

# **A Guide for Employers of CIPFA Members**

October 2015

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services.

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## **INDEX**

<b>Content</b>	<b>Page</b>
1 How does CIPFA ensure high standards in its Membership?	1
2 Why does CIPFA regulate its members?	1
3 What role do employers have in CIPFA's Disciplinary Scheme?	1
4 What type of issues should an employer raise with the Scheme?	2
5 What standards does the Institute require of its Members	2
6 What if the employer is himself or herself a CIPFA Member?	2
7 Is the Scheme independent of the Institute and is it subject to independent oversight?	3
8 How does the Scheme operate?	3
9 How would a Member's employer become involved in an investigation?	5
10 How would a Member's employer become involved in a Disciplinary Committee hearing?	6
11 How would a member's employer become involved in an Appeal Committee hearing?	7
12 Useful sources of further information	7

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## **1. How does CIPFA ensure high standards in its Membership?**

CIPFA is one of the leading professional accountancy bodies in the UK and the only one which specialises in the public services. It is responsible for the education and training of professional accountants and for their regulation through the setting and monitoring of professional standards. CIPFA Members are respected throughout the public services for their high technical and ethical standards, and professional integrity.

Regulation of CIPFA Members, which encompasses Student, Affiliate and Associate members as well as former members, is achieved through CIPFA's disciplinary scheme which is established in accordance with CIPFA's Bye-Laws and Disciplinary Regulations.

## **2. Why does CIPFA regulate its members?**

Professional regulation is a vital public interest function which is central to maintaining confidence in the CIPFA qualification, the accountancy profession and the public services that are served by CIPFA Members. CIPFA is committed to ensuring that employers in all sectors can continue to place reliance on the sound ethical judgements and technical competencies for which CIPFA Members are renowned.

## **3. What role do employers have in CIPFA's disciplinary scheme?**

Employers of CIPFA Members are often the first to become aware if a CIPFA Member has acted in a manner that raises concerns about his or her conduct and professionalism. In consequence they are often the first point of contact with the Scheme. This may be to seek guidance or to formally bring matters to the Scheme's attention.

An employer (or former employer) may make a complaint to the disciplinary scheme ("the Scheme") about a Member in their employ, or indeed any other CIPFA Member, or may bring a concern to the attention of the Scheme.

If the employer makes a complaint then the employer would have the standing of a complainant under the Disciplinary Regulations and would have the right to be informed of how the complaint progresses at each key stage in the Scheme's process.

If an employer raises a concern but does not wish to be a complainant, the employer would have no formal standing in the matter although would be advised of its final outcome. However, should the employer be involved in the Scheme's enquiries or investigations, it would be kept informed, in general terms, of how the matter is proceeding.

An employer may also be contacted by the Scheme to seek assistance with enquiries, investigations and proceedings about a Member currently or formerly in its employ. Details of the employer's possible involvement in such circumstances can be found at sections 9-11 below.

#### **4. What type of issues should an employer raise with the Scheme?**

Employers should bring to the Scheme's attention concerns about any Member who fails to act in accordance with the requirements of the Institute's Bye-Laws, Standards of Professional Practice (SoPP's) (including the SoPP on Ethics) and other CIPFA principles and rules. This includes acting in a manner which may bring discredit upon the Member, the employer, the Institute or the profession of accountancy.

If an employer is concerned as to whether it is appropriate for it to make a complaint or raise a concern then the CIPFA website [www.cipfa.org.uk](http://www.cipfa.org.uk) or the Scheme are available to provide guidance.

#### **5. What standards does the Institute require of its Members?**

CIPFA Members are expected to comply with high professional standards, some of which are set out in CIPFA's SoPP's covering the following areas: ethics, auditing, budgetary planning and control, financial transactions management, financial reporting, suspected fraud and corruption, tax management and treasury management.

Breach of the SoPP's or other CIPFA guides to conduct, principles or rules, is a disciplinary matter which, in the most serious cases, may result in expulsion from membership of the Institute.

Members of CIPFA are also required to refrain from what is described as 'misconduct'.

Misconduct includes, but is not limited to, conduct which has brought or is likely to bring discredit upon the Member, his or her employer, the Institute or the profession of accountancy. Misconduct includes being subject to a criminal conviction in which a sentence of imprisonment may be imposed and having been found, in any civil or criminal proceedings, to have acted in a dishonest or fraudulent manner.

Finally, Members are required to refrain from conduct which prejudicially affects the status, reputation or welfare of CIPFA.

