

Professional Standards

Chartered Accountants Ireland

Guidance in relation to disciplinary sanctions and orders

Updated January 2020

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1. INTRODUCTION

1.1. General

This Guidance in relation to disciplinary sanctions and orders (“the Guidance”) was first introduced in December 2015¹ and was updated in November 2016, January 2017, May 2019 and [insert date]. This Guidance may be revised from time to time, withdrawn or replaced.

This document is for guidance purposes only. In the event of any conflict between this document and the Principal Bye-Laws, the Disciplinary Bye-Laws, the Disciplinary Regulations or any other rules or regulations issued thereunder, those Principal Bye-Laws, Disciplinary Bye-Laws, Disciplinary Regulations, rules or regulations will prevail.

This Guidance relates to the sanctions and orders arising from the disciplinary processes of the Institute of Chartered Accountants in Ireland (“the Institute”). Sanctions and orders can also be imposed on Members, Member firms and Affiliates by the Institute’s regulatory committees in accordance with relevant Institute rules and regulations. Sanctions and orders imposed by the Institute’s regulatory committees are not addressed in this Guidance.

This Guidance has been approved by the Professional Standards Board on behalf of Council.

1.2. The Disciplinary Process

The disciplinary process is set out in the Institute’s Disciplinary Bye Laws, September 2016 (the “Disciplinary Bye-Laws”) and in the Disciplinary Regulations, September 2016 (the “Disciplinary Regulations”).

The objective of the Institute’s disciplinary process is to promote the highest possible standards of professional and business conduct, efficiency and competency by Members, Member Firms, Students and Affiliates, by providing an efficient, effective and fair system for dealing with Complaints and for investigating the activities and affairs of, and where appropriate, disciplining, Members². This Guidance, the Disciplinary Bye-Laws, Disciplinary Regulations and related guidance materials are available at <https://www.charteredaccountants.ie/Professional-Standards/Home>.

1.3. Sanction Guidance

In the interest of providing an efficient, effective, transparent and fair disciplinary process this Guidance has been prepared to aid proportionality and consistency in decision making.

This Guidance has been developed for the following:

- a. The Conduct Committee
- b. Independent Review Committees
- c. Disciplinary Tribunals
- d. Appeal Tribunals

For the purpose of this Guidance, the above individual and bodies listed at a. to d. above shall be collectively referred to as the “disciplinary bodies” and any one a “disciplinary body”. In addition to the disciplinary bodies this Guidance will also assist the Head of Professional Conduct (“HOPC”). See paragraph 2.4 of this Guidance.

¹ Appendix 2, Common Sanctions Guidance, the original version of this Guidance was introduced in 2013.

² Throughout this Guidance, a reference to a member includes a Member, Member Firm, Student or Affiliate unless the context suggests otherwise.

This Guidance provides information to the Member the subject of the Disciplinary Matter and any Complainant in relation to the likely sanction that may be imposed if a Disciplinary Matter is upheld.

A Table of Indicative Sanctions is contained in Appendix 1. This Guidance including the Table of Indicative Sanctions is not binding; it is indicative and not prescriptive. The disciplinary bodies and the HOPC retain the discretion to apply any sanction(s) deemed appropriate in the particular circumstances of any Disciplinary Matter, taking into account any mitigating or aggravating factors. Therefore, a sanction may be higher or lower than indicated in this Guidance.

1.4. Insolvency Complaints

The Institute and the recognised professional bodies in the United Kingdom and Ireland, the ICAEW, ACCA, IPA, and ICAS follow their own disciplinary processes but have a common sanctions guidance to ensure that findings against insolvency practitioners licensed in Great Britain and Northern Ireland are consistent in the outcome and sanction across the recognised professional bodies are comparable. A copy of the Common Sanctions Guidance, June 2013 is contained in Appendix 2.

1.5. Register of Findings and Orders

The HOPC maintains a register of all findings and orders made. A copy of the register can be accessed online at <https://www.charteredaccountants.ie/Professional-Standards/Home> and at the offices of the Institute at 47-49, Pearse Street, Dublin 2.

2. SANCTION AND OTHER ORDERS

2.1. Sanction³

The orders which may be made in relation to Disciplinary Matters are contained in Bye-Law 11 of the Disciplinary Bye-Laws and the Disciplinary Regulations⁴ and include orders made with the consent of the Member.

The orders that can be made by way of sanction include the following:

- a. Non-financial sanctions
- b. Financial sanctions

2.2. Other Orders⁵

The following orders, which are not sanctions, may also be made:

- a. Remedial orders
- b. Orders for waiver or repayment of fees or commission
- c. Order for payment of Complainant's expenses
- d. Order that no further action be taken
- e. Orders for costs

2.3. The Disciplinary Tribunal and the Appeal Tribunal

Where a Disciplinary Tribunal or an Appeal Tribunal, finds that one or more Formal Allegations have been proven, it may make any of the orders listed at in paragraphs 2.1 and 2.2.

