ***allegation(s)*** in accordance with ***Disciplinary Bye- law*** 10.1(c).

22.3 Where the ***Conduct Committee*** is considering more than one ***allegation*** and determines to refer any one ***allegation*** to the ***Tribunals Committee*** pursuant to ***IDR*** 22.2(a), it must refer all ***allegations*** for which it finds the test set out in ***Disciplinary Bye-law*** 5.1 to be met.

22.4 Where the ***Conduct Committee*** finds that the test set out in ***Disciplinary Bye-law*** 5.1 has not been met in respect of any ***allegations*** reported to it by the ***Conduct department,*** it shall, subject to its power to re-examine the ***allegation(s)*** in ***Disciplinary Bye-law*** 10.3, dismiss any such ***allegations*** in accordance with ***Disciplinary Bye-law*** 10.2.

22.5 The ***Head of Adjudication*** shall prepare a written record of the ***Conduct Committee's*** decision on the ***allegation(s)*** and shall provide it as soon as practicable to the ***member***, ***firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s)***, the ***Conduct department*** and any ***complainant***.

22.6 In considering the ***allegation(s)*** the ***Conduct Committee*** may, at its discretion, treat as evidence any witness statements or written representations of the ***member, firm, affiliate*** or ***relevant person*** and the rules of judicial evidence will not apply.

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22.7 No objections shall be upheld to any technical fault in the procedure of the ***Conduct Committee,*** nor in any decision by the ***Conduct Committee*** or terms of any ***order*** issued by it, provided that the proceedings are fair and the relevant ***Disciplinary Bye- laws*** and ***IDRs*** have been observed.

Referrals to the Tribunals Committee

23.1 Save for referrals set out in ***IDR*** 23.2, where the ***Conduct Committee*** determines in accordance with ***Disciplinary Bye-law*** 10.1(a) to refer one or more ***allegations*** as ***formal allegations*** to the ***Tribunals Committee***, the ***Conduct department*** shall have conduct of the ***disciplinary proceedings*** before the ***Tribunals Committee*** (and in any ***appeal*** before the ***Appeal Committee***).

23.2 Where the ***Conduct Committee*** determines to refer one or more ***allegations*** as ***formal allegations*** to the ***Tribunals Committee*** contrary to any of the recommendations of the ***Conduct department*** in the ***conduct report***, the ***Conduct Committee*** shall have conduct of the ***disciplinary proceedings*** before the ***Tribunals Committee*** (and in any ***appeal*** before the ***Appeal Committee***).

Consent orders

24.1 Where the ***Conduct Committee*** determines to offer a ***consent order*** in accordance with ***Disciplinary Bye-law*** 10.1(b), it shall serve on the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s),*** a ***notice*** setting out the ***allegations*** for which the ***Conduct Committee*** has found the test in ***Disciplinary Bye-law***
5.1 to be met, and which describes the action which it proposes to take, and the ***order*** it would make, in the event that the ***member, firm, affiliate*** or ***relevant person*** agrees to the proposed action.

24.2 A ***notice*** served under ***IDR*** 24.1 must:

a. explain how the ***consent order*** would be published (if applicable); and
b. make clear that, if the ***member, firm, affiliate*** or ***relevant person*** does not agree in writing to the proposed action within 28 days of the date of service of that ***notice***:
    i. all ***allegations*** for which the ***Conduct Committee*** has found the test set out in ***Disciplinary Bye-law*** 5.1 to be met will be referred without further consideration by the ***Conduct Committee*** to the ***Tribunals Committee*** as ***formal allegations;*** and
    ii. in such circumstances, the ***Tribunals Committee*** would have the power to make any of the applicable ***orders*** specified in ***Disciplinary Bye-law*** 11 if it were to find such ***formal allegation(s)*** proved.

24.3 Where the ***member, firm, affiliate*** or ***relevant person*** agrees in writing to the terms

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of the ***Conduct Committee's*** proposed ***consent order*** before the expiry of 28 days from the date of service of the ***notice***, the ***Head of Adjudication*** shall issue the ***order*** on behalf of the ***Conduct Committee*** and the ***consent order*** shall take effect after 7 days from the date of the service of the ***order*** on the ***member, firm, affiliate*** or ***relevant person***. The ***Head of Adjudication*** shall also serve a copy of the ***consent order*** on any ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of a ***conduct matter***, or ***allegations*** or ***formal allegations*** arising from the same ***event*** or ***events.***

24.4 Where the ***member, firm, affiliate*** or ***relevant person*** accepts the ***finding*** made by the ***Conduct Committee*** but does not accept the ***sanction(s)*** and/or the amount of costs to be paid in the proposed ***consent order***, the ***member, firm, affiliate*** or ***relevant person*** may, within 28 days of the date of service of the ***notice***, make written representations to the ***Head of Adjudication*** as to why the ***Conduct Committee*** should either reduce the proposed ***sanction(s)*** and/or the amount of costs or make an ***order*** for no further action.

24.5 Where the ***Head of Adjudication*** receives written representations in accordance with ***IDR*** 24.4, the ***Head of Adjudication*** shall provide copies of such written representations to the ***Conduct department*** which, if it wishes to respond to the written representations, must provide any response within 28 days to the ***Head of Adjudication*** and to the ***member, firm, affiliate*** or ***relevant person.***

24.6 After the expiry of 28 days, or the receipt of a response from the ***Conduct department*** (if earlier), the ***Head of Adjudication*** shall arrange for the written representations and any response from the ***Conduct department*** to be considered by the ***Conduct Committee*** as soon as reasonably practicable. The ***Conduct Committee*** shall then determine its final offer of a ***consent order*** to the ***member, firm, affiliate*** or ***relevant person***.

24.7 Where the ***member, firm, affiliate*** or ***relevant person*** either rejects the proposed ***consent order*** or fails to respond to the offer of a ***consent order*** within 28 days from the date of service of the ***notice*** pursuant to ***IDR*** 24.1, the ***Conduct Committee*** shall refer the ***allegation(s)*** as ***formal allegation(s)*** to the ***Tribunals Committee*** in accordance with ***Disciplinary Bye-law*** 10.1(a).

24.8 ***IDRs*** 58.1(b), 58.5 and 58.6 (time limits for the payment of financial penalties, financial payments and costs) shall apply in relation to any financial penalty, financial payment or costs imposed by a ***consent order*** of the ***Conduct Committee*** made in accordance with ***Disciplinary Bye-laws*** 10.1(b) as it applies in relation to a financial penalty, financial payment or costs imposed by an ***order*** of a ***Tribunal*** (save that the reference in ***IDR*** 58.1(b) to the date of service of the ***Tribunal's record of decision*** shall be taken to refer to the date of the ***consent order***).

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Adjournments

25.1 If the ***Conduct Committee*** adjourns its consideration of the ***allegation(s)*** in accordance with ***Disciplinary Bye-law*** 10.1(c)***,*** it shall instruct the ***Conduct department*** to report to it on the progress of such matters at prescribed intervals. Such monitoring may include enquiries of third parties as well as of the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s).***

Remedial orders and fee disputes

26.1 If the ***Conduct Committee*** is asked for directions in the event of a dispute as to the fees payable to another person or ***firm*** to complete work which the ***member, firm, affiliate*** or ***relevant person*** was engaged to perform pursuant to ***Disciplinary Bye- law*** 11.1(a)(xi), 11.1(b)(x), 11.1(c)(xi) or 11.1(d)(xiii), the ***Conduct Committee*** may determine the amount payable.

Publication of consent orders of the Conduct Committee

27.1 Subject to ***IDR*** 27.2, a ***consent order*** of the ***Conduct Committee*** shall be published as soon as practicable once it has taken effect under ***IDR*** 24.3.

27.2 Where the ***Conduct Committee*** determines in respect of one or more ***allegations*** that the ***member, firm, affiliate*** or ***relevant person*** be cautioned, or that no further action be taken in respect of the ***allegations***, the ***consent order*** shall only be published where the ***Conduct Committee*** so directs.

27.3 The ***Conduct Committee*** may order that publication of the ***consent order*** be delayed where, in the opinion of the ***Conduct Committee,*** delay is necessary in the public interest. In determining the timing of publication, the ***Conduct Committee*** may have regard to any written representations of the ***member, firm, affiliate*** or ***relevant person,*** or any other ***member, firm, affiliate*** or ***relevant person*** who, or which, has been served with a copy of the ***consent order*** under ***IDR*** 24.3, which are filed within 7 days beginning with the date of service of the ***consent order,*** and the ***Conduct Committee*** shall make a decision on publicity once the period for representations has passed.

27.4 Unless the ***Conduct Committee*** otherwise directs, the published ***consent order*** shall state at least the name of the ***member, firm, affiliate*** or ***relevant person,*** the ***bye-law*** and/or regulation under which the ***allegation(s)*** were brought, the ***order(s)*** made against them and a statement that the ***order(s)*** were made with the agreement of the ***member, firm, affiliate*** or ***relevant person.*** The published ***consent order*** need not include the name of any other person or body concerned in the ***allegation(s).***

27.5 Where published, a ***consent order*** of the ***Conduct Committee,*** or ***fixed penalty*** issued by the ***Conduct department*** under powers delegated by the ***Conduct Committee,*** shall remain on the ***ICAEW Disciplinary***

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Database for the period specified in the ***ICAEW Disciplinary Database policy.***

COMPLAINANT'S RIGHT TO REQUEST A CASE FILE REVIEW

28.1 Where the ***Conduct Committee*** finds that the test set out in ***Disciplinary Bye-law*** 5.1 is not met in respect of any ***allegation*** against the ***member, firm, affiliate*** or ***relevant person,*** a ***complainant*** may apply to the ***Head of Adjudication*** for a ***case file review*** in respect of the dismissed ***allegation(s)*** within 28 days of the date of service of ***notice*** of the ***Conduct Committee's*** decision.

28.2 Where an application has been made within the time specified under ***IDR*** 28.1, the **Head of Adjudication** shall:

a. inform the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s)*** that an application has been made for a ***case file review*** and that the ***allegation(s)*** may need to be re-examined by the ***Conduct Committee*** depending on the outcome of the ***case file review***;
b. request the ***Conduct Committee Chair*** to approve the appointment of a ***reviewer*** from the ***reviewer pool*** to carry out a ***case file review*** as soon as reasonably practicable; and
c. request the ***Director of Investigation*** to provide access to the relevant ***case file*** for a ***case file review*** to be carried out by the ***reviewer***.

28.3 Where an application is made after the expiry of the period specified under ***IDR*** 28.1, the ***Head of Adjudication*** shall only permit the application to proceed if the ***Head of Adjudication*** is satisfied that there is a good reason why it was not reasonably practicable for the ***complainant*** to make the application within the specified period.

28.4 The ***case file review*** shall consider whether, in respect of any ***allegations*** dismissed by the ***Conduct Committee***:

a. there has been a failure by the ***Conduct department*** to investigate any relevant ***event*** raised by a ***complainant*** during the ***investigation,*** or a failure to follow up any other relevant line of enquiry known to the case manager during the ***investigation,*** which is likely to have produced information or evidence supporting a finding of liability to disciplinary action; and/or
b. relevant information and/or evidence on the ***case file*** was not included with the ***conduct report*** which is likely to have altered the ***Conduct Committee's finding(s)*** in respect of the ***allegation(s)*** had it been included; and/or
c. there has been a failure by the ***Conduct department*** and/or the ***Conduct Committee*** to follow the procedure specified in the ***IDRs*** for investigating the ***conduct matter,*** or considering the ***allegations,***

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and the ***Conduct Committee's*** consideration of the ***allegations*** is likely to have been prejudiced by that failure, and, after completing the ***case file review***, the ***reviewer*** shall provide their ***review report*** to the ***Conduct Committee Chair,*** the ***complainant*** and the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***allegation(s)***.

28.5 Where the ***review report*** identifies no concerns in respect of ***IDRs*** 28.4(a), 28.4(b) and 28.4(c), the ***Conduct Committee Chair*** shall request the ***Head of Adjudication*** to inform the ***complainant*** and the ***member, firm, affiliate*** or ***relevant person*** that the ***case file*** will be closed.

28.6 Where the ***review report*** identifies one or more failures or omissions in respect of the matters set out in ***IDRs*** 28.4(a), 28.4(b) and 28.4(c), the ***Conduct Committee Chair*** shall request the ***Director of Investigation*** to remedy such failures or omissions (carrying out such additional ***investigation*** work as may be required) and to prepare a ***supplemental conduct report*** which shall:

a. specify any additional ***investigation*** work that was carried out pursuant to ***IDR*** 28.4(a) and include any relevant information and/or evidence identified as a result of such additional ***investigation*** work; and/or
b. include any additional information and/or evidence that was omitted from the original ***conduct report*** and identified pursuant to ***IDR*** 28.4(b); and/or
c. confirm that any procedural failures identified pursuant to ***IDR*** 28.4(c) have been rectified and include any relevant information and/or evidence identified as a result of such rectification work, and

the ***supplemental conduct report*** shall specify the ***Director of Investigation's*** conclusions as to whether the test set out in ***Disciplinary Bye-law*** 5.1 has been met in respect of the dismissed ***allegation*** or ***allegations*** in the light of any new information and/or evidence contained in the report.

28.7 The ***Director of Investigation*** shall provide a copy of the ***supplemental conduct report*** prepared pursuant to ***IDR*** 28.6 to the ***member, firm, affiliate*** or ***relevant person,*** and the ***complainant,*** who shall each have 28 days from the date of service of the report (or such longer period as may be agreed by the ***Director of Investigation***) to make written representations on the ***supplemental conduct report*** before it is placed before the ***Conduct Committee*** by the ***Head of Adjudication*** for re- examination.

28.8 Where, after considering the ***supplemental conduct report*** pursuant to ***IDR*** 28.7, the ***Conduct Committee*** determines that the test set out in ***Disciplinary Bye-law*** 5.1 is still not met in respect of the dismissed ***allegation(s)***, the ***Conduct Committee*** shall request the ***Head of Adjudication*** to:

a. provide a summary of the ***Conduct Committee's*** conclusions to the

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complainant and the ***member, firm, affiliate*** or ***relevant person*** as to why the test set out in ***Disciplinary Bye-law*** 5.1 has not been met; and

b. inform the ***complainant*** and the ***member, firm, affiliate*** or ***relevant person*** that the ***case file*** will be closed.