#### **6. What if the employer is himself or herself a CIPFA Member?**

If an employer (or an individual associated with the employer) is a CIPFA Member himself or herself then that individual has a duty under the CIPFA Bye-Laws (Bye-

Law 32A) to report any Member whom he or she is aware may have become liable to disciplinary action under the Scheme (i.e. may have been in breach of the Institute's Member requirements).

In addition, such a Member has a duty to co-operate with any preliminary enquiries, investigations, or disciplinary investigation undertaken by the Scheme. A failure to co-operate by a Member could be the basis for proceedings under the Scheme in relation to that Member.

The Institute has issued guidance in relation to Bye-Law 32A which discusses issues that may arise in its application including confidentiality considerations. A Member may also wish to consult with the employer and /or the Scheme for guidance.

## **7. Is the Scheme independent of the Institute and is it subject to independent oversight?**

As a regulatory body, CIPFA is subject to oversight by the Financial Reporting Council ('FRC'). The Scheme is specifically subject to scrutiny by the Professional Oversight Board for Accountancy, a subsidiary of the FRC.

The Scheme is Human Rights Act compliant, was drafted on the basis of legal advice and implemented following wide consultation. Significant independent (i.e. non-CIPFA) involvement is a key feature.

Investigations are undertaken by CIPFA's in-house lawyers and external legal consultants (the 'Investigations Unit'). The final determination of each regulatory case is made by independent committees chaired by a non-CIPFA member.

The Investigations Committee is chaired by Mr Peter Cadman, a partner with the law firm Russell-Cooke LLP. The Regulatory Panel, from which members are appointed to sit on Disciplinary and Appeal Committee hearings, is chaired by Mr Adam Hiddleston, a barrister.

## **8. How does the Scheme operate?**

The Disciplinary Regulations provide the procedural code for the investigation and determination of complaints.

All complaints are referred to CIPFA's Investigations Unit which conducts preliminary enquiries.

If the matter is either based wholly or substantially on the Member suffering a conviction of a type which may lead to imprisonment ("a Conviction Matter") or if at the conclusion of its preliminary enquiries the Investigations Unit is of the view that the matter may not properly form the basis of proceedings, the outcome of the Investigations Unit's preliminary enquiries would be passed to the Chair of the Investigations Committee for initial consideration

Following initial consideration of a Conviction Matter the Chair may refer the matter for hearing by a Disciplinary Committee, may refer it to an Investigations Committee panel or may close the matter.

In all other cases the outcome of the Investigations Unit's preliminary enquires would be passed to a panel of the Investigations Committee for initial consideration.

The panel of the Investigations Committee has a quoracy of three members. It comprises independent members (non CIPFA and non-accountant members) and CIPFA Members. It must be chaired by an independent member and independent members must be in the majority.

In relation to Conviction Matters referred to it by the Chair of the Investigations Committee the Investigations Committee panel would consider the matter and reach one of the same determinations as it would in relation to the second referral of non-Conviction Matters (see below).

In relation to all other matters referred to it, the panel will consider whether there is, or may be, a basis for commencing proceedings and, if so, whether it is appropriate for proceedings to be commenced. If it finds in the affirmative on both points, it refers the matter to CIPFA's Investigations Unit to carry out an investigation.

This initial consideration of cases ensures that complaints which are frivolous or which cannot amount to a breach of the Bye-Laws do not progress to a formal investigation and are closed.

Assuming the Investigations Committee panel decides to request a formal investigation, the Investigations Unit will carry out investigations. This may include taking witness statements, gathering further documentation or instructing an expert to provide a report. The Investigations Unit will provide the Member with an opportunity to consider and comment upon particulars of breach of the Bye-Laws if any such particulars are to be considered, in due course, by a panel of the Investigations Committee.

At the conclusion of the investigation the Investigations Unit reports to a panel of the Investigations Committee including all relevant evidence gathered during the investigation and any response from the CIPFA Member.

On this second referral, the Investigations Committee panel determines whether there is prima facie evidence of matters which represent a breach of the Bye-Laws and whether or not the matter warrants a penalty more severe than can be imposed by the Investigations Committee.

The Investigations Committee has the power to dispose of minor cases by way of:

- Entry on Record (effectively an unpublicised caution); or
- Reprimand (a formal sanction which is publicised).

An Entry on Record will remain on the CIPFA Member's record for a period of up to two years and the matter may be reopened if the Member commits any further breach within that time. An Entry on Record will be taken into account in determining the outcome of any subsequent CIPFA investigation or disciplinary proceedings which commence or are based upon matters which take place during the period for which the Entry on Record remains.

A Reprimand remains on a Member's record with no limit of time and may be taken into account in determining the outcome of any future CIPFA disciplinary proceedings.

