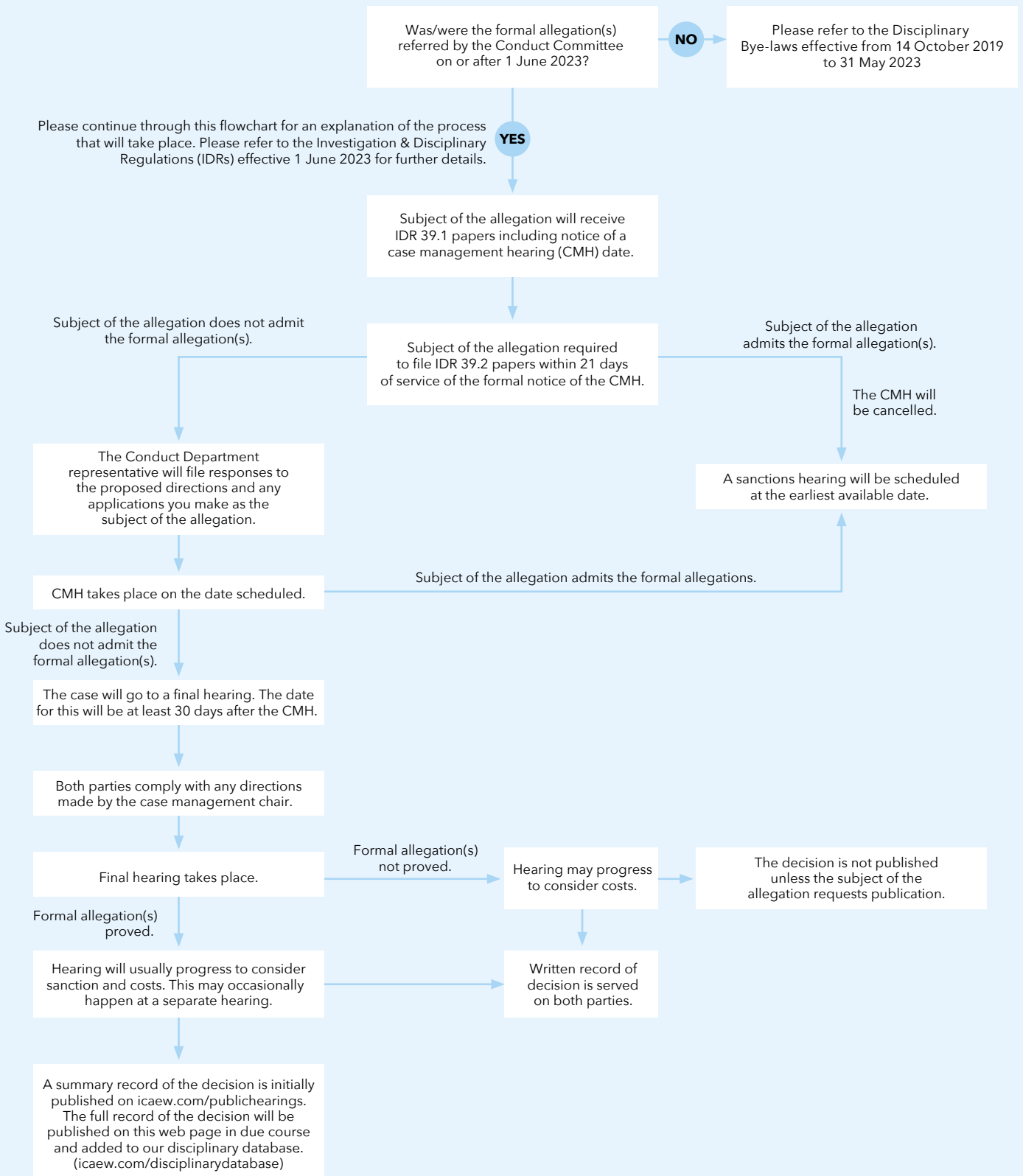


# APPEARING BEFORE THE DISCIPLINARY COMMITTEES

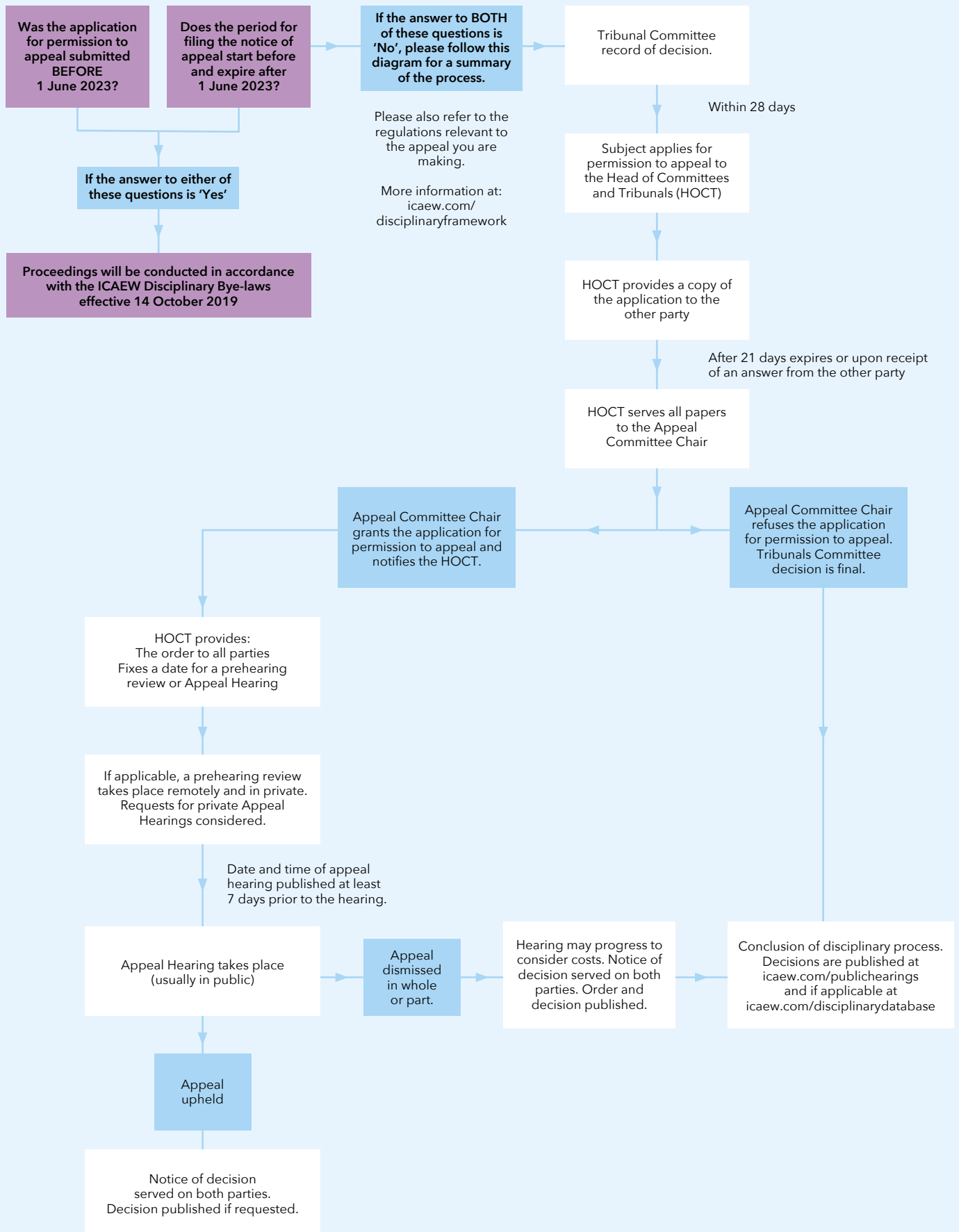
[icaew.com/complaints](https://www.icaew.com/complaints)



# OVERVIEW OF THE ICAEW DISCIPLINARY PROCESS



# OVERVIEW OF THE ICAEW APPEAL PROCESS



## APPEARING BEFORE ICAEW'S DISCIPLINARY COMMITTEES

This leaflet explains the hearings process for formal allegations received by ICAEW about ICAEW members/firms and others that are regulated and monitored by ICAEW. It also contains information about publicity, rights of appeal and who and what is involved at the different stages. Most allegations are dealt with by the Conduct Committee (CC) in the first instance, the most serious of which are then referred to the Tribunals Committee (TC). There is a fast track process for 'serious convictions' which may result in matters being referred directly to the TC following an investigation. Both the CC and the TC comprise of at least 50% non-accountants who are appointed by an independent committee, the Regulatory and Conduct Appointments Committee. The ICAEW disciplinary process is overseen by an independent board, the ICAEW Regulatory Board ([icaew.com/irb](http://icaew.com/irb)).

