

Date: 1 January 2023



ICAS Independent Reviewer Regulations

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The Institute of Chartered Accountants of Scotland

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Council, in terms of Rule 11.11.5 and 12.3 of the ICAS Rules, hereby makes the following Regulations.

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1. General

Citation and commencement

- 1.1 These Regulations may be cited as the ICAS Independent Reviewer Regulations and shall come into force on 1 January 2023.

Definitions

- 1.2 In these Regulations words and phrases have the same meaning as in the ICAS Rules and, unless the context requires otherwise:

Applicant – a person informed that a Complaint referred to the Investigation Committee for further investigation in accordance with the Investigation Regulations has been dismissed in whole or part, other than on the basis of compassionate or other exceptional circumstances.

Chair – the chair of the Independent Reviewer Panel appointed in accordance with Regulation 2.3.

Complaint – a communication (including a referral from any Regulatory Committee of ICAS) which raises concerns about, or otherwise expresses dissatisfaction with, the standards of conduct, ethical behaviour or technical competency of a Member, CA Student Member, Affiliate or Firm, and which has been referred to the Investigation Committee for further investigation in accordance with the Investigation Regulations.

Disciplinary Appointments Committee – means the committee established by Council under the General Regulations to appoint the members of the Independent Reviewer Panel.

Discipline Board – the Discipline Board of ICAS, as appointed in accordance with the ICAS Rules.

Independent Reviewer – a member of the Independent Reviewer Panel.

Independent Reviewer Panel – the Independent Reviewer Panel appointed by the Disciplinary Appointments Committee under Regulation 2.1.

Investigation Committee – the Regulatory Committee appointed by the Regulation Board to exercise the powers set out in the ICAS Rules.

Investigation Regulations – the Regulations governing the constitution, composition, conduct of business, powers and functions of the Investigation Committee, as made by Council in accordance with the ICAS Rules.

Notices

- 1.3 Any notice or other document to be sent under these Regulations shall be delivered electronically, by hand or by post. It must be sent to the address that the Member, CA Student Member, Affiliate, Firm, or Rule 9 Student has given to ICAS for this purpose. Delivery shall be deemed to have occurred:
- 1.3.2 for emails, facsimile, and other electronic means, when sent;
 - 1.3.2 by hand, when delivered;
 - 1.3.3 by post, 48 hours after posting.

2. Independent Reviewer Panel

Appointments

- 2.1 The Disciplinary Appointments Committee shall appoint an Independent Reviewer Panel comprised of three or more individuals who shall be neither accountants nor officials of ICAS.
- 2.2 Each appointment to the Independent Reviewer Panel shall be for a term of three years, renewable for two further terms of three years at the discretion of the Disciplinary Appointments Committee. Thereafter that person may not seek reappointment for a further three years. The length and number of terms referred to may be extended or varied in exceptional circumstances, at the sole discretion of the Disciplinary Appointments Committee.
- 2.3 The Disciplinary Appointments Committee shall appoint one member of the Independent Reviewer Panel to act as Chair of the Panel.

Declaration of interest

- 2.4 Each Independent Reviewer must declare any interest in any matter which is submitted for review under these Regulations, and such Independent Reviewer shall be precluded from further involvement with the subject matter of the review. In such instances an alternative Independent Reviewer shall be appointed from the members of the Independent Reviewer Panel.

Remuneration

- 2.5 ICAS may pay the reasonable remuneration and expenses of each Independent Reviewer, in accordance with any fee scales which ICAS may agree with the Independent Reviewers from time to time.

Powers and functions

- 2.6 The Independent Reviewer Panel shall be responsible for the review of decisions of the Investigation Committee in accordance with these Regulations.

3. Review

Application

- 3.1 Where a Complaint is dismissed in whole or in part under the Investigation Regulations, other than on the basis of compassionate or other exceptional circumstances, an Applicant may apply in writing for the decision to be reviewed by an Independent Reviewer on any one or more of the following grounds:
 - 3.1.1 there is reason to suspect a lack of independence on the part of any member of the Investigation Committee who took part in the decision complained of;
 - 3.1.2 the decision of the Investigation Committee was not one which could reasonably have been arrived at upon due consideration of the material.
- 3.2 An application under these Regulations shall not be considered unless it is made within 28 days of the date on which notice of the Investigation Committee's decision was given to the Applicant.
- 3.3 Upon receiving an application, the Chair shall appoint an Independent Reviewer to review the application in accordance with these Regulations. Such appointments shall generally be made on a rotational basis, but shall also take account of the knowledge, skills, and experience of the Independent Reviewers in relation to the application.

- 3.4 Intimation of the application and appointment of an Independent Reviewer shall be made to the Convener of the Investigation Committee, with a request that all relevant files be delivered for review.

Review procedure

- 3.5 The Independent Reviewer appointed under Regulation 3.3 shall undertake a review of the Complaint files, with a view to determining whether the grounds set out in Regulation 3.1 have been met.
- 3.6 The Independent Reviewer may require the Investigation Committee to make or cause to be made such reasonable enquiries concerning the application as they consider necessary for the purpose of their review. The Independent Reviewer may also request that ICAS provide them with such technical assistance as they believe necessary to discharge their responsibilities, and such assistance shall not be unreasonably withheld.
- 3.7 The Independent Reviewer shall prepare a report, which shall include the following information:
- 3.7.1 details of the grounds of the application;
 - 3.7.2 a summary of the Complaint and the basis for the Investigation Committee's decision that it be dismissed; and
 - 3.7.3 a decision with reasons as to whether or not the application should be upheld.
- 3.8 If the Independent Reviewer is of the opinion that the application should be upheld they shall notify the Applicant and cause their report to be sent to the Investigation Committee with a recommendation that it undertake a review of its original decision. The Investigation Committee shall determine the process by which such review is to be undertaken, having regard to the terms of the Independent Reviewer's report. The decision of the Investigation Committee shall be final, save that the Applicant and Independent Reviewer shall be informed and provided with reasons in writing.
- 3.9 If the Independent Reviewer concludes that the application should be rejected, the Applicant shall be provided with reasons in writing.

4. Annual Report


- 4.1 The Chair shall make an annual report to the Discipline Board in relation to the discharge of the Independent Reviewer Panel's duties and responsibilities under these Regulations during the preceding twelve-month period. If applicable, such report shall also specify any aspects of the investigation procedures of ICAS which the Independent Reviewer Panel considers could be improved.




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