

1 March 2025



Sanctions Guidance

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Section 1: Introduction

Effective date

This version of the Sanctions Guidance ('the Guidance') was introduced by the Discipline Board and Investigation Committee on 1 March 2024 and replaces any previous version of the document which was in place prior to that date. It may be referred to in connection with the determination of any sanction(s) after 1 March 2025 notwithstanding the date on which the Complaint was intimated to ICAS, the Discipline Panel, or the Appeal Panel.

Purpose of the Guidance

As part of its commitment to promote the highest professional and ethical standards, ICAS will take disciplinary action where there is sufficient evidence of a failure to observe the standards expected of its Members, CA Student Members, Affiliates and Firms.

By operating investigation and disciplinary processes which are rigorous but fair, ICAS will achieve three aims:

- i. The protection of the public interest.
- ii. The maintenance of public confidence in the profession of accountancy.
- iii. The maintenance of proper standards of conduct and competence.

ICAS understands that, in addition to being effective, its processes must also be proportionate, fair and transparent for all parties involved.

Sanctions Guidance

The Guidance has two distinct purposes:

- i. To set out the process which will be followed when determining a disciplinary Sanction for a Member, CA Student Member, Affiliate or Firm (Section 5); and
- ii. To provide guidance on the level of order and financial penalty which may be appropriate for a particular offence (Section 6).

Using the Guidance promotes consistent determination of Complaints. In addition, the approach in the Guidance allows the parties to a Complaint to have a reasonable expectation of what is likely to happen if the Complaint is upheld.

It is important to understand that the orders and financial penalties (collectively 'the Sanctions') set out in Section 6 are indicative and not prescriptive. The Sanction which is applied when a Complaint is upheld will reflect the particular circumstances of the Complaint – taking into account any relevant mitigating or aggravating factors – and may therefore be higher or lower than indicated in Section 6. Decision-makers will exercise their reasonable discretion in all cases, supported by the Guidance.

Who will use the Guidance

The Guidance has been drafted for use by the following:

- The Investigation Committee, which has the delegated authority of the Regulation Board to investigate and determine complaints in accordance with the ICAS Rules and Investigation Regulations. The Investigation Committee is comprised of an equal number of Chartered Accountants and Lay Members, as well as a Convener.
- Discipline Tribunals, which are appointed by the Discipline Panel to consider and determine complaints which are referred by the Investigation Committee.
- Appeal Tribunals, which are appointed by the Appeal Panel to consider and determine appeals against decisions taken by the Investigation Committee and Discipline Tribunals.
- Members, CA Student Members, Affiliates, Firms and Complainers to consider in connection with the investigation and disciplinary processes.

Decisions of the Investigation Committee

As explained in Section 4, for most Complaints determined by the Investigation Committee, the decision to sanction is taken by an Adjudicating Panel. As Adjudicating Panels are sub-committees of the Investigation Committee, the Guidance will generally refer to Sanctions being applied by the Investigation Committee.

Decisions of a Discipline or Appeal Tribunal

The Discipline Tribunal and Appeal Tribunal are referred to collectively in the Guidance as 'the Tribunals'. All Tribunals have a legally qualified Chair, as well as at least one Chartered Accountant and one Lay Member. Complaints and appeals are determined in accordance with the ICAS Rules and the Discipline and Appeal Tribunals Regulations, which ensure that the members of the Tribunals can fulfil their role independently of ICAS. These Regulations state that while the Tribunals shall have regard to the Guidance, the decision in any individual case shall be at the sole discretion of the Tribunal. The Guidance is therefore intended to act as a point of reference for Tribunals, to help promote consistent decision making.

The Guidance, Rules and all Regulations are available on the ICAS website: [icas.com](https://www.icas.com)

The application of the Guidance

The Guidance applies to the determination of Complaints. For the purpose of this document only, references to 'Complaint' or 'Complaints' shall include the following:

- A complaint which is investigated and determined by the Investigation Committee in accordance with the Investigation Regulations.
- A complaint which is considered and determined by a Discipline Tribunal in accordance with the Discipline and Appeal Tribunals Regulations.
- An appeal against a decision of a Discipline Tribunal, which is considered and determined by an Appeal Tribunal in accordance with the Discipline and Appeal Tribunals Regulations.

Insolvency Complaints

The professional bodies which licence insolvency practitioners in the UK have agreed common sanctions guidance to apply when considering Complaints against insolvency practitioners.

In Section 5 (Approach to Sanctioning), there is an explanation of how that guidance interacts with ICAS' own decision-making process.

Section 2: Grounds for disciplinary action

The ICAS Rules set out three separate grounds upon which a Member, CA Student Member or Affiliate may be found liable to disciplinary action:

- Professional incompetence - the performance of professional work, whether as a principal, director, employee or as an individual, incompetently to such an extent or on such a number of occasions as to fall significantly short of the standards expected of a Member, CA Student Member, Affiliate, or Firm.
- Professional misconduct – includes, but is not limited to, any serious act or default, whether in the course of carrying out professional work or otherwise likely to bring discredit to himself, ICAS or the profession of accountancy, or any serious departure from the standards to be expected of a Member, CA Student Member or Affiliate of ICAS.
- Unsatisfactory professional conduct – includes, but is not limited to, any act or default, whether in the course of carrying out professional work or otherwise which falls below the standards to be expected of a Member, CA Student Member or Affiliate of ICAS but which does not amount to professional misconduct.

A Complaint which concerns the quality of work undertaken is more likely to be charged on the basis of professional incompetence. The remaining charges relate to behaviour, actions or omissions and are more likely to apply if there has been a breach of the ICAS Code of Ethics. Professional misconduct is the more serious charge, as it requires there to be discredit as a consequence of the behaviour, action or omission.

While a Firm may be found liable to disciplinary action on the ground of professional incompetence, neither of the remaining standards applies. As stated in ICAS Rule 13.7:

13.7 A Firm shall be liable to disciplinary action under these Rules by reason of:

- 13.7.1 any serious act or default, whether in the course of carrying out professional work or otherwise likely to bring discredit to the Firm, ICAS or the profession of accountancy, or any serious departure from the standards to be expected of a Firm;
- 13.7.2 professional incompetence;
- 13.7.3 a failure to adhere to these Rules or to Regulations or other guidance governing the regulation of Firms.

Section 3: Sanctions

ICAS Rules

The Sanctions which may be applied if a Member, CA Student Member, Affiliate or Firm is found liable to disciplinary action are listed in Rule 13.16 of the ICAS Rules.

While the Tribunals can apply all the sanctions listed in Rule 13.16, the Investigation Committee has more limited powers.

The Sanctions which are available to the Investigation Committee are listed in the Investigation Regulations. These sanctions may only be applied with the express agreement of the Member, CA Student Member, Affiliate or Firm. This agreement is part of the Consent Order process explained in more detail in this Section. Sanctions applied by the Tribunals do not require consent.

Sanctions

The Sanctions most frequently applied are summarised as follows:

- A caution will be appropriate where the facts are not of a serious character. A caution will generally be used where the finding is one of either unsatisfactory professional conduct or professional incompetence and is unlikely to be sufficient for a charge of professional misconduct. Whilst this Sanction is at the lowest end of the disciplinary range, it does represent an adverse finding.
- An order of reprimand addresses conduct or incompetence which warrant a stronger Sanction than a caution. While the circumstances of the Complaint will be more serious, the element of risk involved is considered to be relatively low; particularly with regard to members of the public. Although this Sanction does not fall within the highest end of the disciplinary range, it allows the Investigation Committee and Tribunals to issue a caution as to future conduct or competence.
- An order of severe reprimand is available where the Investigation Committee and Tribunals have very serious concerns over conduct or incompetence. While the offence will fall just short of calling into question continued ICAS Membership, authorisation, or licensing, it should be clear that this is a final caution to the Member, CA Student Member, Affiliate or Firm.
- Withdrawal of an authorisation or licence may be considered if the conduct or incompetence is restricted to a particular area of practice and does not call into question any individual's continued ICAS Membership. The misconduct or incompetence would need to be sufficiently serious such as to represent a genuine risk to clients or members of the public if the individual or Firm were to continue to be authorised in the area of practice.
- Suspension powers are available in respect of ICAS Membership, as well as authorisations and licences issued by ICAS. It may be appropriate to use these powers where there is an issue of concern of a temporary nature; or where a concern could be satisfactorily addressed through completion of a particular task (e.g. training).
- Exclusion from Membership will be appropriate where the misconduct or incompetence is so serious that the individual is no longer a fit and proper person to be an ICAS Member. It is possible for a defined period of exclusion to be applied. Exclusion is the most serious sanction that can be imposed. Dishonesty comes at the top end of the spectrum of gravity for misconduct. Cases of proven dishonesty will almost certainly result in exclusion unless there are sufficient mitigating circumstances which would justify a lesser sanction.