³ See Section 4 of this Guidance

⁴ Regulations 40 and 41 of the Disciplinary Regulations

⁵ See Section 5 of this Guidance

2.4. The HOPC, the Conduct Committee and Independent Review Committees

Where it has been determined by the HOPC, the Conduct Committee or an Independent Review Committee that there is a case to answer in respect of a Disciplinary Matter, the following may be applied:

- with the consent of a Member, any one or more of the orders which a Disciplinary Tribunal or Appeal Tribunal would have the power to make in respect of a member including an order to pay a specified sum in costs.
- Invitation to the Member to accept an unpublished caution⁶.

3. APPROACH TO SANCTION

3.1. Factors to be taken into account when considering sanction

The primary aim of sanction is the protection of the public interest and not punishment, but it is recognised that the imposition of sanction may have a punitive effect. Sanction should be proportionate. Therefore, a severe sanction should not be imposed for a minor offence nor a minor sanction imposed for a serious offence.

When considering sanction, the disciplinary body or the HOPC as applicable, should consider the public interest which includes the following relevant factors:

- a) Maintaining the reputation of the profession;
- b) Upholding the proper standards of conduct in the profession;
- c) Correcting and deterring breaches of those standards; and
- d) Protecting the public.

Attached to this Guidance in Appendix 1 is the Indicative Sanction Guidance, which has been divided into Table A and Table B. These Tables have been provided to assist the disciplinary body and the HOPC to decide the most appropriate and proportionate sanction. The Tables have been provided by way of guidance and are not exhaustive.

Table A contains six categories of Disciplinary Matters and provides guidance on factors that should be taken into account when considering the seriousness of each category of Disciplinary Matter.

Table B contains the same categories of Disciplinary Matters which are further sub-divided and provides an indicative sanction in respect of each sub-category of Disciplinary Matter depending on the level of severity of the Disciplinary Matter.

Where a disciplinary body or the HOPC decides that an order sanctioning a Member is appropriate it should:

- a. First, decide whether the Disciplinary Matter is of high, medium or low severity by reference to the relevant factors contained in Table A; and
- b. Secondly, once it has decided the severity of the Disciplinary Matter identify from Table B the relevant sub-category of Disciplinary Matter and the sanction to be applied.

In Table B there is a suggested starting point for the sanction depending on the nature and the seriousness of the Disciplinary Matter. This is not a tariff or a "going rate" but it simply indicates where the disciplinary body or HOPC might start when it looks at all the relevant factors relevant to deciding the sanction.

Once the disciplinary body or the HOPC has decided the most appropriate starting point, it takes into account any aggravating or mitigating factors before deciding whether it is appropriate to reduce or increase the sanction. The disciplinary body or the HOPC may decide on a more or less severe sanction than the starting point depending on the circumstances of the case.

⁶ Please note, an unpublished caution may only be offered in respect of a Disciplinary Matter which occurred subsequent to 5 October 2015

The disciplinary body or the HOPC when deciding on sanction may take into account any previous findings or sanction(s) against a Member made within the previous 6 years.

A list of aggravating and mitigating factors is set out below. This list is not exhaustive and not all factors will apply to a particular Disciplinary Matter.

Aggravating Factors
High public interest impact.
Damage to the reputation of the Institute and/or the profession of accountancy.
Concealment of wrongdoing.
Lack of cooperation with the Institute during the investigation.
Repeated course of conduct.
Re-occurrence of conduct previously the subject of disciplinary finding or order in the previous six years.
The benefit derived or likely to be derived from the conduct by the Member, including any financial benefit accrued to the Member as a result of the conduct giving rise to the Disciplinary Matter
The conduct or cause is likely to cause the loss of significant sums of money to the Complainant and/or any third party.
Poor disciplinary or regulatory history.
Lack of insight, understanding or acceptance of charge.
Failure or refusal to take remedial action to address the issues concerned
The conduct was dishonest, deliberate or reckless.
The conduct was intentional.
Seriousness generally
The degree of responsibility of the Member.
Other relevant information.

Mitigating Factors
Minimal or no impact on the public interest.
Little or no impact on the reputation of the Institute or the profession of accountancy.
Self-reporting and/or acceptance of conduct issues.
Full cooperation with the Institute over the course of the investigation.
Generally, no risk or reoccurrence or repetition.
Isolated issue.
Age of issues under consideration.
Absence of adverse effect of conduct on the Complainant or any third party.

No previous disciplinary or regulatory findings.
Evidence of insight and understanding of the issues concerned.
Prompt rectification
Up to date regulatory or monitoring information suggesting issues addressed.
Personal mitigation, ill-health, financial circumstances, good standing.
Other relevant information including references or testimonials from third parties.
The degree of responsibility of the Member.
Other relevant information.

In the list above, where any matter is listed as an aggravating factor, the converse should be treated as a mitigating factor and vice versa.

STATUTORY AUDIT

3.2. Factors to be taken into account when considering sanctions in the context of statutory audit matters

In the context of UK audits the following factors **must** be taken into consideration when determining the type and level of sanction in the context of audit matters:

- a) the gravity and duration of the offence / breach;
- b) the degree of responsibility of the person involved;
- c) financial strength of the member involved;
- d) amount of profits gained or losses avoided by the member involved insofar as they can be determined;
- e) the level of co-operation received from the member in the course of the handling of the disciplinary matter;
and
- f) previous disciplinary findings and orders or regulatory findings and orders which occurred within six years of the Event giving rise to liability to disciplinary action.

