

The Chartered Institute of Management Accountants

Investigation Committee Guidance Notes 2015

NOTE	CONTENT
1 & 2	Background
3	Receipt of complaint and obtaining response
4	Consideration of a complaint by the Committee
5	Further enquiries requested by the Committee
6	Decisions of the Committee
	6.1 Dismiss the complaint
	6.2 Refer the complaint to the Financial Reporting Council (FRC)
	6.3 Find the complaint to be insubstantial
	6.4 Dispose of the matter by consent order
	6.5 Refer the case to the Disciplinary Committee
7	Notification of decisions of the Committee
8	Successful appeal by complainant
9	Publication of the decision

Background

1. The Byelaws require that complaints against Members and Registered Students (including complaints brought by the Institute itself) are thoroughly and fairly investigated and determined. These Notes are intended to assist the Investigation Committee ("IC") in this function.
2. Annexe 1 illustrates, by means of a flow chart, the passage of a complaint from receipt to the conclusion of consideration of the complaint by the IC.

Receipt of complaint and obtaining response

3. Staff of the Institute first endeavour to obtain a response from the Member / Registered Student within a reasonable period (usually 28 days).

Consideration of a complaint

4. The IC considers the complaint on the papers only, and in private. The IC has access to an independent legal advisor, who may be present to respond to requests for legal advice from the IC, but does not otherwise take part in its deliberations. The IC has the power to make a number of determinations and the procedures for dealing with each type of decision are set out below (see also Annexe 2).

Further enquiries

5. The IC may decide in any particular case that it wants further enquiries to be made on its behalf, and this is undertaken by staff of the Institute.

When the enquiries are completed, any further documentation is sent to the Member / Registered Student who is given 21 days within which to comment. After the expiry of the deadline the case is re-submitted to the IC with the additional documentation and the comments (if any) of the Member / Registered Student.

Decisions

6. The IC can

- 6.1 Dismiss the complaint

If the evidence does not disclose a prima facie case the complaint is dismissed. The Member / Registered Student and the complainant are informed of the decision.

- 6.2 Refer the complaint to the Financial Reporting Council (FRC)

The Committee may consider that the complaint raises or appears to raise important issues affecting the public interest in the United Kingdom and that the matter needs to be investigated to determine if the Member or Registered Student has committed misconduct.

There is also provision in the Institute's Regulations for the IC to suspend its investigation if notice is received from the FRC (Conduct Committee) that it proposes to deal with the case.

In either event, the FRC (Conduct Committee) is sent all the relevant papers and the Member / Registered Student and complainant notified.

6.3 Find the complaint to be insubstantial

The IC may decide that although there is a *prima facie* case to answer, the complaint is so insubstantial that it would not warrant further action or action under 6.4 or 6.5 by the Investigation Committee, so the case is closed. The Member / Registered Student and the complainant are informed of the decision.

6.4 Dispose of the matter by Consent Order

If in the view of the committee a *prima facie* case is disclosed, the IC may decide that it is suitable to be disposed of by way of consent order.

The consent order may contain one or more of the following sanctions:

- admonishment
- reprimand
- severe reprimand
- a fine of up to £2000 (Members) or £500 (Students).

A consent order may also include provision for the Member or Registered Student to pay or contribute to costs of the IC meeting.

The Member / Registered Student is sent a letter under Regulations Part II.18 setting out the terms of the proposed order, requiring his/her written consent by way of signing and returning one part of the enclosed order.

Subject to the paragraph above, if the Member / Registered Student does not consent to the order or respond within the deadline the complaint is referred to the Disciplinary Committee by staff on behalf of the IC. The Member / Registered Student and the complainant is informed.

If the Member / Registered Student does agree to the terms of the proposed order the following steps are taken:

- a finding upholding the complaint is recorded and the consent order, applying the sanction or sanctions and/or costs proposed, is issued against the Member / Registered Student on behalf of the IC, subject to any appeal by the complainant.
- the complainant is notified of the terms of the order and of his/her right to appeal within 21 days against the decision to the Appeal Committee.
- If the Member / Registered Student in agreeing to the proposed order, makes further substantive comments for consideration by the IC, these shall be referred to the IC by circulation of papers and the IC shall decide whether to proceed or to meet to reconsider the complaint.
- a record is kept of the consent order and is taken into account should there be any further complaints against the Member / Registered Student concerned.

