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Information on publicity

Purpose

This helpsheet provides information on publicity notices issued by ICAS in connection with decisions taken by the Investigation Committee and the Discipline and Appeal Tribunals ("the Tribunals"). It does not cover the publication of regulatory decisions taken by ICAS' Authorisation Committee.

Which decisions are publicised?

The Investigation Regulations (Regulation 8) and the Discipline and Appeal Tribunals Regulations (Regulations 3.36 and 3.37) set out the decisions which will be publicised, including:

- An order which has been applied by the Investigation Committee under Investigation Regulation 2.15 with the consent of the Member, CA Student Member, Affiliate, or Firm.
- A decision of a Discipline Tribunal to uphold or reject a complaint, including an order(s) applied.
- The decision of an Appeal Tribunal to uphold or reject an appeal, including an order(s) applied.

Why are decisions publicised?

Publicising disciplinary outcomes is common practice amongst professional regulators. We believe it achieves a number of different aims:

- It promotes public confidence in ICAS as a regulator.
- It provides transparency to our investigation process.
- It acts as a deterrent.
- It informs, alerts and educates.

When are decisions publicised?

Orders made by the Investigation Committee will be publicised shortly after the Member, CA Student Member, Affiliate, or Firm, has confirmed their consent to the order. If the proposed order is rejected then the Committee will refer a formal complaint to the Discipline & Appeal Panel, and the outcome will not be publicised until it has been determined by a Discipline Tribunal.

A decision of a Discipline Tribunal to uphold or reject a complaint will be publicised shortly after it is made, notwithstanding any appeal which may have been made in respect of the decision. If an appeal has been made then this will be noted in the publicity notice.

A decision of an Appeal Tribunal to uphold or reject an appeal will be publicised shortly after it is made.

What information will be contained in the publicity notice?

ICAS seeks to ensure that outcomes are publicised in a consistent manner, with notices generally including the following:

- The name of the Member, CA Student Member, Affiliate or Firm.
- The location of the relevant Firm, practice or business.
- The decision made by the Investigation Committee or Tribunal, including details of any charge(s) upheld.
- Any orders which have been made (including any financial penalty and/or costs order).
- A summary of the issues of concern.

The notice will not include the name of the complainer, or other third parties/clients involved in the complaint. If referring to a company involved in the complaint, the notice will normally say "Company X" or words to that effect.

Appropriate regard when drafting will be given to the requirements of the Data Protection Act.

Where will the publicity notice be displayed?

In all instances, the publicity notice will appear in CA Magazine and on the ICAS website.

Disciplinary notices on icas.com can be accessed on the ICAS website here:
<https://www.icas.com/regulation/regulatory-monitoring/disciplinary-notice>

The Investigation Committee or Tribunal may, at its discretion, choose to publicise a sanction elsewhere, for example, in a national or local newspaper. This might happen if it is considered that the outcome is of increased relevance to a particular section of society.

Sanctions against insolvency practitioners are also publicised separately by the Insolvency Service on its website.

ICAS will ensure that the parties are given advance notice of the location and timing of the publicity.

How long will the publicity notice remain on the ICAS website?

For publicity notices which do not involve an exclusion from membership, the default position is that they will remain on the ICAS website for a minimum period of five years from the date of the notice.

When an individual is excluded from membership, the Investigation Committee or Tribunal will exercise its discretion over the appropriate timescale for publicity, with the default position being a period of 10 years.

When considering an appropriate timescale for a publicity notice, the Investigation Committee or Tribunal will have regard to the circumstances of the case, and the level of risk to the public interest.

Are there any circumstances where publicity is not appropriate?

Whilst publicity is the default position, there may be a small number of cases where the Investigation Committee or Tribunal will decide that there are extenuating circumstances which mean that publicity would not be appropriate. In such instances, the Committee may still release a publicity notice, but with the name of the Member, CA Student Member, Affiliate or Firm withheld.

Given its commitment to transparency, the decision to publicise a decision on an anonymous basis will only be taken in exceptional circumstances, for example, where there is evidence to suggest that publicity would:

- Be disproportionate.
- Jeopardise the stability of financial markets.
- Jeopardise an ongoing criminal investigation.
- Cause disproportionate damage to any institution or individual involved.

Will the Committee ever comment publicly on an ongoing investigation?

While investigations are generally conducted in strict confidence, the Investigation Regulations allow the Convener of the Investigation Committee to issue a public statement if they consider that this is necessary to maintain public confidence in ICAS' disciplinary process.

Will there be publicity if a complaint is rejected by the Committee?

The Investigation Committee will not publicise the rejection of a complaint unless it receives a specific request to do so from the Member, CA Student Member, Affiliate or Firm that was subject to the complaint. In such circumstances, the Investigation Committee will have full discretion over the placement, form and content of the notice.

Further information

Further information in respect of publicity can be requested from the individual at ICAS who communicated the relevant decision, or by email: complaints@icas.com