28.9 Where, after considering the ***supplemental conduct report***, the ***Conduct Committee*** finds that the test set out in ***Disciplinary Bye-law*** 5.1 has been met in respect of one or more of the dismissed ***allegation(s)***, it shall deal with such ***allegation(s)*** in accordance with ***IDR*** 22.2.

28.10 A ***complainant*** shall not be permitted to request more than one ***case file review***.

RECONSIDERATION BY THE CONDUCT COMMITTEE OF ALLEGATIONS ALREADY REFERRED TO THE TRIBUNALS COMMITTEE

29.1 Following the referral of one or more ***formal allegations*** by the ***Conduct Committee*** to the ***Tribunals Committee***, but prior to the first ***hearing*** (whether this be a ***case management hearing*** or a ***final hearing***), the ***Director of Investigation*** may make an ***application for reconsideration*** to the ***Conduct Committee*** in accordance with ***Disciplinary Bye-law*** 10.4 in respect of any ***allegation*** previously referred to the ***Tribunals Committee*** as a ***formal allegation*** on the basis that:

a. the ***Conduct Committee*** should reconsider whether the test set out in ***Disciplinary Bye-law*** 5.1 has been met in respect of the referred ***allegation*** or ***allegations,*** or should reconsider whether the referred ***allegation*** or ***allegations*** should be dealt with instead by way of a ***consent order;*** and/or

b. the ***Conduct Committee*** should consider a request to amend the wording of one or more of the referred ***allegations***; and/or

c. the ***Conduct Committee*** should consider whether, based on the available evidence, an additional ***allegation*** or ***allegations*** should be included with the referred ***allegations*** against the ***member, firm, affiliate*** or ***relevant person*** where such ***allegations*** arise out of the same ***event*** or ***events,***

and, for the purposes of this ***IDR*** 29.1, 'available evidence' includes any new information and/or evidence of a material nature that has been identified since the referral of the ***formal allegation(s)*** to the ***Tribunals Committee.***

29.2 An ***application for reconsideration*** must be served by the ***Director of Investigation*** on the ***Head of Adjudication*** and the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of the ***formal allegation(s),*** and the ***member, firm, affiliate*** or ***relevant person*** shall have 14 days from the date of service of the application to provide any written representations to the ***Director of Investigation*** and the ***Head of Adjudication***.

29.3 After the expiry of the period specified in ***IDR*** 29.2, or the receipt of written

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representations from the ***member, firm, affiliate*** or ***relevant person*** (if earlier), the ***Head of Adjudication*** shall place the ***application for reconsideration*** and any representations before the ***Conduct Committee*** as soon as reasonably practicable.

29.4 After considering an ***application for reconsideration***, the ***Conduct Committee*** shall determine whether any ***allegations*** previously referred to the ***Tribunals Committee*** as ***formal allegations*** should be recalled in order to:

a. dismiss the ***allegation(s)*** in accordance with ***Disciplinary Bye-law*** 10.2;
b. propose a ***consent order*** in respect of the ***allegations*** (to be dealt with in accordance with ***IDR*** 24);
c. amend the wording of one or more ***allegations*** before re-referring the ***allegations*** as ***formal allegation(s)*** to the ***Tribunals Committee***; and/or
d. refer an additional ***allegation*** or ***allegations*** arising out of the same ***event*** or ***events*** (which meet the test in ***Disciplinary Bye-law*** 5.1) for consideration at the same time by the ***Tribunals Committee***.

INTERIM ORDER APPLICATIONS

30.1 At any time during an ***investigation*** of a ***conduct matter***, or between the referral of one or more ***formal allegations*** to the ***Tribunals Committee*** and the ***final hearing*** (or ***sanctions hearing***), the ***Conduct department*** may make an application to the ***Tribunals Committee*** for an ***interim order*** to be imposed against a ***member, affiliate*** or ***relevant person*** in accordance with ***Disciplinary Bye-law*** 11.5.

30.2 A ***Tribunal*** may make an ***interim order*** against a ***member, affiliate*** or ***relevant person*** pursuant to ***Disciplinary Bye-law*** 11.5 where it is satisfied that there is a risk of significant harm to the public (or a section thereof) if an ***interim order*** is not made pending the final determination of the ***allegation(s)*** or ***formal allegation(s)*** by a ***disciplinary committee.***

30.3 The ***Conduct department*** shall serve copies of its ***interim order application*** on both the ***member, affiliate*** or ***relevant person***, and the ***Head of Adjudication,*** and the ***interim order application*** shall set out the basis on which the application is made and include any supporting evidence.

30.4 As soon as practicable after being served with an ***interim order application***, the ***Head of Adjudication*** shall request the ***Tribunals Committee Chair*** to appoint a ***Tribunal*** and shall proceed to fix a date for the ***interim order application*** to be considered by the ***Tribunal***.

30.5 Except in very urgent cases, the ***Head of Adjudication*** shall provide the ***parties*** with at least 14 days' ***notice*** of the date, time, location or format of the ***hearing,*** and the ***member, affiliate*** or ***relevant person*** shall have the opportunity to serve representations and evidence in response to the ***interim order application*** at least 7 days prior to the date set for the ***hearing***.

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30.6 Where the ***Conduct department*** requests an urgent ***hearing*** date, and the ***member, affiliate*** or ***relevant person*** has had less than 14 days' ***notice*** of the date of the ***hearing***, the ***Tribunal*** shall, at its first ***hearing*** of the ***interim order application***, consider whether the ***hearing*** should be adjourned with ***directions***, or whether the ***hearing*** should proceed, taking into account the impact of the short ***notice***, the reasons for the urgency and any prejudice that may be caused to the ***member, affiliate*** or ***relevant person*** in hearing the ***interim order application*** on that date.

Conduct of hearings of interim order applications

31.1 An ***interim order application*** shall be heard in private, either in person or via video conferencing, and there shall be no advance publicity of the ***hearing***.

31.2 A ***Tribunal*** convened to consider an ***interim order application*** may proceed in the absence of the ***member, affiliate*** or ***relevant person*** provided that it is satisfied that:

a. ***notice*** of the ***hearing*** was served on the ***member, affiliate*** or ***relevant person*** as required by these ***IDRs***; and
b. no adequate explanation has been provided by the ***member, affiliate*** or ***relevant person*** for their non-attendance and/or it is in the public interest to proceed in any event.

31.3 If a ***member, affiliate*** or ***relevant person*** does not attend at the ***hearing*** but provides the ***Tribunal*** instead with written representations, the ***Tribunal*** may take into account those written representations in determining whether the test for an ***interim order*** set out in ***IDR*** 30.2 has been met.

31.4 The ***Tribunal*** may at any time during the ***hearing***:

a. deliberate in the absence of the ***parties***;
b. determine that the ***hearing*** of the ***interim order application*** be adjourned for such period and with such directions as it considers appropriate.

31.5 Unless the ***Tribunal*** otherwise directs, the order of proceedings shall be as follows:

a. the ***Conduct department representative*** shall explain the basis upon which the ***interim order application*** is made and shall refer the ***Tribunal*** to any relevant documents or evidence;
b. the ***member, affiliate*** or ***relevant person*** (or their ***representative***) shall then have an opportunity to respond to the application, referring the ***Tribunal*** to any relevant documents or evidence;
c. no person shall give oral evidence unless this is permitted by the ***Tribunal*** (if permission is given, both ***parties*** and the ***Tribunal*** may ask questions of any witness); and
d. both ***parties*** may make closing submissions to the ***Tribunal*** with the ***member, affiliate*** or ***relevant person*** speaking last.

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31.6 A ***Tribunal*** may not make any finding that the test set out in ***Disciplinary Bye-law*** 5.2 is, or is not, or may be, met in relation to any ***conduct matter***, or any ***allegations*** or ***formal allegations*** made against the ***member, affiliate*** or ***relevant person***, or any finding of fact which would be capable of forming the basis for any such finding.

31.7 Due to the urgent nature of ***interim order*** proceedings, a ***Tribunal*** shall announce its decision at the conclusion of the ***hearing*** (including any period for deliberations) and shall give reasons for its decision, save where it is impossible to do so, in which case it shall announce its decision and give its reasons as soon as practically possible thereafter.

Orders by a Tribunal after considering an interim order application

32.1 A ***Tribunal*** may make an ***interim order*** against the ***member, affiliate*** or ***relevant person***, in accordance with ***Disciplinary Byelaw*** 11.5, where it finds the test set out in ***IDR*** 30.2 to be met.

32.2 The ***Tribunal*** shall specify in the ***interim order*** the intervals at which the ***interim order*** shall be reviewed (which shall be no longer than 6 months) and any ***interim order*** made in accordance with ***IDR*** 32.1 shall remain in force until such time as:

a. it is the subject of a successful ***appeal;*** or
b. it is discharged by a ***Tribunal*** following a ***review hearing*** or an ***expedited review;*** or
c. a final ***order*** is made in relation to the ***member, affiliate*** or ***relevant person*** in respect of the ***allegations*** or ***formal allegations*** to which the ***interim order*** relates (whether by the ***Conduct Committee,*** a ***Tribunal*** or an ***Appeal Panel***).

32.3 An ***interim order*** shall have immediate effect where the ***member, affiliate*** or ***relevant person***, or their ***representative***, is present at the ***hearing.*** If the ***member, affiliate*** or ***relevant person*** is not present at the ***hearing***, ***notice*** of the decision and of any ***interim order*** shall be provided on the day of the ***hearing,*** or as soon as practicable thereafter, and any ***interim order*** shall take effect on service of the ***notice*** on the ***member, affiliate*** or ***relevant person***.

32.4 Where a ***Tribunal*** makes an ***interim order***, it may make a ***costs order*** against the ***member, affiliate*** or ***relevant person*** in such sum as the ***Tribunal*** considers appropriate. Prior to making any ***costs order***, the ***Tribunal*** shall:

a. hear and consider submissions from both ***parties*** in respect of the amounts set out in any ***costs schedule*** which has been provided by the ***Conduct department representative*** to the ***Head of Adjudication*** and the ***member, affiliate*** or ***relevant person*** prior to the ***hearing***; and
b. hear submissions from both ***parties*** on any statement of means which has been provided in advance of the ***hearing*** by the ***member, affiliate*** or

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relevant person to the ***Head of Adjudication*** and the ***Conduct department representative***, and any supporting evidence (including a signed statement of truth) provided in respect of their income and assets.

32.5 Where a ***Tribunal*** determines not to make an ***interim order***, the ***Tribunal*** may, on the application of the ***member, affiliate*** or ***relevant person***, make a ***costs order*** against ***ICAEW*** subject to ***IDRs*** 32.6 and 32.7.

32.6 In determining whether to make a ***costs order*** under ***IDR*** 32.5***,*** a ***Tribunal*** shall take into account the public policy applied in the civil courts that costs awards should only be made against a regulator in exceptional circumstances to safeguard against the risk that the

egulator may be fettered in exercising its disciplinary functions due to the risk of adverse costs orders.

32.7 If the ***Tribunal*** considers that it is appropriate to make a ***costs order*** against ***ICAEW***, any ***costs order*** shall be limited to £10,000 unless the ***Tribunal*** determines that:

a. no reasonable regulator would have made such an ***interim order application***; or
b. that the ***interim order application*** was made in bad faith; or
c. the way in which the ***Conduct department*** conducted the ***interim order application*** unreasonably increased the costs incurred by the ***member, affiliate*** or ***relevant person*** above £10,000; or
d. the absence of a larger ***costs order*** against ***ICAEW*** would give rise to significant hardship for the ***member, affiliate*** or ***relevant person.***

32.8 Where the ***Tribunal*** determines to make a ***costs order*** against ***ICAEW***, it shall give the ***Conduct department representative*** and the ***member, affiliate*** or ***relevant person*** (or their ***representative***) an opportunity to make representations on the amount of costs claimed by the ***member, affiliate*** or ***relevant person*** before determining the amount to be paid by ***ICAEW*** by way of costs.

32.9 The ***Head of Adjudication*** shall provide the ***parties*** with a copy of the ***order*** and the ***record of decision*** of the ***Tribunal*** as soon as reasonably practicable after the ***hearing.***

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Publication of interim orders

33.1 Any ***interim order*** made in accordance with ***Disciplinary Bye-law*** 11.5 shall be published as soon as practicable following the ***hearing*** unless the ***Tribunal*** identifies exceptional circumstances supporting non-publication.

33.2 Where the ***interim order*** is published before the expiry of the 28 days within which a ***notice of appeal*** may be filed pursuant to ***IDR*** 70.1 any publication shall make clear that the ***interim order*** may be subject to ***appeal.***

Review hearings for interim orders

34.1 An ***interim order*** shall be the subject of a review by a ***Tribunal*** once every six months or at such shorter intervals as the ***Tribunal*** may order.

34.2 As soon as reasonably practicable after an ***interim order*** has been made by a ***Tribunal***, the ***Head of Adjudication*** shall inform the ***parties*** of the date, time, location or format of the first ***review hearing***.

34.3 At least 28 days prior to any ***review hearing***, the ***Head of Adjudication*** shall request that the ***member, affiliate*** or ***relevant person*** confirm in writing at least 14 days before the ***review hearing*** whether they intend to contest the continuation of the ***interim order*** at the ***review hearing***.If the ***member, affiliate*** or ***relevant person*** indicates in their response that they do not intend to contest the continuation of the ***interim order***, the ***Head of Adjudication*** shall cancel the ***review hearing*** and shall provide copies of the correspondence to the Chair of the ***Tribunal*** which made the ***interim order*** (or the ***Tribunals Committee Chair*** if the ***Tribunal Chair*** is no longer a member of the ***Tribunals Committee*** or is unavailable) for the ***Tribunal Chair*** (or the ***Tribunals Committee Chair***) to make an ***order*** to continue the ***interim order*** on the same terms. The ***Head of Adjudication*** shall provide a copy of any ***order*** made to the ***parties***.

34.4 If the ***member, affiliate*** or ***relevant person*** indicates in their response that they intend to contest the continuation of the ***interim order***, or if the ***Head of Adjudication*** receives no response to their request in accordance with ***IDR*** 34.3, the ***review hearing*** shall take place on the date notified previously under these ***IDRs***. If the ***member, affiliate*** or ***relevant person*** intends to contest the continuation of the ***interim order***, they shall provide their reasons in writing to the ***Conduct department representative*** and the ***Head of Adjudication*** at least 7 days before the date of the ***review hearing***.