### WHO IS THIS LEAFLET FOR?

This leaflet is for ICAEW members, member firms, affiliates or other relevant persons who are subject to ICAEW's Disciplinary Bye-laws who will be taken through the process and may ultimately appear before a panel of the TC. It explains ICAEW's disciplinary process and tells you what will happen at the hearing. You'll also find out about your rights, including your rights of appeal and what to do if you need more information.

### THE HEARINGS

Following any referral to the TC, the first hearing will be a case management hearing (CMH). We will give you at least five weeks' notice of this hearing which we will confirm by letter. We will also send you Investigation and Disciplinary Regulation 39.1 papers:

- a copy of the formal allegations report received from the Conduct Department for consideration by the TC;
- any application made by the Conduct Department for the hearing to be heard in private;
- formal notice of the date, time and arrangement for the CMH;
- a response form (see below); and
- a copy of the standard directions (examples of common requirements that the chair of the CMH may make of either party).

Important note: The Investigation and Disciplinary Regulations set out rules about the documents and evidence you should file before the CMH. If you admit the formal allegation(s) in full, you should indicate this on the response form and the formal allegation(s) can be listed for an early sanctions hearing. If you do not admit the formal allegation(s) in full and/or wish to make an application for a private hearing, the formal allegation(s) will be listed for a CMH.

Investigation and Disciplinary Regulation 39.2 requires you to file the following documents within 21 days of service of the formal notice of the CMH:

- a completed response form;
- a response statement (unless the formal allegation or formal allegations are admitted in their entirety on the response form);
- an application for a private hearing (if you wish to make one) or any response to a private hearing application made by the Conduct Department;
- any witness statements you wish to rely on;
- your availability, and that of your witnesses and legal representatives, for the following six months; and
- a copy of the standard directions with any proposed amendments, deletions or any alternative directions that you wish to propose.

Conduct Counsel, on behalf of the Conduct Department, will be given the opportunity to respond to any application you make for a private hearing, and to make any proposals for directions. If they do respond, copies will be provided to you before the CMH. The Committees and Tribunals Team will provide copies of the documents filed by the parties to the case management chair before the CMH.

### WHAT HAPPENS AT THE CMH?

The CMH will usually take place via telephone or video conference and will not be in public. Exceptionally, if the issues are complex, you may be asked to attend the hearing in person. Details of how to dial in to the hearing will be sent to you with the notice of the hearing. Both parties are expected to dial in to the hearing unless they have agreed directions and provided their dates of availability for the final hearing. A CMH may proceed in the absence of either party. The case management chair must be satisfied that each party has been notified of the date, time, location or format of the CMH in accordance with the Investigation and Disciplinary Regulations and that proceeding is desirable for securing the just, expeditious and economic disposal of the formal allegation(s).

CMHs are conducted by a case management chair who is experienced at chairing tribunal hearings. The purpose of a CMH is to give the parties an opportunity to clarify the allegation(s) or the defence that is being advanced. The chair may ask questions of both parties to establish:

- the issues in the case;
- if evidence can be agreed;
- if they need to issue directions to help the parties and/or the tribunal to understand the matters in question; and
- to ensure the formal allegation(s) is/are ready for the final hearing.

The chair may also make decisions on applications/ requests made by you, such as an application for a private hearing, or for evidence to be admitted or witnesses to attend the final hearing.

Important note: If you want to rely on evidence at a final hearing it will need to be provided before the CMH. It is unlikely that evidence, which is filed late, ie, after the CMH, will be admitted at the final hearing.

At the end of the CMH, the chair will tell you the date of the final hearing and appoint the panel that will hear the formal allegations(s). If you are not at the CMH, the date of the final hearing will be set in accordance with the available dates you have already sent. If you have not sent us details of your availability, it will be assumed that you are available on the date set for the final hearing. The final hearing will be at least 30 days after the CMH unless you agree to an earlier hearing.