This is a requirement of the Statutory Auditors and Third Country Auditors Regulations 2016 in the UK and is consistent with the Companies Act 2014 in Ireland. These factors are therefore also considered in the context of the Irish audits

The above factors are consistent with the factors detailed above.

Company law in Ireland and in the UK require that sanctions in the context of statutory audit matters must include withdrawal of audit registration. The Companies Act 2014 in Ireland provides some detail in this regard and specifies that withdrawal of audit registration is mandatory in circumstances where eligibility criteria for audit registration are no longer met or where a conclusion has been reached that the good repute of a statutory auditor or statutory audit firm is seriously compromised. The Institute may issue separate guidance on mandatory withdrawal of audit registration.

4. NON-FINANCIAL AND FINANCIAL SANCTIONS

This guidance applies to sanctions which are allowed under the Disciplinary Bye-Laws in existence at the time of sanctioning.

4.1. Non-financial sanctions

Non-financial sanctions can be used to indicate to the Member that his or her conduct falls short of the standards required. Descriptions of the non-financial sanctions which are available are listed in the table below. The table describes the orders that can be made in respect of a Member. This is a non-exhaustive list and Disciplinary Bye-Law 11 should be consulted for the full list of the orders that can be made against Members, Member Firms, Students and Affiliates.

A non-financial sanction is an adverse measure and will form part of the Member's Disciplinary Record with the Institute and will be published on the Register of Findings maintained by the HOPC.

In some circumstances a non-financial sanction (such as exclusion from membership, suspension or removal of practising rights) will affect an individual's ability to practice.

Order	Description
Unpublished caution	<p>An unpublished caution is a formal written warning to the Member.</p> <p>An unpublished caution is suitable where the Disciplinary Matter is of low severity. The unpublished caution will be retained on the Member's file and from the date of issuance for a period of three years, may be taken into account in the event of further evidence or further Disciplinary Matters coming to the attention of the HOPC.</p> <p>An unpublished caution is unlikely to be an appropriate for a Disciplinary Matter giving rise to a disciplinary liability for Misconduct.</p>
Reprimand	<p>A reprimand is a stronger measure whereby the Member is formally censured or reprimanded. This sanction is appropriate for Disciplinary Matters that are more serious than matters that would give rise to an unpublished caution. A reprimand is likely suitable where the Disciplinary Matters giving rise to disciplinary liability are of low to medium severity.</p>
Severe reprimand	<p>A severe reprimand is appropriate where the Disciplinary Matters are of medium to high severity and the Disciplinary Matters are not such which give rise to the necessity in the public interest to affect membership status.</p>
Suspension	<p>Suspension is a temporary measure aimed, generally, at public protection and in circumstances where corrective or remedial action is being taken.</p> <p>Suspension is appropriate in circumstances where permanent exclusion is not considered necessary but where it is considered necessary to deny membership status temporarily. Factors which may give rise to an order of suspension rather than exclusion will include the Member's insight, evidence and/or possibility of remediation or where the conduct is unlikely to be repeated.</p> <p>A Member's rights and privileges are suspended during the suspension period, but the Member remains liable during the period of suspension for any other Disciplinary Matters which may come to the attention of the Institute and the Member remains obliged to uphold and comply with the standards of professional conduct during that period. A suspension can be imposed for a maximum of one year.</p> <p>In determining the length of the suspension it will be necessary to take into account the following:</p> <ul style="list-style-type: none"> • The nature and seriousness of the Disciplinary Matter;

Order	Description
	<ul style="list-style-type: none"> • The risk to the public; • Any aggravating and mitigating factors; • Any period for remediation.
Withdrawing of practising rights, licences, registrations⁷	<p>This is an order which may be used where the matters giving rise to the disciplinary liability are serious enough to restrict a Member's ability to practise in all or some areas. This order is appropriate where there is a risk to clients and/or Members of the public, given the nature and seriousness of the Disciplinary Matter.</p> <p>The Companies Act 2014 in Ireland requires that audit registration is withdrawn where the eligibility criteria for audit registration are no longer met or where a conclusion has been reached that the good repute of a statutory auditor or statutory audit firm is seriously compromised. The Institute may issue separate guidance on mandatory withdrawal of audit registration.</p>
Exclusion	<p>Exclusion from membership is an appropriate sanction for the most serious of Disciplinary Matters. It is appropriate where the person is no longer considered fit to be a Member of the Institute.</p>
An Interim Order	<p>The Disciplinary Tribunal has the power where a matter of public concern arises to make an immediate Interim Order to suspend rights, privileges, membership or status of a Member, as applicable, or to impose conditions as the Tribunal may determine pending the conclusion of the disciplinary process</p>

4.2. Financial sanctions

Where a fine is an appropriate sanction, it will be necessary to decide the level of the fine. Bye-Law 11 of the Disciplinary Bye-Laws sets out the maximum fines in respect of Members, Member Firms, Students and Affiliates. In order to decide the level of the fine, the disciplinary body or HOPC will establish the appropriate starting point for the fine. This is not a tariff or a "going rate" but it simply indicates where the disciplinary body or HOPC might start when it looks at all the relevant factors relevant to deciding the fine. Once the disciplinary body 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 fine. The disciplinary body or the HOPC may decide on a more or less severe fine than the starting point depending on all the circumstances of the case.