Fines and/or costs are payable within 30 days and are subject to interest. All further steps pertaining to the recovery of costs and fines are dealt with by the Institute's Finance department. Non-payment after three months in itself constitutes a disciplinary matter (Regulations Part II 16).

6.5 Refer the complaint to the Disciplinary Committee

If the IC considers that a *prima facie* case is established but that it is not suitable for disposal by consent order it refers the case to the Disciplinary Committee.

The Member / Registered Student and complainant are notified.

The Disciplinary Committee process then follows.

7. Notification of decisions of the IC

All decisions of the IC are notified to the Member / Registered Student and complainant as soon as possible and within 5 working days of the approval by the Chairman of the IC of the note of the decision made at the meeting.

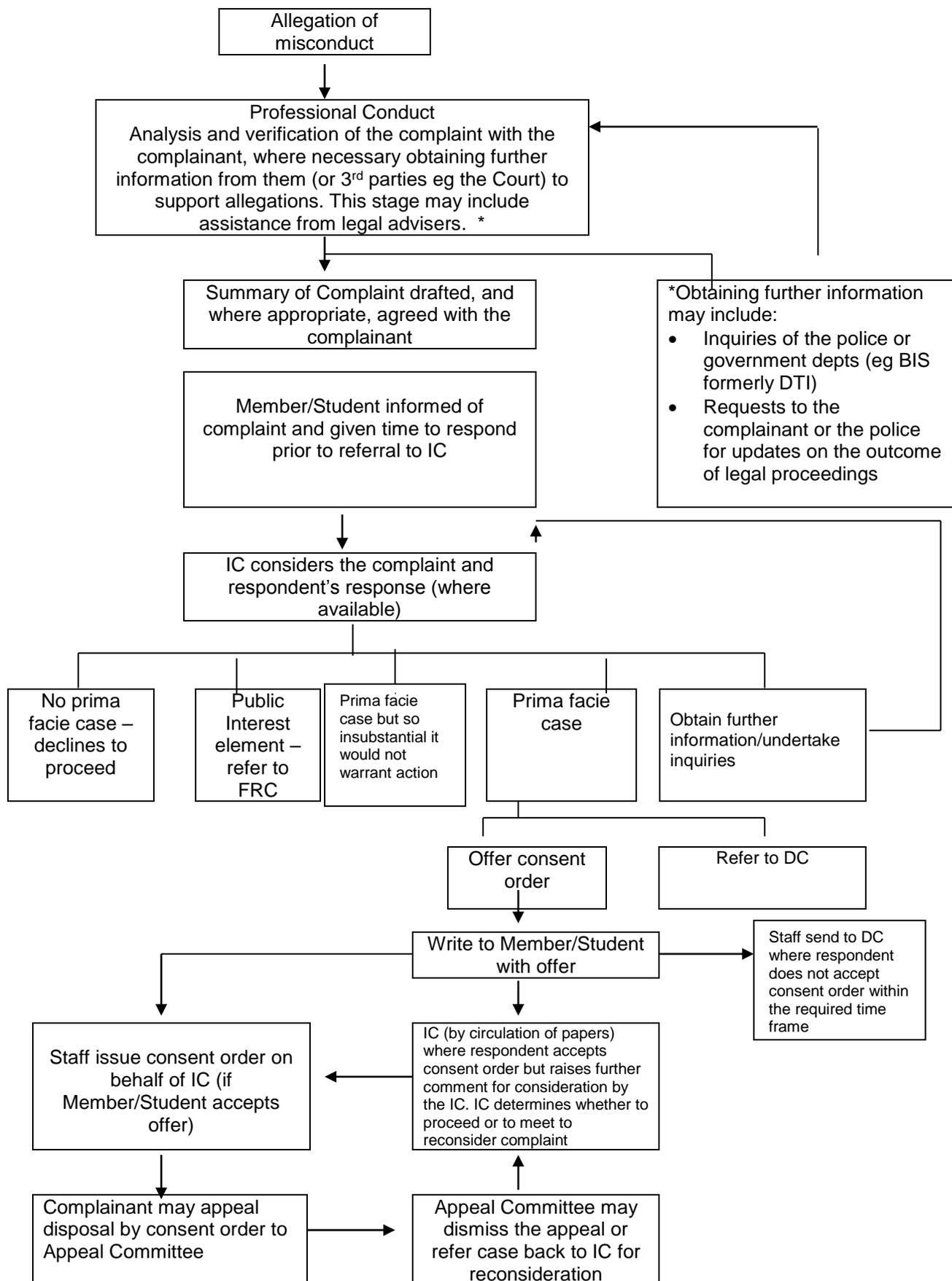
Successful appeal by complainant

8. If a complainant successfully appeals under Regulations Part II 25, the Appeal Committee may refer the case back to the IC for re-consideration. In such a case, subject to any express directions of the Appeal Committee, the relevant member of Institute staff prepares the papers for re-consideration of the complaint at the next available meeting of the IC.

Publication of the decision

9. Where the Member / Registered Student has been sanctioned (and after the expiry of any appeal period or after any unsuccessful appeal), details of the decision shall be published in accordance with the Institute's Regulations.

A simplified illustration of the process by which an allegation of misconduct is considered by the Investigation Committee (IC)



Investigation Committee – Specimen Case List

CIMA
PRIVATE & CONFIDENTIAL

INVESTIGATION COMMITTEE
DATE

Case List for the Investigation Committee to be held at CIMA, The Helicon, One South Place, London, EC2M 2RB on **date** at **time**. Lunch will be available.

Professional Conduct

CASE LIST**PART I - New cases**

Complaints against

Name(s)	CIMA ID
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OR NO CASES

The Committee is to consider and to decide, in each case, whether:

- (i) to dismiss the complaint on the basis that there is no prima facie case to answer; or
- (ii) to refer the case to the Financial Reporting Council (FRC), on the basis that the complaint raises, or appears to raise important issues affecting the public interest in the UK and that the matter needs to be investigated to determine if the Member or Registered Student has committed misconduct; or