Limited Sanctions applied by the Investigation Committee

With the consent of the Member, CA Student Member, Affiliate or Firm, the Investigation Committee shall have the power, under Investigation Regulation 2.15, to impose the following penalties:

- To issue a caution.
- To reprimand.
- To severely reprimand.
- An order for payment of a financial penalty.
- An order for payment in respect of the costs incurred by ICAS and/or the Investigation Committee.
- An order to exclude a Member from Membership of ICAS.

- To accept the surrender of any permit, licence, certificate or other authorisation granted by ICAS.
- To require the giving of one or more undertakings;
- To impose conditions on continued Membership or regulation by ICAS.

A Sanction agreed under Regulation 2.15 is sometimes referred to as a 'Consent Order'. Before offering a Sanction under Regulation 2.15, the Investigation Committee may require the Member, CA Student Member, Affiliate or Firm to agree to take (or refrain from taking) a particular action. As any such condition would be a prerequisite for the Sanction, it would not form part of the order. Examples of conditions include:

- An agreement to undertake specific training.
- An undertaking not to carry out certain work in future.

If a Sanction is offered under Regulation 2.15 and the Member, CA Student Member, Affiliate or Firm does not choose to accept, the Investigation Committee will refer the matter to the Discipline Panel, which will appoint a Discipline Tribunal to consider and determine the Complaint. If the Complaint is ultimately upheld by the Discipline Tribunal, it may apply a Sanction which is more or less severe than the Sanction previously offered by the Investigation Committee.

Financial penalties

A financial penalty may be applied in addition to the orders listed above, or in isolation. For the avoidance of doubt, a financial penalty may still be applied even if the order is for exclusion from Membership.

While the Investigation Committee and Tribunals will approach a financial penalty in much the same way as when considering an order, there are a number of specific factors which will be taken into account when considering the application and level of a financial penalty, including:

- The extent of any financial benefit obtained as a result of the offence, with the Investigation Committee and Tribunals likely to want to avoid a scenario in which a Member, CA Student Member, Affiliate or Firm can profit from wrongdoing.
- The level of cooperation over the course of the investigation.
- The means to pay of the Member, CA Student Member, Affiliate or Firm.
- The financial resources of a Firm (taking into account the need for a financial penalty to act as an effective deterrent).
- The extent to which a restriction or exclusion order will have an impact on future earning capacity.

If the Investigation Committee or Tribunals are provided with evidence to demonstrate that payment of the financial penalty would present considerable hardship, they may, at their discretion, decide to reduce the level of the penalty; or may allow for payment by instalments over an agreed period of time.

Further information on financial penalties is included in Section 5 (Approach to Sanctioning).

Costs

Where a Complaint is upheld, or an appeal is rejected the Member, CA Student Member, Affiliate or Firm will normally be required to pay a sum in respect of costs; over and above any financial penalty which may be applied.

The costs to be recovered may include the following:

- Time spent by ICAS staff investigating the Complaint, and presenting it to a Tribunal.
- Fees and expenses paid to Investigation Committee and Tribunal members.
- The costs of third parties instructed by the Investigation Committee, e.g. solicitors, Counsel, or expert witnesses.

When considering the proportion of costs to be recovered, the Investigation Committee and Tribunals may have regard to factors similar to those which are considered when applying a financial penalty.

Timescales for payment

Unless otherwise specified, the standard timescale for payment of a financial penalty, or an award of costs, is two months from the date of the order. If the money is not paid in full by the stated date, ICAS will rely on the terms of Rule 6.4 and may choose to terminate Membership or authorisation, without prejudice to any legal rights of recovery.

Publicity

The Investigation Regulations and the Discipline and Appeal Tribunals Regulations require all sanctions to be publicised. This allows ICAS to achieve the following aims:

- Promoting public confidence in ICAS as a regulator.
- Providing transparency to the investigation and disciplinary processes.
- Deterrence.
- Informing, alerting and educating Chartered Accountants and members of the public.

Sanctions applied by the Investigation Committee are publicised in accordance with guidance which can be accessed on our website [here](#).

Where a Sanction is applied by a Tribunal, the wording of the publicity notice is subject to the final approval of the Discipline Board.

The general position is that publicity notices include the name of the Member, CA Student Member, Affiliate or Firm concerned, together with a statement of the facts, and an explanation of the Sanction applied. The publicity notice will not normally include the name of the Complainer or other parties involved in the Complaint. In exceptional circumstances, consideration may be given to publicity of the outcome on an anonymous basis, 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.

In all instances, the notice will appear in CA Magazine and in the Investigation Committee or Tribunals disciplinary notices section on the ICAS website.

A decision may be taken to publicise the outcome through other media – including local or national press – if this is considered to be appropriate in the circumstances, having regard to the public interest.

Expiry of Sanctions

On finding a liability to disciplinary action, and deciding what sanction to apply, the Investigation Committee or Tribunal may take account of sanctions previously applied to the Member, CA Student Member, Affiliate or Firm concerned.

However, the weight attached to such findings is likely to be less if the offence in question is very different, or if the sanction was applied a long time ago.

Section 4: The role of the Adjudicating Panel

This Section of the Guidance is relevant to Complaints which are determined by the Investigation Committee at the conclusion of an investigation. This Section does not apply to decisions of the Tribunals.

When a Complaint is referred to the Investigation Committee, the Convener appoints an Investigator to undertake full enquiries into the allegations made against the Member, CA Student Member, Affiliate or Firm.

Once the Investigator has completed all necessary enquiries and has obtained all relevant evidence in connection with the Complaint, an Adjudicating Panel will be appointed to consider the Investigator's recommendation for disposal of the Complaint.

Whilst the Guidance generally refers to the Investigation Committee, it is the Adjudicating Panel which is responsible for deciding:

- Whether to uphold the Complaint.
- What order and financial penalty should be applied.

An Adjudicating Panel is formed from members of the Investigation Committee who have not previously been involved in the investigation. It will have no fewer than three members; at least one of whom will be a Lay Member.

The Investigator will set out the relevant details of the investigation in a document which the Regulations refer to as 'an Investigator's Report'. This report will include:

- An explanation of the allegations.
- A summary of the arguments submitted by the parties.
- The Investigator's analysis of the Complaint.
- Copies of all relevant documents (including all responses from the Member, CA Student Member, Affiliate or Firm).

The Investigator's Report is for consideration by the Adjudicating Panel while it is not made available to the Complainer, it will be provided to the Member, CA Student Member, Affiliate or Firm before the Adjudicating Panel's meeting.

The Adjudicating Panel will meet to discuss the Investigator's Report. An ICAS member of staff will attend the meeting to provide administrative support. While the Investigator may attend the meeting to answer any questions which may arise in respect of the Investigator's Report, he or she will not participate in decision-making. Similarly, while the Convener of the Investigation Committee receives a copy of the Investigator's Report, and shall be entitled to attend the Adjudicating Panel's meeting, he or she will not participate in decision-making.

If the Adjudicating Panel is able to make a decision based on the information provided, this will be communicated to the parties in a letter from the Convener of the Investigation Committee, on behalf of the Adjudicating Panel.

The letter from the Convener will generally include the following information:

- The allegations considered by the Adjudicating Panel, with confirmation whether each has been upheld or dismissed.
- Any sanction which is being proposed.
- An appendix providing reasons for the Adjudicating Panel's decision.
- Confirmation of how the outcome would be publicised.

In due course, the Member, CA Student Member, Affiliate or Firm will receive a draft of the publicity notice and will be given advance notice of the date for publicity.

Section 5: Approach to sanctioning

Multiple allegations

Some Complaints may contain more than one allegation against the Member, CA Student Member, Affiliate or Firm. On a case to case basis, some allegations may be upheld and others rejected. If more than one head of Complaint is upheld, the Investigation Committee or Tribunal will decide whether a single cumulative sanction should cover all charges; or if there should be individual sanctions for each. The reasons for the approach which is adopted in each case will normally be explained in the written decision.