Without limitation, the information which should be taken into account, where appropriate, includes the financial strength of the Member (for example in respect of a firm, as indicated by its turnover and, in respect of an individual the annual income of that individual).

5. OTHER ORDERS

In addition or as an alternative to the above the disciplinary body or the HOPC make one or more of the orders described in paragraphs 5.1 to 5.5 below.

5.1. Remedial Orders⁸

Remedial orders include the following:

- a) That the Member shall return to any client any books or documents belonging to the client which are not subject to a lien;

⁷ By its nature this sanction cannot be applied to students as they have not gained these rights

⁸ Regulation 40 of the Disciplinary Regulations

- b) That as regards any specified fee, the Member shall provide the client with such particulars as may be specified; and
- c) The Member shall take such steps as may be specified, being steps (other than payment of compensation) which the relevant disciplinary body or the HOPC considers appropriate for the purpose of resolving the issues which rise to the Disciplinary Matter.

A remedial order may include such terms and conditions as the disciplinary body sees fit.

5.2. Orders for waiver or repayment of fees or commission⁹

The orders that can be made include an order to:

- a) waive the whole or part of any fee which has been agreed by or invoiced to a client;
- b) pay to the Institute
 - i. the whole or part of any fee which the client has paid;
 - ii. the whole or part of any sum of money which has been retained by the Member in or towards payment of a fee by a client; and/or
 - iii. a sum assessed by the disciplinary body or the HOPC as the value (in whole or in part) of any commission to which he has become entitled (whether or not it has been received by him) in connection with the facts and matters which are subject to the Disciplinary Matter.

5.3. Order for payment of Complainant's expenses¹⁰

An order for payment of Complainant's expenses is an order that the Member pay a sum which will be sufficient to reimburse the Complainant for necessary and reasonably incurred expenses. The sum that can be ordered to be paid shall not exceed €1,000.

5.4. Order that no further action be taken

It is open to the disciplinary body or the HOPC to make order that no further action be taken in respect of a Member. In general, this should only be considered an option where the severity of the Disciplinary Matter is low and in cases that do not involve dishonesty.

Factors which are likely to be persuasive in determining whether it is appropriate to make an such an order:

- The nature and seriousness of the Disciplinary Matter(s) in question i.e. where the severity of the Disciplinary Matter is low and the case does not involve dishonesty;
- Strong mitigating factors;
- An absence of aggravating factors;
- Prompt rectification; and
- Low risk of recurrence.

Before making an order that no further action be taken, the disciplinary body and the HOPC should be satisfied that it is appropriate to do so having regard to the public interest.

⁹ Regulation 41 of the Disciplinary Regulations

¹⁰ Regulation 42 of the Disciplinary Regulations

5.5. Costs

The Disciplinary Tribunal and the Appeal Tribunal have the power to order the Member to pay costs incurred in investigating and considering a Disciplinary Matter. This power to award costs is in addition to any other orders that the Disciplinary Tribunal or Appeal Tribunal may make to include an order that no further action be taken.

The HOPC, an Independent Review Committee and the Conduct Committee can also seek the payment of costs by Consent Order.

An order for costs is separate to a financial order, is not punitive in nature, and can be applied even where a financial order has not been made. Costs will be considered by the disciplinary body or the HOPC after it has decided the appropriate sanction.

The costs recovered may include the following:

- Time spent by Institute staff.
- Fees and expenses paid to Committee and Panel members.
- The cost of any reports obtained.
- Fees and expenses associated with investigating and hearing the Disciplinary Matter, to include but not limited to legal costs and publication costs.

If a Formal Allegation is found not proven in whole or in part, the Member may apply to the Disciplinary Tribunal or Appeal Tribunal for his/her costs, and the relevant Tribunal may direct that the Institute pay the Member some or all of the Member's costs. However, costs do not automatically follow the event and a finding that Formal Allegations have not been proven in whole or in part will not automatically give rise to an award of costs against the Institute.

6. MEMBER'S DISCIPLINARY RECORD

6.1. Matters on a Member's Disciplinary Record which may give rise to further disciplinary action

In accordance with Regulation 19.7 and 19.8, of the Disciplinary Regulations, certain matters may be taken into consideration and shall be treated as rendering a Member potentially liable to further disciplinary action. A list of these matters is contained in Regulation 19.7 and includes:

- Disciplinary Matters in respect of which unpublished cautions have issued.
- Disciplinary Matters which have been resolved through the complaints handling procedure of the Member Firm or through conciliation and have been closed by the HOPC with the consent of the Member. These matters will only be included on the Disciplinary Record in circumstances where the HOPC has directed that the matter may be taken into consideration in accordance with Regulation 19.7.
- Disciplinary Matters which occurred more than six years prior to the Disciplinary Matter being brought to the attention of the HOPC and an investigation was not commenced by the HOPC.