Within seven days after the CMH, ICAEW normally publishes at [icaew.com/publichearings](https://www.icaew.com/publichearings):

- your name;
- the Disciplinary Bye-law it is alleged you have breached; and
- the date, time, and place of the final hearing.

You can ask for the hearing (or part of it) to be held in private but you must have a good reason. If you think a private hearing is necessary, please write to the case management chair. Your request must arrive with the papers you send in response to the notice of the CMH.

### WHAT HAPPENS AT THE FINAL HEARING?

When a panel of the TC hears the formal allegation(s), the process is similar to that of a court hearing, but the procedure is less formal. Hearings take place either online via video conferencing facilities or in person in Central London and are normally open to the public. You may attend or you can be represented by a solicitor, barrister, an ICAEW member or (with the agreement of the panel) any other person. The chair of the panel will lead an introduction of all participants in the room at the start of the hearing. ICAEW is represented by a member of staff (called the Conduct Counsel) who is usually a solicitor, or a barrister. Both sides can call and question witnesses but should get permission at the CMH to call witnesses and produce documents. If you want to produce documents or witnesses at the last minute

you will need permission from the chair of the final hearing. This will usually be refused unless you have a good reason for not applying earlier. You may also be required to pay any costs that are incurred because of a late application. It should be noted that witnesses do not give evidence under oath in ICAEW proceedings. After the hearing, if you decide to appeal, we will provide you with a full copy of the documents which were used at the final hearing.

### WHAT HAPPENS AT A SANCTIONS HEARING?

If you admit all the formal allegation(s) against you, you can ask for a sanctions hearing. A sanctions hearing will be listed for a shorter period (usually half a day or less and will be decided by a three-person panel). The tribunal will ask you to confirm you admit the formal allegation(s), and Conduct Counsel will summarise the formal allegation(s) and may make representations for a particular sanction. You will have the opportunity to speak to the tribunal and explain the background to the allegation(s) and any mitigating factors. You may also provide character references. You should be prepared to answer questions from the panel. The panel will decide on sanction, costs, and publicity, as explained below. Unlike at a full final hearing, the evidence is not heard at a sanctions hearing because the formal allegation(s) have been admitted. Sanctions hearings are therefore usually shorter, which may be reflected in any costs you might be ordered to pay.

### WHAT IS A SANCTION?

If the tribunal finds the formal allegation(s) proved, it will consider what sanction, if any, to make against you. Disciplinary Bye-law 11 sets out the range of sanction orders available to the TC. The panel will also refer to ICAEW's Guidance on Sanctions and will take into account any aggravating and mitigating circumstances (including any previous disciplinary record) and your financial situation. If you want the panel to consider your financial situation, you need to be prepared to make a sworn statement of means and attend with evidence of your income, assets and liabilities. The panel may, as examples, issue a:

- caution
- reprimand;
- severe reprimand:
- withdraw your practising certificate indefinitely or for a specified period;

- exclude you from ICAEW membership;
- suspend you from membership for a specified period;
- require you to undertake specified training;
- impose a financial penalty; or
- make no sentencing order.

The panel may order you to waive, reduce or return any fees or commission. It may also insist that you take remedial action at your own expense to resolve the issues that gave rise to the disciplinary proceedings.

### COSTS

The panel may order you to pay costs, including the costs of the investigation and the hearing. If you do not pay any fines and costs ordered by the panel on time (normally within 35 days of receiving the written record of decision) your ICAEW membership will be ceased irrespective of the sanction issued. Even if this happens, you will still have to pay any outstanding fines and costs. If the panel does not find the allegation(s) proved, it may, in exceptional circumstances, order ICAEW to pay you some of the costs you have incurred since the allegation(s) was/were referred to the TC.

### PUBLICITY

If the TC finds the allegation(s) proved, we will publish details of your name, the allegation and the TC's decision, at [icaew.com/publichearings](https://www.icaew.com/publichearings), in accordance with our Disciplinary Database Policy. The details will also be uploaded to our searchable Disciplinary Database ([icaew.com/disciplinarydatabase](https://www.icaew.com/disciplinarydatabase)). These reports will usually mention your name.