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Conduct of a review hearing

35.1 A ***review hearing*** shall be held in public, either in person or via video-conferencing facilities, unless the ***Tribunal*** determines at the start of the ***review hearing*** that there are exceptional reasons why the whole or part of the ***review hearing*** should be held in private which outweigh the public interest in the ***review hearing*** being held in public.

35.2 A ***review hearing*** shall be conducted by the ***Tribunal*** that originally made the ***interim order***, unless one or more of the ***Tribunal*** members are no longer members of the ***Tribunals Committee*** or are unavailable, in which case the ***Tribunals Committee Chair*** shall be requested to appoint replacement members.

35.3 A ***review hearing*** may proceed in the absence of the ***member***, ***affiliate*** or ***relevant person*** where the ***Tribunal*** is satisfied that the ***member affiliate*** or ***relevant person*** has been notified of the date, time, location or format of the ***review hearing*** in accordance with these ***IDRs.*** A ***member***, ***affiliate*** or ***relevant person*** may be represented by a ***representative*** and will be deemed present when they appear by their ***representative***.

35.4 If the ***member, affiliate*** or ***relevant person*** (or their ***representative***) does not attend the ***review hearing***, the ***Tribunal*** may take into account any written representations provided by that ***member, affiliate*** or ***relevant person*** in determining whether the ***interim order*** should continue on the same or different terms.

35.5 The ***Tribunal*** may adjourn a ***review hearing*** of its own volition or on the application of one of the ***parties***.

35.6 The ***Tribunal*** shall have a discretion to determine the order of proceedings but shall ensure that both ***parties*** have an opportunity to make representations (whether written or verbal) on whether the ***interim order*** should continue on the same or different terms.

Orders of a Tribunal at a review hearing

36.1 At the end of a ***review hearing***, the ***Tribunal*** may make one of the following ***orders:***

a. that the ***interim order*** continue on the same terms; or
b. that the ***interim order*** be discharged; or
c. that the ***interim order***, or any conditions imposed by it, be varied.

The ***Tribunal*** shall provide reasons for its decision and the ***order*** will take immediate effect.

36.2 Where the ***Tribunal*** determines that the ***interim order*** should continue in force on the same or varied terms, it shall specify the date for the next ***review hearing,***

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which shall be within 6 months.

36.3 The ***Tribunal*** shall not make any ***costs orders*** in relation to ***review hearings***.

36.4 The ***Head of Adjudication*** shall provide the ***parties*** with a copy of the ***order*** and the ***record of decision*** of the ***Tribunal*** as soon as reasonably practicable after the ***review hearing***.

Expedited reviews of interim orders

37.1 Either ***party*** may make an application to the ***Tribunals Committee*** for a review of an ***interim order*** before the date of the next ***review hearing*** if there has been a material change in circumstances (including the emergence of any new material evidence) since the ***interim order*** was made or the date of the last review.

37.2 A ***party*** wishing to request an ***expedited review*** shall serve an application on the ***Head of Adjudication*** explaining the material change in circumstances.

37.3 Any application made under ***IDR*** 37.2 shall be considered by the Chair of the ***Tribunal*** which made the ***interim order*** (or the ***Tribunals Committee Chair*** if the ***Tribunal Chair*** is no longer a member of the ***Tribunals Committee*** or is unavailable) who shall determine whether a ***Tribunal*** should be appointed to review the ***interim order*** before the date of the next ***review hearing***. The decision of the ***Tribunal Chair*** (or ***Tribunals Committee Chair***) will be final.

37.4 Where the ***Tribunal Chair*** (or the ***Tribunals Committee Chair***) determines that an ***expedited review*** should be held before the date of the next ***review hearing***, they shall request the ***Head of Adjudication*** to fix a date for the ***expedited review*** as soon as practicable and to notify the ***parties*** of the date, time, location or format of the ***review hearing*** and to provide the other ***party*** with a copy of the application considered by the ***Tribunal Chair***.

37.5 Any ***expedited review*** shall be conducted in accordance with ***IDR*** 35 and the ***orders*** available to the ***Tribunal*** on an ***expedited review*** shall be the same as those set out in ***IDR*** 36, save that the ***Tribunal*** may, if it orders that the ***interim order*** should continue on the same terms, make a ***costs order*** against the ***member, affiliate*** or ***relevant person*** in such sum as it considers appropriate (and, in such circumstances, the procedure set out in ***IDR*** 32.4 shall apply).

DISCIPLINARY PROCEEDINGS BEFORE THE TRIBUNALS COMMITTEE

General

38.1 References in ***IDRs*** 39 – 78 to actions taken by the ***Conduct department*** shall be construed as being actions taken by the ***Conduct Committee*** if it has conduct of the ***disciplinary proceedings*** in accordance with ***IDR*** 23.2.

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38.2 Where a ***member, affiliate*** or ***relevant person***, who is the subject of one or more ***formal allegations*** has, at any time, after the referral of the ***formal allegations*** by the ***Conduct Committee*** and prior to a ***final hearing***, been excluded from ***ICAEW*** membership, or had their status as an ***affiliate*** or ***provisional member*** withdrawn, the ***Conduct department*** may submit an application to the ***Tribunals Committee Chair*** for the ***formal allegation(s)*** to ***lie on file.*** Such application shall follow the process set out in ***IDRs*** 38.3 and 38.4 and shall be determined by the ***Tribunals Committee Chair*** on the papers.

38.3 An application made in accordance with ***IDR*** 38.2 must be in writing and a copy provided to the ***member, affiliate*** or ***relevant person*** and any ***complainant*** who shall have 14 days from the date of service of the application to make written representations. Upon the expiry of 14 days, or the receipt of representations from all persons served with a copy of the application (whichever is earlier), the ***Head of Adjudication*** shall provide all relevant documents to the ***Tribunals Committee Chair*** to determine whether the ***formal allegations*** should ***lie on file***.

38.4 Where the ***Tribunals Committee Chair*** determines that the ***formal allegations*** should ***lie on file***, their decision shall be notified to the ***member, affiliate*** or ***relevant person,*** and any ***complainant***, and no step shall be taken to progress the ***disciplinary proceedings*** in respect of such ***formal allegations*** unless, or until, an application is made by the ***Director of Investigation*** to the ***Tribunals Committee Chair*** to review the ***formal allegations*** lying on file (following a ***readmission / re- registration application*** made by the former ***member,*** former ***affiliate*** or former ***relevant person***)***.***

38.5 Where an application is made by the ***Director of Investigation*** to the ***Tribunals Committee Chair*** to review the ***formal allegations*** lying on file, a copy of the application (indicating whether the ***Director of Investigation*** considers that the ***disciplinary proceedings*** in respect of such ***formal allegations*** should be re- started) and any supporting documents shall be provided by the ***Head of Adjudication*** to:

a. the former ***member,*** former ***affiliate*** or former ***relevant person*** who is the subject of the ***formal allegations*** lying on file; and

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b. any ***complainant*** connected to such ***formal allegations,***

who shall both have 14 days from the date of service of the application to provide any representations in writing to the ***Head of Adjudication*** prior to the application for review being considered by the ***Tribunals Committee Chair.***

38.6 In considering the application for review, the ***Tribunals Committee Chair*** shall take into account the ***Director of Investigation's*** submissions and any representations made by the former ***member,*** former ***affiliate*** or former ***relevant person,*** and by any ***complainant,*** before determining whether the ***disciplinary proceedings*** should be re-started.

38.7 The ***Tribunals Committee Chair*** shall order that the ***disciplinary proceedings*** relating to all ***formal allegations*** lying on file be re-started unless they consider that re-starting ***disciplinary proceedings*** relating to any or all ***formal allegations*** is not in the public interest, or if they consider that there are exceptional circumstances justifying the closure of such proceedings. Where an ***order*** is made to close the ***disciplinary proceedings*** in relation to one or more ***formal allegations*** lying on file, no further action shall be taken in respect of those matters.

38.8 Where the ***Tribunals Committee Chair*** orders that the ***disciplinary proceedings*** relating to one or more ***formal allegations*** lying on file be re-started, the ***formal allegations*** shall be dealt with in accordance with these ***IDRs.***

Pre-hearing procedure

39.1 Where one or more ***formal allegations*** (including any ***serious conviction allegations or non-cooperation allegations)*** are referred to the ***Tribunals Committee*** for determination by the ***Conduct Committee*** or the ***Conduct department,*** the ***Head of Adjudication*** shall serve on the ***member***, ***firm***, ***affiliate*** or ***relevant person*** the following:

a. the ***formal allegations report*** received from the ***Conduct department;***
b. any ***private hearing application*** made by the ***Conduct department***;
c. ***notice*** of the date, time and arrangements for a ***case management hearing***, which shall be not less than 35 days from the date of service of the documents;
d. a ***response form*** (to be completed); and
e. a copy of the ***standard directions***.

39.2 Within 21 days of service of the documents referred to in ***IDR*** 39.1, the ***member***, ***firm***, ***affiliate*** or ***relevant person*** shall provide to the ***Head of Adjudication***:

a. a completed ***response form***;
b. a ***response statement*** (unless the ***formal allegation*** or ***formal allegations*** are admitted in their entirety on the ***response form***);

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c. any ***private hearing application*** or any response to a ***private hearing application*** made by the ***Conduct department***;
d. any witness statements upon which the ***member***, ***firm***, ***affiliate*** or ***relevant person*** intends to rely;
e. the availability of the ***member***, ***firm***, ***affiliate*** or ***relevant person***, all witnesses and ***representatives*** for the following six months;
f. a copy of the ***standard directions*** with any proposed amendments and deletions or any alternative ***directions*** proposed by the ***member***, ***firm***, ***affiliate*** or ***relevant person***,
g. Any application, or any response to an application for a hearing to be held in person and the ***Head of Adjudication*** shall provide copies of such documents to the ***Conduct department*** as soon as reasonably practicable. The ***Head of Adjudication*** shall have the discretion to extend the period for service of the documents required under this ***IDR*** where an extension is considered reasonable in the circumstances.

39.3 The ***response statement*** shall include the following information:
a. the reference number of the ***formal allegations report***;
b. if there is only one ***formal allegation***, whether it is admitted and, if there are two or more ***formal allegations***, whether any of the ***formal allegations*** are admitted;
c. for all ***formal allegations*** which are denied, whether the ***member, firm, affiliate*** or ***relevant person*** admits the factual basis of the ***formal allegation*** or ***formal allegations***, as set out in the ***formal allegations report***. If the factual basis or bases are not accepted, the ***response statement*** should detail which paragraphs of the report are agreed and disputed and, where paragraphs are disputed, set out any alternative factual basis;
d. whether the ***member, firm, affiliate*** or ***relevant person*** accepts that, if the factual basis of the ***formal allegation*** or ***formal allegations*** is proved or admitted, they are liable to disciplinary action under the relevant ***Disciplinary Bye-law***;
e. if the ***member, firm, affiliate*** or ***relevant person*** does not accept that they are liable to disciplinary action, the basis on which this lack of liability is asserted;
f. if a ***formal allegation*** contains an allegation of dishonesty, whether this is accepted or, if it is not, the basis on which it is denied;
g. if a ***formal allegation*** contains an allegation of a lack of integrity whether this is accepted or, if it is not, the basis on which it is denied.

39.4 If the ***member***, ***firm***, ***affiliate*** or ***relevant person*** admits the ***formal allegation*** (where there is only one) or all ***formal allegations*** (where there is more than one) in their entirety in the ***response form*** and does not make a ***private hearing application***, or application for the hearing to be in person, then the

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admission(s) will be entered into the ***record*** and the ***case management hearing*** will be vacated. The ***Head of Adjudication*** shall then request the ***Tribunals Committee Chair*** to appoint a ***Tribunal*** for a ***sanctions hearing*** and shall notify all ***parties*** of the date, time, location or format for the ***sanctions hearing***.

39.5 If the ***member***, ***firm***, ***affiliate*** or ***relevant person*** does not admit all ***formal allegation(s)*** but the ***parties*** agree ***directions*** and there is no ***private hearing application,*** the ***case management hearing*** scheduled pursuant to ***IDR*** 39.1(c) will be vacated and the ***Conduct department representative*** shall provide a copy of the agreed ***directions*** to the ***Head of Adjudication***. The ***Head of Adjudication*** shall then request the ***Tribunals Committee Chair*** to appoint a ***Tribunal*** for a ***final hearing*** and shall notify the ***parties*** of the date, time, location or format for the ***final hearing***.

39.6 If the member, firm affiliate or relevant person

a. does not admit the ***formal allegation(s)*** and the ***parties*** do not agree ***directions***; or
b. makes a ***private hearing application;*** or
c. fails to file a completed ***response form*** and any proposed ***directions*** as required pursuant to ***IDR*** 39.2, the matter shall proceed to the ***case management hearing*** scheduled by the ***Head of Adjudication*** pursuant to ***IDR*** 39.1(c)***.*** The ***Head of Adjudication*** shall also request the ***Tribunals Committee Chair*** to appoint a ***Tribunal*** for the ***final hearing***.

39.7 At least 7 days before a ***case management hearing***, the ***Conduct department representative*** may file with the ***Head of Adjudication***, and serve on the ***member***, ***firm***, ***affiliate*** or ***relevant person***, a written response to any ***private hearing application***, or any ***directions*** filed by the ***member***, ***firm***, ***affiliate*** or ***relevant person*** pursuant to ***IDR*** 39.2.

CASE MANAGEMENT HEARINGS

General process

40.1 A ***case management hearing*** shall either be conducted by a legally qualified ***Case Management Chair*** sitting alone, or by a lay ***Case Management Chair*** assisted by a ***legal assessor***.

40.2 The ***Case Management Chair*** shall be the ***Tribunal Chair*** appointed for the ***final hearing*** but, if the ***Tribunal Chair*** is not available within a reasonable period, the ***Tribunals Committee Chair*** shall appoint an alternative ***Case Management Chair***.

40.3 The ***Case Management Chair*** appointed to conduct the ***case***

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management hearing shall decide, in their absolute discretion, whether an application for a postponement of that ***case management hearing*** should be granted.

40.4 ***Case management hearings*** shall be in private and shall take place as telephone or video conferences, unless the ***Case Management Chair***, in their absolute discretion, directs otherwise. There shall be no advance publicity of the date of a ***case management hearing***.

40.5 The purpose of a ***case management hearing*** is to:

a. decide any preliminary issues of procedure or any applications for ***directions*** which are necessary or desirable for securing the just, expeditious and economic disposal of the ***formal allegations***; and
b. set ***directions*** for the future management of the ***disciplinary proceedings*** and to timetable the ***final hearing***.

