

# Sanctions Guidance

This Sanctions Guidance has been approved by the Board of the Association and shall take effect on 1 January 2026.

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## **1. Definitions and interpretation**

Throughout this Sanctions Guidance, unless the context otherwise requires:

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| Allegation       | means an allegation arising out of events brought to the attention of the Association by way of a Complaint that may indicate that a Member, Member Firm or Student may be liable to disciplinary action under the Byelaws in accordance with the Disciplinary Regulations; |
| Appeal Committee | means the Regulatory Committee constituted with the powers and responsibilities of the Appeal Committee as set out within the Byelaws and the Disciplinary Regulations;   |
| Appellant        | means a Member, Member Firm or Student who has been granted permission to appeal against a decision of the Tribunals Committee;   |
| The Association  | means Certified Public Accountants Association (CPAA);  |
| The Board        | means the Board for the time being of the Association;  |
| Byelaws          | means the Byelaws of CPAA;  |
| Code of Ethics   | means the Code of Ethics adopted by the Association for the time being in force;  |

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| Committee of the Board              | means a committee appointed by the Board in accordance with the Byelaws, and excludes Regulatory Committees;   |
| Complaint                           | means any complaint or allegation against a Member, Member Firm or Student brought to the attention of the Association by any means, including from within the Association;  |
| Conduct Committee                   | means the Regulatory Committee constituted with the powers and responsibilities of the Conduct Committee as set out within the Byelaws and the Disciplinary Regulations;   |
| Consent Order                       | means an order by a Regulatory Committee offered to a Respondent in accordance with Regulations made under the Byelaws and the powers available to the relevant Committee;   |
| Continuing Professional Development | means ongoing training and development required to be undertaken by a Member in accordance with the Membership Regulations;  |
| CPD                                 | means Continuing Professional Development;   |
| Disciplinary Proceedings            | means proceedings brought against a Member, Member Firm or Student from the point at which the Respondent is informed that the matter is to be put before a Regulatory Committee;  |
| Disciplinary Regulations            | means the Certified Public Accountants Association Disciplinary Regulations;   |
| Fixed Penalty                       | means a sanction prescribed by the Regulatory Oversight Committee that may be proposed by the Regulation Secretary under powers delegated by the Conduct Committee in accordance with the process set out in the Disciplinary Regulations; |
| Interim Order                       | means an interim order made by an Interim Orders Committee in accordance with Disciplinary Regulations;  |
| Interim Orders Committee            | means a Regulatory Committee constituted with the powers and responsibilities of an Interim Orders Committee as set out within the Byelaws and the   |

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|                              | Disciplinary Regulations, including the power to make an Interim Order;   |
| Member                       | means a Member of the Association of any category as set out in the Byelaws;  |
| Member Firm                  | means a firm engaged in Public Practice where more than 50% of the rights to vote on all, or substantially all, matters of substance regarding the firm are held by Members, including:   |
|                              | <ul style="list-style-type: none"> <li>• a sole practitioner who is a Member,</li> <li>• a partnership or limited liability partnership in which more than 50% of the voting rights are held by Members, and</li> <li>• a body corporate other than a limited liability partnership in which (a) 50% or more of the directors are Members, and (b) more than 50% of the nominal value of the voting shares is held by Members, and (c) more than 50% of the aggregate in nominal value of the voting and non-voting shares is held by Members;</li> </ul> |
| Membership Regulations       | means the Certified Public Accountants Association Membership Regulations;  |
| Mitigating Factor            | Any matter which, in the opinion of a Regulatory Committee or Tribunal, justifies reducing the severity of the appropriate sanction   |
| Nominations Committee        | means a Committee of the Board responsible for appointing individuals to serve on the Association's Regulatory Committees;  |
| Practice Assurance Committee | means the Regulatory Committee constituted with the powers and responsibilities of the Practice Assurance Committee as set out within the Byelaws and the Public Practice Regulations;  |
| Practising Certificate       | means a certificate issued to a Member by the Association authorising the Member to engage in Public Practice within a jurisdiction;  |
| Public Practice              | has the meaning given in the Public Practice Regulations;   |

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| Public Practice Regulations | means the Certified Public Accountants Association Public Practice Regulations;  |
| Register of Students        | means the Register of Students of the Association;   |
| Regulations                 | means Regulations made by the Board under the Byelaws;   |
| Regulation Secretary        | means a person appointed to administer the investigation and enforcement of Complaints pursuant to the Disciplinary Regulations;   |
| Regulatory Committee        | means a committee constituted in accordance with Regulations to make regulatory decisions in the public interest, the members of which have been appointed by the Nominations Committee; |
| Respondent                  | means the subject of a Complaint whether that subject is a Member, Member Firm, or Student;  |
| Student                     | means a person for the time being registered as a Student of the Association, whose name appears on the Register of Students;  |
| Tribunal                    | means a tribunal convened from members of the Tribunals Committee in accordance with the Disciplinary Regulations and acting on behalf of the Tribunals Committee;                       |
| Tribunals Committee         | means the Regulatory Committee constituted with the powers and responsibilities of the Tribunals Committee as set out within the Byelaws and the Disciplinary Regulations.               |

Throughout this Sanctions Guidance, unless the context otherwise requires, a reference to a 'person' shall include an individual, firm, unincorporated association or other organisation, and a reference to a 'document' shall include a document in electronic form.

Throughout this Sanctions Guidance, unless the context otherwise requires:

- (a) words denoting the singular shall include the plural and vice versa;
- (b) words denoting a gender shall include all genders; and
- (c) a reference to any provision of the Byelaws, Regulations or any other document shall be construed as a reference to that provision or document as in force and as amended from time to time.