Complaint dismissed

The Investigation Committee or Tribunal may decide to dismiss the Complaint in whole or in part. If a Complaint is dismissed in whole, ICAS will have no further involvement in the matter; unless the Complaint was dismissed by the Investigation Committee, and:

- The Complainer submits an application for review to the Independent Examiner; or.
- New evidence is provided in accordance with Investigation Regulation 6.

Complaint upheld

If a Complaint is upheld, the Investigation Committee or Tribunal will consider whether the offence concerned is included in the Table of Offences in Section 6.

As the Table of Offences aims to cover the most common grounds for disciplinary action, most Sanctions will be determined in accordance with the approach which is set out in the flow chart on page 11.

There are many standards, rules and regulations which Members, CA Student Members, Affiliates and Firms must follow.

As there are many possible offences, it would be impossible to produce a table which covers everything. This means that some Sanctions cannot be determined in accordance with the flow chart and must be considered through the general approach to Sanctioning, which is set out at the end of this Section.

If a Complaint against an insolvency practitioner is upheld, the Investigation Committee or Tribunal will refer to the general approach to Sanction in conjunction with the common sanctions guidance which has been agreed by the professional bodies which licence insolvency practitioners in the UK. This guidance is included as an Appendix to this Guidance.

Further information on insolvency complaints and sanctions is available on the website of the Insolvency Service (gov.uk/government/organisations/insolvency-service).

The flow chart approach

With reference to the flow chart on page 10, this approach is explained from the point at which the Investigation Committee (through an Adjudicating Panel) or Tribunal has identified that the charge against the Member, CA Student Member, Affiliate or Firm is included in the Table of Offences.

Step 1: Consider 'relevant factor' questions and determine the seriousness of the offence.

When an offence is made out, the Investigation Committee or Tribunal will first consider the seriousness of the offence.

The Investigation Committee or Tribunals may ask a number of 'relevant factor' questions about the offence. If the answers to the questions indicate greater concern, the offence will be considered more serious. If the answers indicate a lower level of concern, the offence will be considered less serious. The questions are listed in the Table of Offences in Section 6.

There are two crucial points to note about this stage in the process:

- i. The list of relevant factors is not intended to be definitive; other questions may be asked depending on the facts and circumstances of a particular Complaint.

- ii. The weight given to a particular factor will be at the discretion of the Investigation Committee or Tribunals, and will vary according to the circumstances of a Complaint; it may be that an offence is considered to be at the most or least serious end of the disciplinary range on the basis of a single factor.

The Table of Offences provides three levels of seriousness: very serious, serious and less serious. As some offences are inherently more serious than others, not all contain each of the three levels. For example, conduct leading to a sentence of imprisonment will always be considered as serious.

Step 2: Note the recommended starting point order/financial penalty.

For each level of seriousness available for an offence, a starting point order is listed in the table; accompanied in most instances by a starting point financial penalty.

It is important to understand that these starting points are indicative and are not intended to be a tariff for the Investigation Committee or Tribunal. As the facts of each Complaint will vary greatly, it is vital that the Investigation Committee and Tribunals are able to depart from the starting point where this is justified in the circumstances.

In some Complaints, it may be appropriate for the Investigation Committee or Tribunal to make a considerable adjustment to the financial penalty on consideration of factors such as the level of any financial benefit obtained, and/or the financial resources of the Firm. This is done to ensure that the financial penalty represents an effective deterrent.

Step 3: Apply general aggravating and mitigating factors.

A list of general aggravating and mitigating factors is contained in Section 7 of the Guidance. These are factors which the Investigation Committee and Tribunals will consider once the offence has been made out. Whilst the application of these factors will not change the basis of the offence, it may justify an increase or reduction in the order/financial penalty to be applied.

Three examples will demonstrate how these factors work in practice:

- i. If a Member charged with failing to respond to a former client has since provided a full response and has apologised to the Complainer, this may lead the Investigation Committee or Tribunal to reduce the starting point order/financial penalty.
- ii. If a Member charged with undertaking defective work has previously been charged with a similar offence, this may lead the Investigation Committee or Tribunal to increase the starting point order/financial penalty.
- iii. Where a Member, CA Student Member, Affiliate or Firm has accepted wrongdoing prior to a Sanction being proposed, this admission may be considered a mitigating factor. In assessing what impact (if any) it should have on the Sanction, consideration will be given to: (a) the timing/ stage of the admission, (b) the nature of the admission (e.g. is it a full admission), (c) the benefits that have been achieved as a result of the admission, and (d) the level of cooperation over the course of the investigation (with non-cooperation likely to remove the possibility of modification).

The list of factors set out in Section 7 is not intended to be definitive. Additional factors may be applied by the Investigation Committee and Tribunals on consideration of the relevant facts and circumstances.

It is important to understand that the application of aggravating and mitigating factors may have a significant impact on the level of Sanction which is applied to the Member, CA Student Member, Affiliate or Firm.

It is important to note that, in order to uphold proper professional standards, the Investigation Committee and Tribunals may consider the need for a Sanction to act as a deterrent to other Members, CA Student Members, Affiliates and Firms.

Step 4: Application of order/financial penalty.

A final order/financial penalty will be applied to an offence at the conclusion of this process. The way in which this Sanction has been determined will be explained in the decision notice.

For offences where the Sanction is exclusion, no indicative financial penalty is prescribed, but such a penalty may be applied if deemed appropriate by the Investigation Committee or Tribunal. If an offence is deemed sufficiently serious to warrant exclusion, the Investigation Committee or Tribunal may decide that exclusion is sufficient with no requirement for a financial penalty. This decision is at the discretion of the Investigation Committee or Tribunal, which will have regard to the circumstances of each individual case.

The general approach to Sanctioning

If an offence is not included in the Table of Offences, the Investigation Committee or Tribunal will determine an appropriate and proportionate order/financial penalty by asking the following questions:

- Do the facts of the Complaint indicate that the offence falls at the higher, medium or lower end of the disciplinary range?
- Should a higher or lower order/financial penalty be applied on consideration of offences recently determined in accordance with the flow chart approach?
- What orders/financial penalties were applied by the Investigation Committee or Tribunals that previously considered offences of the same or similar nature?
- Is the offence similar in nature to an offence which is listed in the Table of Offences?
- Is the offence included in the Sanctions guidance of another professional body?