40.6 If either ***party*** fails to attend the ***case management hearing***, it will proceed in their absence, where the ***Case Management Chair*** is satisfied that each ***party*** has been notified of the date, time, location or format of the ***case management hearing*** in accordance with these ***IDRs*** and that proceeding is desirable for securing the just, expeditious and economic disposal of the ***formal allegation(s)***. A ***member, firm, affiliate*** or ***relevant person*** may be represented by a ***representative*** at the ***case management hearing,*** and a ***member, firm, affiliate*** or ***relevant person*** will be deemed present when they appear by their ***representative.***

40.7 The ***Case Management Chair*** may, at a ***case management hearing***, direct a ***member***, ***firm***, ***affiliate*** or ***relevant person*** or the ***Conduct department representative*** to provide such further information and/or documents relating to the ***formal allegation(s)*** as the ***Case Management Chair*** thinks necessary for the just, expeditious and economic disposal of the case and may adjourn the ***case management hearing*** for a short period to allow such further information and/or documents to be provided.

40.8 If, either before or during, the ***case management hearing***, the ***member***, ***firm***, ***affiliate*** or ***relevant person*** indicates that they admit the ***formal allegation(s)*** against them in their entirety, the admission(s) shall be entered into the ***record*** and the ***Case Management Chair*** shall direct that a ***sanctions hearing*** be listed at the earliest available date. The ***Head of Adjudication*** shall then request the ***Tribunals Committee Chair*** to appoint a ***Tribunal*** for the ***sanctions hearing*** and to notify the ***parties*** of the date, time, location or format of the ***sanctions hearing.***

Directions

41.1 The ***Case Management Chair*** shall make ***directions*** after hearing representations from both ***parties***. The ***Case Management Chair*** may make any

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directions necessary for the just, expeditious and economic disposal of the ***formal allegation(s)*** at the ***final hearing***, including but not limited to:

a. directing the service and timetabling by both ***parties*** of summary ('skeleton') arguments;
b. directing the number of days to be allocated to the ***final hearing*** and the timing of opening and closing submissions, legal arguments, witness and expert evidence;
c. timetabling the service of further evidence, including any expert evidence;
d. directing and timetabling the service of further disclosure by either ***party***;
e. exceptionally, timetabling a further ***case management hearing***;
f. exceptionally, deciding an application to admit a witness statement which is not accepted by the other ***party*** and where the witness is unable or unavailable to attend the ***final hearing***, provided that the admission is in the interests of justice; and
g. directing the date or dates of the ***final hearing.***
h. Directing that the hearing be held on a virtual platform, or in-person, or a hybrid of the two.

41.2 The ***Case Management Chair*** shall, in their absolute discretion, direct which witnesses should attend the ***final hearing***. It is not expected that witnesses whose statements are agreed will attend to give evidence at the ***final hearing***, but their witness statements will be admitted into evidence and may be read to the ***Tribunal*** as agreed statements at the ***final hearing***.

41.3 If a ***party*** fails to serve any or all the documents specified in ***IDR*** 39.1 or ***IDR*** 39.2, then they shall not be permitted to rely on any document not so served, unless the ***Case Management Chair*** at a ***case management hearing*** or, exceptionally, the ***Tribunal*** at the ***final hearing***, allows for the admission of further documents. The ***Case Management Chair*** shall only admit further documents if:

a. they are relevant to the issues to be determined;
b. they could not have been reasonably identified and adduced by the ***party*** seeking to rely on them at an earlier date; and
c. the relevance and probative value of the evidence contained in the documents is such that the prejudice caused by the refusal of permission outweighs the prejudice caused by its admission.

Joinder / consolidation of formal allegations for final hearing / sanctions hearing

42.1 ***Formal allegations*** against a ***member, firm, affiliate*** or ***relevant person*** founded on the same ***event*** or ***events*** which form part of the same ***conduct report*** and which have been referred together by the ***Conduct Committee*** as ***formal allegations*** will be heard at the same ***final hearing*** unless an application is made at a ***case management hearing*** for the ***formal allegations*** to be heard separately.

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42.2 An application to consolidate and hear at the same ***final hearing*** two or more ***formal allegations*** against a ***member, firm, affiliate*** or ***relevant person*** arising from different ***events,*** shall be dealt with at a ***case management hearing***. The ***Case Management Chair*** may grant that application where they consider the consolidation to be in the interests of justice, taking into account the potential reduction of costs and delays.

42.3 An application to join, and hear at the same ***final hearing, formal allegations*** against two or more ***members, firms, affiliates*** or ***relevant persons*** which arise out of the same ***event(s)*** shall be dealt with at a ***case management hearing.*** The ***Case Management Chair*** may grant that application where they consider the consolidation to be in the interests of justice, taking into account the potential reduction of costs and delays.

Private hearing applications

43.1 Where a ***private hearing application*** has been made by a ***party*** pursuant to ***IDR*** 39.1(b) or 39.2(c), this application shall be determined at a ***case management hearing*** by the ***Case Management Chair.***

43.2 ***Sanctions hearings*** and ***final hearings*** shall be held in public unless the ***Case Management Chair*** accedes to a ***private hearing application*** made by a ***party***, or concludes, of their own volition, that the press and public should be excluded from the whole, or part, of a ***sanctions hearing*** or a ***final hearing*** in the interests of justice and / or due to the exceptional circumstances of the case outweighing the public interest in the ***hearing*** being held in public.

43.3 The ***Case Management Chair*** shall provide a summary of reasons to the ***parties*** for allowing or dismissing any application made under ***IDR*** 39.1(b) or 39.2(c).

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Fixing date for final hearing / notifications to the parties

44.1 The ***Case Management Chair*** shall schedule the date of the ***final hearing***, which shall be at least 30 days from the date of the ***case management hearing***, unless a closer date is agreed by both ***parties*** and the ***Head of Adjudication***. The ***Head of Adjudication*** shall notify the ***parties*** of the date, time, location or format of the ***final hearing*** within 7 days of the ***case management hearing***.

44.2 The ***directions*** from the ***case management hearing***, and the summary of reasons for allowing or rejecting any ***private hearing application,*** shall be served on the ***parties*** by the ***Head of Adjudication*** within 7 days of the ***case management hearing***.

Additional case management hearings

45.1 The ***Case Management Chair*** may, of their own volition, determine that another ***case management hearing*** should be held.

45.2 An application may be made by either ***party*** to the ***Head of Adjudication*** for a further ***case management hearing*** to take place to vary ***directions*** or for additional ***directions*** to be made. The ***Head of Adjudication*** shall arrange for any further ***case management hearing*** to be conducted by the ***Case Management Chair*** who conducted the prior ***case management hearing*** unless they are not available within a reasonable time, in which case the ***Head of Adjudication*** shall request the ***Tribunals Committee Chair*** to appoint an alternative ***Case Management Chair***.

SETTLEMENT ORDERS

46.1 At any time following the referral of one or more ***formal allegations*** to the ***Tribunals Committee***, but prior to the start of a ***final hearing***, the ***parties*** may apply to the ***Tribunals Committee*** for the approval of a draft ***settlement order*** to conclude the ***disciplinary proceedings*** against the ***member, firm, affiliate*** or ***relevant person*** by agreement. Any ***settlement order application*** shall be served on the ***Head of Adjudication*** and shall contain the documents set out at ***IDR*** 46.3.

46.2 Upon receipt of a ***settlement order application***, the ***Head of Adjudication*** shall request the ***Tribunals Committee Chair*** to appoint a ***Settlement Chair***.

46.3 As soon as reasonably practicable, the ***Settlement Chair*** shall be provided with the ***settlement order application*** which shall include:

a. the formal allegations report

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b. the proposed ***settlement agreement;***

c. the draft ***settlement order***;

d. any written representations from the ***parties***; and

e. any ***disciplinary record*** of the ***member***, ***firm***, ***affiliate*** or ***relevant person.***

46.4 The ***Settlement Chair*** shall determine whether to make the proposed ***settlement order*** on the papers.

46.5 In determining whether the proposed ***settlement agreement*** is in the public interest and whether the draft ***settlement order*** should be approved, the ***Settlement Chair*** shall consider, amongst other matters:

a. the ***formal allegation*** or ***formal allegations*** which have been admitted by the ***member, firm, affiliate*** or ***relevant person*** and any which have not been admitted;

b. the likely outcome and ***sanction(s)*** which would be imposed by a ***Tribunal*** at a **final hearing**;

c. the degree to which the ***member, firm, affiliate*** or ***relevant person*** has displayed insight into the conduct giving rise to the ***formal allegation(s)***; and

d. any remedial action taken by the ***member, firm, affiliate*** or ***relevant person*** and any safeguards put in place to prevent similar issues arising in the future.

46.6 Where the ***settlement order*** is approved, the ***Head of Adjudication*** shall provide a copy of the signed ***settlement order*** to:

a. the ***parties*** to the ***settlement order***; and

b. any other ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of any ***formal allegation(s)*** arising from the same ***events*** as the ***formal allegations*** which are the subject of the ***settlement order***,

and the ***settlement order*** shall take effect after 7 days of the date of service of the ***order*** on the ***parties.***

46.7 Where the ***Settlement Chair*** does not approve the draft ***settlement order***, the ***Settlement Chair*** shall give a written summary of reasons, a copy of which shall be provided by the ***Head of Adjudication*** to the ***parties*** as soon as practicable.

46.8 The ***parties*** may make further ***settlement order applications*** at any time prior to the start of a ***final hearing***.

46.9 ***IDRs*** 58.1(b), 58.5 and 58.6 (time limits for the payment of financial penalties, financial payments and ***costs orders***) shall apply in relation to any financial penalty, financial payment or costs imposed by a ***settlement order*** made under ***IDR*** 46.6 as it applies in relation to a financial penalty, financial payment or ***costs order*** imposed by an ***order*** of a ***Tribunal*** (save that the reference in

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IDR 58.1(b) to the date of service of the ***Tribunal's record of decision*** shall be taken to refer to the date of the ***settlement order***).

Publication of settlement orders

47.1 Subject to ***IDR*** 47.6, an approved ***settlement order*** shall be published no less than 7 days from the date of service of the ***settlement order*** on the ***parties***.

47.2 A ***settlement order*** shall not be published until a reasonable opportunity has been provided to any other ***member, firm, affiliate*** or ***relevant person*** who, or which, has been served with a copy of the ***settlement order*** pursuant to ***IDR*** 46.6(b) to make representations for delaying the publication until the final determination of the ***formal allegation(s)*** against that other ***member, firm, affiliate*** or ***relevant person***.

47.3 Any ***member, firm, affiliate*** or ***relevant person*** who, or which, wishes to make representations to the ***Settlement Chair*** to delay the publication shall provide any such representations in writing to the ***Head of Adjudication*** within 7 days of being served with a copy of the ***settlement order***.

47.4 Where written representations are received pursuant to ***IDR*** 47.3, the ***Settlement Chair*** shall consider such representations before determining whether there is good reason why the publication of the ***settlement order*** should be delayed. In making that determination, the ***Settlement Chair*** shall have regard to the following matters:

a. the potential impact of the publication of the ***settlement order*** on the determination of the ***formal allegation(s)*** against the ***member, firm, affiliate*** or ***relevant person*** who has been served with a copy of the ***settlement order*** pursuant to ***IDR*** 46.6(b); and
b. the public interest in ensuring swift publication of ***sanctions*** for the protection of clients and future clients of the ***member, firm, affiliate*** or ***relevant person***, and the protection of ***ICAEW's*** reputation as a regulator.

47.5 Where the ***Settlement Chair*** refuses a request to delay the publication, written reasons for this decision shall be provided to the ***parties*** and any other persons served with a copy of the ***settlement order*** under ***IDR*** 46.6(b).

47.6 Where the ***Settlement Chair*** decides that the publication of the ***settlement order*** should be delayed, the ***Settlement Chair*** shall provide directions to the ***Head of Adjudication*** on when the ***order*** should be published and the ***Head of Adjudication*** shall inform the ***parties*** and any other persons served with a copy of the ***settlement order*** under ***IDR*** 46.6(b) accordingly.

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Without prejudice nature of settlement discussions

48.1 The content of any settlement discussions between the ***Conduct department*** and the ***member, firm, affiliate*** or ***relevant person***, any proposed ***settlement agreement*** or any draft ***settlement order,*** and the summary of reasons given by a ***Settlement Chair*** for refusing a proposed ***settlement order,*** shall be confidential and, for the avoidance of doubt, shall not be admissible in:

a. any subsequent ***disciplinary proceedings*** against the ***member, firm, affiliate*** or ***relevant person*** in respect of the ***formal allegation(s)*****;** and
b. any ***disciplinary proceedings*** concerning ***allegation(s)*** or ***formal allegation(s)*** against any other ***member, firm, affiliate*** or ***relevant person*** which arise from the same ***event(s)*** as the ***formal allegations*** which were the subject of the proposed ***settlement order***.

48.2 A ***Settlement Chair*** shall have no further involvement in the matter if a proposed ***settlement order*** is refused and the ***formal allegation(s)*** proceed to a ***sanctions hearing*** or a ***final hearing***.

CONDUCT OF FINAL HEARINGS AND SANCTIONS HEARINGS

General

49.1 Subject to ***IDR*** 49.2, the name of the ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject to the ***formal allegation(s),*** the date, time, location or format of the ***hearing,*** and the terms of the ***bye-law*** and/or regulation under which the ***formal allegation*** is, or ***formal allegations*** are, brought, shall be published on the ***ICAEW*** website at least 7 days prior to a ***final hearing*** or ***sanctions hearing.***

49.2 ***IDR*** 49.1 shall not apply where, prior to the ***hearing,*** a ***party*** has made a successful application for the ***hearing*** to be heard in private***.***

49.3 The ***Head of Adjudication*** may appoint a ***legal assessor*** to assist the Tribunal at the final hearing or sanctions hearing.

49.4 If, prior to the start of a ***final hearing*** or a ***sanctions hearing***, any member of a ***Tribunal*** appointed in accordance with these ***IDRs*** is unable to attend the ***hearing***, the ***Tribunals Committee Chair*** shall appoint another member of the ***Tribunals Committee*** to the ***Tribunal***. If no suitable member of the Committee is available on the date(s) fixed for the ***final hearing*** or ***sanctions hearing***, the ***Tribunals Committee Chair*** shall request the ***Head of Adjudication*** to fix a new date for the ***final hearing*** or ***sanctions hearing*** and to notify all ***parties*** of the new date.