These matters shall render a Member potentially liable to further disciplinary action for a period of three years. Further action may subsequently be taken in respect of such matters in the event of further evidence or further Disciplinary Matters coming to the attention of the HOPC. Such matters may also be taken into consideration and influence decisions of the Executive, the HOPC and the disciplinary bodies.

6.2. Findings and Orders

Where finding(s) and/or orders have been made against a Member, these are retained as part of the Member's Disciplinary Record.

If further findings or orders are made against a Member at a later stage in respect of additional Disciplinary Matters, a Member's Disciplinary Record for the previous six years may be taken into account in respect of any further sanctioning of that member. In addition, details of findings and orders made in respect of a Member may be published together with the name of the Member in accordance with the Publication Policy. See section 7 below.

A publicly accessible register of findings and orders made by disciplinary bodies is maintained by the HOPC.

7. PUBLICITY

The Institute has published a Publication Policy which can be accessed at:
<https://www.charteredaccountants.ie/Professional-Standards/Home>

The Publication Policy contains details of the information that will be published by the Institute in respect of the findings and orders that can be made by the disciplinary bodies or the HOPC. The Publication Policy also describes the manner and the timing of such publication. Publication of findings and orders shall not be considered part of the sanction or a sanction in itself.

As mentioned above, a publicly-accessible register of all findings and orders made is maintained by the HOPC. The register of findings and orders will contain the name and address of the Member unless it has been decided not to publish this information.

8. REASONS

The relevant disciplinary body and the HOPC will document reasons for their decisions in respect of sanction.

Glossary

“Affiliate” is the meaning given in the Principal Bye-laws.

“Appeal Panel” means a panel of person appointed under the Disciplinary Bye-laws from whom the members of the Appeal Tribunals and Independent Review Committees are selected.

“Appeal Tribunal” means a tribunal appointed under Regulation 12.2 to hear an appeal.

“Chartered Accountant” means a Member or a member of the body of Accountants recognised as being equivalent standing in the Institute in accordance with the provisions of Principal Bye-Law 40.

“Complainant” means the “person (other than officer or employee of the institute acting in such capacity) who brings a Complaint to the attention of the Head of Professional Conduct and where, such person has died, includes the personal representatives of such person.

“Complaint” means a communication made in writing to the Head of Professional Conduct expressing concern or dissatisfaction with the conduct or performance of a Member, Member Firm, Student or Affiliate.

“Conduct Committee” means the Conduct Committee as appointed under the Disciplinary Bye-laws.

“Consent Order” means an order made with the consent of a Member, Member Firm, Student or Affiliate.

“Disciplinary Bye Laws” means the Disciplinary Bye-laws of the Institute.

“Disciplinary Matter” means one or more Events which appear to give rise to liability to disciplinary action in accordance with the Disciplinary Bye-law 8 which come to the attention of the Head of the Professional Conduct by way of Complaint or otherwise.

“Disciplinary Record” means in relation to any Member, Member Firm, Student or Affiliate a record comprising all orders and findings to which Member, Member Firm, Student or Affiliate has at any time been subject, being orders and findings capable of being made in accordance with the Disciplinary Regulations.

“Disciplinary Tribunal” means a tribunal appointed under Regulation 10.2 to hear a Formal Allegation or to hear an application for an Interim Order under Regulation 30.2.

“Event” means an act, omission, fact or circumstance.

“Executive” means staff of the Institute who assist in carrying out the functions of set out in the Disciplinary Bye-Laws and Regulations.

“Formal Allegation” means one or more formal allegations to be heard by a Disciplinary Tribunal in accordance with these regulations.

“Head of Professional Conduct” (‘HOPC’) means the Head of Professional Conduct for the time being by whatever title he or she may be called or any deputy to such person, or any person acting in such capacity by the direction of the Council, or, to the extent of such delegation, any person to whom any of his or her powers, authorities and discretions has been delegated.

“Independent Review Committee” means a Committee appointed from members of the Appeal Panel under Regulation 14.1.

“Institute” means the Institute of Chartered Accountants in Ireland operating as Chartered Accountants Ireland and where the context so requires or permits, includes any person, committee, or other body appointed or authorised by it (including without limitation, the Council, the Professional Standards Board, any Disciplinary Body, or any officer or member of staff of the Institute).

“Interim Order” means an order for a specified period (for the avoidance of doubt, such period may exceed one year), or until the termination or conclusion of a Disciplinary Matter, suspending such rights, privileges, membership and / or status as a Student or Affiliate as a Tribunal may determine and / or imposing such conditions as the Tribunal may determine.

“Member” has the meaning given to in the Principal Bye-laws. However, throughout this Sanction Guidance, a reference to a Member includes a Member, Member Firm, Student or Affiliate unless the context suggests otherwise.