Throughout this Sanctions Guidance, unless stated to the contrary, a reference to a statute, statutory provision or subordinate legislation includes a reference to it as amended, replaced and/or re-enacted from time to time, and any legislation made under it.

## **2. Introduction**

This Sanctions Guidance is to be applied in the case of Complaints considered by:

- the Practice Assurance Committee,
- the Conduct Committee,
- Tribunals (on behalf of the Tribunals Committee), and
- panels of the Appeal Committee.

Throughout this Sanctions Guidance, unless the context otherwise requires, references to 'Regulatory Committees' and 'Committees' shall be taken to include Tribunals and panels of the Appeal Committee.

Byelaw 15.4 sets out the situations in which a Member, Member Firm or Student shall be liable to disciplinary action. The procedure for receiving, investigating and adjudicating complaints is set out in the Disciplinary Regulations. The powers and responsibilities of each of the Regulatory Committees are set out in Byelaw 4.

This Sanctions Guidance sets out relevant principles and procedures to guide the Association's Regulatory Committees in determining appropriate sanctions (if any) in respect of a Member, Member Firm or Student. This Sanctions Guidance shall not fetter the decision-making of a Regulatory Committee, which shall make regulatory decisions independently of the Association, the Respondent and other interested parties. Those serving on a Regulatory Committee shall not allow their decision-making to be fettered by any interests other than the interests of justice when discharging their responsibilities.

The Regulatory Committees have available to them orders intended to directly protect the public. Such orders may be referred to as 'regulatory orders', and examples include placing conditions on a Respondent's ability to retain a Practising Certificate, or suspending or removing a Practising Certificate. In contrast, a sanction is ordered to reflect the seriousness of the Respondent's alleged misconduct, with due regard to proportionality. While it may be punitive in effect, the objectives of ordering a sanction are not punitive and are set out in section 3 of this Sanctions Guidance.

This Sanctions Guidance provides a structured, consistent approach for Regulatory Committees when they are required to determine an appropriate sanction. It also provides transparency for a Member who may be the Respondent or Appellant in respect of a Complaint. Regulatory Committees shall refer to this Sanctions Guidance when considering what sanction or combination of sanctions (if any) to order.

This Sanctions Guidance seeks to ensure that the Association's adjudication and enforcement procedures are robust, fair, consistent, proportionate and transparent. It includes indicative sanctions, which are not prescriptive. A Regulatory Committee shall exercise judgement in determining the appropriate sanction or combination of sanctions (if any) in each case, based on the facts and circumstances of the case and taking into account the relevant Byelaws and Regulations.

A Regulatory Committee shall give reasons in writing for its decision in respect of sanctions. Those written reasons shall make clear that the Committee has considered all the options available to it.

In addition to the sanctions available to the Regulatory Committees, the Association has a Fixed Penalty process whereby certain alleged minor breaches, as designated from time to time by the Board, may be dealt with by issuing Fixed Penalty notices. A Fixed Penalty notice is issued by the Regulation Secretary, by delegated authority of the Conduct Committee. The designated breaches and corresponding Fixed Penalties are the subject of a separate publication by the Association.

### **3. Guiding principles and objectives**

The Association's Regulatory Committees have available to them a range of sanctions that may be ordered, according to the seriousness of the misconduct, the Respondent's disciplinary history and other factors. The purpose of imposing sanctions is not punitive. Rather, the objectives of a Regulatory Committee when ordering one or more sanctions are to uphold the public interest by:

- protecting the public,
- deterring future misconduct by Members, Member Firms and Students,
- demonstrating the Association's commitment to upholding technical and professional standards, and
- maintaining the reputation of the Association and the accountancy profession.

When a Regulatory Committee is considering the appropriate sanction(s) to order, it shall be guided by these objectives. In addition, the work of the Regulatory Committees sits within the Association's wider regulatory framework, which observes the better regulation principles:

- proportionality: sanctions must not be more burdensome than necessary to achieve the objectives;
- accountability: a Regulatory Committee must be answerable for its decisions;

- consistency: Regulations and guidance must be applied fairly, predictably and consistently;
- transparency: regulatory decisions should be clear, and accessible;
- targeting: regulatory action must focus on the identified issue and avoid unnecessary impact.

### **Protecting the public**

The objective of ‘protecting the public’ requires a Regulatory Committee to consider clients, employers and the wider public, and the risks posed by the future conduct of Members, Member Firms and Students, including the Respondent or Appellant. Committees shall be aware of the full range of orders, including regulatory orders, available to them according to the Byelaws and Disciplinary Regulations.

### **Deterring future misconduct**

A sufficiently robust, but proportionate, sanction acts as a deterrent, both in relation to the future conduct of the Respondent or Appellant and in relation to the conduct of others who would wish to avoid similarly robust disciplinary action.

### **Upholding technical and professional standards**

The deterrent effect of disciplinary sanctions alone may not be sufficient to raise the technical and professional standards of a Respondent or Appellant. A Regulatory Committee shall consider whether the Respondent is capable of meeting the required standards within an appropriate period. If so, the Committee shall consider requiring a Respondent to take relevant remedial action, within a specified period, where such an order is available to the Committee. Conditions may be placed on a Practising Certificate during this period.

### **Maintaining the reputation of the Association and the profession**

Members of the public expect to be able to place their trust in a professional accountant. Members, Member Firms and Students align themselves with the Association, and their conduct has the potential to undermine the good reputation of the Association and the trust that clients, employers and others would wish to place in members of a professional accountancy body.

A Regulatory Committee shall, when appropriate, seek to maintain the reputation of the profession by removing or restricting the right of a Member or Student to practise as a Member of the Association or to remain a Member or Student.