A complaint may be referred by the Investigations Committee panel or (as detailed above) by the Chair of the Investigations Committee for hearing by a Disciplinary Committee. After the hearing the Disciplinary Committee may impose any of the following sanctions:

- Entry on Record
- Reprimand
- Severe Reprimand
- Suspension
- Expulsion

In addition or as an alternative to the above the Member may be fined a sum of up to £10,000 and/or ordered to pay up to £5,000 by way of compensation to a complainant or third party in respect of fees paid to the Member by that complainant or third party.

The CIPFA Member has a right of appeal, on specified grounds, to an Appeal Committee which may confirm, vary or rescind any finding or sanction of the Disciplinary Committee.

A Reprimand or more serious sanction will be publicised on CIPFA's website, in the membership magazine and by way of a general press release.

Where an investigation is closed by the Investigations Committee after a formal investigation has been undertaken or, is a Conviction Matter and has been closed by the Chair of the Investigations Committee, the complainant in the case may request that the matter be reviewed by the Reviewer of Complaints. Further details of this process can be obtained from the Investigations Unit.

## **9. How would a Member's employer become involved in an investigation?**

As the employer of a CIPFA Member who is under investigation, (whether as a result of a complaint from itself or another) its primary contact will be with the Investigations Unit during the course of the investigation. If the employer is not the originator of the complaint, the Investigations Unit is likely to contact the employer once a formal investigation has been commenced with a request for information and documentation relating to the complaint.

In particularly complex or technical cases, the Investigations Unit will appoint an independent expert accountant to carry out the investigation who would generally liaise with the employer in order to obtain the necessary evidence and produce a report assessing the complaint.

The Investigations Unit and/or the appointed expert may request interviews with individuals who have knowledge of the circumstances surrounding the complaint.

It is important that information and documentation is provided as quickly as possible. The Investigations Unit is required to report to CIPFA Council if any significant delays are incurred. The FRC also places considerable emphasis upon timely investigations. Significant delay may frustrate attempts to bring or conclude disciplinary proceedings if it amounts to a breach of the Member's human rights.

Information and documentation provided to the Investigations Unit is treated as strictly confidential, although it is important to appreciate that all information disclosed to the Investigations Unit will be passed on to the CIPFA Member and may need to be considered by an expert. If the case is a serious one, it may result in a disciplinary hearing, which is usually open to members of the public. Reference may be made to documents (and the contents of documents) gathered during an investigation at such a public hearing.

If you have any particular concerns about the confidentiality of certain documentation/information involved in an investigation it is best to raise this as an issue with the Investigations Unit or the expert investigator.

At the conclusion of the investigation, the Investigations Unit may send formal allegations (particulars of breach) to the Member, who is given 21 days, or such longer period as is necessary, to respond to them. The Member may seek information for use in his response. Legal advice may be sought by the Member in connection with the response.

Any decision made by the panel of the Investigations Committee is notified to the Member, the complainant (if any) and any party with a proper interest in the outcome of the proceedings, which generally includes the Member's employer.

## **10. How would a Member's employer become involved in a Disciplinary Committee hearing?**

If, as an employer, your organisation has been involved in an investigation, you will be notified of the date of a Disciplinary Committee hearing and invited to send a representative to observe the proceedings.

It is the policy of the Investigations Unit to base any disciplinary case as much as possible on documentary evidence. However, it is sometimes necessary to request individuals to attend and give evidence at a Disciplinary Committee hearing. In addition, a Member may request that an individual who has provided information to

CIPFA during an investigation attend the hearing to answer questions about the information they have provided.

CIPFA cannot compel the attendance of witnesses but it should be borne in mind that in particular cases the absence of witnesses might prove fatal to any disciplinary case.

CIPFA Members are, however, under an obligation to co-operate with CIPFA's disciplinary proceedings and a failure to do so could give rise to disciplinary proceedings or additional allegations of breach of the Bye-Laws based on such a failure.

A Member's employer will generally be notified of the outcome of a Disciplinary Committee hearing as a party with an interest in the outcome if not as the complainant. If the Member's employer is identified in any CIPFA press release about the outcome of a Disciplinary Committee hearing, the employer would be provided with advance notice of any press release about the case.

#### **11. How would a Member's employer become involved in an Appeal Committee hearing?**

In certain, limited, circumstances a Member may appeal a decision of a Disciplinary Committee. Such an appeal would be considered and decided by an Appeal Committee at an Appeal hearing. The Member's employer would be notified of the outcome of the Appeal hearing. Further information on the appeal process can be obtained from the Scheme.

#### **12. Useful Sources of Further Information**

CIPFA professional conduct website: [www.cipfa.org](http://www.cipfa.org)

Financial Reporting Council website: [www.frc.co.uk](http://www.frc.co.uk)