“Member Firm” has the meaning given to in the Principal Bye-laws.

“Misconduct” means:

- a) any serious act or omission likely to bring a Member, Member Firm, Student or Affiliate, the Institute or the regulated profession of accountancy into disrepute, whether in the course of carrying out his, her or its professional duties or otherwise; or
- b) a serious falling short of the standards reasonably to be expected of a Member, Member Firm, Student or Affiliate whether in the course of carrying out his, her or its professional duties or otherwise including but not limited to:
 - i. breaches of undertakings or consents given to Disciplinary Bodies or Regulatory Committees; and/or
 - ii. breaches of the standards of the Institute to such an extent, or on such number of occasions, as to call into question the competence of the Member, Member Firm, Student or Affiliate.

“Poor Professional Performance” means any act or omission by a Member, Member Firm, Student or Affiliate, whether in the course of carrying out his, her or its professional duties or otherwise which falls below the standards reasonably to be expected of a Member, Member Firm, Student or Affiliate but which does not amount to Misconduct.

“Principal Bye-Law” means the Principal Bye-laws of the Institute.

“Professional Standards Board” means the board (by whatever name called) to which the Council of the Institute has delegated the function of appointing persons to be members of the Regulatory Committees and Disciplinary Bodies.

“Publication Policy” means any policy on publication which Council may from time to time adopt.

“Regulatory Committees” means the Quality Assurance Committee, the Quality Assurance Review Committee, the Quality Assurance Appeal Committee and the Insolvency Licensing Committee appointed by the Professional Standards Board and any predecessor or successor to any such committee and **“Regulatory Committee”** means any of them.

“Student” has the meaning given in the Principal Bye-laws.

“Tribunal” means the Disciplinary Tribunal or Appeal Tribunal.

“United Kingdom” means the United Kingdom, Great Britain, Northern Ireland, (including Channel Islands and the Isle of Man).

APPENDIX 1 - INDICATIVE SANCTION GUIDANCE

The following Indicative Sanction Guidance has been divided into Table A and Table B. These Tables have been provided to assist the disciplinary body and the HOPC to decide the most appropriate and proportionate sanction. The Tables have been provided by way of guidance and are not exhaustive.

Table A contains six categories of Disciplinary Matters and provides guidance on factors that should be taken into account when considering the seriousness of each category of Disciplinary Matter.

Table B contains the same categories of Disciplinary Matters which are further sub-divided and provides an indicative sanction in respect of each sub-category of Disciplinary Matter depending on the level of severity of the Disciplinary Matter.

Where a disciplinary body or the HOPC decides that an order sanctioning a member is appropriate it should:

- c. First, decide whether the Disciplinary Matter is of high, medium or low severity by reference to the relevant factors contained in Table A; and
- d. Secondly, once it has decided the severity of the Disciplinary Matter identify from Table B the relevant sub-category of Disciplinary Matter and the sanction to be applied.

In Table B there is a suggested starting point for the sanction depending on the nature and the seriousness of the Disciplinary Matter. This is not a tariff or a “going rate” but it simply indicates where the disciplinary body or HOPC might start when it looks at all the relevant factors relevant to deciding the sanction.

Once the disciplinary body or the HOPC has decided the most appropriate starting point, it takes into account any aggravating or mitigating factors before deciding whether it is appropriate to reduce or increase the sanction. The disciplinary body or the HOPC may decide on a more or less severe sanction than the starting point depending on the circumstances of the case.

TABLE A

Severity of Disciplinary Matters

Table A contains six categories of Disciplinary Matters and provides guidance on factors that should be taken into account when considering the seriousness of each category of Disciplinary Matter.

No.	Disciplinary Matter	Relevant factors when categorising severity as High, Medium, Low
A.	Criminal convictions and other adverse findings	<ul style="list-style-type: none"> • Severity and nature of offence; • Level of threat to the Public Interest; • Nature and severity of finding of professional body; • Level of member's responsibility; • Conduct in a professional or personal capacity; • Personal gain, fraud or financial impropriety; • Abuse of position of trust; • Prejudice / consequences to third parties; • Admission of guilt prior to conviction; • Offence indictable or summary; • Sentence imposed.
B.	Regulatory Offences	<ul style="list-style-type: none"> • Nature, extent and number of breaches/offences; • Breach is indicative of systematic weakness; • Lack of knowledge of applicable regulations/standards or guidance; • Level of threat to public interest; • Temporary practice problems caused by issues outside member's reasonable control; • Extent and level of work undertaken without authorisation; • Period of time involved; • Number of clients engaged; • Intent or reckless conduct; • Grounds to believe authorisation/PII was not required/firm was authorised/had PII in place; • Misrepresentation/prejudice to third parties; • Level of benefit obtained (e.g. fees); • Genuine attempt to act in client's interest;