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49.5 If, after the start of a ***final hearing*** or a ***sanctions hearing***, any member of the ***Tribunal*** is, for any reason, unable to continue to attend, the ***Tribunal*** will no longer be quorate and may not continue. In such circumstances, the ***Head of Adjudication*** shall request the ***Tribunals Committee Chair*** to appoint a new ***Tribunal*** and shall fix a date and time for the ***final hearing*** or the ***sanctions hearing*** to recommence. No members of the original ***Tribunal*** shall be appointed as members of the new ***Tribunal*** but the same ***legal assessor*** may be re-appointed.

49.6 If, an any time during a ***final hearing*** or a ***sanctions hearing,*** the ***Tribunal Chair*** is, for any reason, of the opinion that it is impracticable or would be contrary to the interests of justice for the ***final hearing*** or the ***sanctions hearing*** to be completed by that ***Tribunal,*** they shall inform the ***Tribunals Committee Chair*** who shall thereupon direct that the matter be re-heard by a new ***Tribunal*** so appointed. No members of the original ***Tribunal*** shall be appointed as members of the new ***Tribunal*** but the same ***legal assessor*** may be re- appointed.

49.7 A ***Tribunal Chair*** may postpone a ***final hearing*** or a ***sanctions hearing*** which has not yet commenced of their own volition or upon application by either ***party***.

49.8 A ***final hearing*** or a ***sanctions hearing*** may proceed in the absence of the ***member***, ***firm***, ***affiliate*** or ***relevant person*** where the ***Tribunal*** is satisfied that each ***party*** has been

notified of the date, time, location or format of the ***final hearing*** or the ***sanctions hearing*** in accordance with these ***IDRs*** and that proceeding is desirable for securing the just, expeditious and economic disposal of the ***formal allegation(s).*** A ***member, firm, affiliate*** or ***relevant person*** may be represented by a ***representative*** and a ***member, firm, affiliate*** or ***relevant person*** will be deemed present when they appear by their ***representative***.

49.9 A ***Tribunal*** may adjourn proceedings of its own volition or upon application by either ***party*** to a date fixed by the ***Tribunal.*** A ***party*** may make an application to the ***Tribunal Chair*** for a further adjournment before the ***final hearing*** or the ***sanctions hearing*** is resumed which must be copied to the other ***party*** who shall be entitled to make written representations on the application before a decision is made by the ***Tribunal Chair***.

49.10 The ***Tribunal*** may, at its discretion, consider evidence which has not been provided in accordance with ***IDRs*** 39.1, 39.2 and 41.3. However, in considering whether to admit late evidence, the ***Tribunal*** shall apply the test in ***IDR*** 41.3.

49.11 A ***Tribunal*** may deliberate in the absence of the ***parties,*** and their representatives, at any time.

49.12 No objection shall be upheld to any technical fault or in the procedure adopted by a ***Tribunal*** at a ***final hearing*** or a ***sanctions hearing,*** provided that the

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proceedings are fair and the relevant ***Disciplinary Bye-laws*** and ***IDRs*** have been complied with.

49.13 A ***Tribunal*** may exclude from the whole or part of a ***final hearing*** or a ***sanctions hearing***, any person or persons whose conduct has disrupted, or is likely to disrupt, the ***hearing***.

49.14 Notwithstanding a refusal by the ***Case Management Chair*** at a ***case management hearing***, a ***Tribunal*** may, at any stage of a ***final hearing*** or a ***sanctions hearing***, consider an oral application to exclude the press and the public from the whole or any part of a ***final hearing*** or a ***sanctions hearing***. In deciding such an application, the ***Tribunal*** will apply the same test and considerations outlined in ***IDR*** 43.2 and will additionally require the ***party*** making the application to provide a good reason why the application could not reasonably have been made earlier at a ***case management hearing***.

49.15 Where an oral application is made to a ***Tribunal*** to hold the whole or part of a ***final hearing*** or a ***sanctions hearing*** in private, that application will be heard in private. Where an application is successful, or where a ***Tribunal*** otherwise decides of its own motion to exclude the press and the public from the whole or part of a ***final hearing*** or a ***sanctions hearing***, the reasons for holding the whole or part of a ***final hearing*** or a ***sanctions hearing*** in private will be given by the ***Tribunal*** in public on the day that the decision is made, provided always that such reasons as are given do not, in the opinion of the ***Tribunal,*** unreasonably undermine the purpose of proceeding in private. In the event of any ***formal allegation*** being proved at a ***final hearing***, the ***Tribunal's*** reasons for having proceeded in private will be published, provided that such reasons as are given shall not in the opinion of the ***Tribunal*** undermine the purpose of having proceeded in private. If the ***formal allegation(s)*** are not proved, such reasons will only be published if the ***member***, ***firm***, ***affiliate*** or ***relevant person*** so requests.

Conduct of a final hearing

50.1 If a ***member, firm, affiliate*** or ***relevant person*** does not attend a ***final hearing*** but provides written representations, the ***Tribunal*** may take these representations into account when deciding whether or not the test for liability under ***Disciplinary Bye- law*** 5.2 has been met in respect of the ***formal allegation(s)***.

50.2 A ***final hearing*** shall be informal and the strict rules of evidence shall not apply. Subject to these ***IDRs***, the ***Tribunal*** may adopt any method of procedure which it considers fair and which gives each ***party*** the opportunity to present their case. Unless a ***Tribunal*** directs otherwise, the order of proceedings will be as follows:

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a. the ***formal allegation(s)*** shall be read out or, with the consent of the ***member***, ***firm***, ***affiliate*** or ***relevant person***, the ***formal allegation(s)*** may be taken as read, and the ***member***, ***firm***, ***affiliate*** or ***relevant person*** shall be invited to state whether they admit or deny the ***formal allegation(s)***, and this admission or denial will be entered into the ***record;***

b. the ***Conduct department representative*** shall outline the case against the ***member***, ***firm***, ***affiliate*** or ***relevant person*** and, subject to ***IDRs*** 39.1, 41.1 and 41.3, may produce any document or call any witness;

c. the ***member***, ***firm***, ***affiliate*** or ***relevant person***, or their ***representative*** shall be entitled to address the ***Tribunal*** and, subject to ***IDRs*** 39.2, 41.1 and 41.3, may give evidence and produce any document or call any witness;

d. a witness for one ***party*** (including the ***member***, ***firm***, ***affiliate*** or ***relevant person***) may be questioned by, or on behalf of, the other ***party***. A witness so questioned may be re-examined by, or on behalf of, the ***party*** calling them,but such re- examination shall be limited to matters arising from cross-examination. Members of a ***Tribunal*** may ask questions of a witness. Evidence will not be taken on oath. A witness of fact shall not be permitted to observe the ***final hearing*** until they have given their evidence, without the prior agreement of the tribunal. The ***Tribunal*** may, on the application of either ***party***, agree that the identity of a witness should not be revealed to the public;

e. the ***parties*** may make closing submissions and the ***member, firm, affiliate*** or ***relevant person,*** or their ***representative***, will have the final opportunity to address the ***Tribunal***.

50.3 The ***Tribunal*** shall apply the standard of proof set out in ***Disciplinary Bye-law*** 5.2 in considering the ***formal allegation(s)*** and the burden of proof is on the ***Conduct department.***

ORDERS OF A TRIBUNAL AT A FINAL HEARING

Orders which a Tribunal may make when formal allegations are found to be proved

51.1 Where a ***Tribunal***, after hearing and considering the evidence and the submissions made by the ***parties***, finds that one or more ***formal allegations*** against the ***member, firm, affiliate*** or ***relevant person*** are proved, it shall make a ***finding*** to that effect and shall consider:

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a. the ***sanctions*** (if any) to be imposed on the ***member, firm, affiliate*** or ***relevant person*** in relation to the proven ***formal allegations*** in accordance with ***Disciplinary Bye-law*** 11.1 and ***IDRs*** 51.2 – 51.4; and
b. whether to make a ***costs order*** against the ***member, firm, affiliate*** or ***relevant person*** in accordance with ***Disciplinary Bye-law*** 11.1 and ***IDR*** 51.4.

51.2 Prior to determining what (if any) ***sanctions*** to impose on the ***member, firm, affiliate*** or ***relevant person***, the ***Tribunal*** shall invite the ***Conduct department representative*** to make representations to the ***Tribunal*** in respect of:
a. any ***disciplinary record*** of the ***member, firm, affiliate*** or ***relevant person***;
b. any aggravating or mitigating factors which the ***Conduct department representative*** considers to be relevant to sanction;
c. any relevant guidance or details of any relevant cases which have been determined previously; and
d. the appropriate starting point in the ***Guidance on Sanctions.***

51.3 The ***Tribunal*** shall then invite the ***member, firm, affiliate*** or ***relevant person***, or their ***representative***, to address the ***Tribunal*** on appropriate sanction including representations relating to appropriate starting points in the ***Guidance on Sanctions***, relevant mitigating factors, ***disciplinary record*** and character references.

51.4 Prior to determining sanction and whether to make a ***costs order***, and the amount of any costs to be ordered against a ***member, firm, affiliate*** or ***relevant person***, the ***Tribunal*** shall:
a. hear and consider submissions from the ***member, firm, affiliate*** or ***relevant person*** (or their ***representative***) and the ***Conduct department representative***, in respect of the ***costs schedule*** provided by the ***Conduct department*** to the ***Tribunal*** and the ***member, firm, affiliate*** or ***relevant person*** prior to the ***hearing***; and
b. have regard to any statement of means, supported with a signed statement of truth, and evidence of income and assets provided by the ***member, firm, affiliate*** or ***relevant person***.

Orders for the waiver or repayment of fees or commission

52.1 Where a ***Tribunal*** makes an ***order*** in accordance with ***Disciplinary Bye-law*** 11.1(a)(x), 11.1(b)(ix),11.1(c)(x) or 11.1(d)(xii) for:
a. the repayment of the whole or part of any fee or commission received; and/or
b. the waiver of the whole or part of any fee which is due; and/or
c. the payment of a sum assessed by the ***Tribunal*** as the value in whole or part of any commission to which the ***member, firm, affiliate*** or ***relevant person*** has become entitled; and/or
d. the repayment of the whole or part of any sum which has been

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retained in or towards payment of a fee by a client,

any sums ordered to be paid by the ***member, firm, affiliate*** or ***relevant person,*** shall be paid to ***ICAEW*** for remittance to the client or former client in accordance with these ***IDRs***, and the total amount of any fees to be waived, or sums to be paid, in accordance with paragraphs (a) – (d) above, shall not exceed £10,000 in the aggregate.

Remedial orders

53.1 A ***Tribunal*** may, on its own or in addition to other ***orders*** it may make in accordance with ***Disciplinary Bye-law*** 11.1(a)(xi), 11.1(b)(x), 11.1(c)(xi) or 11.1(d)(xiii), appoint another ***member***, ***member firm*** or ***regulated firm*** to undertake or complete the work which the ***member, firm, affiliate*** or ***relevant person*** (who or which is the subject of the ***formal allegations***) was engaged to perform for a client or former client; and, if it does so, the ***Tribunal*** shall order the ***member, firm, affiliate*** or ***relevant person*** to pay the reasonable fees of that other ***member, member firm*** or ***regulated firm*** for work done as a result of the appointment.

53.2 In the event of a dispute as to the fees payable by the ***member, firm, affiliate*** or ***relevant person*** in accordance with ***IDR*** 53.1 above, the ***Tribunal*** may either:

a. determine the fees payable; or
b. order the parties to the dispute to submit the fees to arbitration in accordance with the directions of the ***Tribunal***.

Complainants' expenses

54.1 The ***Tribunal*** may, in accordance with ***Disciplinary Bye-law*** 11.1(a)(ix), 11.1(b)(viii), 11.1(c)(ix) or 11.1(d)(xi), order the ***member, firm, affiliate*** or ***relevant person*** to pay to ***ICAEW*** a sum in respect of the expenses which, in the opinion of the ***Tribunal,*** were reasonably and necessarily incurred by the ***complainant*** in:

a. bringing the ***complaint*** to the attention of the ***Conduct department;*** and/or
b. making written representations to the ***Conduct department*** prior to the referral of the ***allegations(s)*** to the ***Conduct Committee,***

save that such sum shall not exceed £1,000 in the aggregate.

Where formal allegations are found not to be proved

55.1 Where a ***Tribunal*** finds any ***formal allegation*** unproved, it shall dismiss that ***formal allegation*** in accordance with ***Disciplinary Bye-law*** 11.2.

55.2 Where a ***Tribunal*** finds that the test set out in ***Disciplinary Bye-law*** 5.2 has not been met in respect of all ***formal allegations*** against a ***member, firm, affiliate*** or

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relevant person, the ***Tribunal*** may, on the application of the ***member, firm, affiliate*** or ***relevant person***, make a ***costs order*** against ***ICAEW*** subject to ***IDRs*** 55.3 and 55.4.

55.3 In determining whether to make a ***costs order*** under ***IDR*** 55.2, a ***Tribunal*** shall take into account the public policy applied in the civil courts that costs awards should only be made against a regulator in exceptional circumstances to safeguard against the risk that the regulator may be fettered in exercising its disciplinary functions due to the risk of adverse costs orders.

55.4 If the ***Tribunal*** considers it appropriate to make a ***costs order*** against ***ICAEW***, it shall be limited to £25,000 (in the aggregate for all ***formal allegations***) unless the ***Tribunal***

determines that:

a. the ***formal allegation*** has, or the ***formal allegations*** have, been brought in bad faith; or
b. no reasonable regulator would have brought or pursued that ***formal allegation*** or those ***formal allegations*** against the ***member, firm, affiliate*** or ***relevant person;*** or
c. the way in which the ***Conduct department*** conducted the ***disciplinary proceedings*** unreasonably increased the costs incurred by the ***member, firm, affiliate*** or ***relevant person*** to more than £25,000; or
d. the absence of a larger ***costs order*** against ***ICAEW*** would give rise to significant hardship for the ***member, firm, affiliate*** or ***relevant person.***

55.5 Where the ***Tribunal*** determines to make a ***costs order*** against ***ICAEW***, it shall give the ***Conduct department representative*** and the ***member, firm, affiliate*** or ***relevant person*** (or their ***representative***) an opportunity to make representations on the amount of costs claimed by the ***member, firm, affiliate*** or ***relevant person*** before determining the amount to be paid by ***ICAEW*** by way of costs.