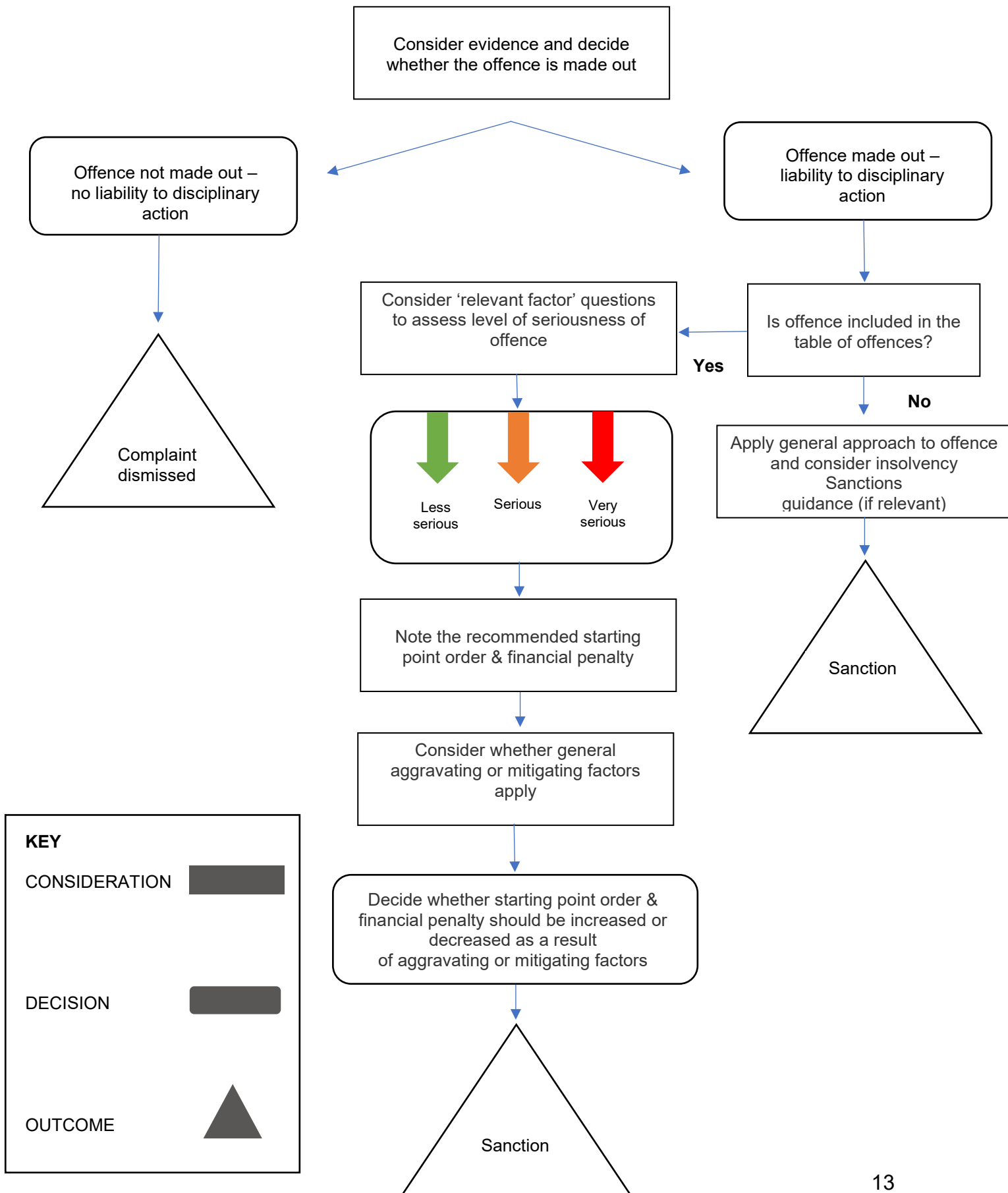
The answers to some or all of these questions will provide the Investigation Committee or Tribunal with what may be considered a starting point Sanction. It may then vary these on consideration of the general aggravating and mitigating factors, in the same way as the flow chart process. The Investigation Committee or Tribunal may also have regard to any other guidance on regulatory action issued by ICAS from time to time.

Ongoing issues

Where a Complaint is being assessed by the Investigation Committee, the Sanctions in Section 6 will only be appropriate where the issues in question are not ongoing. If a Member, CA Student Member, Affiliate or Firm refuses to accept or address the issues, the Adjudicating Panel will be likely to decide to refer the matter to the Discipline Panel.

For example, where there is an ongoing lack of cooperation with the Investigation Committee, it is likely that the Member, CA Student Member, Affiliate or Firm will be referred to the Discipline Panel.

Sanctions Guidance Flowchart



Section 6 - Table of Offences

Part 1: Criminal convictions and other adverse findings

In this Section the word Member should be deemed to cover, where appropriate, CA Student Members and affiliates.

(A) Criminal conviction for indictable offence and/or sentence of imprisonment			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature and the severity of the offence - Conduct in a professional or personal capacity - Personal gain, fraud or financial impropriety - Abuse of a position of trust - Prejudice to third parties - Admission of guilt prior to conviction - Level of conviction or length or prison sentence	V Serious	Exclusion	Not set
Notes: - Indictable offences are brought to court by way of a document called an indictment and represent more serious offences which could not adequately be prosecuted through summary procedure. - Equivalent criminal processes in non-UK jurisdictions shall be treated in the same way. - An offence committed outside the UK shall be relevant if the offence would be indictable or likely to result in a prison sentence if committed in the UK (regardless of different treatment in the country concerned).			

(B) Criminal conviction for a non-indictable offence with no sentence of imprisonment			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature and severity of the offence - Level of sanction applied by the court - Conduct in a professional or personal capacity - Personal gain, fraud or financial impropriety - Abuse of a position of trust - Prejudice to third parties - Admission of guilt prior to conviction	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
	L Serious	Reprimand	£2,000

(C) Disqualification from acting as a director or an accepted director disqualification undertaking			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature and the severity of the offence - Conduct in a professional or personal capacity - Personal gain, fraud or financial impropriety - Abuse of a position of trust - Prejudice to third parties - Acceptance of undertaking - Details of undertaking (including length of disqualification) - Level of Member's responsibility or seniority	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
Notes: - Individuals may be disqualified from acting as a director or may sign an undertaking to agree not to act as a director. - Equivalent disqualification processes in non-UK jurisdictions shall be treated in the same way. - An offence committed outside the UK shall be relevant if the offence would be likely to result in disqualification if committed in the UK (regardless of different treatment in the country concerned).			

(D) Other misconduct as a company director			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature and severity of the misconduct - Level of Member's responsibility or seniority - Conduct in a professional or personal capacity - Personal gain, fraud or financial impropriety - Abuse of a position of trust - Prejudice to third parties - Failure involving general accounting skills	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
	L Serious	Reprimand	£2,000
Notes: - Misconduct as a director will be considered whether the appointment is in a professional or personal capacity. - There is no requirement for the company concerned to be a provider of accountancy services.			

(E) Adverse finding from another regulatory/professional body			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature and severity of the finding - Conduct in a professional or personal capacity	V Serious Serious L Serious	The level of Sanction and financial penalty may be influenced by the level of Sanction and financial penalty applied by the other body.	
Notes: Adverse findings from another regulatory/professional body will be taken into consideration where the finding has an impact on, or relevance to, ICAS Membership.			

Part 2: Practice management and anti-money laundering failures

(A) Breaches of anti-money laundering legislation or failure to follow anti- money laundering guidance			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
• Scale of breach or failure • Prejudice to third parties • Intent or reckless conduct • Member was improperly influenced by a client or third parties • Offence is a one-off instance or indicative of systemic weaknesses • Member attempted to follow guidance • Lack of knowledge of legislation or guidance	V Serious Serious	Exclusion and/ or withdrawal of authorisation Severe reprimand	Not set £7,500
Notes: - Consideration will be given to primary and secondary legislation concerning anti-money laundering. - All Members and Firms will be expected to consult anti-money laundering guidance when required; including the guidance produced by ICAS in conjunction with the other CCAB bodies. - An offence committed outside the UK shall be relevant if it would constitute an anti-money laundering offence if committed in the UK (regardless of different treatment in the country concerned). - Where a Firm is liable to disciplinary action, the financial resources of the Firm will be taken into account when assessing the financial penalty.			

(B) Offences relating to clients' money			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
• Prejudice to clients or other third parties • Level of the sums of money concerned • Number of clients affected • Period of time involved • Any benefit obtained by the Member • Offence is a one-off instance or indicative of systemic weaknesses • Intent or reckless conduct • Lack of knowledge of applicable regulations	V Serious Serious L Serious	Severe reprimand Reprimand Caution	£7,500 £2,000 £1,000
Notes: - The key document will be the ICAS Clients' Money Regulations			

(C) Failure to exercise appropriate supervision over staff			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
• Size of the practice and the number of staff • Level of experience and qualification of staff • Reasonable to place reliance on staff • Any prejudice to clients or third parties caused by lack of supervision • Knowledge of prejudice which could be caused by lack of supervision • Suitability of internal processes (eg reporting, training) • Temporary problems caused by issues beyond Member's reasonable control	V Serious	Severe reprimand	Not set
	Serious	Reprimand	£7,500
	L Serious	Caution	£2,000

(D) Improper marketing of professional services			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
• Scale of the improper marketing • Provision of misleading information • Intent or reckless conduct • Prejudice (actual or possible) to third parties, including other Members • Any benefit obtained by the Member • Any consideration of Section 250 of the Code of Ethics	V Serious	Severe reprimand	£5,000
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: - The relevant section of the Code of Ethics is Subsection 115 - Professional Behaviour.			

(E) Insolvency event for entity in which member is or was previously a principal (excluding members voluntary liquidation)

Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Evidence of financial incompetence/impropriety in management - Misfortune or matters beyond Member's reasonable control - Breach of statutory duties - Number of creditors - Level of dividend paid to creditors - Prejudice (financial or otherwise) to clients or third parties - Evidence of misconduct (eg misrepresentation, deception) - Feedback from insolvency practitioner appointed to entity - Retention of Crown Funds	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
	L Serious	Reprimand	£2,000

Notes:

- There is no requirement for the company concerned to be a provider of accountancy services.
- A Member is unlikely to be found liable to disciplinary action if he or she was previously a principal of an entity and played no role in the circumstances leading to the insolvency event.
- The Investigation Committee is not likely to investigate insolvency events where the entity is solvent, with no unpaid creditors (e.g. a Members Voluntary Liquidation).