- (iii) to require further enquiries to be made on its behalf before the Committee can come to a view on the case; or
- (iv) to adjourn consideration of the case, for example pending the outcome of legal proceedings or police investigation into matters related to the complaint; or
- (v) to find that there is a prima facie case to answer but that the complaint is so insubstantial that it would not warrant further action or action under (vi) or (vii) below; or
- (vi) on the basis that the evidence discloses a prima facie case of misconduct, to offer the Member or Registered Student a disposal by consent order in accordance with Regulations Part II 8 (e) and 17 - 21; or
- (vii) on the basis that the evidence discloses a prima facie case of misconduct, to refer the complaint to the Disciplinary Committee for hearing.

PART II – Cases called in by the FRC (Conduct Committee)

Cases where, under Regulations Part II 8 (c), the Committee has received notice in writing that the matter will be dealt with by the FRC (Conduct Committee), and so the Committee will not proceed with its investigation.

Name(s)	CIMA ID
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OR NO CASES

PART III – Ongoing cases

Cases previously considered at a meeting of the Committee (adjourned or now supplemented with further information). The Committee is to consider and to decide, in each case, between the options for dealing with the cases set out in Part I above.

Name(s)	CIMA ID
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OR NO CASES

PART IV- Cases where consent order offered

Cases where disposal by consent order has been offered and accepted but

(i) the Member or Student concerned raises further substantive comments for consideration by the Committee, and following circulation of papers, the Committee has determined to reconsider the complaint. The Committee is to consider and to decide, in each case, between the options for dealing with the cases set out in Part I above.

Name(s)	CIMA ID
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OR NO CASES

PART V – cases remitted by Appeal Committee

Cases where a complainant has successfully appealed to the Appeal Committee against a proposal to dispose of a case by way of consent order; to be reconsidered by the Committee.

Name(s)	CIMA ID
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OR NO CASES

PART VI – reports of case closures

Name	CIMA ID	Note attached
		Annexe X

OR NO CASES

Professional Conduct
Date