55.6 Any costs payable by ***ICAEW*** shall be limited to the costs reasonably incurred by the ***member, firm, affiliate*** or ***relevant person*** since the date of the referral of the ***formal allegations*** to the ***Tribunals Committee.***

ORDERS OF A TRIBUNAL AT A SANCTIONS HEARING

56.1 A ***Tribunal*** at a ***sanctions hearing*** shall follow the process set out in ***IDRs*** 51.2 - 51.4 in determining what (if any) ***sanctions*** from those set out in ***Disciplinary Bye-law***
11.1 should be imposed on the ***member, firm, affiliate*** or ***relevant person***, and whether a ***costs order*** should be made against a ***member, firm, affiliate*** or ***relevant person*** (and, if so, the amount of such costs).

56.2 ***IDRs*** 52 – 54 (concerning remedial orders; orders for the waiver or repayment of

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fees or commission, and complainants' expenses) shall apply, where relevant, to ***orders*** made by a ***Tribunal*** in accordance with ***Disciplinary Bye-law*** 11.1 at a ***sanctions hearing.***

TRIBUNAL ORDERS: NOTIFICATION / TIMING OF ORDERS COMING INTO EFFECT / TIME FOR PAYMENT / PUBLICITY

Notification

57.1 Following a ***final hearing*** or a ***sanctions hearing***, the ***Head of Adjudication*** shall send to the ***parties*** as soon as reasonably practicable:

a. ***notice*** of the decision of the ***Tribunal*** and any ***order(s)*** made; and
b. a copy of the ***record of decision.***

Timing of orders coming into effect / time for payment

58.1 Subject to ***IDRs*** 58.2 – 58.6:

a. any ***order*** made by a ***Tribunal*** at the end of a ***final hearing*** or ***sanctions hearing*** against a ***member, firm, affiliate*** or ***relevant person*** shall, unless the ***Tribunal***

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otherwise directs, take effect at the end of the period of 28 days beginning with the date of service of the ***Tribunal's record of decision*** on the ***member, firm, affiliate or relevant person;*** and

b. any financial penalties, financial payments or ***costs orders*** specified in the ***order*** of the ***Tribunal*** shall, unless a longer period for payment (whether by instalments or not) is specified in the ***order,*** be paid within the period of 35 days beginning with the date of service of the ***record of decision*** on the ***parties.***

58.2 If, within the period of 28 days from the date of service of the ***record of decision***, either the ***member, firm, affiliate*** or ***relevant person***, or the ***Conduct department***, applies for permission to appeal any ***order*** of the ***Tribunal***, the ***order*** shall not take effect, and no financial penalties, financial payments or costs shall be payable unless or until either the application for permission to appeal is dismissed or any subsequent ***appeal*** is dismissed or withdrawn. It shall not take effect at all if an ***Appeal Panel*** rescinds or varies the ***order.***

58.3 If:

a. a ***notice*** is served withdrawing the application for permission to appeal before it is determined; or

b. a ***notice*** is served confirming that permission to appeal has been refused; or

c. a ***notice*** is served withdrawing the ***appeal***,

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the ***order*** of the ***Tribunal*** shall take effect at the end of the period of 14 days beginning with the date of service of the ***notice,*** at which point any ***order*** for payment of any financial penalty, financial payment or ***costs order*** under ***Disciplinary Bye-law*** 11 shall become immediately due subject to ***IDR*** 58.4.

58.4 If the ***order*** of the ***Tribunal*** has permitted payment of any financial penalty, any financial payment or any ***costs order*** by instalments, only those instalments which would have become payable before the service of the ***notice*** specified in ***IDR*** 58.3 shall become immediately payable and any further instalments will fall due on the dates specified in the ***Tribunal's order***.

58.5 Any financial penalty, financial payment or ***costs order*** (or instalment of a financial penalty, financial payment or ***costs order***) imposed under the ***Disciplinary Bye-laws*** by a ***Tribunal*** must be received by ***ICAEW*** before the close of business on the last day of the period allowed by, or under, these ***IDRs*** for its payment (or, if that day is not a ***business day,*** before the close of business on the next ***business day***).

58.6 Where:

a. a financial penalty, financial payment or ***costs order*** is payable by instalments; and
b. any instalment is not received by ***ICAEW*** as required by ***IDR*** 58.5,

the whole of the financial penalty, financial payment or ***costs order*** (or so much of it as remains unpaid) shall become immediately due for payment.

58.7 Where a ***member, firm, affiliate*** or ***relevant person*** is ordered by a ***Tribunal*** to make a financial payment to ***ICAEW*** pursuant to ***Disciplinary Bye-laws*** 11.1(a)(ix), 11.1(a)(x), 11.1(b)(viii), 11.1(b)(ix), 11.1(c)(ix), 11.1(c)(x), 11.1(d)(xi) or 11.1(d)(xii), ***ICAEW*** shall pay such sum to the client, former client or ***complainant*** (as the case may be) within 21 days of receiving payment.

Publication of orders

59.1 Where a ***Tribunal*** makes any adverse ***finding*** and/or ***order*** against a ***member, firm, affiliate*** or ***relevant person*** under the ***Disciplinary Bye-laws***, the ***finding*** and/or ***order*** shall be published, as soon as practicable. If the ***finding*** and/or ***order*** of the ***Tribunal*** is published before the expiry of the 28 days within which an application for permission to appeal may be made pursuant to ***IDR*** 61.1 or 61.2 any publication shall make clear that such an ***order*** may be subject to ***appeal.***

59.2 The ***record of decision*** of a ***Tribunal*** shall not be published until after the expiry of the period allowed for an application for permission to appeal to be made and shall be published as soon as reasonably practicable thereafter if no such an application has been made.

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59.3 If an application for permission to appeal has been made against one or more ***orders*** made by a ***Tribunal***, the ***record of decision*** of the ***Tribunal*** shall not be published unless, and until, either the application for permission to appeal is refused, the ***appeal*** is abandoned or the subsequent ***appeal*** is dismissed by an ***Appeal Panel.***

59.4 Unless the ***Tribunal*** otherwise directs, the ***record of decision*** of the ***Tribunal*** shall state at least the name of the ***member, firm, affiliate*** or ***relevant person,*** the ***bye-law*** and/or regulation under which the ***formal allegation(s)*** were brought and describe the ***finding(s)*** and the ***order(s)*** (if any) made against them. The published ***record of decision*** need not include the name of any other person or body concerned in the ***formal allegations.***

59.5 Where a ***Tribunal*** dismisses all ***formal allegations***, the ***order*** and ***record of decision*** of the ***Tribunal*** shall only be published if the ***member, firm, affiliate*** or ***relevant person*** so requests.

59.6 Where published, an ***order*** of a ***Tribunal*** (including a ***settlement order*** or ***interim order***) shall remain published on the ***ICAEW Disciplinary Database*** for the period specified in the ***ICAEW Disciplinary Database policy.***

REVIEW OF DECISIONS / CORRECTION OF ERRORS

60.1 The ***Tribunal Chair*** may, of their own volition or upon application by either ***party***, review any ***order*** made by the ***Tribunal*** or the ***record of decision*** and may, on such review, correct any accidental slip or omission in the ***order*** or the ***record of decision*** that does not accurately reflect the ***findings,*** reasoning and / or ***orders*** of the ***Tribunal.***

60.2 An application made under ***IDR*** 60.1 above shall be made within 28 days from the date the ***record of decision*** of the ***Tribunal*** was served on the ***parties*****.**

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APPEALS

Application for permission to appeal

61.1 A ***member, firm, affiliate*** or ***relevant person*** who, or which, is the subject of an ***order*** made by a ***Tribunal*** in relation to one or more ***formal allegations*** may apply for permission to appeal against the ***order*** within 28 days beginning with the date of service on them of the ***Tribunal's record of decision.***

61.2 The ***Conduct department*** may apply for permission to appeal against an ***order*** of a ***Tribunal*** within 28 days beginning with the date of service on the ***parties*** of the ***record of decision*** of the ***Tribunal*** where, in the opinion of the **R&C *Chief Officer***, there is a clear public interest in an ***appeal*** being brought.

61.3 A ***party*** making an application for permission to appeal shall serve a written application on the ***Head of Adjudication*** specifying:

a. the ***orders*** of the ***Tribunal*** they wish to appeal;
b. the ground or grounds of appeal set out in ***IDR*** 62.1 they rely upon in support of the application; and
c. the reasons in support of each ground of

appeal, and enclosing any documents in support of the application.

61.4 An application for permission to appeal shall only be granted (in whole or in part) if the ***appeal*** is determined by the ***Appeal Committee Chair*** (or, if they are unavailable, by an ***Appeal Committee Vice Chair)*** to have a reasonable prospect of success on one of more of the grounds of appeal set out in ***IDR*** 62.1 or if there is another compelling reason for the ***appeal*** to be heard (and where an application for permission to appeal is determined by an ***Appeal Committee Vice Chair,*** references to the ***Appeal Committee Chair*** in ***IDRs*** 62.1 – 63.5 shall be treated as applying to the ***Appeal Committee Vice-Chair*** also)***.***

Grounds for appeal against an order by a Tribunal

62.1 An ***appeal*** against an ***order*** of a ***Tribunal*** may only be upheld on one or more of the following grounds:

a. the ***Tribunal*** made an error in law or in its interpretation of any ***bye-law,*** any regulation (whether made by ***ICAEW*** or otherwise) or relevant technical standard or guidance which would have altered one or more of its ***findings*** and/or ***orders***; and/or
b. one or more of the ***Tribunal's findings*** and/or ***orders*** was or were unjust because of a serious procedural or other irregularity in the proceedings;

and/or

c. the ***Tribunal*** failed to take into account relevant evidence which

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would have altered one or more of its ***findings*** and/or ***orders***; and/or

d. there is significant, new evidence that was not available at the time of the ***final hearing*** or ***sanctions hearing***, and which the ***party*** could not with reasonable diligence have been expected to obtain, which would have altered one or more of the ***Tribunal's findings*** and/or ***orders***; and/or

e. the ***Tribunal*** made a material mistake of fact or a series of mistakes of fact which would have altered one or more of its ***findings*** and/or ***orders***; and/or

f. one or more of the ***Tribunal's orders*** were unreasonable and/or disproportionate in the light of the ***findings*** that it made.

62.2 After receiving an application for permission to appeal, the ***Head of Adjudication*** shall provide a copy of the application to the other ***party*** who, or which, shall have 21 days from the date of service of the application on them to serve an ***answer***.

62.3 Upon receiving an ***answer***, or following the expiry of the time period set out in ***IDR*** 62.2 (whichever is the earlier), the ***Head of Adjudication*** shall:

a. serve a copy of any ***answer*** on the ***party*** applying for permission to appeal; and

b. provide the following documents to the ***Appeal Committee Chair***:

i. the ***order(s)*** made by the ***Tribunal*** which is or are the subject of the application for permission to appeal and the ***Tribunal's record of decision;***

ii. the application for permission to appeal and any documents submitted in support of the application; and

iii. any ***answer.***

62.4 The application for permission to appeal shall be determined by the ***Appeal Committee Chair*** on the papers, save where the ***Appeal Committee Chair*** may direct that the application be determined at an oral ***hearing*** (and the ***Appeal Committee Chair*** must so direct that there be an oral ***hearing*** if they are of the opinion that the application cannot be fairly determined on the papers without a ***hearing***). Before determining the application, the ***Appeal Committee Chair*** may request from the ***parties*** any additional documentation and/or information that was not provided pursuant to ***IDR*** 62.3(b) and the ***Appeal Committee Chair*** shall provide the ***parties*** with written reasons for their decision on the application.

62.5 Where the ***Appeal Committee Chair*** determines that permission to appeal should be granted (either in whole or in part) in relation to one or more ***orders*** of the ***Tribunal,*** the ***Appeal Committee Chair*** shall make an ***order*** to that effect and shall determine whether a ***pre-hearing review*** should take place.

62.6 Where the ***Appeal Committee Chair*** allows permission to appeal based on the ground of appeal set out in ***IDR*** 62.1(d), the ***party*** making

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the application for permission shall be entitled to rely on that new evidence at the ***appeal hearing***.

62.7 Upon receipt of the ***order*** allowing the application for permission (either in whole or in part) and written reasons from the ***Appeal Committee Chair***, the ***Head of Adjudication*** shall as soon as reasonably practicable:

a. provide a copy of the ***order*** and the written reasons to the ***parties***;
b. request the ***Appeal Committee Chair*** to appoint an ***Appeal Panel*** in accordance with ***IDR*** 7.6 for the ***appeal hearing*** and any ***pre-hearing review***;
c. fix a date for any ***pre-hearing review*** requested by the ***Appeal Committee Chair*** pursuant to ***IDR*** 62.5 and provide ***notice*** of the date, time, location or format of the ***pre-hearing review*** to the ***parties***; and
d. fix a date for the ***appeal hearing*** and provide ***notice*** of the date, time, location or format of the ***appeal hearing*** to the ***parties***.

The date for any ***pre-hearing review*** (or ***appeal hearing*** where there is no ***pre-hearing review***) shall be at least 28 days after the service of ***notice*** on the ***parties*** pursuant to this ***IDR.***

62.8 Where the ***Appeal Committee Chair*** refuses the application for permission, the ***Head of Adjudication*** shall provide copy of the ***order*** and the ***Appeal Committee Chair's*** written reasons for the decision to the ***parties*** as soon as practicable.

62.9 A decision by the ***Appeal Committee Chair*** to refuse an application for permission to appeal shall conclude the ***disciplinary proceedings***, and the ***order(s)*** of the ***Tribunal*** shall come into effect and be published, as appropriate, in accordance with ***IDRs*** 59.1 – 59.6.

62.10 A ***party*** may only amend the grounds of appeal specified in the application with the permission of the ***Appeal Committee Chair***. Before determining any such request, the ***Appeal Committee Chair*** shall provide both ***parties*** with an opportunity to make written representations on any proposed amendment(s).

62.11 A ***party*** may withdraw any application for permission to appeal, or an ***appeal***, at any time, by serving a ***notice*** to that effect on the ***Head of Adjudication***.

APPLICATION FOR PERMISSION TO APPEAL OUT OF TIME

63.1 A ***party*** may make a late application for permission to appeal after the expiry of the 28 day period specified in ***IDR*** 61.1 by serving an application on the ***Head of Adjudication*** which shall include the information set out in ***IDR*** 61.3 and the reasons (and any evidence) as to why the application could not reasonably be expected to have been made within the period specified.