(F) Financial mismanagement of an entity in which a member is, or was previously a principal

Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Evidence of financial incompetence/impropriety in management - Multiple acts of financial mismanagement - Breach of statute and/or statutory duties - Failure to seek professional advice - Prejudice (financial or otherwise) to clients or third parties - Evidence of misconduct (eg misrepresentation, deception) - Retention of Crown Funds - Matters beyond Member's reasonable control	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
	L Serious	Reprimand	£2,000

Notes:

- There is no requirement for the company concerned to be a provider of accountancy services.
- A member is unlikely to be found liable to disciplinary action if he or she was previously a principal of an entity and played no role in subsequent financial management.
- There is no requirement for the entity to be insolvent.

Part 3: Audit offences

In addition to audit work under the Companies Act 2006, or equivalent legislation or other jurisdictions, the following offences shall apply equally to work undertaken under the Local Audit and Accountability Act 2014 and breaches of ICAS' Local Audit Regulations.

(A) Undertaking audit work without audit authorisation			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Extent and level of audit work undertaken - Period of time involved - Number of clients engaged - Intent or reckless conduct	V Serious	Exclusion	Not set
- Grounds to believe authorisation not required or that firm was authorised - Misrepresentation and/or prejudice to clients or third parties - Level of benefit obtained (eg the level of fees) - Genuine attempt to act in the client's interest	Serious	Severe reprimand	£7,500

Notes:

- The Companies Act 2006 (as amended) dictates that only registered auditors are authorised to undertake regulated audit work in the UK. Similar provisions apply in other jurisdictions (e.g. the Republic of Ireland).
- Where unauthorised audit work has been undertaken by an entity (as opposed to a sole practitioner), the Investigation Committee may consider the conduct of all principals of the entity (ie directors or members).

(B) Signing an audit report when not an RI			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Number of audit reports signed by the Member - Complexity of the audit work - Period of time involved - Level of threat to the public interest - Intent or reckless conduct - Grounds to believe Member was an RI (eg RI status recently lapsed or pending) - Misrepresentation and/or prejudice to clients or third parties - Genuine attempt to act in the client's interest - Level of benefit obtained (eg the level of fees)	V Serious Serious	Exclusion Severe reprimand	Not set £7,500

Notes:

- The Audit Regulations (as amended) provide that only responsible individuals may be responsible for an audit and may sign an audit report.
- The Investigation Committee may consider the conduct of the individual who signed the audit report(s), in addition to other principals of the Firm and the Firm itself.

(C) Audit work of a defective standard			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
• Level and extent of the defective work • Number of clients affected • Prejudice to clients or third parties • Deliberate or reckless disregard of applicable audit standards/ guidance etc • Fault attributable to the client or third parties • Isolated instance on a specific engagement with audit work of a generally good standard	V Serious	Severe reprimand and/or withdrawal of authorisation	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: - Individual Members and Firms may be found liable to disciplinary action for audit work of a defective standard. - Where a Firm is liable to disciplinary action, the financial resources of the Firm will be taken into account when assessing the financial penalty.			

(D) Breach of applicable audit regulations, standards or guidance			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
• Nature, extent and number of breaches • Breach is indicative of systemic weaknesses • Level of threat to the public interest • Prejudice to clients or third parties • Intent or reckless conduct • Lack of knowledge of applicable regulations, standards or guidance • Level of benefit accrued (financial or otherwise)	V Serious	Severe reprimand and/or withdrawal of authorisation	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: - Individual Members and Firms may be found liable to disciplinary action for breaches of applicable audit regulations, standards or guidance. - Where a Firm is liable to disciplinary action, the financial resources of the Firm will be taken into account when assessing the financial penalty.			

Part 4: Ethical breaches

(A) Failure to act in accordance with the ICAS Code of Ethics			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature, extent and number of breaches - Breach is indicative of widespread ethical weaknesses - Conduct in a professional or personal capacity - Misrepresentation, deception and/or prejudice to clients or third parties - Personal gain, fraud or financial impropriety - Abuse of a position of trust - Deliberate or reckless disregard of Code of Ethics - Level of benefit accrued (financial or otherwise) - Any fault attributable to the client or third parties - Genuine attempt to act in the client's interest	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
	L Serious	Reprimand	£2,000
(B) Conflict of interest			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature of the conflict - Clients were happy for Member to act - Level of transparency with the parties - Misrepresentation, deception and/or prejudice to clients or third parties - Abuse of a position of trust - Deliberate or reckless disregard of Code of Ethics - Level of benefit obtained (financial or otherwise) - Genuine attempt to act in the interests of all parties - Attempt to manage conflict through application of safeguards	V Serious	Severe reprimand	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: Conflicts of interest are addressed in Section 210 and 310 of the Code of Ethics.			

(C) Failure to cooperate or communicate			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Period of time concerned - Urgency and complexity of any request for information - Reasonableness of the request - Whether information could have been provided by client - Complete or partial failure - Prejudice to clients or third parties - Deliberate failure to cooperate - Any fault attributable to the client or incoming accountant - Temporary practice problems caused by issues beyond Member's reasonable control	V Serious	Severe reprimand	£5,000
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: A Member's obligations to an incoming accountant are set out in Section 320 of the Code of Ethics.			

(D) Dishonest behaviour			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature, extent, and number of examples of dishonesty - Conduct in a professional or personal capacity - Misrepresentation or deception to clients or third parties, including ICAS and other regulatory or statutory bodies - Prejudice to third parties - Personal gain, fraud or financial impropriety - Abuse of a position of trust - Level of benefit accrued (financial or otherwise)	V Serious	Exclusion	Not set
Notes: - The reputation of ICAS depends upon its members being honest and truthful in their dealings with others. Dishonesty, even when it does not result in direct harm or loss, undermines trust and confidence in ICAS and the accountancy profession. - It is generally recognised that dishonesty comes at the top end of the spectrum of gravity for misconduct. Cases of proven dishonesty are likely to result in exclusion, unless there are remarkable or exceptional mitigating factors presented by the Member which would justify a lesser sanction.			

Part 5: Regulatory offences

(A) Undertaking DPB work without DPB authorisation			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Extent and level of DPB work undertaken - Period of time involved - Number of clients engaged - Intent or reckless conduct - Grounds to believe authorisation not required or that firm was authorised - Misrepresentation and/or prejudice to clients or third parties - Level of benefit obtained (eg the level of fees) - Genuine attempt to act in the client's interest	V Serious	Exclusion	Not set
	Serious	Severe reprimand	£7,500
Notes: - The Financial Services and Markets Act 2000 (as amended) dictates that only regulated firms may conduct investment business work in the UK. - Where unauthorised investment business work has been undertaken by an entity (as opposed to a sole practitioner), the Investigation Committee may investigate the conduct of all principals of the entity.			

(B) Breach of applicable DPB regulations, standards or guidance			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature, extent and number of breaches - Breach is indicative of systemic weaknesses - Prejudice to clients or third parties - Intent or reckless conduct - Lack of knowledge of applicable regulations, standards or guidance - Level of benefit obtained (financial or otherwise)	V Serious	Severe reprimand and/or withdrawal of authorisation	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: - Individual Members and Firms may be found liable to disciplinary action for breaches of applicable DPB regulations, standards or guidance. - Where a Firm is liable to disciplinary action, the financial resources of the Firm will be taken into account when assessing the financial penalty.			

(C) Breach of applicable CPD regulations, standards or guidance			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature, extent and number of breaches - Intent or reckless conduct - Deliberate disregard for regulations, standards or guidance - Member's attitude towards CPD - Level and scale of the Member's professional activities - Level of threat to the public interest - Member genuinely/reasonably assumed exempt from CPD	V Serious	Severe reprimand	£5,000
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: The key document will be the ICAS Continuing Professional Development Regulations.			

(D) Practising without a current Practising Certificate (PC)			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Extent and level of work undertaken - Period of time involved - Number of clients engaged - Level of threat to the public interest - Intent or reckless conduct - Genuine belief that a PC was not required or that a PC was in place - Misrepresentation and/or prejudice to clients or third parties - Level of benefit accrued (eg the level of fees) - Genuine attempt to act in the client's interest	V Serious	Exclusion	Not set
	Serious	Severe Reprimand	£7,500
	L Serious	Reprimand	£2,000
Notes: As set out in the Public Practice Regulations, a Member must hold, or be specifically exempt from holding, a Practising Certificate in order to engage in practice in the European Union.			