### APPEALS

You can seek permission to appeal against a finding or sanction, but you must do so in writing within 28 days of receiving the written decision. The Conduct Department may also apply for permission to appeal within the same period where the circumstances outlined in IDR 61.2 apply. Your application for permission to appeal will be considered by the Appeal Committee Chair. If the Appeal Committee Chair refuses the application for permission, this will

conclude disciplinary proceedings and the orders of the TC shall come into effect and be published as appropriate.

If the Appeal Committee Chair allows permission to appeal, a pre-hearing review may be set, or the Appeal Committee Chair may direct that a hearing date be fixed. The Appeal Committee (AC) works in panels of five; two chartered accountants, two non-accountants and a legally qualified chair. A panel of the AC will hear your appeal. It will look at the decision that was made by the panel of the TC and may sometimes hear fresh evidence if it was not available at the time the matter was considered by the TC. The grounds for an appeal are set out in IDR 62.1. The AC can increase or reduce any penalty and, depending on the outcome of the appeal, it may order you to pay the costs of the appeal. The powers of the AC are set out in the Investigation and Disciplinary Regulations (IDRs) at [icaew.com/regulation](https://www.icaew.com/regulation). The rules governing publicity can also be found in the IDRs.

## REGULATORY COMMITTEES

If the formal allegation is against an individual or firm overseen by ICAEW for regulated areas of work such as audit, insolvency, investment business or probate, we may, where necessary, inform the relevant regulatory committee about the decision of the TC. These committees will decide whether to take any regulatory action such as withdrawing the firm's registration or licence to work within the relevant regulated area. If the formal allegation involves members of other regulatory bodies, the relevant body is notified of the decision and provided with all relevant information.

## FREQUENTLY ASKED QUESTIONS

### What is the Tribunals Committee?

This committee decides formal allegations against ICAEW members/firms/affiliate or relevant person. These formal allegations are referred by the Conduct Committee. The Tribunals Committee consists of at least 14 members – at least half of who must be lay members (non-accountants). It meets in panels of three; two lay members and one ICAEW Chartered Accountant.

### Who are the Committees and Tribunals Team?

The Committees and Tribunals team is responsible for managing and supporting the operational delivery of regulatory and disciplinary hearings and meetings. The team is also responsible for serving papers on the parties, the listing and administration of hearings and is the first point of contact for parties involved in disciplinary or fitness to practise proceedings. It receives applications, notices and documents from parties and can be contacted at ICAEW, Professional Standards Department, Committees and Tribunals Team, Metropolitan House, 321 Avebury Boulevard, Milton Keynes, MK9 2FZ UK.

### Do I need a solicitor or barrister to represent me?

ICAEW does not require you to have a solicitor or barrister to represent you. However, it is usually a good idea to get a solicitor or barrister to represent you, particularly if the formal allegation(s) against you is/are serious; for example, if you might be excluded from ICAEW membership or if you might lose your practising certificate. If the formal allegation is complicated and if you want to call a witness, you may also want to ask a solicitor or barrister to represent you. If you are thinking of consulting a solicitor or barrister, please do so as soon as possible.

### How can I find out what the sanction order might be?

The TC considers each case on the particular facts and circumstances relevant to it. However, the Guidance on Sanctions gives guidance to all committees that can make a sanction order and is available at [icaew.com/sanctions](https://www.icaew.com/sanctions). This will provide a good understanding of what the sanction order might be for a particular allegation.

### Do I have to attend the CMH and final hearing?

You do not have to attend the CMH or final hearing, but it is a good idea to be there if you want to contest an allegation or to explain to the panel any mitigating circumstances in relation to your conduct for consideration at the sanction stage. The CMH usually takes place via telephone or video-conferencing facilities (unless the formal allegation(s) is/are complex. You can either attend on your own or you can ask a solicitor, barrister or another ICAEW member to represent you. If you cannot attend, please send your apologies (email is acceptable). If the panel is likely to impose a financial penalty, it is



a good idea to provide written proof of your financial means. If you do not the panel will assume that you will have no difficulty paying any fine and costs.