## **4. Practice Assurance Committee**

In accordance with the Public Practice Regulations, the Practice Assurance Committee considers findings from the monitoring of Members in Public Practice, including alleged non-compliance with the Byelaws, Regulations, Code of Ethics and the law. The Practice Assurance Committee may require remedial action to be taken by a Member or Member Firm in respect of the alleged non-compliance.

The only finding available to the Practice Assurance Committee is whether there is sufficient evidence that the Respondent is liable to disciplinary action so that there is a case to answer. If the Committee determines that there is *prima facie* evidence of a breach of a legal or regulatory requirement (and that breach is not sufficiently serious that the appropriate sanction is beyond those available to the Practice Assurance Committee), it may offer a Consent Order to the Respondent comprising one or more of the following:

- (a) financial penalty
- (b) reprimand
- (c) severe reprimand
- (d) conditions placed on a Practising Certificate
- (e) an order for the recovery of costs incurred by the Association.

If a Respondent agrees to the terms of a proposed Consent Order, they must accept the order within 10 working days of notification of the Consent Order. Otherwise, the Complaint shall be referred to the Regulation Secretary for investigation.

## **5. Conduct Committee**

In accordance with the Disciplinary Regulations, where a Complaint includes alleged non-compliance with the Byelaws, Regulations, Code of Ethics or the law, the Conduct Committee may require remedial action to be taken by the Respondent.

The only finding available to the Conduct Committee is whether there is sufficient evidence that the Respondent is liable to disciplinary action so that there is a case to answer. If the Committee determines that there is *prima facie* evidence of a breach of a legal or regulatory requirement (and that breach is not sufficiently serious that the appropriate sanction is beyond those available to the Conduct Committee), it may offer a Consent Order to the Respondent comprising one or more of the following:

- (a) financial penalty
- (b) repayment of fees and/or commission received
- (c) reprimand
- (d) severe reprimand
- (e) an order for the recovery of costs incurred by the Association

- (f) an order for the recovery of expenses incurred by a Complainant
- (g) an order to repay or waive fees or commission received or receivable.

If a Respondent agrees to the terms of a Consent Order, they must accept the order within 28 days. Otherwise, the Complaint shall be referred to the Tribunals Committee.

## **6. Tribunals Committee**

In accordance with the Disciplinary Regulations, if a Tribunal finds, on the balance of probabilities, one or more allegations proved, it may require remedial action to be taken by the Respondent. It may also make one or more of the following orders against the Respondent:

- (a) financial penalty
- (b) reprimand
- (c) severe reprimand
- (d) conditions placed on a Practising Certificate
- (e) removal of a Practising Certificate
- (f) suspension of a Practising Certificate for a specified period or until specified conditions have been met
- (g) termination of membership of the Association
- (h) suspension of membership of the Association for a specified period or until specified conditions have been met
- (i) removal from the Register of Students
- (j) suspension from the Register of Students for a specified period or until specified conditions have been met
- (k) an order prohibiting a firm from using the description 'Certified Public Accountants' and the Association's logo
- (l) an order for the recovery of costs incurred by the Association
- (m) an order for the recovery of expenses incurred by a Complainant
- (n) an order to repay or waive fees or commission received or receivable.

## **7. Appeal Committee**

In accordance with the Disciplinary Regulations, a panel of the Appeal Committee may make either of the following findings:

- (a) that the findings of the Tribunals Committee shall be upheld in full
- (b) that one or more findings of the Tribunals Committee shall be varied or set aside.

A panel of the Appeal Committee may make one or more of the following orders:

- (a) that the orders of the Tribunals Committee shall be upheld in full
- (b) that one or more orders of the Tribunals Committee shall be varied or rescinded
- (c) that one or more orders of the Tribunals Committee shall be substituted by one or more other orders that were available to that Committee
- (d) that the Complaint shall be heard afresh by a new Tribunal.

If the Appeal Committee determines that the findings and orders of the Tribunals Committee shall be upheld in full, it may make an order for the recovery of further costs incurred by the Association in bringing the appeal to the Appeal Committee.

## **8. Available sanctions and orders**

The Disciplinary Regulations do not require that a Regulatory Committee shall order (or offer) a sanction in every case. It is open to the Committee to conclude a case without taking further action and this should be its starting point. However, if the Committee decides to take no further action it must be satisfied that it is in the public interest to impose no sanction and must make it clear in its written reasons how it came to that decision.

If a Regulatory Committee determines that a sanction should be ordered (which would be by Consent Order in the case of the Practice Assurance Committee and the Conduct Committee), it shall consider the least severe sanctions first. If a sanction is considered inadequate, the Committee shall consider the next more severe sanction (or combination of sanctions) and continue this process until the appropriate sanction (or combination of sanctions) is reached. This is known as a 'bottom up' approach.

In some cases, the misconduct will be considered so egregious that the Committee finds it necessary to remove the Respondent from membership of the Association (or from the Register of Students). This serves to protect the reputation of the Association and the trust that clients and employers may continue to place in its Members. However, removal from membership (or from the Register of Students) does not avoid the need for the Committee to consider the other available sanctions, which may be ordered in conjunction with the removal, for example a severe reprimand or a financial penalty.