(E) Breach of Public Practice Regulations, standards or guidance or regulations, standards or guidance relating to PII

Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature, extent and number of breaches - Breach is indicative of systemic weaknesses - Number of clients involved and the level of potential risk - Prejudice to clients or third parties - Intent or reckless conduct - Genuine belief that PII was not required or that PII was in place - Deliberate or reckless disregard for applicable regulations, standards or guidance - Level of benefit obtained (financial or otherwise)	V Serious	Severe reprimand and/or withdrawal of authorisation	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000

(F) Breach of regulations, standards or guidance for other ICAS regulatory schemes

Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature, extent and number of breaches - Breach is indicative of systemic weaknesses - Prejudice to clients or third parties - Intent or reckless conduct - Lack of knowledge of applicable regulations, standards or guidance - Level of benefit obtained (financial or otherwise) - Complexity of work undertaken - Regulatory scheme recently introduced - Genuine attempt to act in client's interests	V Serious	Severe reprimand and/or withdrawal of authorisation	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000

Notes:

- ICAS may introduce new regulatory schemes from time to time which may be considered under this heading without specifically being named.
- Where a Firm is liable to disciplinary action, the financial resources of the Firm will be taken into account when assessing the financial penalty.

(G) Failure to comply with restrictions/conditions applied by a regulatory committee			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Nature of restrictions/conditions - Nature, extent and number of failures - Intent or reckless failure to comply - Prejudice to clients or third parties - Level of benefit obtained (financial or otherwise) - Genuine attempt to act in client's best interests - Any representations from Regulatory Committee	V Serious	Severe reprimand and/or withdrawal of authorisation	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: - Such failures may be addressed by the Regulatory Committee in accordance with applicable Regulations, or may be referred to the Investigation Committee for determination. - Where a Firm is liable to disciplinary action, the financial resources of the Firm will be taken into account when assessing the financial penalty.			

(H) Failure to cooperate with ICAS			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Period of time concerned - Number, urgency and complexity of any communications from ICAS - Prejudice caused to ICAS as a consequence of failure - Complete or partial failure - Deliberate failure to cooperate - Temporary practice problems caused by issues beyond Member's reasonable control	V Serious	Severe reprimand	£5,000
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
Notes: ICAS Regulations – including the Investigation Regulations – require all Members to cooperate with enquiries from ICAS.			

Part 6: Professional work

(A) Accounts or tax work/advice of a defective standard			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Level and extent of the defective work/advice - Complexity of the work undertaken - Number of clients affected - Prejudice to clients or third parties - Lack of understanding of client - Deliberate or reckless disregard of applicable standards/guidance etc - Fault attributable to the client or third parties - Isolated instance on a specific engagement with accounts or tax work of a generally good standard	V Serious	Severe reprimand	£7,500
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
(B) Inadequate attention to client's affairs			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Level of inadequacy - Period of time concerned - Prejudice caused to the client as a consequence of inadequate attention - Lack of understanding of client - Unreasonable level of communication - Fault attributable to the client or third parties - Temporary practice problems caused by issues beyond Member's reasonable control	V Serious	Severe reprimand	£5,000
	Serious	Reprimand	£2,000
	L Serious	Caution	£1,000
(C) Undertaking an engagement when not qualified or competent			
Relevant Factors	Severity	Indicative Order	Indicative Penalty
- Existing areas of competence - Scale of work undertaken - Complexity of the work - Period of time involved - Level of threat to public interest - Misrepresentation/prejudice to third parties - Genuine attempt to act in clients interests - Level of benefit obtained.	V Serious	Severe reprimand	£7,500
	Serious	Reprimand	£5,000
	L Serious	Caution	£2,000
Notes: If assurance reports have been signed, the number of reports signed will be considered as a relevant factor.			

Section 7: List of general mitigating and aggravating factors

Approach

As set out in (Section 5), the Investigation Committee or Tribunal will consider the relevance of general mitigating and aggravating factors once it has identified the starting point order and financial penalty for a particular offence. These are factors which may be relevant to all offences and are therefore not necessarily specific to the facts and circumstances of a particular Complaint. While an aggravating factor is likely to provide increased grounds for concern, a mitigating factor may, to some extent, explain or excuse an offence.

It is possible that none of the factors will apply in any given Complaint: in that instance, the starting point order / financial penalty is more likely to be applied. If some or all of the factors do apply, the Investigation Committee or Tribunal may decide to raise or lower the Sanction, depending on whether the factors are mitigating or aggravating.

Even if there are mitigating factors, the Investigation Committee or Tribunal may decide not to lower the sanctions; particularly if it considers the offence to be serious, or if there is a strong need for deterrence.

Mitigation and aggravation

The following list of factors is not intended to be exhaustive and may be varied according to the circumstances of a Complaint.

Mitigating factors	Aggravating factors
• Remedial action taken to address the issues concerned. • Follow-up action to prevent a recurrence of the issues concerned. • Evidence of good practice in the period of time since the issues occurred. • No prior disciplinary Sanctions. • Little or no public interest impact. • Little or no impact on the reputation of ICAS or the profession of accountancy. • Evidence of insight and understanding of the issues concerned. • Personal circumstances (e.g. mental health issues). • Early acceptance/admission of misconduct or incompetence. • Self-detection/bringing issues to the attention of ICAS. • Acted on basis of professional advice.	• Failure or refusal to take remedial action to address the issues concerned. • No evidence of follow-up action to prevent a reoccurrence of the issues concerned. • Prior disciplinary Sanctions. • Failure to take account of previous directions from ICAS. • High public interest impact. • Abuse of a position of trust. • Damage to the reputation of ICAS or the profession of accountancy. • Lack of cooperation with ICAS over the course of the investigation. • No evidence of insight or understanding of the issues concerned. • Refusal to accept misconduct or incompetence. • Concealing or otherwise failing to bring issues to the attention of ICAS. • Additional allegations being upheld. • Any benefit obtained by the Member as a consequence of misconduct or incompetence. • The need for deterrence. • Lack of internal system of control.

Section 8: Glossary

The following definitions should be considered in conjunction with the definitions set out in the ICAS Rules and Regulations.

Adjudicating Panel:	a sub-Committee of the Investigation Committee appointed to consider the recommendation of an Investigator.
Affiliate:	a person who is not a Member but is subject to ICAS' Rules and Regulations.
Aggravating factors:	factors which require an increase to the indicative Sanction or financial penalty.
Appeal Panel:	the Appeal Panel appointed by the Disciplinary Appointments Committee of ICAS in terms of the Discipline and Appeal Tribunals Regulations.
Appeal Tribunal:	the Appeal Tribunal appointed by the Chair of the Appeal Panel in terms of the Discipline and Appeal Tribunals Regulations.
Complaint:	a communication and/or matters of concern which come to the attention of ICAS and which raise concerns about or otherwise express dissatisfaction with, the standards of conduct, ethical behaviour or technical competency of a Member, CA Student Member, Affiliate or Firm.
Consent order:	a Sanction / financial penalty which is applied by the Investigation Committee with the agreement of the Member, CA Student Member, Affiliate or Firm.
CPD:	continuing professional development, through which skills and knowledge are maintained to an appropriate standard.
Discipline Panel:	the Discipline Panel appointed by the Disciplinary Appointments Committee of ICAS in terms of the Discipline and Appeal Tribunals Regulations.
Discipline Tribunal:	the Discipline Tribunal appointed by the Chair of the Discipline Panel in terms of the Discipline and Appeal Tribunals Regulations.
DPB:	Designated Professional Bodies, which have the ability to authorise Firms to conduct certain regulated investment business work.
Financial impropriety:	improper actions or omissions in connection with finances.
Financial penalty:	a sum of money which a Member, CA Student Member, Affiliate or Firm is required to pay to ICAS as a result of a disciplinary finding.
Independent Examiner:	a member of the Independent Examiner Panel who, on application by a Complainer, reviews a decision by the Investigation Committee to dismiss a Complaint.
Indicative Sanction:	an indication of the Sanction which the Investigation Committee or Tribunal will consider prior to assessing general mitigating and aggravating factors.
Indicative financial penalty:	an indication of the financial penalty which the Investigation Committee or Tribunal will consider prior to assessing general mitigating and aggravating factors.
Investigation Committee:	the committee appointed by the ICAS Regulation Board to investigate Complaints submitted against Members, CA Student Members, Affiliates and Firms.
Investigator:	the person or entity appointed by the Convener of the Investigation Committee to investigate a Complaint in accordance with the Investigation Regulations.
Mitigating factors:	factors which require a reduction to the indicative Sanction or financial penalty.
PC:	a practising certificate, which all Members in practice must hold.
PII:	professional indemnity insurance, held by the Firm to cover claims from clients and other third parties. All Members in practice must hold a PC and PII.
Prejudice:	loss, damage or injury suffered by a person or entity (not limited to financial loss).
RI:	a Responsible Individual, who may be responsible for an audit and may sign an audit report.
Sanction:	an order applied to a Member, CA Student Member, Affiliate or Firm as a result of a disciplinary finding.

