



***Draft Readmission and
Re-registration
Application and Appeal
Regulations for
consultation***

FEBRUARY 2022

Readmission and Re-registration Application and Appeal Regulations

Citation, authority and commencement

1. These regulations may be cited as the Readmission and Re-registration Application and Appeal Regulations of the Institute of Chartered Accountants in England and Wales (ICAEW) (the '**regulations**').
2. These **regulations** were made by the ICAEW Regulatory Board in accordance with clause 16 of the Supplemental Charter and Principal Bye-law 49 on [TBC] and took effect on [TBC]. Subject to **regulation 11**, from [TBC] the Fitness Committee (Admission to Provisional Membership, Re-registration and Readmission) Regulations (1 January 2018) and the Appeal Committee Regulations (1 January 2021) are, as they relate to readmission and re-registration applications, repealed.

Interpretation

3. In these **regulations**, defined terms are indicated in **bold and italics** and are defined as follows:

answer means an *answer* by ICAEW to an *appeal*, which shall include any documentation appended in support of the response.

appeal means an *appeal* by an *applicant* in accordance with the *principal regulations* and these *regulations* against a decision by a *Fitness to Practise Panel* to refuse re-admission to, or re-registration with, ICAEW.

appeal application fee means the fee which is prescribed by the ICAEW Regulatory Board at the time a *notice of appeal* is served by an *applicant* in accordance with *regulation 44* and which must be paid for the *appeal* process to commence.

Appeal Committee means the Appeal Committee of ICAEW whose members are convened into *Appeal Panels* to consider, among other matters, *appeals* in readmission and re-registration cases made in accordance with the *principal regulations* and these *regulations*.

Appeal Committee Chair means the person who is appointed from time to time as Chair of ICAEW's *Appeal Committee* by the RACAC (or relevant predecessor or successor body). The *Appeal Committee Chair* may delegate their administrative responsibilities under these *regulations* to the *Head of Committees and Tribunals*.

Appeal Committee Vice-Chair means any person who is appointed from time to time as a Vice-Chair of ICAEW's *Appeal Committee* by the RACAC (or relevant predecessor or successor body).

appeal hearing means a substantive *hearing* of the *Appeal Panel* to determine an *appeal*.

Appeal Panel means a panel of the *Appeal Committee* appointed by the *Appeal Committee Chair* to determine an *appeal*, which shall comprise three *lay members* and two *members*. One of the three *lay members* shall be either the *Appeal Committee Chair* or an *Appeal Committee Vice-Chair* who shall be appointed as Chair of the *Appeal Panel*.

Appeal Panel Chair means the member of the *Appeal Committee* who is appointed by the *Appeal Committee Chair* as the Chair of an *Appeal Panel* (and who may be the *Appeal Committee Chair* themselves) and who shall chair an *appeal hearing* and any *pre-hearing review*.

appeal proceedings means the proceedings leading up to, and during, an *appeal hearing* following a decision of a *Fitness to Practise Panel* to refuse a *readmission / re-registration application*.

applicant means:

- a. a person who was previously a *member* of *ICAEW* and who is applying for readmission to membership in accordance with the *Regulations relating to Membership Cessation, Readmission and Resignation*; or
- b. a person who was previously a *Foundation Qualification Holder* of *ICAEW* and who is applying for re-registration as a *Foundation Qualification Holder* in accordance with the *Foundation Qualification Regulations*.

application fee is the fee prescribed by the *ICAEW Regulatory Board* at the time a *readmission / re-registration application* is made which must be paid as part of the application.

business day means a day on which banks are open for business (excluding weekends) in England and Wales.

directions means either:

- a. steps or actions which both *parties* agree to take in the *appeal proceedings* prior to an *appeal hearing*; or
- b. actions which the *parties* are directed to take by an *Appeal Panel Chair* at a *pre-hearing review*.

disciplinary body means:

- a. the Conduct Committee;
- b. the Disciplinary Committee and any Tribunals;
- c. the *Appeal Committee* and any *Appeal Panels*,

and any predecessor or successor to any such body and '*disciplinary body*' means any of them.

disciplinary record means in relation to an *applicant*, any previous:

- a. (adverse) disciplinary findings or orders made by a *disciplinary body* of ICAEW (or relevant predecessor body);
- b. (adverse) disciplinary findings or orders made by a Disciplinary Tribunal or Appeal Tribunal of the Financial Reporting Council (or relevant predecessor body) or by a Joint Disciplinary Tribunal or Appeal Committee of the Joint Disciplinary Scheme;
- c. regulatory penalty as defined in the Insolvency Licensing Regulations of ICAEW; and
- d. Practice Assurance penalty as defined in the Practice Assurance Regulations of ICAEW.

Fitness to Practise Committee means the *Fitness to Practise Committee* of ICAEW whose members are convened into *Fitness to Practise Panels* to consider, among other matters:

- a. applications for readmission to membership of ICAEW which fall within the scope of regulation 5 of the *Regulations relating to Membership Cessation, Readmission and Resignation*; and
- b. applications for re-registration of *Foundation Qualification Holder* status with ICAEW which fall within the scope of regulation 24 of the *Foundation Qualification Regulations*.