### **Reprimand**

A reprimand would be an appropriate sanction in situations where the misconduct is considered to be minor and the Respondent appears to present little risk to the public. If a reprimand was considered by a Regulatory Committee to be appropriate, it would be

expected that the Committee had seen evidence of understanding and genuine insight on the part of the Respondent. In addition, when a reprimand is appropriate, some of the following factors would be expected to be present:

- (a) willingness to comply with directions and/or advice provided by the Association;
- (b) early admission of the relevant allegation;
- (c) the circumstances in which the misconduct arose are unlikely to be repeated;
- (d) the Respondent did not disregard their professional obligations;
- (e) the misconduct occurred over a brief period;
- (f) the misconduct ceased soon after the Respondent was made aware of it;
- (g) any adverse consequences of the misconduct have been minimal and/or have been remedied;
- (h) the Respondent cooperated throughout the investigation process.

This list is not exhaustive.

### **Severe reprimand**

A severe reprimand would be an appropriate sanction in situations where the misconduct is minor, but a reprimand is deemed to be insufficiently robust. A severe reprimand might also be appropriate where the alleged misconduct is more serious, but the Regulatory Committee is satisfied that there is no ongoing risk to the public.

If a severe reprimand was the only sanction considered by a Regulatory Committee to be appropriate, it would be expected that the Committee had seen evidence of understanding and genuine insight on the part of the Respondent. In addition, some of the following factors would be expected to be present:

- (a) willingness to comply with directions and/or advice provided by the Association;
- (b) early admission of the relevant allegation;
- (c) clear expression of regret;
- (d) the circumstances in which the misconduct arose are unlikely to be repeated;
- (e) although the Respondent may have acted recklessly, the misconduct was not deliberate;
- (f) the misconduct ceased soon after the Respondent was made aware of it;
- (g) the Respondent has no preexisting disciplinary record;
- (h) any adverse consequences of the misconduct have been minimal and/or have been remedied;
- (i) the Respondent cooperated throughout the investigation process.

This list is not exhaustive.

### **Financial penalty**

A financial penalty will usually be appropriate where the misconduct is such that a severe reprimand alone is deemed to be insufficiently robust. A Regulatory Committee shall

consider a financial penalty in light of the objectives set out in section 3 of this Guidance. In particular, the Committee shall consider a financial penalty if it determines that a severe reprimand would not provide a suitable deterrent against misconduct by Members, Member Firms and Students.

In determining the amount of a financial penalty, a Committee shall refer to the indicative sanctions set out in the appendix to this Sanctions Guidance, which suggest a suitable starting point according to the seriousness of the alleged misconduct. A financial penalty may be ordered as a standalone sanction or in conjunction with one or more other available sanctions.

A financial penalty ordered by a Regulatory Committee shall be expressed in pounds sterling. For a Respondent outside the United Kingdom (and not in a territory that uses pounds sterling), the Committee shall consider the impact of exchange rates when considering proportionality of the sanction.

### **Suspension of membership**

Suspension or removal from membership of the Association would not prevent an individual from describing themselves as an 'accountant' and providing accountancy services. Therefore, suspension of membership of the Association does little to protect the public. However, it may serve to convey the seriousness of the misconduct concerned. It also upholds the reputation of the Association by disassociating it from the Respondent during the period of suspension, during which the Respondent may be required to meet certain specified conditions. Suspension of membership recognises that an individual may, in the future, be regarded as fit and proper to be readmitted to membership.

If a Regulatory Committee determines that an appropriate sanction is suspension of the Respondent's membership of the Association, it shall consider the following:

- (a) the necessary period of suspension;
- (b) any conditions that must be met before membership may be restored; and
- (c) any potential impact of the suspension on the Respondent's clients or employer.

The Committee must also consider whether permanent removal from membership would be a more appropriate sanction.

### **Removal from membership**

This sanction is likely to be appropriate when the conduct of the Respondent is fundamentally incompatible with being a Member of the Association. This is the most serious sanction available to a Regulatory Committee. Not only does it serve to deter misconduct by Members, Member Firms and Students, it also demonstrates the Association's commitment to upholding technical and professional standards, and helps to

maintain the reputation of the Association (and the accountancy profession) by indicating that it will no longer allow its name to be associated with the Respondent.

When removal (or suspension) from membership is appropriate, a Regulatory Committee shall consider whether to impose one or more additional sanctions, such as a financial penalty. An order that a Respondent shall be removed from membership shall often state a period within which the Respondent may not apply for readmission to the Association.

### **Removal or suspension from the Register of Students**

In the case of a Respondent who is a Student, an order to temporarily suspend the Respondent from the Register of Students serves to convey the seriousness of the misconduct concerned, while recognising that the individual may, in the future, be regarded as fit and proper to be admitted to membership of the Association. If a Regulatory Committee determines that an appropriate sanction is suspension from the Register of Students, it shall consider:

- (a) the necessary period of suspension; and
- (b) any conditions that must be met before the suspension may be lifted.

The Committee must also consider whether permanent removal from the Register of Students would be a more appropriate sanction.

Permanent removal from the Register of Students is likely to be appropriate when the conduct of a Student is fundamentally incompatible with being a Student or Member of the Association. When a Regulatory Committee orders that the Respondent be removed or suspended from the Register of Students, it shall consider whether to impose one or more additional sanctions, such as a financial penalty.

### **Practising Certificates**

In accordance with the Public Practice Regulations, no Member shall engage in Public Practice in a jurisdiction that requires a Practising Certificate unless the Member holds a Practising Certificate. Therefore, in such jurisdictions, the removal or suspension of a Practising Certificate serves to prevent a Member from providing Public Practice services (while they remain a Member of the Association), and so affords some protection to the public.

If a Regulatory Committee determines that an appropriate sanction is suspension of the Respondent's Practising Certificate, it shall consider the following:

- (a) the necessary period of suspension;
- (b) any conditions that must be met before the suspension may be lifted; and
- (c) the potential impact of the suspension on the Respondent's clients.