Appendix – Common Sanctions Guidance for insolvency complaints

Part 1

Background

There are five recognised professional bodies (RPBs) that license insolvency practitioners. Once an RPB has investigated the conduct of any insolvency practitioner it licenses, it can (under its own disciplinary processes) impose sanctions on that licence holder. Such sanctions can follow an investigation of a complaint or as a result of a finding on a monitoring visit carried out by the RPB or following the receipt of any other intelligence.

The regulatory objectives introduced in 2015 provide the RPBs with a clearer, enhanced structure within which to carry out their functions of authorising and regulating insolvency practitioners.

A RPB will, when discharging regulatory functions, be required to act in a way which is compatible with the regulatory objectives.

The Common Sanctions Guidance aims to ensure consistency with the regulatory objectives so that it enables RPBs to have a system in place which secures fair treatment for people affected by the acts of insolvency practitioners, is transparent, accountable, proportionate, and ensures consistent outcomes.

The circumstances that lead to a complaint and the issues that arise as part of the complaint will vary, possibly significantly, on a case-by-case basis. Not all complaints about an insolvency practitioner lead to them being disciplined. For example, errors of judgement and innocent mistakes are not generally considered to be misconduct. If, however, an insolvency practitioner has made a serious error or a repeated number of less serious errors, this may mean they've performed their work inefficiently or incompetently to such an extent or on such a number of occasions as to have brought discredit to themselves, their regulator, or the insolvency profession.

The Common Sanctions Guidance is not intended to be a tariff and does not bind each RPB's processes to a fixed sanctions regime. Although it gives an indication of the level of sanction to be imposed, each disciplinary committee or tribunal will use its own judgement to set a sanction appropriate to the circumstances of the individual case.

When a disciplinary committee or tribunal considers what would be an appropriate sanction, it will refer to this guidance and may, within its discretion, vary the sanction depending on aggravating and mitigating factors. Where a decision varies from the guidance the reasons for this should be clearly documented and explained by the RPB.

Sanctions

When a disciplinary committee or tribunal considers:

- whether to impose a sanction; and
- what sanction to impose,

it should consider the following factors:

- protecting and promoting the public interest;
- maintaining the reputation of the profession;
- upholding the proper standards of conduct in the profession; and
- correcting and deterring breaches of those standards;

When a disciplinary committee or tribunal decides that a complaint has been proved or where it is admitted, the committee or tribunal will decide the appropriate sanction. In doing so, the committee or tribunal will form its view based on the particular facts of the case. If the committee or tribunal decides a penalty (for example, exclusion, reprimand or a fine) is necessary it will identify the relevant category of complaint and the relevant behaviour.

There are two types of sanction available to the disciplinary committee or tribunal: non-financial sanctions and financial sanctions. The indicative sanctions (an indication of the sanction an insolvency

practitioner might be given for a particular type of wrong doing) are set out in the table in Part 2. The actual sanction will be determined the RPB 's own rules and regulations and having regard to any aggravating and mitigating factors (see below).

Non-financial sanctions

These can range from a reprimand; severe reprimand; suspension of a licence or membership; withdrawal of a licence; to exclusion from membership, as set out in the RPB's bye laws.

The disciplinary committee or tribunal can use non-financial sanctions to indicate to the insolvency practitioner that their conduct falls short of the standards required. A non-financial disciplinary sanction will form part of that insolvency practitioner's disciplinary record. In some circumstances, a non-financial sanction (such as exclusion from membership or removal of the insolvency practitioner's licence) will affect an individual's ability to practise as an insolvency practitioner.

Financial sanctions

For each type of complaint there is a suggested starting point for a financial sanction. This is not a tariff or a "going rate" for the complaint but it simply indicates where the committee or tribunal might start when it looks at all the relevant factors relevant to deciding the penalty. Once the committee or tribunal has agreed the most appropriate starting point, it takes into account any aggravating and mitigating factors before deciding whether it is appropriate to reduce or increase the penalty. The committee or tribunal may decide on a more or less severe penalty than the starting point depending on all the circumstances of the case.

Aggravating and mitigating factors

The indicative sanction may need to be adjusted depending on the facts of particular cases. A disciplinary committee or tribunal will normally consider the aggravating and mitigating factors summarised below before it decides on the appropriate level of sanction. The list is not exhaustive and not all the factors will apply to a particular case.

Once the disciplinary committee or tribunal has identified the factors it considers relevant, it should decide what weight to give to each of them.

Costs

Disciplinary committees and tribunals have the power to order the insolvency practitioner to pay the costs incurred during an investigation into a complaint. Orders for costs may reflect the costs reasonably incurred in investigating the complaint and are not imposed as a sanction. A disciplinary committee or tribunal will only consider the 'costs' element after it has decided the appropriate sanction for the complaint.

Publicity

When a disciplinary committee or tribunal makes an adverse finding and order, the RPB will publish the record of decision in the manner it thinks fit. The insolvency practitioner should be named in that publicity unless a disciplinary committee or tribunal orders no publicity or publicity on an anonymous basis, in which case reasons for not doing so will be provided by the disciplinary committee or tribunal. Disciplinary committees or tribunals will rarely order that there should be no publicity associated with an adverse finding.

From 1 November 2014, all published disciplinary sanctions are included on the Insolvency Service's website in an agreed format. The publication includes details of the IP, the nature of the complaint, the finding and any sanction together with reasons for the decision including aggravating and mitigating factors considered as part of that decision.

Part 2

Indicative sanctions for various breaches of the Insolvency Act 1986, other relevant legislation and Statements of Insolvency Practice

The table below gives an indication of the level of sanction which may be imposed but should not be regarded as a tariff.

Each disciplinary committee or tribunal will use its own judgement to set a sanction appropriate to the circumstance of the individual case, depending on the seriousness of the breach and the aggravating and mitigating factors.

Each sanction is split into three categories depending on the seriousness of the misconduct:

- Very serious (a): This will generally mean that the insolvency practitioner's conduct was deliberate and/or dishonest.
- Serious (b): This will generally mean that the insolvency practitioner's conduct was reckless.
- Less Serious (c): This will generally mean the conduct by the insolvency practitioner amounts to an inadvertent breach.

Where breaches are adjudged to be inadvertent, a financial or published sanction may not always be appropriate depending on the facts of the case and the aggravating and mitigating factors considered.

Where the conduct has resulted in a likely profit to the insolvency practitioner or their firm or any other connected party, the disciplinary/investigation committee or tribunal may issue a fine equivalent to the likely profit gained. The starting point for determining the likely profit will be 30% of the total fees charged by the insolvency practitioner or their firm or any other connected party for the engagement in question. A fine of this nature will only be adjusted (downwards) if the firm can produce cogent and reliable evidence that the financial benefit (profit) gained is less than the fine proposed.

Where a disciplinary/investigation committee or tribunal proposes to issue a fine for a breach that has led to a profit for the insolvency practitioner or their firm or any other connected party, the disciplinary/investigation committee or tribunal will issue a single financial sanction which will include both the fine for the estimated profit gained explained above as well as a variable fine listed in Part 3 below which will depend on seriousness of the misconduct, the facts of the case and be tiered alongside the appropriate non-financial sanction.

When considering allegations relating to unauthorised or excess remuneration, disciplinary committees or tribunals will in the first instance have regard to whether the unauthorised or excess remuneration has been repaid to the estate before deciding on an appropriate financial sanction.

