



## **Publication Policy**

**1 July 2020**

## General

- 1.1 The objectives of publishing details of disciplinary action taken, regulatory sanctions imposed and notification in relation to public hearings are:
  - (a) to raise confidence in the system of regulation generally by being open, transparent and visible in relation to such matters; and
  - (b) to protect the public by advising them of specific instances of disciplinary action and regulatory sanctions against members, Authorised Firms, Affiliated Partners, Responsible Individuals or Students.
  - (c) to comply with the requirements of Companies Act 2014 in relation to sanctions imposed on statutory auditors and statutory audit firms.
- 1.2 The Institute's Constitution authorises Council to adopt a policy for publication and provides for the maintenance of a register of findings and orders in accordance with the bye laws.
- 1.3 Section 1502 of Companies Act 2014 requires publication of measures taken against and penalties imposed on a statutory auditor or audit firm.
- 1.4 This policy document is for guidance purposes only. In the event of any conflict between this document and Companies Act 2014, the Constitution or Bye Laws, Companies Act 2014, the Constitution or Bye Laws will prevail.
- 1.5 The principles set out in Appendix 1, which have been approved by the Irish Auditing and Accounting Supervisory Authority and which all Recognised Accountancy Bodies adhere to, apply to disciplinary bodies. Regulatory Committees will also apply the principles set out in Appendix 1. These principles relate specifically to mandatory publication in the context of action taken in respect of the conduct of audit work by statutory auditors and the default position is that publication will include the identity of the person or firm unless there are circumstances where the principles set out in Appendix 1 apply.
- 1.6 Disciplinary bodies and regulatory committees shall give consideration to the provisions of Article 30 (c) of the EU statutory audits directive when publishing matters related to statutory audit as set out in Appendix 2.

## Scope

- 2.1 This document sets out the Institute's policy in relation to publication of:
  - (a) disciplinary decisions;
  - (b) the giving of notice of public hearings.
  - (c) resignations during the disciplinary process
  - (d) regulatory decisions in relation to statutory auditors and audit firms
- 2.2 The following are 'disciplinary bodies' for the purposes of this document:
  - (a) the Investigation Committee
  - (b) the Disciplinary Committee
  - (c) Disciplinary Tribunals
  - (d) Appeal Tribunals

- 2.3 The following are regulatory committees for the purposes of this document:
- (a) Registration Committee
  - (b) Registration Appeals Committee
  - (c) CPD Compliance Committee
  - (d) CPD Compliance Appeals Committee
- 2.4 Bye Law 6 – Discipline sets out the requirements for the publication of disciplinary matters in accordance with this policy.
- 2.5 Bye Law 8 – Continuing Professional Development and Bye Law 13 – Practice and Audit Regulations provide for the publication of regulatory decisions.
- 2.6 It should be noted that publication is only required in respect of a disciplinary decision where there has been an adverse finding. However, a respondent may request publication of a decision by a Disciplinary Tribunal or Appeal Tribunal that no further action be taken on formal complaint.

## Form of publication

### Notice of public hearings

- 3.1 Where a case is to be heard in public before a Disciplinary Tribunal or an Appeal Tribunal a notice will be placed on the Institute’s website.
- 3.2 Such notice will include the date, time and location of the hearing. It will not include the name of the member, Authorised Firm, Affiliated Partner, Responsible Individual or Student against whom the disciplinary matter has been made.

### Disciplinary and Regulatory Sanctions

- 3.3 Subject to any contradictory or additional stipulation set out in Companies Act 2014, the Constitution or Bye Laws the information which will be published, the manner of publication and the timing of publication in respect of the various findings/orders which may be made pursuant to Companies Act 2014, the Constitution and Bye Laws are set out in the table below.

ORDER	INFORMATION	MANNER	TIMING
<i>Consent Order</i>	<p>Details of the finding and order made including sanction, and any costs imposed. Details may be summarised.</p> <p>Note 1 - the Investigation Committee may subject to the agreed procedures at Appendix 1, at its discretion, direct that no publication take place or that information published is <b>not</b> to include name of member, Authorised Firm, Affiliated Partner, Responsible Individual or Student against whom order is made.</p>	<ul style="list-style-type: none"> <li>- Accountancy Plus</li> <li>- register of findings and orders.</li> </ul> <p>Institute’s Website- to remain for a minimum period of 5 years.</p>	As soon as practicable.