**Can I ask for the CMH to be held on another date?**

Your attendance at the CMH must take priority over all other engagements, both professional and personal. If you have a compelling reason to ask for a change of date (for example, because you will be admitted to hospital or will be appearing in court on that date), please write to the Committees and Tribunals Team as soon as possible and include evidence of your conflicting commitment. It is usually possible to change the date of the CMH if there is a good reason for the application and it is made in good time.

**Can I ask for the final hearing to be held on another date?**

If you do not let the Chair at the CMH know the dates you are unavailable and subsequently ask for the date of the final hearing to be changed this is unlikely to be granted, except for medical reasons. You do not have the right to insist on a change of date. You may write to the Committees and Tribunals Team and formally request that the date be changed. In these circumstances the decision will be made by the chair of the CMH. If the chair refuses your application, on the day of the final hearing you or your representative can apply to the tribunal for the hearing to be postponed. However, you should be prepared for the final hearing to go ahead if your application is refused, or if the application is successful, to pay the costs of the wasted hearing. If we can hold the hearing on a different date, we will let you know.

**WHERE CAN I FIND OUT MORE?****FURTHER QUESTIONS?**

If you have any further questions, please call the Committees and Tribunals Team on +44 (0)1908 546 293, or contact [diane.waller@icaew.com](mailto:diane.waller@icaew.com) or [vanessa.broxham@icaew.com](mailto:vanessa.broxham@icaew.com)

If you'd like more information on ICAEW's disciplinary arrangements, please consult

- the Disciplinary Bye-laws  
[icaew.com/dbls](http://icaew.com/dbls)
- the Investigation and Disciplinary Regulations  
[icaew.com/regulation](http://icaew.com/regulation)
- Guidance on Sanctions  
[icaew.com/sanctions](http://icaew.com/sanctions)



Chartered accountants are talented, ethical and committed professionals. ICAEW represents more than 202,450 members and students around the world. All of the top 100 global brands employ ICAEW Chartered Accountants.\*

Founded in 1880, ICAEW has a long history of serving the public interest and we continue to work with governments, regulators and business leaders globally. And, as a world-leading improvement regulator, we supervise and monitor around 12,000 firms, holding them, and all ICAEW members and students, to the highest standards of professional competency and conduct.

We promote inclusivity, diversity and fairness and we give talented professionals the skills and values they need to build resilient businesses, economies and societies, while ensuring our planet's resources are managed sustainably.

ICAEW is the first major professional body to be carbon neutral, demonstrating our commitment to tackle climate change and supporting UN Sustainable Development Goal 13.

ICAEW is a founding member of Chartered Accountants Worldwide (CAW), a global family that connects over 1.8m chartered accountants and students in more than 190 countries. Together, we support, develop and promote the role of chartered accountants as trusted business leaders, difference makers and advisers.

We believe that chartered accountancy can be a force for positive change. By sharing our insight, expertise and understanding we can help to create sustainable economies and a better future for all.

[charteredaccountantsworldwide.com](https://www.charteredaccountantsworldwide.com)  
[globalaccountingalliance.com](https://www.globalaccountingalliance.com)

## ICAEW's regulatory and conduct roles

Our role as an improvement regulator is to strengthen trust in ICAEW Chartered Accountants and firms. We do this by enabling, evaluating and enforcing the highest standards in the profession.

ICAEW's regulatory and conduct roles are separated from ICAEW's other activities through internal governance so that we can monitor, support or take steps to ensure change if standards are not met. These roles are carried out by the Professional Standards Department (PSD) and overseen by the ICAEW Regulatory Board (IRB).

We:

- **authorise** ICAEW firms, members and affiliates to undertake work regulated by law: audit, local audit, investment business, insolvency and probate;
- **support** the highest professional standards in general accountancy practice through our Practice Assurance scheme;
- **provide** robust anti-money laundering supervision and monitoring;
- **monitor** ICAEW firms and insolvency practitioners to ensure they operate correctly and to the highest standards;
- **investigate** complaints and hold ICAEW firms and members to account where they fall short of standards;
- **respond** and comment on proposed changes to the law and regulation; and
- **educate** through guidance and advice to help stakeholders comply with laws, regulations and professional standards.

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\* includes parent companies. Source: ICAEW member data March 2023, Interbrand, Best Global Brands 2022