63.2 Upon receipt of a late application pursuant to ***IDR*** 63.1, the ***Head of Adjudication***

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shall provide a copy of the application and the reasons for late service to the other ***party*** who, or which, shall have 14 days from the date of service of the application to make representations on the reasons for late service***.***

63.3 After the expiry of 14 days, or receipt of representations on the reasons for late service (if earlier) from the other ***party***, the ***Head of Adjudication*** shall provide a copy of the application and any representations to the ***Appeal Committee Chair*** who shall determine whether the late application should be allowed on the papers and they shall provide written reasons for their determination. The ***Head of Adjudication*** shall then notify the ***parties*** of the ***Appeal Committee Chair's*** decision and provide them with a copy of the ***Appeal Committee Chair's*** reasons.

63.4 Where the ***Appeal Committee Chair*** determines that the application for permission to appeal out of time should be refused, that determination shall be final.

63.5 Where the ***Appeal Committee Chair*** determines that the application for permission to appeal out of time should be allowed, the responding ***party*** shall have 21 days from the date of service of the ***notice*** pursuant to ***IDR*** 63.3 to provide an ***answer*** to the application for permission to appeal to the ***Head of Adjudication*** and to serve a copy of the

answer on the other ***party***. Once the ***answer*** is received or following the expiry of 21 days (whichever is the earlier), the ***Head of Adjudication*** shall request the ***Appeal Committee Chair*** to consider the application for permission to appeal and any ***answer*** in accordance with the test set out in ***IDR*** 61.4.

PRE-HEARING REVIEW

64.1 Once an ***Appeal Panel*** has been appointed pursuant to ***IDR*** 62.7, the ***Appeal Panel Chair*** may, of their own volition, or on application by either ***party*** at any stage in the ***appeal*** proceedings, direct that there be a ***pre-hearing review.***

64.2 The ***pre-hearing review*** shall be conducted in private and shall take place as a telephone or video conference, unless the ***Appeal Panel Chair,*** in their absolute discretion, directs otherwise. There shall be no advance publicity of the date of the ***pre- hearing review.***

64.3 At a ***pre-hearing review***, an ***Appeal Panel Chair*** may consider any applications for ***directions*** made by the ***parties*** and any written representations relating to such applications and shall give such ***directions*** as they consider necessary for the purpose of securing the just, expeditious or economic disposal of the proceedings, which may include ***directions*** relating to, among other matters:

a. whether the ***Appeal Panel*** should hear more than one ***appeal*** from the member, firm, affiliate or relevant person at the appeal hearing;
b. whether the ***Appeal Panel*** should hear ***appeals*** from more than one

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member, firm, affiliate or ***relevant person*** arising out of the same ***event*** or ***events*** at the ***appeal hearing***;

c. the amendment of any grounds of appeal or ***answer***;
d. the admission of any facts by either ***party***;
e. the documents to be considered by the ***Appeal Panel***;
f. any application to admit new evidence in accordance with the test set out in ***IDR*** 41.3, other than that admitted pursuant to ***IDR*** 62.6;
g. the admissibility of any new evidence served by a ***party*** in response to new evidence which has been admitted pursuant to ***IDR*** 62.6;
h. any application for oral evidence to be given at the ***appeal hearing;***
i. whether the ***appeal hearing,*** or part of the ***appeal hearing,*** should be held in private;
j. changing the date of the ***appeal hearing***;
k. the length of the ***appeal hearing;*** and
l. the venue or platform for the ***appeal hearing.***

Private hearing applications

65.1 If a ***party*** wishes to apply for the whole or part of an ***appeal hearing*** to be held in private, that application must be made in writing to the ***Head of Adjudication*** within 14 days of the ***parties*** being notified of the date fixed for the ***appeal hearing***.

65.2 After receiving an application under ***IDR*** 65.1, the ***Head of Adjudication*** shall:

a. fix a date for a ***pre-hearing review*** to consider the ***private hearing application*** (if a ***pre-hearing review*** has not already been arranged) and notify the ***parties*** of the date, time, location or format of the ***pre-hearing review***; and
b. provide a copy of the ***private hearing application*** to the other ***party*** who, or which, may make written representations to the ***Head of Adjudication*** within 7 days of the service of the application on them.

65.3 The ***private hearing application*** shall be determined by the ***Appeal Panel Chair*** at the **pre-hearing review.**

65.4 ***Appeal hearings*** shall be held in public unless the ***Appeal Panel Chair*** accedes to a ***private hearing application*** made by a ***party,*** or concludes, of their own volition, that the press and public should be excluded from the whole, or part, of the ***appeal hearing*** in the interests of justice and / or due to the exceptional circumstances of the case outweighing the public interest in the ***appeal hearing*** being held in public.

65.5 The ***Appeal Panel Chair*** shall provide a summary of reasons to the ***parties*** for allowing or refusing a ***private hearing application.***

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APPEAL HEARINGS

General provisions

66.1 Subject to ***IDR*** 66.2, the name of the ***member, firm, affiliate*** or ***relevant person*** who or which is the subject to the ***formal allegation(s),*** the date, time, location or format of the ***hearing,*** and the terms of the ***bye-law*** and/or regulation under which the ***formal allegation*** is, or the ***formal allegations*** are, brought, shall be published on the ***ICAEW*** website at least 7 days prior to any ***hearing*** of an ***Appeal Panel.***

66.2 ***IDR*** 66.1 shall not apply where, prior to the ***appeal hearing,*** a ***party*** has made a successful application for the ***appeal hearing*** to be heard in private or the ***Appeal Panel*** has determined of its own volition that the ***appeal*** should be heard in private***.***

66.3 Where, prior to the start of an ***appeal hearing***, a member of an ***Appeal Panel***, appointed in accordance with ***IDR*** 62.7, is unable to attend the ***appeal hearing***, the ***Appeal Committee Chair*** shall appoint another member of the ***Appeal Committee*** to the ***Appeal Panel***. If no suitable member of the ***Appeal Committee*** is available on the date(s) fixed for the ***appeal hearing***, the ***Head of Adjudication*** shall fix a new date for the ***appeal hearing*** and shall notify the ***parties*** of the new date.

66.4 Where, after the start of the ***appeal hearing***, any member of the ***Appeal Panel*** is, for any reason, unable to continue to attend, the ***Appeal Panel*** will no longer be quorate and may not continue. In such circumstances, the ***Head of Adjudication*** shall request the ***Appeal Committee Chair*** (or, if the ***Appeal Panel Chair*** is the ***Appeal Committee Chair,*** an ***Appeal Committee Vice Chair***) to appoint a new ***Appeal Panel*** in accordance with ***IDR*** 7.6 and shall fix a date and time for the ***appeal hearing*** to take place. No members of the original ***Appeal Panel*** shall be appointed as members of the new ***Appeal Panel.***

66.5 If, at any time during an ***appeal hearing***, the ***Appeal Panel Chair*** is, for any reason, of the opinion that it is impracticable or would be contrary to the interests of justice for the ***appeal*** to be completed by that ***Appeal Panel***, they shall so inform the ***Appeal Committee Chair*** (or, if the ***Appeal Panel Chair*** is the ***Appeal Committee Chair,*** an ***Appeal Committee Vice Chair***) who shall thereupon direct that the ***appeal*** be re- heard by a new ***Appeal Panel*** so appointed. No members of the original ***Appeal Panel*** shall be appointed as members of the new ***Appeal Panel.***

66.6 An ***appeal hearing*** may proceed in the absence of the ***member***, ***firm***, ***affiliate*** or ***relevant person*** where the ***Appeal Panel*** is satisfied that each ***party*** has been notified of the date, time, location or format of the ***appeal hearing*** in accordance with these ***IDRs*** and that proceeding is desirable for securing the just, expeditious and economic disposal of the ***formal allegation(s).*** A ***member, firm, affiliate*** or ***relevant person*** may be represented by a ***representative*** and a ***member, firm, affiliate*** or

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relevant person will be deemed present when they appear by their ***representative***.

66.7 An ***Appeal Panel*** may adjourn proceedings of its own volition or on the application of either ***party***. A ***party*** may also make an application to the ***Appeal Panel Chair*** for a further adjournment before the ***appeal hearing*** is resumed which must be copied to the other ***party*** who shall be entitled to make written representations on the application before a decision is made by the ***Appeal Panel Chair***.

66.8 A ***party*** may only amend the grounds on which an ***appeal*** is brought, or any ***answer,*** at an ***appeal hearing*** with the permission of the ***Appeal Panel.***

66.9 An ***Appeal Panel*** may deliberate in private in the absence of the ***parties*** and their representatives at any time***.***

66.10 An ***Appeal Panel*** may admit new evidence (permission for which was not given at a ***pre-hearing review***) but shall apply the test set out in ***IDR*** 41.3.

66.11 Unless it directs otherwise, or it is agreed between the ***parties,*** an ***Appeal Panel*** will not receive oral evidence.

66.12 An ***appeal hearing*** will be limited to a review of the decision of the ***Tribunal*** unless the ***Appeal Panel*** considers that in the circumstances of an individual ***appeal*** it would be in the interests of justice to hold a re-hearing.

Private hearing applications

67.1 Notwithstanding the refusal of a ***private hearing application*** at a ***pre-hearing review***, an ***Appeal Panel*** may at any stage of the ***appeal hearing*** consider an oral application for the whole or part of the ***appeal hearing*** to be held in private.

67.2 Where an oral application is made to an ***Appeal Panel*** to hold the whole or part of the ***appeal hearing*** in private, that application shall be heard in private.

67.3 Where the application is successful, or where the ***Appeal Panel*** otherwise decides of its

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own motion to hold the whole, or part, of the ***appeal hearing*** in private, the reason(s) for its decision will be given by the ***Appeal Panel*** in public on the day that the decision is made provided always that such reasons as are given shall not, in the opinion of the ***Appeal Panel,*** unreasonably undermine the purpose of proceeding in private.

67.4 The ***Appeal Panel's*** reasons for having proceeded in private will be published with the ***record of decision***, provided always that such reasons as are given shall not, in the opinion of the ***Appeal Panel***, unreasonably undermine the purpose of having proceeded in private. In the event that an ***Appeal Panel*** decides that the ***formal allegation(s)*** have not been proved, such reasons will only be published if the ***member, firm, affiliate*** or ***relevant person*** so requests.

67.5 An ***Appeal Panel*** may exclude from the ***appeal hearing***, or from part of the ***appeal hearing***, any person or persons whose conduct has disrupted or, in the opinion of the ***Appeal Panel***, is likely to disrupt the ***appeal hearing***.

Order of proceedings at an appeal hearing

68.1 Where a ***member, firm, affiliate*** or ***relevant person*** does not attend an ***appeal hearing*** but provides written representations, the ***Appeal Panel*** may take these representations into account when determining the ***appeal***.

68.2 An ***appeal hearing*** shall be informal and the strict rules of evidence shall not apply. The ***Appeal Panel*** may adopt any method of procedure which it considers fair and which gives each ***party*** the opportunity to present their case. Unless an ***Appeal Panel*** directs otherwise, the order of proceedings will be as follows:

a. the ***party*** bringing the ***appeal*** (or their representative) may address the ***Appeal Panel*** first and adduce any new evidence which is admissible under ***IDRs*** 62.6, 64.3(f), 64.3(g) or 66.10**;**

b. the other ***party*** may then address the ***Appeal Panel*** and adduce any new evidence permitted at any ***pre-hearing review*** or in accordance with ***IDR*** 66.10***;***

c. where permission is given for a witness to be called by either ***party***, the witness may, after being questioned by the ***party*** calling them, be questioned by the other ***party***. They may then be re-examined by the ***party*** calling them but only in relation to the evidence given by them under cross-examination. The ***Appeal Panel*** may ask questions of any witness at any stage during their evidence. The ***Appeal Panel*** may, on the application of a ***party***, agree that the identity of a witness should not be revealed to the public. Witnesses will not be required to swear an oath or affirm;

d. the ***parties*** may make closing addresses to the ***Appeal Panel*** with the final address being made by the ***party*** bringing the ***appeal.***

Orders available to the Appeal Panel (other than interim orders)

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69.1 After hearing an ***appeal*** against an ***order*** (other than an ***interim order***) of a ***Tribunal***, an ***Appeal Panel*** shall make an ***order*** or ***orders***, as appropriate, in accordance with ***Disciplinary Bye-law*** 14.3.

69.2 Where an ***Appeal Panel*** dismisses the ***appeal, in whole or in part,*** made by a ***member, firm, affiliate*** or ***relevant person***, it may make a ***costs order*** against the ***member, firm,***

affiliate or ***relevant person*** in respect of ***ICAEW's*** costs of responding to the ***appeal*** in such sum as the ***Appeal Panel*** may in its absolute discretion determine. Prior to making any such ***costs order***, the ***Appeal Panel*** shall:

a. hear and consider submissions from the ***member, firm, affiliate*** or ***relevant person*** (or their ***representative***) and the ***Conduct department representative***, in respect of the ***costs schedule*** provided by the ***Conduct department*** to the ***Appeal Panel*** and the ***member, firm, affiliate*** or ***relevant person*** prior to the ***appeal hearing***; and
b. have regard to any statement of means, supported with a signed statement of truth, and evidence of income and assets provided by the ***member, firm, affiliate*** or ***relevant person***.

69.3 Any sum ordered to be paid pursuant to ***IDR*** 69.2 shall be payable in addition to any ***costs order*** made against the ***member, firm, affiliate*** or ***relevant person*** by the ***Tribunal***.

69.4 Where an ***Appeal Panel*** allows an ***appeal*** by a ***member, firm, affiliate*** or ***relevant person*** against all ***orders*** made by a ***Tribunal,*** the ***Appeal Panel:***

a. shall order that any ***costs order*** made by the ***Tribunal*** be rescinded; and
b. may, on the application of the ***member, firm, affiliate*** or ***relevant person,*** make a ***costs order*** against ***ICAEW*** subject to ***IDRs*** 69.5 and 69.6.

69.5 In determining whether to make a ***costs order*** pursuant to ***IDR*** 69.4, an ***Appeal Panel*** shall take into account the public policy applied in the civil courts that costs awards should only be made against a regulator in exceptional circumstances to safeguard against the risk that the regulator may be fettered in exercising its disciplinary functions due to the risk of adverse costs orders.