The Committee must also consider whether permanent removal of the Respondent's Practising Certificate would be a more appropriate sanction.

If a Regulatory Committee determines that an appropriate sanction is the removal or suspension of the Respondent's Practising Certificate, the Committee shall consider when the sanction shall take effect, according to the Disciplinary Regulations, and whether an Interim Order is required to protect the public.

When the removal (or suspension) of a Practising Certificate is appropriate, a Regulatory Committee shall also consider whether to impose one or more additional sanctions, such as a financial penalty. An order that a Respondent's Practising Certificate be removed shall often state the period within which the Respondent may not reapply for a Practising Certificate. Any such reapplication shall be considered by the Membership Committee.

#### **Other orders and recommendations**

In accordance with the Byelaws and Disciplinary Regulations, some Regulatory Committees have the power to require a Respondent to take remedial action (in the case of alleged non-compliance with a regulatory requirement) and/or to place conditions on a respondent's Practising Certificate. For example, a Committee may order that a Member shall undertake specified training or that a Member Firm shall provide its employees with training in a specified area.

Regardless of whether a Regulatory Committee has the power to order a particular course of action, it may express a recommendation – to the Respondent and/or the Association – that a particular course of action be undertaken. This could have an impact on the process of determining sanction should a Regulatory Committee have cause to consider the Respondent's conduct in the future.

An order or recommendation that a Respondent shall take remedial action, or an order that conditions shall be placed on a respondent's Practising Certificate shall often be made in conjunction with one or more other available sanctions in light of the objectives set out in section 3 of this Sanctions Guidance.

## **9. Approach to ordering sanctions**

When a Regulatory Committee has made one or more findings against a Respondent (or Appellant), it shall adopt the approach set out within this Sanctions Guidance to determine the appropriate sanction or sanctions. The Committee shall identify each allegation in respect of which a finding against the Respondent (or Appellant) has been made and shall adopt the following approach in respect of each allegation:

- (a) determine the seriousness of the allegation;
- (b) consider the disciplinary history of the Respondent (or Appellant);

- (c) determine the appropriate sanction or sanctions (if any) with reference to the relevant table of indicative sanctions in the appendix to this Sanctions Guidance;
- (d) identify any aggravating and mitigating factors (including the Respondent's or Appellant's disciplinary history) and the combined impact of those factors on the sanction or sanctions to be ordered;
- (e) in respect of any financial penalty, consider proportionality and the Respondent's (or Appellant's) ability to pay the penalty and the need to reduce the proposed financial penalty accordingly.

When the Regulatory Committee has determined the appropriate sanction or sanctions, the Association may make an application for costs. On receiving such an application on behalf of the Association, the Committee shall consider an order for costs.

## 10. Determine the seriousness

A Regulatory Committee must determine the seriousness of each allegation in respect of which a finding has been made. This will enable the Committee to establish a starting point for each sanction with reference to the indicative sanctions set out in the appendix to this Sanctions Guidance. The seriousness of the allegation is determined with reference to the Respondent's culpability and their conduct giving rise to the allegation. The following descriptions shall be considered in determining whether the matter is serious, very serious or less serious:

- (a) **Very serious** where the conduct was deliberate, knowing and/or dishonest;
- (b) **Serious** where the conduct was reckless and/or the result of wilful blindness;
- (c) **Less serious** where there is no evidence of recklessness and any breach was inadvertent.

But each of these categories itself represents a range of seriousness. Therefore, a Regulatory Committee shall determine where within a band of seriousness an allegation lies. This is particularly important where the Committee determines that a financial penalty is required and it refers to the relevant table of indicative sanctions to consider the appropriate starting point. Each financial penalty in a table of indicative sanctions represents a mid-point for a particular level of seriousness. Therefore, the Regulatory Committee may identify a lower or higher penalty as the starting point for the sanction.

## **11. Consider any disciplinary history**

Care must be taken to ensure that a Respondent's disciplinary history shall not prejudice a Regulatory Committee's findings in respect of the allegation or allegations before it. The Committee's finding on the facts is on the balance of probabilities, and it is only after all findings have been made that the Committee may be made aware of the Respondent's disciplinary history, if any.

A Respondent's disciplinary history may be relevant as an aggravating factor, or it may shed light on the Respondent's culpability and conduct giving rise to an allegation, and so cause the Committee to reconsider the seriousness of the allegation or allegations. In respect of each allegation, the Committee shall take care not to allow a Respondent's disciplinary history to impact both seriousness and aggravation.

Finally, a Respondent's disciplinary history might lead a Committee to consider the need for a regulatory order to uphold the objective of protecting the public. For example, a Regulatory Committee may order a Respondent to remedy a repeated breach or failure, and may recommend that the Association reviews, within a particular period, the actions taken by the Respondent.

## **12. Refer to the indicative sanctions and orders**

The appendix to this Sanctions Guidance comprises four tables, each setting out indicative sanctions and orders in respect of a particular area, namely:

- (a) criminal convictions,
- (b) breaches of the Byelaws and Regulations,
- (c) breaches of the Code of Ethics, and
- (d) breaches identified by another regulator or supervisory authority.

The four tables of indicative sanctions and orders are not exhaustive. If there is no breach that corresponds exactly to the finding of the Regulatory Committee, the Committee shall identify the breach that corresponds most closely.

The sanctions set out in the appendix are indicative, and shall not fetter the independent decision-making of a Regulatory Committee. In respect of each finding, the Committee shall determine the appropriate sanction by considering the least severe sanction first. If a sanction is considered inadequate, the Committee shall consider the next more severe sanction (or combination of sanctions) and continue this process until the appropriate sanction (or combination of sanctions) is reached. This is known as a 'bottom up' approach, and it ends when the Committee determines that the next sanction to be considered is

more severe than is necessary to achieve the objectives set out in section 3 of this Sanctions Guidance.