	Note 2 – Sanctions imposed for breaches of EU Directive 2014/56/ and Regulation (EU) No 537/2014 shall be published in the manner provided in the Directive indicating the person responsible and the nature of the breach.		
<i>Orders of Disciplinary and Appeal Tribunals</i>	<p>Details of the formal allegation found proven; Tribunal's finding; and any order made, including the sanction, and any costs imposed.</p> <p>Note 1 A Disciplinary or Appeal Tribunal may, subject to the agreed procedures at Appendix 1 which mandates publication, including the identity of the member or member firm concerned in the context of action taken in respect of the conduct of statutory audit work, direct that name of the member, Authorised Firm, Affiliated Partner, Responsible Individual or Student against whom order is made is <b>not</b> to be included in publication.</p> <p>Note 2 – Sanctions imposed for breaches of EU Directive 2014/56/ and Regulation (EU) No 537/2014 shall be published in the manner provided in the Directive indicating the person responsible and the nature of the breach.</p>	<ul style="list-style-type: none"> <li>- Accountancy Plus</li> <li>- register of findings and orders.</li> </ul> <p>In addition a Tribunal may at its discretion order publication elsewhere such as:</p> <ul style="list-style-type: none"> <li>- Institute's website</li> </ul> <p>And/ or</p> <ul style="list-style-type: none"> <li>- in the national or local press.</li> </ul> <p>Factors to be considered when deciding where additional publication should be made include but are not limited to:</p> <ul style="list-style-type: none"> <li>- Protection of the public interest;</li> <li>- Seriousness of the conduct and findings;</li> <li>- Previous disciplinary and regulatory history</li> <li>- Legal Obligations</li> </ul> <p>Institute's Website – to remain for a minimum period of 5 years.</p>	<p>As soon as practicable provided any time allowed for appeal of the decision under the bye laws has elapsed.</p> <p>Where a hearing has taken place in public the Institute may at any stage provide details of any finding or order announced by the Chairperson on the day of the hearing.</p>
Disciplinary Committee Intervention Orders	Sanctions imposed for breaches of EU Directive 2014/56/ and Regulation (EU) No 537/2014 shall be published in the manner provided in the Directive, taking account of any appeal provisions, indicating the person responsible and the nature of the breach.	<ul style="list-style-type: none"> <li>- Institute's Website.</li> </ul>	As soon as practicable.

<p><i>Orders of CPD Compliance Committee and CPD Compliance Appeals Committee</i></p>	<p>Details of the Committees finding; and any order made, including the sanction, and any costs imposed.</p> <p>It shall be at the discretion of the Committee to decide whether the name of the Member, Authorised Firm, Affiliated Partner or Responsible Individual is included in the publication.</p>	<ul style="list-style-type: none"> <li>- Accountancy Plus</li> </ul> <p>In addition a Committee may at its discretion order publication elsewhere such as:</p> <ul style="list-style-type: none"> <li>- Institute's website</li> </ul> <p>Factors to be considered when deciding where additional publication should be made include but are not limited to:</p> <ul style="list-style-type: none"> <li>- Protection of the public interest;</li> <li>- Seriousness of the conduct and findings;</li> <li>- Previous disciplinary and regulatory history</li> <li>- Legal Obligations</li> </ul>	<p>As soon as practicable.</p>
<p><i>Orders of Registration Committee and Registration Appeals Committee</i></p>	<p>Details of the Committees finding; and any order made, including the sanction, and any costs imposed</p> <p>It shall be at the discretion of the Committee to decide whether the name of the Member, Authorised Firm, Affiliated Partner or Responsible Individual is included in the publication</p>	<ul style="list-style-type: none"> <li>- Accountancy Plus</li> </ul> <p>In addition a Committee may at its discretion order publication elsewhere such as:</p> <ul style="list-style-type: none"> <li>- Institute's website</li> </ul> <p>Factors to be considered when deciding where additional publication should be made include but are not limited to:</p> <ul style="list-style-type: none"> <li>- Protection of the public interest;</li> <li>- Seriousness of the conduct and findings;</li> <li>- Previous disciplinary and regulatory history</li> <li>- Legal Obligations</li> </ul>	<p>As soon as practicable.</p>

3.4 Where a disciplinary body or regulatory committee exercises the discretion not to include the name of a member, Authorised Firm, Affiliated Partner, Responsible Individual or Student in a publication, reasons for this decision should be given.