No.	Disciplinary Matter	Relevant factors when categorising severity as High, Medium, Low
		<ul style="list-style-type: none"> • CPD breach: Genuine or reasonable believe of exemption from CPD requirements; • Failure to co-operate with the Institute: Period of time concerned, urgency and complexity of communications from the Institute.
C.	Practice Management and anti-money laundering failures	<ul style="list-style-type: none"> • Scale of breach or failure; • Level of threat to the public interest; • Prejudice / consequences to third parties; • Level of sums of money concerned; • Period of time involved; • Intent or reckless conduct; • Improper influence of third parties on member; • Benefit obtained by the member; • Offence once-off or indicative of systematic weaknesses; • Member attempted to follow guidance; • Member showed lack of knowledge of legislation/regulatory guidance; • Abuse of breach of trust; • Provision of misleading information; • Misfortune or matters beyond member’s reasonable control.
D.	Audit Offences	<ul style="list-style-type: none"> • Extent and level of audit work undertaken; • Level of threat to the public interest. • Period of time involved; • Number of clients engaged; • Intent or reckless conduct; • Grounds to believe authorisation was not required/firm was authorised; • Misrepresentation/prejudice to third parties; • Level of benefit obtained (e.g. level of fees) and losses avoided; • Genuine attempt to act in client’s interest; • Number of audit reports signed by the member; • Complexity of the audit work; • Deliberate or reckless disregard of applicable audit standards/guidance; • Fault attributable to client/third parties;

No.	Disciplinary Matter	Relevant factors when categorising severity as High, Medium, Low
		<ul style="list-style-type: none"> • Isolated instance with audit work of a general good standard • the financial strength of the member; • the level of co-operation received from the member in the course of the handling of the disciplinary matter; • previous disciplinary findings and orders or regulatory findings and orders which occurred within six years of the event giving rise to liability to disciplinary action.
E.	Ethical Breaches	<ul style="list-style-type: none"> • Nature, extent and number of breaches; • Level of threat to the public interest. • Breach is indicative of a widespread ethical weakness; • 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 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; • Practice problems beyond a member's reasonable control; • Genuine attempt to act in the client's interest; • Conflict of interest: nature of conflict, and whether clients were happy for member to act; • Failure to cooperate/communicate: period of time concerned, urgency and complexity of request, whether information could have been provided by client, any fault attributed to third parties.
F.	Professional Incompetence	<ul style="list-style-type: none"> • Level and extent of defective work undertaken; • Level of threat to the public interest. • Complexity of work done defectively; • Number of clients affected; • Prejudice to third parties; • Lack of understanding of client; • Deliberate or reckless disregard of applicable standards/guidance; • Fault attributable to the client/third parties; • Isolated instance with work of a generally good standard;

No.	Disciplinary Matter	Relevant factors when categorising severity as High, Medium, Low
		<ul style="list-style-type: none">• Level of inadequacy;• Period of time concerned;• Temporary practice problems caused by issues outside member's reasonable control.

TABLE B**Indicative Sanction**

Table B contains six the categories of Disciplinary Matters set out in Table A above, which have been further subdivided and provides an indicative sanction in respect of each sub-category of Disciplinary Matter depending on the level of severity of the Disciplinary Matter.

No.	Disciplinary Matter	Severity	Indicative financial sanction ¹¹	Indicative Non-financial sanction
A.	Criminal convictions and other adverse findings			
1.	Criminal conviction for indictable offence and/or sentence of imprisonment	High	Not set	Exclusion
2.	Criminal conviction for a non-indictable offence with no sentence of imprisonment	High Medium Low	Not set €10,000 €2,500	Exclusion Severe reprimand Reprimand

¹¹ The fines are listed in the table in EURO, and it is necessary to convert to obtain the sterling equivalent fine.

No.	Disciplinary Matter	Severity	Indicative financial sanction	Indicative Non-financial sanction
B.	Regulatory Offences			
1.	Undertaking investment business work without authorisation	High Medium	Not set €10,000	Exclusion Severe reprimand
2.	Breach of applicable Investment Business Regulations, DPB regulations, standards or guidance	High Medium Low	€10,000 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
3.	Breach of applicable CPD regulations, standards or guidance	High Medium Low	€6,800 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
4.	Practising without a current practising certificate and/or professional indemnity insurance	High Medium Low	Not set €10,000 €2,500	Exclusion Severe reprimand Reprimand
5.	Breach of public practice regulations, standards or guidance or regulations, standards, legislation or guidance relating to Personal Identifiable Information/Data Protection	High Medium Low	€10,000 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
6.	Failure to cooperate with the Institute	High Medium Low	€6,800 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
7.	Disqualification from acting as a director or an accepted director disqualification undertaking	High Medium	Not set €10,000	Exclusion Severe reprimand

No.	Disciplinary Matter	Severity	Indicative financial sanction	Indicative Non-financial sanction
8.	Other misconduct as a company director	High Medium Low	Not set €10,000 €2,500	Exclusion Severe reprimand Reprimand
9.	Misconduct as trustee/other positions of trust	High Medium Low	Not set €10,000 €2,500	Exclusion Severe reprimand Reprimand
10.	Adverse finding from another regulatory/professional body	High Medium Low	Level of sanction and financial penalty may be influenced by the level of sanction and financial penalty applied by the other body.	