### **13. Identify any aggravating and mitigating factors**

Having established a starting point based on the indicative sanctions, a Regulatory Committee shall consider any aggravating and mitigating factors relevant to the allegation and the Committee's findings. The Committee shall determine whether any aggravating factors outweigh any mitigating factors or vice versa.

Although these factors may impact the nature of the sanction (or sanctions) ordered, it will more often be the case that a Regulatory Committee decides to increase or decrease a financial penalty, due to net aggravation or net mitigation respectively. The weight to be given to each aggravating or mitigating factor and the extent of any increase or decrease in a financial penalty (or other impact on the sanction) are matters of judgement for the Committee.

Common aggravating and mitigating factors are set out below.

#### **Aggravating factors**

- One or more parties suffered (or might have suffered) adverse financial or other consequences.
- The breach / misconduct gave rise to financial or other gain for the Respondent.
- Correct advice given by the Association was not followed.
- There was a repeated breach / misconduct.
- There was a failure to promptly remedy the breach / misconduct.
- The breach / misconduct was over a long period.
- There is no indication of remorse or insight.
- The practice has been exposed to significant AML/CTF risk.
- There might have been a breach of the Proceeds of Crime Act 2002.
- The Respondent failed to cooperate with the Association during the investigation of the Complaint.
- The Respondent is a multiple partner practice.
- The Respondent knew, or should have known, that they would be liable to disciplinary action at the time of the breach / misconduct.

#### **Mitigating factors**

- No party suffered any adverse financial or other consequences.
- The breach / misconduct did not give rise to any financial or other gain for the respondent.
- Incorrect advice given by the Association was followed.

- The breach / misconduct was an isolated incident.
- The breach / misconduct was promptly remedied.
- The breach / misconduct was over a very brief period.
- There is evidence of genuine remorse and insight.
- The Respondent cooperated fully with the Association during the investigation of the Complaint.
- The Respondent previously had an unblemished disciplinary record.
- The breach / misconduct was reported to the Association by the Respondent.
- There was full and unequivocal admission of the breach by the Respondent.
- At the time of the breach / misconduct, the Respondent was experiencing ill health or adverse personal circumstances and acted reasonably under the circumstances.

The above lists are not exhaustive. A Regulatory Committee may identify other aggravating and/or mitigating factors and attribute weight to them as it deems appropriate.

## 14. Proportionality

Arriving at the total financial penalty to be included in a Regulatory Committee's order of sanction may entail more than simply aggregating the financial penalties determined in respect of each of the Committee's findings. Allegations sometimes overlap, or a single set of circumstances may give rise to more than one finding against the Respondent.

A Regulatory Committee shall ensure that the financial penalty is reasonable with regard to the objectives set out in section 3 of this Sanctions Guidance and the regulatory principle of proportionality. Therefore, the combination of sanctions, including any financial penalties, must demonstrate balance between:

- (a) meeting the objectives set out in section 3,
- (b) upholding the better regulation principles of proportionality and consistency, and
- (c) recognising the interests of the relevant parties in having a fair disciplinary process and outcome.

Any interference in a Member's or Student's professional standing and/or their ability to practise accountancy must be no more than the minimum necessary to uphold the public interest. Before finalising its decision on sanction, a Regulatory Committee shall satisfy itself that the sanction it will order is both sufficient and no more than is necessary to achieve the objectives. At this stage, any adjustment in respect of proportionality will usually be a reduction in the level of financial penalties to be ordered.

A financial penalty ordered by a Regulatory Committee shall be expressed in pounds sterling. For a Respondent outside the United Kingdom (and not in a territory that uses pounds sterling), the Committee shall consider the impact of exchange rates when considering proportionality of the sanction.

In meeting the objectives and upholding the better regulation principles, it may be appropriate to take into account a sanction imposed by another professional body or court of law. However, a Regulatory Committee is not restrained by any sanctions imposed by another professional body or court of law and is free to order whatever sanction or sanctions it deems appropriate in accordance with this Sanctions Guidance.

## **15. Respondent's ability to pay**

The means of the Respondent shall be a relevant consideration in determining the appropriate level of a financial penalty. Having determined an appropriate sanction according to the seriousness of the allegation and any aggravating and mitigating circumstances, a Regulatory Committee shall consider the Respondent's ability to pay.

It is not in the public interest to order a financial penalty that cannot be paid or that could give rise to undue hardship for the Respondent and/or their dependants. Therefore, a Regulatory Committee shall consider any relevant information available to it concerning a Respondent's financial circumstances.

The formal written reasons of a Regulatory Committee shall make clear the amount of any financial penalty ordered before any reduction for the Respondent's inability to pay. This gives a clear message regarding the seriousness of the Committee's findings. The extent of any reduction is a matter of judgement for the Committee. However, where the Respondent is thought to have gained financially from the breach or misconduct, it is unlikely that a Regulatory Committee shall reduce the level of a financial penalty below the amount of that financial gain.

Respondents may provide, in advance of the relevant Committee meeting or hearing, representations and evidence in respect of their financial circumstances. In the absence of any such representations and evidence, the Committee may assume that the Respondent will be able to meet any financial sanction ordered by the Committee in accordance with this Sanctions Guidance.

## **16. Interim Orders**

An Interim Orders Committee is empowered to make (and review) Interim Orders with the objective of protecting the public. An Interim Orders Committee considers applications for Interim Orders from the Regulation Secretary on behalf of the Association.