	Allegation	Non-financial sanction	Starting point for financial Sanction
1	Acts of dishonesty resulting in criminal convictions and/or adverse findings by regulatory and other bodies.	Exclusion and licence withdrawal	A financial sanction may not be appropriate in every case. Where a fine is considered appropriate, the starting point should be £15,000
2	Misappropriation of funds into own account, other estates or third parties	a) Exclusion and licence withdrawal	a) Fine of £20,000
3	Acting as an insolvency practitioner without a licence	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £10,000 b) Fine of £5,000 c) Fine of £1,500
4	Drawing unauthorised remuneration	a) Severe reprimand b) Severe reprimand c) Reprimand	a) Fine equivalent to the level of the unauthorised fee drawn, or £10,000, whichever is greater b) Fine of £5,000 c) Fine of £2,000
5	Drawing of excess remuneration that has been deemed unfair or unreasonable	a) Severe reprimand b) Severe reprimand c) Reprimand	a) Fine of £7,500 b) Fine of £5,000 c) Fine of £1,500
6	Failure to submit returns (eg, CDDA returns) or a delay in submitting returns where the delay is likely to impact on the conduct of the insolvency appointment	a) Severe reprimand b) Reprimand c) Reprimand	a) Fine of £5,000 b) Fine of £2,000 c) Fine of £1,000
7	Failure to convene a creditor's meeting or a delay in convening a creditor's meeting where the delay is likely to impact on the conduct of the insolvency appointment	a) Severe reprimand b) Reprimand c) Reprimand	a) Fine of £5,000 b) Fine of £2,000 c) Fine of £1,000
8	Accepted an appointment as administrator when no statutory purpose achievable	a) Severe reprimand b) Reprimand	a) Fine of £7,500 b) Fine of £2,000
9	Failure to comply with the principles of a SIP, the Insolvency Act and rules and regulations thereunder	a) Severe reprimand b) Severe reprimand c) Reprimand	a) Fine of £7,500 b) Fine of £5,000 c) Fine of £1,500
10	Failure to take adequate steps to realise assets	a) Severe reprimand b) Reprimand c) Reprimand	a) Fine of £7,500 b) Fine of £2,000 c) Fine of £1,500
11	Delay in progressing administration of an insolvency estate	a) Severe reprimand b) Reprimand c) Reprimand	a) Fine of £5,000 b) Fine of £2,000 c) Fine of £1,500
12	Failure to respond at all, or a delay in responding to letters, telephone calls or emails	a) Severe reprimand b) Reprimand c) Reprimand	a) Fine of £2,500 b) Fine of £1,500 c) Fine of £500

Part 3

Indicative sanctions for various breaches of the Insolvency Code of Ethics

	Allegation	Non-financial sanction	Starting point for financial Sanction
1	Failure to comply with the fundamental principle of integrity	a) Exclusion and consideration of licence withdrawal b) Severe reprimand	a) Fine of £10,000 b) Fine of £5,000
2	Failure to comply with the fundamental principle of objectivity	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £10,000 b) Fine of £5,000 c) Fine of £2,000
3	Failure to comply with the fundamental principle of professional competence and due care	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £7,500 b) Fine of £5,000 c) Fine of £2,000
4	Failure to comply with the fundamental principle of confidentiality	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £5,000 b) Fine of £3,000 c) Fine of £1,500
5	Failure to comply with the fundamental principle of professional behaviour	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £5,000 b) Fine of £3,000 c) Fine of £1,500

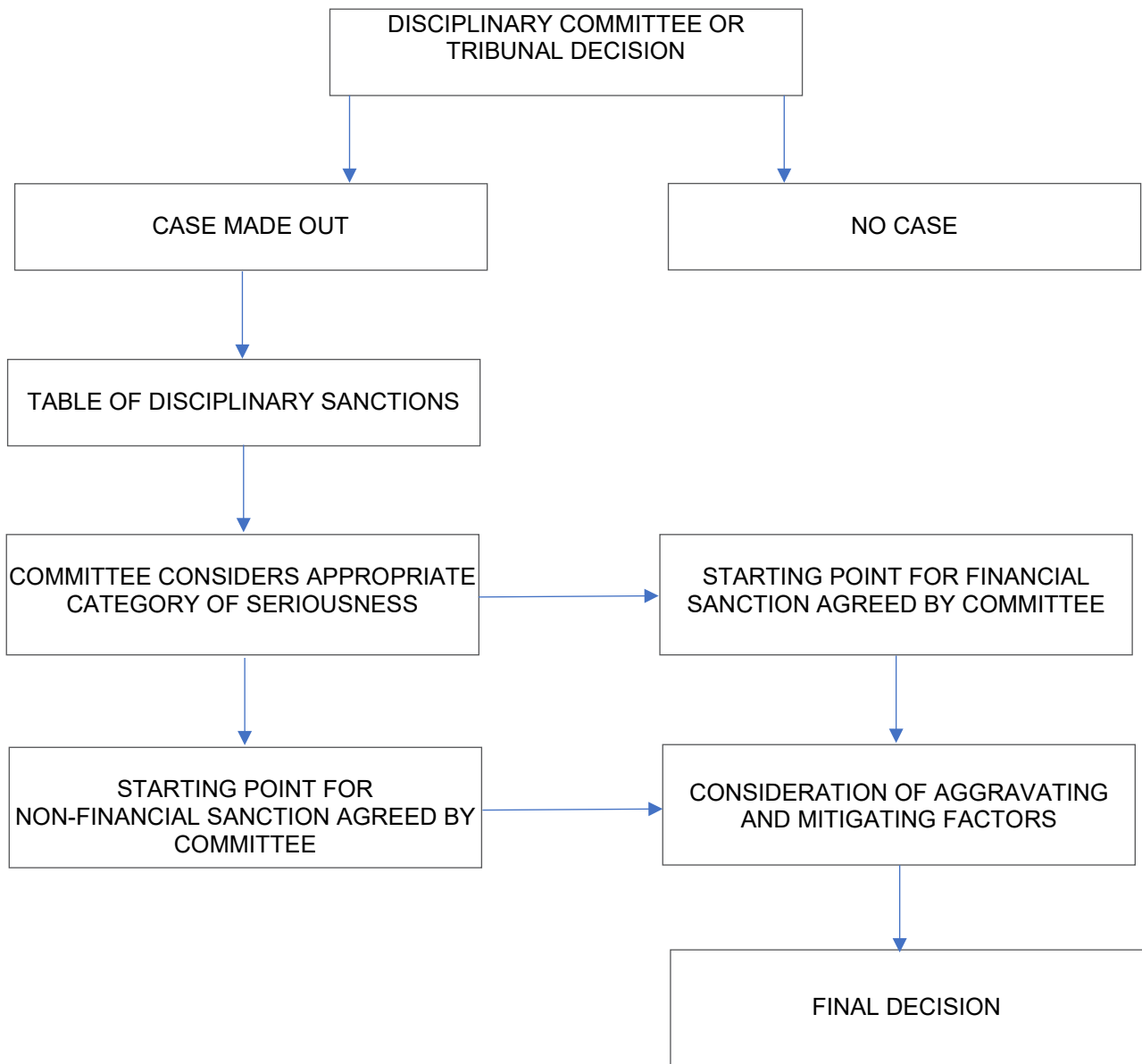
Aggravating factors

1. Concealment of wrongdoing
2. Lack of cooperation with regulator
3. Repeated course of conduct
4. Re-occurrence of conduct previously subject of reminder, caution or other sanction
5. The conduct has caused or is likely to cause the loss of significant sums of money to the insolvency estate and/or any third party
6. Poor disciplinary or regulatory history
7. Lack of understanding or acceptance of charge

Mitigating factors

1. Self-reporting, acceptance of conduct issues and prompt voluntary and immediate rectification
2. Self-reporting and prompt voluntary and immediate repayment of (unauthorised) fees
3. Personal mitigation: financial circumstances (when considering the financial part of the sanction only) Where the insolvency practitioner has difficulties in repaying a financial sanction, consideration should be given to offering payment in instalments
4. Personal mitigation; ill health
5. Age of issues under consideration in respect of less serious matters where there are no aggravating behaviours
6. Generally, minimal risk of re-occurrence or repetition where new procedures have been implemented and verified by the RPB
7. Absence of any loss of monies to the insolvency estate and/or any third parties

Flowchart of disciplinary process





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