69.6 If the ***Appeal Panel*** determines to make a ***costs order*** against ***ICAEW***, it shall be limited to a maximum of £35,000 unless the ***Appeal Panel*** determines that:

a. no reasonable regulator would have prosecuted the ***formal allegation(s)***; or
b. the ***formal allegation(s)*** had been brought in bad faith; or
c. the way in which the ***Conduct department*** had conducted the ***disciplinary proceedings*** had unreasonably increased the costs incurred by the ***member, firm, affiliate*** or ***relevant person*** so that their costs had exceeded £35,000; or
d. the absence of a larger ***costs order*** against ***ICAEW*** would give rise to significant hardship for the ***member, firm, affiliate*** or ***relevant person.***

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69.7 Any costs payable by ***ICAEW*** shall be limited to the costs reasonably incurred by the ***member, firm, affiliate*** or ***relevant person*** since the date of the referral of the ***formal allegations*** to the ***Tribunals Committee.***

69.8 If an ***Appeal Panel*** allows an ***appeal*** against one or more, but not all, ***orders*** made by the ***Tribunal***, it may order that any ***costs order*** made by the ***Tribunal*** be rescinded or varied.

69.9 Where an ***Appeal Panel*** dismisses an ***appeal*** by the ***Conduct department*** against one or more ***orders*** made by a ***Tribunal***, the ***Appeal Panel*** may consider whether a ***costs order*** should be made against ***ICAEW*** having regard to the consideration set out at ***IDR*** 69.5.

69.10 Any ***costs order*** made in accordance with ***IDR*** 69.9 against ***ICAEW*** shall be in respect of the costs of the ***member, firm, affiliate*** or ***relevant person*** in responding to the ***appeal*** and shall be limited to £10,000 unless the ***Appeal Panel*** determines that:

a. no reasonable regulator would have brought the ***appeal***; or
b. the ***appeal*** had been brought in bad faith; or
c. the way in which the ***Conduct department*** had conducted the ***appeal*** had unreasonably increased the costs incurred by the ***member, firm, affiliate*** or ***relevant person*** so that their costs had exceeded £10,000; or
d. the absence of a larger ***costs order*** against ***ICAEW*** would give rise to significant hardship for the ***member, firm, affiliate*** or ***relevant person.***

69.11 Where an ***Appeal Panel*** allows an ***appeal*** by the ***Conduct department***, it may make a ***costs order*** against a ***member, firm, affiliate*** or ***relevant person*** but any such ***costs order*** shall be limited to the costs reasonably incurred by the ***Conduct department*** up to and including the ***final hearing*** (or ***sanctions hearing***) only, and shall not include any costs incurred by the ***Conduct department*** in bringing the ***appeal***. Prior to making any ***costs order***, the ***Appeal Panel*** shall follow the procedure set out in ***IDR*** 69.2.

APPEALS AGAINST INTERIM ORDERS

70.1 A ***member, affiliate*** or ***relevant person*** may appeal an ***interim order*** by serving a ***notice of appeal*** on the ***Head of Adjudication*** within 28 days of service on them of the ***Tribunal's record of decision*** specifying one or more of the grounds of appeal set out in ***IDR*** 70.3. For the avoidance of doubt, the ***Conduct department*** may not appeal a refusal by a ***Tribunal*** of an ***interim order application.***

70.2 Where a ***member, affiliate*** or ***relevant person*** serves a ***notice of appeal*** in accordance with ***IDR*** 70.1**,** the ***interim order*** shall remain

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in force pending the determination of the ***appeal*** by an ***Appeal Panel.***

70.3 The grounds on which an ***interim order*** may be appealed are:

a. the test for making an ***interim order*** set out in ***IDR*** 30.2 has not been met; and/or
b. the ***interim order*** is excessive; and/or
c. the ***interim order*** is unjust because of a serious procedural or other irregularity in the proceedings before the ***Tribunal***.

70.4 On receiving a ***notice of appeal*** in relation to an ***interim order***, the ***Head of Adjudication*** shall:

a. serve a copy of the ***notice of appeal*** on the ***Conduct department representative***;
b. request the ***Appeal Committee Chair*** to appoint an ***Appeal Panel***; and
c. notify both ***parties*** of the date, time, location or format of the ***appeal hearing*** which shall be at least 14 days from the date of service of ***notice*** of the ***appeal hearing*** on the ***parties.***

70.5 The ***Conduct department*** may serve on the ***member, affiliate*** or ***relevant person,*** and the ***Head of Adjudication,*** an ***answer*** to the ***notice of appeal*** against the ***interim order*** at least 7 days before the date fixed for the ***appeal hearing***.

Conduct of an interim order appeal hearing

71.1 ***IDRs*** 66 - 68 shall apply to the conduct of an ***appeal hearing*** in relation to an ***interim order*** to the extent relevant.

Orders of an Appeal Panel on hearing an appeal against an interim order

72.1 After hearing the ***appeal***, the ***Appeal Panel*** may make any of the ***orders*** set out in Disciplinary Bye-law 14.3.

72.2 Where an ***Appeal Panel*** dismisses an ***appeal*** against an ***interim order***, an ***Appeal Panel*** may order the ***member, affiliate*** or ***relevant person*** to pay to ***ICAEW*** such a sum in respect of ***ICAEW's*** costs of responding to the ***appeal*** as the ***Appeal Panel*** may in its absolute discretion determine. Prior to making any such ***costs order***, the ***Appeal Panel*** shall follow the process set down in ***IDR*** 69.2 and any costs ordered by the ***Appeal Panel*** shall be payable in addition to any ***costs order*** of the ***Tribunal.***

72.3 Where an ***Appeal Panel*** allows an ***appeal*** by a ***member, affiliate*** or ***relevant person*** against an ***interim order*** made by a ***Tribunal,*** the ***Appeal Panel:***

a. shall order that any ***costs order*** made by the ***Tribunal*** be rescinded; and
b. may, on application of the ***member, affiliate*** or ***relevant person,*** make a ***costs order*** against ***ICAEW,*** subject to ***IDRs*** 72.4 and 72.5.

72.4 In determining whether to make a ***costs order*** under ***IDR*** 72.3***,*** an ***Appeal Panel***

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shall take into account the public policy applied in the civil courts that costs awards should only be made against a regulator in exceptional circumstances to safeguard against the risk that the regulator may be fettered in exercising its disciplinary functions due to the risk of adverse costs orders.

72.5 If the ***Appeal Panel*** determines to make a ***costs order*** against ***ICAEW***, it shall be limited to a maximum of £15,000 unless the ***Appeal Panel*** determines that:

a. no reasonable regulator would have made the ***interim order application;*** or
b. the ***interim order application*** was made in bad faith; or
c. the costs incurred by the ***member, affiliate*** or ***relevant person*** in responding to, and appealing, the ***interim order application*** were unreasonably increased above £15,000 as a result of the way in which the ***interim review application*** was brought and / or the ***appeal*** was responded to by the ***Conduct department***; or
d. the absence of a larger ***costs order*** against ***ICAEW*** would give rise to significant hardship for the ***member, affiliate*** or ***relevant person.***

72.6 Where the ***Appeal Panel*** determines to make a ***costs order*** against ***ICAEW*** in accordance with ***IDR*** 72.3, it shall give the ***Conduct department representative*** and the ***member, affiliate*** or ***relevant person*** (or their ***representative***) an opportunity to make representations on the amount of costs claimed by the ***member, affiliate*** or ***relevant person*** before determining the amount to be paid by ***ICAEW*** by way of costs.

APPEALS: NOTIFICATION / TIMING OF ORDERS COMING INTO EFFECT / TIME FOR PAYMENT / PUBLICITY

Notification

73.1 Following an ***appeal hearing***, the ***Head of Adjudication*** shall send to the ***parties*** as soon as reasonably practicable:

a. ***notice*** of the decision of the ***Appeal Panel*** and any ***order(s)*** made; and
b. a copy of the ***record of decision.***

Time of orders coming into effect / time for payment

74.1 An ***order*** made by an ***Appeal Panel*** under these ***IDRs*** shall take effect on the date of the ***order*** unless the ***Appeal Panel*** directs that it shall take effect as from some later date specified in the ***order***.

74.2 A financial penalty or financial payment**:**

a. which is imposed by an ***order*** of an ***Appeal Panel*** under the ***Disciplinary Bye- laws;*** or
b. which, having been imposed by a ***Tribunal*** under the ***Disciplinary Bye-laws,*** is on ***appeal*** affirmed or varied in amount by an ***order*** of an ***Appeal Panel,***

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shall be paid within the period of 28 days beginning with the date of the ***order*** unless a longer period for payment (whether by instalments or not) is allowed by the ***order*** of the ***Appeal Panel***.

74.3 Any ***costs order*** of an ***Appeal Panel*** in accordance with ***IDR*** 69.2 or 72.2***,*** together with:

a. any unpaid ***costs order*** of the ***Tribunal*** under ***IDR*** 32.4 or 51.1(b); or
b. so much (if any) of those unpaid costs as remains payable after any reduction or cancellation of the ***Tribunal's costs order*** by the ***Appeal Panel,***

shall, unless a longer period for payment (whether by instalments or not) is allowed by ***order*** of the ***Appeal Panel,*** be paid within 28 days beginning with the date of the ***order*** of the ***Appeal Panel.***

74.4 Any financial penalty, financial payment or ***costs order*** (or instalment of a financial penalty, financial payment or ***costs order***) imposed by an ***Appeal Panel*** under the ***Disciplinary Bye-laws*** must be received by ***ICAEW*** before the close of business on the last day of the period allowed by, or under these ***IDRs*** for its payment (or, if that day is not a ***business day,*** before the close of business on the next ***business day***).

74.5 Where:

c. a financial penalty, financial payment or ***costs order*** is payable by instalments; and
d. any instalment is not received by ***ICAEW*** as required by ***IDR*** 74.4,

the whole of the financial penalty, financial payment or ***costs order*** (or so much of it as remains unpaid) shall become immediately due for payment.

74.6 Where a ***member, firm, affiliate*** or ***relevant person*** is ordered by an ***Appeal Panel*** to make a financial payment to ***ICAEW*** pursuant to ***Disciplinary Bye-laws*** 11.1(a)(ix), 11.1(a)(x), 11.1(b)(viii), 11.1(b)(ix), 11.1(c)(ix), 11.1(c)(x), 11.1(d)(xi) or 11.1(d)(xii), ***ICAEW***
shall pay such sum to the client, former client or ***complainant*** (as the case may be) within 21 days of receiving payment.

Publication of orders

75.1 Where an ***Appeal Panel*** makes any adverse ***finding*** and/or ***order*** against a ***member, firm, affiliate*** or ***relevant person*** under the ***Disciplinary Bye-laws***, the ***finding*** and/or ***order*** and the ***record of decisions*** of the ***Tribunal*** and ***Appeal Panel*** shall be published, as soon as practicable.

75.2 Unless the ***Appeal Panel*** otherwise directs, the ***record of decision*** of the ***Appeal Panel*** shall state at least the name of the ***member, firm, affiliate*** or ***relevant person,*** the ***bye-law*** and/or regulation under which the ***formal allegation(s)*** were brought, and describe the ***finding(s)*** and the ***order(s)*** (if any) made against them. The published ***record of decision*** need not include the name of any other person or body concerned in the ***formal allegations.***

75.3 Where an ***Appeal Panel*** determines that none of the ***formal allegations*** should have been found by the ***Tribunal*** to have met the test set out in ***Disciplinary Bye-***

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law 5.2, or that the ***interim order*** should not have been made, the ***order*** and ***record of decision*** of the ***Appeal Panel*** shall only be published if the ***member, firm, affiliate*** or ***relevant person*** so requests.

75.4 Where published, an ***order*** of an ***Appeal Panel*** shall remain published in the ***ICAEW Disciplinary Database*** for the period specified in the ***ICAEW Disciplinary Database policy.***

REVIEW OF DECISIONS / CORRECTION OF ERRORS

76.1 The ***Appeal Panel Chair*** may, of their own volition or upon application by either ***party***, review any ***order*** made by the ***Appeal Panel*** or the ***record of decision*** and may, on such review, correct any accidental slip or omission in the ***order*** or the ***record of decision*** that does not accurately reflect the ***findings***, reasoning and / or ***orders*** of the ***Appeal Panel.***

76.2 An application made under ***IDR*** 76.1 above shall be made within 28 days from the date the
record of decision of the ***Appeal Panel*** was served on the ***parties*.**

MISCELLANEOUS

Recording of the hearing

77.1 A shorthand or stenograph note, or an audio recording of any ***hearing*** of a ***Tribunal*** or ***Appeal Panel*** (including in relation to any ***interim order application*** or on any review) may be taken on behalf of a ***Tribunal*** or an ***Appeal Panel.***

77.2 A ***member***, ***firm***, ***affiliate*** or ***relevant person*** may request the creation of a transcript from the recording by an application to the ***Head of Adjudication***. Such a request will be considered by the ***Tribunal Chair*** or the ***Appeal Panel Chair*** (as appropriate), who may impose such conditions as they consider appropriate on the confidentiality, distribution, and use of that record or transcript. The cost of preparing the transcript shall be borne by the ***member***, ***firm***, ***affiliate*** or ***relevant person*** requesting the transcript and paid to the ***Head of Adjudication*** in advance of the transcript being made.

Confidentiality

78.1 All written material and information provided by either ***ICAEW*** or the ***member, firm, affiliate*** or ***relevant person*** in connection with any ***disciplinary proceedings***, shall at all times remain confidential and no such material or information shall be disclosed by either ***ICAEW*** or the ***member, firm, affiliate*** or ***relevant person*** (directly or indirectly) except:

a. to legal advisers for the purposes of the ***disciplinary proceedings;***

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b. where the ***member***, ***firm, affiliate*** or ***relevant person*** is a ***principal*** in, or employed by, a firm, to a ***principal*** in that firm;
c. to any other person to whom disclosure is necessary for the purposes of obtaining evidence, information or assistance in connection with the ***disciplinary proceedings***;
d. to an insurer where disclosure is required under the terms of any policy or in connection with any application for insurance cover;
e. where information is disclosed indirectly to members of the public in the course of a public ***hearing***; and
f. where the disclosure to any person or body undertaking regulatory, disciplinary or law enforcement responsibilities is for the purpose of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law.

This ***IDR*** does not apply to any ***order, record of decision*** or advance notice of a ***hearing*** published in accordance with these ***IDRs.***

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