Except in very urgent cases, notice shall be served on the Respondent at least 14 days before the Interim Order hearing. However, it is important that Interim Orders are made, where appropriate, in a timely manner. Therefore, where a Tribunal has been adjourned, the

Tribunal may be reconstituted to sit (in private) as an Interim Orders Committee without notice.

An Interim Order shall:

- (a) suspend the Respondent's status as a Member or Student of the Association,
- (b) suspend the Respondent's Practising Certificate, or
- (c) place conditions on the Respondent's Practising Certificate.

The Interim Orders Committee may also make such ancillary orders as it thinks fit, for example to ensure that the Respondent's clients continue to receive a service under the control of the Respondent's continuity provider. Orders of the Interim Orders Committee shall have immediate effect.

An Interim Orders Committee shall not make a finding and shall not seek to establish the facts of the matter. Rather, it shall consider the seriousness of a Complaint and any potential risk to the public. Therefore, an Interim Order is not a sanction.

## **17. Considering an application for costs**

The Association may apply to a Regulatory Committee to recover costs from a Respondent if the Committee has made a finding against the Respondent. The relevant costs are those incurred by the Association in investigating the Complaint and bringing the matter to the Regulatory Committee (or Committees).

The Association's enforcement process is a public function, undertaken with due regard for the public interest. In considering an application for costs, a Regulatory Committee shall weigh the impact of a costs order on the Respondent against the need for the Association to exercise its regulatory functions in the public interest without fear of undue exposure to financial risk.

A summary of the costs incurred by the Association shall be sent to the Respondent before the relevant meeting or hearing of the Regulatory Committee. An order for costs shall reflect the costs reasonably incurred (or a proportion thereof) and is not to be regarded by the Committee as a sanction. A Regulatory Committee shall only consider the question of costs after it has reached its decision on the appropriate sanction (or sanctions) for the Complaint.

In considering an application for costs, a Regulatory Committee shall have regard to:

- (a) the principle of justice: that the majority of professionals should not subsidise the minority who, through their own failings, have brought upon themselves disciplinary proceedings

- (b) the principle of reason: that the costs are appropriate and reasonably incurred, in light of the conduct of the Respondent or Appellant before and during the disciplinary process.

It would be unusual for a Regulatory Committee to not award costs against a Respondent where the Committee has made a finding against them. Therefore, a Committee shall make clear in its written reasons the reasons for its decision on costs.

The amount that may be awarded to the Association in respect of costs has no upper limit, but it must relate to the costs actually incurred by the Association in the disciplinary proceedings. These may include, but are not limited to:

- the staff costs of processing the case,
- the costs of presenting the case,
- the fees and other costs of Regulatory Committee members,
- any administrative costs of Regulatory Committee meetings and hearings, and
- any reasonable expenses incurred by witnesses.

In cases where some allegations are proved and others are not, the Committee shall consider whether it is fair and reasonable to reduce the order for costs. For example, the Committee may consider it reasonable to reduce the costs order where most of the allegations (or the most serious allegations) are not proved.

The Respondent's (or Appellant's) ability to pay may again be relevant at this stage. However, in light of the need for the Association to exercise its regulatory functions in the public interest without fear of undue exposure to financial risk, any financial penalty should be reduced *before* an order for costs is reduced in respect of the Respondent's (or Appellant's) ability to pay.

## **18. Publicity**

The Association demonstrates its commitment to upholding technical and professional standards through its disciplinary processes and by publishing details of the findings and orders made by (and on behalf of) the Regulatory Committees.

In the case of Consent Orders, only those accepted by the Respondent shall be published. Where a Tribunal dismisses all the allegations against the Respondent, or a panel of the Appeal Committee determines that none of the Allegations should have been found proved by the Tribunal, the decision of the Tribunal or Appeal Committee (respectively) shall only be published at the request of the Respondent or Appellant.

Publicity is on the Association's website and shall name the Respondent (or Appellant). If a request is made not to publish the name of the Respondent (or Appellant), the Committee

shall only accede to such a request in exceptional circumstances and only where publication of the name would be likely to have an unfair impact on a person.

Publicity is not an order of a Regulatory Committee but a requirement of the Disciplinary Regulations in the interests of transparency. Only in exceptional circumstances shall a Regulatory Committee determine that full publicity would be unjust, in which case the Regulatory Committee may order that publicity shall be withheld or redacted appropriately.

## Appendix: Indicative sanctions and orders

The indicative sanctions and orders set out in this appendix cover the most common breaches of the Byelaws, Regulations and Code of Ethics, but they are not exhaustive. This appendix is not prescriptive. It is to assist a Regulatory Committee in achieving appropriate consistency and must not fetter the independent decision-making of the Committee. These indicative sanctions and orders may also help a Committee to determine an appropriate starting point for a breach that is not included in this appendix.