3.5 For the avoidance of doubt, orders that no further action be taken will not be published unless requested by the respondent.

## Register of disciplinary findings and orders

- 3.6 The Secretary shall maintain a register of all findings and Orders including Consent Orders made by Disciplinary Tribunals and Appeal Tribunals and the Investigation Committee.

Such register shall be open to inspection by Members and members of the public during normal opening hours at the head office of the Institute.

Each entry in such register shall include:

- (a) details of the Complaint or Formal Complaint giving rise to the finding and/or Order;
- (b) details of the finding and/or Order;
- (c) the name, address and Membership number of each person or Firm against whom the finding and/or Order is made; if the Disciplinary Tribunal, Appeal Tribunal or Investigation Committee ordered that the Member, Affiliated Partner, Responsible Individual, Student or Authorised Firm's name be published.

Where a disciplinary body has directed that the information to be published should not include the name of the member such information will not otherwise be disclosed by the Institute unless it is to a person or body undertaking regulatory, disciplinary or law enforcement responsibilities for the purpose of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law or with the consent of the subject of the finding.

The length of time each matter will remain on the register is set out in the table below. After an entry is removed from the Register of Findings and Orders, details may be made available to a person or body undertaking regulatory, disciplinary or law enforcement responsibilities for the purpose of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law or with the consent of the subject of the finding.

	<b>ORDER</b>	<b>DURATION</b>
1.	Consent Orders	2 years from the date the order took effect.
2.	Orders of Disciplinary Tribunals and Appeal Tribunals	5 years from the date the order took effect.
3.	Orders for the suspension of a member from membership, the suspension of affiliate or responsible individual status or an order prohibiting a member firm from using the description "Certified Public Accountant".	5 years from the date the order took effect or 5 years from the date the suspension or prohibition was lifted, whichever is the later.
4.	Orders: <ul style="list-style-type: none"> <li>• for the exclusion of a member from membership</li> <li>• the withdrawal of affiliate partner or responsible individual status</li> <li>• the withdrawal of any practising rights, licences, registrations, designations, certificates or authorisations from a member firm: and</li> <li>• declaring a student to be is unfit to become a member.</li> </ul>	Permanently.

### **Resignation from Membership during disciplinary process**

- 3.7 In the event of a Member, Authorised Firm, Affiliated Partner, Responsible Individual or Student resigning (which term includes the retirement or any non-renewal of membership howsoever occurring) during the course of any disciplinary process or prior to the commencement of any disciplinary process but where a Complaint has been made the Institute may publish a statement that such a resignation has taken place together with a statement as to the existence of the complaint and/or a statement of fact that the disciplinary process was ongoing prior to the resignation.

It shall be at the discretion of the disciplinary bodies to publish details of the complaint made or prima facie evidence established.

In any such statement the Member, Authorised Firm, Affiliated Partner, Responsible Individual or Student shall be named.

Publication shall be as soon as practicable and made in Accountancy Plus.

In addition, a disciplinary body may at its discretion order publication elsewhere such as on the Institute's website or in the national or local press.

Details will be recorded in the register of findings, on a permanent basis naming the Member, Authorised Firm, Affiliated Partner, Responsible Individual or Student.

## Appendix 1

### AGREED PRINCIPLES GOVERNING THE TIMING AND MANNER OF DISCLOSURE OF PENALTIES AND SANCTIONS

The disciplinary procedures of each of the Recognised Accountancy Bodies (“RABs”) are such that sanctions and/or penalties may be imposed on a member or firm in relation to the conduct of audit work at the conclusion of the disciplinary process. To a varying extent, each RAB vests discretion in its disciplinary committees to determine the manner and timing of the disclosure of such sanctions and/or penalties to the public. A disciplinary committee (“Disciplinary Committee”) means any disciplinary committee or tribunal (however called) of a RAB which imposes penalties or sanctions in accordance with disciplinary procedures approved by the Irish Auditing & Accounting Supervisory Authority under section 905 (2) (c) of the Companies Act 2014.