No.	Disciplinary Matter	Severity	Indicative financial sanction	Indicative Non-financial sanction
C.	Practice Management and anti-money laundering failures			
1.	Breaches of anti-money laundering legislation or failure to follow anti-money laundering guidance.	High Medium	Not set €10,000	Exclusion Severe reprimand
2.	Offences relating to clients' money	High Medium Low	€10,000 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
3.	Failure to exercise appropriate supervision over staff	High Medium Low	Not set €10,000 €2,500	Severe reprimand Reprimand Unpublished caution
4.	Improper marketing of professional services	High Medium Low	€6,800 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
5.	Insolvency event for entity in which member is or was previously a principal (excluding members voluntary liquidation)	High Medium Low	Not set €10,000 €2,500	Exclusion Severe reprimand Reprimand

No.	Disciplinary Matter	Severity	Indicative financial sanction	Indicative Non-financial sanction
D.	Audit Offences			
1.	Undertaking audit work without audit authorisation	High Medium	Not set €10,000	Exclusion Severe reprimand
2.	Signing an audit report when not an Responsible Individual	High Medium	Not set €10,000	Exclusion Severe reprimand
3.	Audit work of a defective standard	High Medium Low	€10,000 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
4.	Breach of applicable audit regulations, standards or guidance	High Medium Low	€10,000 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution

No.	Disciplinary Matter	Severity	Indicative financial sanction	Indicative Non-financial sanction
E.	Ethical Breaches			
1.	Breach of the fundamental principles	High Medium Low	Not set €10,000 €2,500	Severe reprimand Reprimand Formal written warning
2.	Conflict of Interest	High Medium Low	€10,000 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
3.	Failure to cooperate or communicate	High Medium Low	€6,800 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution

No.	Disciplinary Matter	Severity	Indicative financial sanction	Indicative Non-financial sanction
F.	Professional Incompetence			
1.	Accounts or tax work/advice of a defective standard	High Medium Low	€6,800 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution
2.	Inadequate attention to client's affairs	High Medium Low	€6,800 €2,500 €1,500	Severe reprimand Reprimand Unpublished caution

COMMON SANCTIONS GUIDANCE

Part 1

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.

2 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.

3 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.

4 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.

5 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 sanction¹²
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

¹² Indicative fines in this appendix are shown in pounds sterling as the sanctions are derived from the Common Sanctions Guidance of the five recognised professional bodies which license insolvency practitioners in the UK.

	Allegation	Non-financial sanction	Starting point for financial sanction¹²
5	Drawing of excess remuneration that has been deemed unfair or unreasonable	<ul style="list-style-type: none"> a) Severe reprimand b) Severe reprimand c) Reprimand 	<ul style="list-style-type: none"> a) Fine of £7,500 b) Fine of £5,000 c) Fine of £1,500
6	Failure to submit returns (e.g., CDDA returns) or a delay in submitting returns where the delay is likely to impact on the conduct of the insolvency appointment	<ul style="list-style-type: none"> a) Severe reprimand b) Reprimand c) Reprimand 	<ul style="list-style-type: none"> a) Fine of £5,000 b) Fine of £2,000 c) Fine of ,£1000
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	<ul style="list-style-type: none"> a) Severe reprimand b) Reprimand c) Reprimand 	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> a) Severe reprimand b) Reprimand 	<ul style="list-style-type: none"> a) Fine of £7,500 b) Fine of £2,000

	Allegation	Non-financial sanction	Starting point for financial sanction¹²
9	Failure to comply with the principles of a SIP, the Insolvency Act and rules and regulations thereunder	<ul style="list-style-type: none"> a) Severe reprimand b) Severe reprimand c) Reprimand 	<ul style="list-style-type: none"> a) Fine of £7,500 b) Fine of £5,000 c) Fine of £1,500
10	Failure to take adequate steps to realise assets	<ul style="list-style-type: none"> a) Severe reprimand b) Reprimand c) Reprimand 	<ul style="list-style-type: none"> a) Fine of £7,500 b) Fine of £2,000 c) Fine of £1,500
11	Delay in progressing administration of an insolvency estate	<ul style="list-style-type: none"> a) Severe reprimand b) Reprimand c) Reprimand 	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> a) Severe reprimand b) Reprimand c) Reprimand 	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> a) Exclusion and consideration of licence withdrawal b) Severe reprimand 	<ul style="list-style-type: none"> a) Fine of £10,000 b) Fine of £5,000
2	Failure to comply with the fundamental principle of objectivity	<ul style="list-style-type: none"> a) Exclusion b) Severe reprimand c) Reprimand 	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> a) Exclusion b) Severe reprimand c) Reprimand 	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> a) Exclusion b) Severe reprimand c) Reprimand 	<ul style="list-style-type: none"> a) Fine of £5,000 b) Fine of £3,000 c) Fine of £1,500

	Allegation	Non-financial sanction	Starting point for financial sanction
5	Failure to comply with the fundamental principle of professional behaviour	<ul style="list-style-type: none"> a) Exclusion b) Severe reprimand c) Reprimand 	<ul style="list-style-type: none"> 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, warning 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