### (i) Criminal convictions and police cautions

| Breach   | Non-financial sanction/order |                            |                              | Financial sanction (£) |         |              |
|--|------------------------------|----------------------------|------------------------------|------------------------|---------|--------------|
|  | Less serious                 | Serious                    | Very serious                 | Less serious           | Serious | Very serious |
| Conviction involving dishonesty, breach of trust or money laundering | Severe reprimand             | Restrict right to practise | Suspension from the register | 3,000                  | 5,000   | 7,000        |
| Other conviction with a custodial sentence (perhaps suspended)       | Severe reprimand             | Restrict right to practise | Suspension from the register | 3,000                  | 5,000   | 7,000        |
| Other conviction without a custodial sentence or police caution      | Reprimand                    | Severe reprimand           | Restrict right to practise   | 1,500                  | 3,000   | 4,500        |

### (ii) Breaches of the Byelaws and Regulations

| Breach   | Non-financial sanction/order |                  |                            | Financial sanction (£) |         |              |
|--|------------------------------|------------------|----------------------------|------------------------|---------|--------------|
|  | Less serious                 | Serious          | Very serious               | Less serious           | Serious | Very serious |
| Failure to cooperate in the Association's monitoring procedures  | Reprimand                    | Severe reprimand | Restrict right to practise | 1,000                  | 2,000   | 3,000        |
| Failure to cooperate in the Association's disciplinary processes | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 2,000   | 3,000        |
| Failure to submit an annual return                               | Reprimand                    | Reprimand        | Severe reprimand           | 500                    | 1,250   | 2,000        |

|   |           |                  |                            |       |       |       |
|---|-----------|------------------|----------------------------|-------|-------|-------|
| Failure to notify the Association of a relevant change in circumstances   | Reprimand | Reprimand        | Severe reprimand           | 400   | 700   | 1,000 |
| Member practising without a Practising Certificate                        | Reprimand | Severe reprimand | Restrict right to practise | 750   | 1,500 | 2,250 |
| Failure to have adequate professional indemnity insurance                 | Reprimand | Severe reprimand | Severe reprimand           | 1,000 | 2,000 | 3,000 |
| Non-compliance with the Association's CPD requirements                    | Reprimand | Severe reprimand | Severe reprimand           | 500   | 1,000 | 1,500 |
| Failure to make adequate continuity arrangements                          | Reprimand | Reprimand        | Severe reprimand           | 400   | 800   | 1,200 |
| Non-compliance with requirements in respect of custody of clients' assets | Reprimand | Severe reprimand | Restrict right to practise | 500   | 1,500 | 2,500 |
| Failure to have appropriate internal complaints handling arrangements     | Reprimand | Severe reprimand | Severe reprimand           | 500   | 1,000 | 1,500 |
| Failure to issue appropriate engagement letters                           | Reprimand | Reprimand        | Severe reprimand           | 500   | 1,000 | 1,500 |

### (iii) Breaches of the Code of Ethics

| Breach   | Non-financial sanction/order |                  |                            | Financial sanction (£) |         |              |
|--|------------------------------|------------------|----------------------------|------------------------|---------|--------------|
|  | Less serious                 | Serious          | Very serious               | Less serious           | Serious | Very serious |
| Fundamental principle of <i>integrity</i>                            | Severe reprimand             | Severe reprimand | Restrict right to practise | 1,500                  | 3,000   | 4,500        |
| Fundamental principle of <i>objectivity</i>                          | Reprimand                    | Severe reprimand | Restrict right to practise | 1,000                  | 2,000   | 3,000        |
| Fundamental principle of <i>professional competence and due care</i> | Reprimand                    | Severe reprimand | Restrict right to practise | 1,000                  | 2,000   | 3,000        |
| Fundamental principle of <i>confidentiality</i>                      | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 1,750   | 2,500        |

|   |           |                  |                            |       |       |       |
|---|-----------|------------------|----------------------------|-------|-------|-------|
| Fundamental principle of <i>professional behaviour</i>  | Reprimand | Severe reprimand | Restrict right to practise | 1,000 | 2,500 | 4,000 |
| Failure to provide information to a proposed accountant | Reprimand | Reprimand        | Severe reprimand           | 750   | 1,500 | 2,250 |

**(iv) Breaches identified by another regulator or supervisory authority**

| Breach  | Non-financial sanction/order |                  |                            | Financial sanction (£) |         |              |
|---|------------------------------|------------------|----------------------------|------------------------|---------|--------------|
|   | Less serious                 | Serious          | Very serious               | Less serious           | Serious | Very serious |
| Failure to have an AML practice risk assessment                   | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 2,000   | 3,000        |
| Failure to record up-to-date AML policies                         | Reprimand                    | Reprimand        | Severe Reprimand           | 1,000                  | 2,000   | 3,000        |
| Failure to appoint an officer responsible for AML compliance      | Reprimand                    | Reprimand        | Severe Reprimand           | 500                    | 1,250   | 2,000        |
| Failure to appoint a nominated officer                            | Reprimand                    | Reprimand        | Severe Reprimand           | 500                    | 1,250   | 2,000        |
| Failure to provide relevant AML training                          | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 2,000   | 3,000        |
| Acting as a 'BOOM'* without approval                              | Reprimand                    | Severe reprimand | Severe reprimand           | 1,500                  | 2,500   | 3,500        |
| Failure to notify the supervisory authority of a relevant offence | Severe reprimand             | Severe reprimand | Restrict right to practise | 1,500                  | 2,500   | 3,500        |
| Failure to undertake appropriate client due diligence (CDD)       | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 2,000   | 3,000        |
| Failure to report a material discrepancy in a register            | Reprimand                    | Reprimand        | Severe Reprimand           | 500                    | 1,250   | 2,000        |
| Inadequate AML compliance records retained                        | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 2,000   | 3,000        |
| Inadequate data security  | Reprimand                    | Severe reprimand | Severe reprimand           | 1,000                  | 2,000   | 3,000        |

|   |           |                  |                            |       |       |       |
|---|-----------|------------------|----------------------------|-------|-------|-------|
| Failure to register as a TCSP**                           | Reprimand | Severe reprimand | Severe reprimand           | 750   | 1,500 | 2,250 |
| Failure to provide information to a supervisory authority | Reprimand | Severe reprimand | Restrict right to practise | 1,500 | 2,500 | 3,500 |

\* Beneficial owner, officer or manager

\*\* Trust or Company Service Provider