The following principles are consistent with and underpin the policies of each of the RABs with regard to the disclosure of disciplinary sanctions and/or penalties, in relation to the conduct of audit work, to the public:

1. Subject to 2. below, the default position is that sanctions and/or penalties imposed by a Disciplinary Committee, including sanctions or penalties imposed with the member/firm’s consent, will be disclosed to the public.
2. The particulars to be disclosed will include the sanction and/or penalty imposed by the Disciplinary Committee and details in relation to the identity of the member/firm penalised and/or sanctioned unless the approved procedures of the RAB vest discretion in the Disciplinary Committee to direct that the identity of the member/firm should not be made available to the public.

A Disciplinary Committee will not issue such a direction unless it considers that disclosure of the identity of the member/firm:

- may have an adverse impact on the interests of third parties;
- may have an adverse impact on the health or safety of a member such that publication would be unduly harsh; or
- is not necessary for the protection of the public interest having regard to the nature and seriousness of the offence; in this regard the Disciplinary Committee should take into consideration the following:
  - whether the offence concerned dishonesty, theft, fraud, negligence, recklessness or incompetence;
  - any likely consequences of non-disclosure;
  - the sanction imposed;
  - the likelihood of the repetition of the offence;
  - the disciplinary history of the member/firm; and
  - any other circumstance or factor it considers relevant.

Where a Disciplinary Committee exercises its discretion in this manner it will set out in writing the reasons for its decision.

3. Sanctions and/or penalties will be disclosed as soon as practicable provided the Disciplinary Committee has not directed otherwise and the time allowed under the rules of the RAB for appealing the decision of the Disciplinary Committee has elapsed.

4. Disclosure may be by way of one or more of the following:
  - Notice in a professional magazine;
  - Notice in a national or local newspaper;
  - Press release;
  - Inclusion on a public register; or
  - Inclusion on the website of the RAB.
  
5. Disclosure of a sanction amounting to the withdrawal by a RAB of a member/firm's authorisation for audit will include the name of the member/firm, save where, in exceptional circumstances, the Disciplinary Committee exercises its discretion not to do so in line with 2. above. Where a Disciplinary Committee exercises its discretion in this manner it will set out in writing the reasons for its decision.

## Appendix 2

Extracts from:

### **DIRECTIVE 2006/43/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 17 May 2006**

**on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC**

*Article 30c*

#### **Publication of sanctions and measures**

1. Competent authorities shall publish on their official website at least any administrative sanction imposed for breach of the provisions of this Directive or of Regulation (EU) No 537/2014 in respect of which all rights of appeal have been exhausted or have expired, as soon as reasonably practicable immediately after the person sanctioned has been informed of that decision, including information concerning the type and nature of the breach and the identity of the natural or legal person on whom the sanction has been imposed.

Where Member States permit publication of sanctions which are subject to appeal, competent authorities shall, as soon as reasonably practicable, also publish on their official website information concerning the status and outcome of any appeal.

2. Competent authorities shall publish the sanctions imposed on an anonymous basis, and in a manner which is in conformity with national law, in any of the following circumstances:
  - (a) where, in the event that the sanction is imposed on a natural person, publication of personal data is shown to be disproportionate by an obligatory prior assessment of the proportionality of such publication;
  - (b) where publication would jeopardise the stability of financial markets or an ongoing criminal investigation;
  - (c) where publication would cause disproportionate damage to the institutions or individuals involved.
3. Competent authorities shall ensure that any publication in accordance with paragraph 1 is of proportionate duration and that it remains on their official website for a minimum period of five years after all rights of appeal have been exhausted or have expired.

The publication of sanctions and measures and of any public statement shall respect fundamental rights as laid down in the Charter of Fundamental Rights of the European Union, in particular the right to respect for private and family life and the right to the protection of personal data. Member States may decide that such publication or any public statement is not to contain personal data within the meaning of point (a) of Article 2 of Directive 95/46/EC.