Fitness to Practise Committee Chair means the person appointed as Chair of ICAEW's *Fitness to Practise Committee* by the RACAC (or relevant predecessor or successor body) at the time the application is made and/or during the time it is considered under these *regulations*.

Fitness to Practise Panel means a panel of the *Fitness to Practise Committee* consisting of two *lay members* and one *member* appointed to consider and determine *readmission / re-registration applications* under these *regulations*.

Fitness to Practise Panel Chair means a member of the *Fitness to Practise Committee* who has been approved by the RACAC (or relevant predecessor or successor body) to chair *Fitness to Practise Panels* and who has been appointed by the *Fitness to Practise Committee Chair* to chair a *Fitness to Practise Panel* in accordance with these *regulations*.

foundation qualification holder means a person who holds the ICAEW Foundation Qualification and is registered to use the relevant designatory letters.

Foundation Qualification Regulations means the *Foundation Qualification Regulations* of ICAEW for the time being in force.

Head of Committees and Tribunals means the person within ICAEW's Professional Standards Department who manages the Committees and Tribunals team.

hearing means a *hearing of a Fitness to Practise Panel* or an *Appeal Panel*, whether conducted in person or through video or audio-conferencing facilities.

ICAEW means the Institute of Chartered Accountants in England and Wales.

ICAEW Members' Registrar means the person of that title appointed by the ICAEW Chief Executive to administer applications for membership of ICAEW in accordance with the *Regulations relating to Membership Cessation, Resignation and Readmission*

ICAEW Regulatory Board means the board to which the ICAEW Council has delegated responsibility for the supervision of ICAEW's regulatory and disciplinary functions.

ICAEW representative means a barrister or solicitor or a legally qualified person (within ICAEW's Professional Standards Department or external to ICAEW) appointed to have conduct of the *appeal proceedings*.

lay member means someone who is not and never has been a *member*, affiliate or employee of ICAEW or any other accountancy body.

matters lying on file means:

- a. any matters which a *disciplinary body* has previously ordered shall 'lie on file' in accordance with the Investigation and Disciplinary Regulations of ICAEW following the exclusion of a person from ICAEW membership, or the withdrawal of their status as an affiliate or provisional member of ICAEW; and
- b. any matters which a Fitness to Practise Committee Chair or Fitness to Practise Panel has previously ordered shall 'lie on file' in accordance with the Fitness to Practise Regulations of ICAEW following the resignation of a person of their membership or registration with ICAEW.

member means a member of ICAEW and 'membership' shall be construed accordingly.

notice means *notice* in writing.

notice of appeal means the *notice* filed by the *applicant* indicating their wish to appeal the decision of a *Fitness to Practise Panel* which includes a statement of their grounds of appeal and appends any relevant documentation and/or evidence.

order means an order of an *Appeal Panel* made in accordance with these *regulations*.

parties means the *applicant* and *ICAEW*, and 'party' shall refer to any one of them.

pre-hearing review means a *hearing* conducted in accordance with *regulation 55* to enable an *Appeal Panel Chair* to make *directions* and/or determine any applications by the *parties* prior to an *appeal hearing*.

principal regulations means:

- a. in readmission cases; the *Regulations relating to Membership Cessation, Readmission and Resignation*; and
- b. in re-registration cases; the *Foundation Qualification Regulations*,

as amended from time to time.

private hearing application means an application made by a *party* for all or part of a *hearing* of a *Fitness to Practise Panel* or an *Appeal Panel* to be held in private.

PSD Chief Officer means the person with operational responsibility for the work of *ICAEW's* Professional Standards Department.

RACAC means the Regulatory and Conduct Appointments Committee which is responsible, among other matters, for the appointment and reappointment of members of the *Fitness to Practise Committee* and the *Appeal Committee* and which is accountable to the *ICAEW Regulatory Board*.

readmission / re-registration application means an application by an *applicant* for:

- a. readmission as a *member* of *ICAEW*; or
- b. re-registration as a *foundation qualification holder* of *ICAEW*,

and which has appended to it any documents and/or evidence upon which the *applicant* wishes to rely in support of their application.

record of decision means a document setting out the reasons for any decision made by a *Fitness to Practise Panel*, or any *order* made by an *Appeal Panel*.

Regulations relating to Membership Cessation, Readmission and Resignation means the *Regulations relating to Membership Cessation, Readmission and Resignation* of *ICAEW* for the time being in force.

representative means the person who has been appointed by an *applicant* to represent them at a *hearing* of a *Fitness to Practise Panel*, or at a *pre-hearing review* or a *hearing* of an *Appeal Panel*, who may be a solicitor or barrister or an *ICAEW member*, or any other person who has been approved to appear by the *Fitness to Practise Panel*, the *Appeal Panel Chair* or the *Appeal Panel* (as applicable).

4. The Interpretation Act 1978 applies to these **regulations** in the same way as it applies to an enactment.
5. In these **regulations**:
 - a. unless the context otherwise requires:
 - i. words denoting any gender include all genders and words denoting the singular include the plural and vice versa;
 - ii. any headings are inserted for convenience only and shall not affect the construction of these **regulations**;
 - iii. any reference to a numbered **regulation** is a reference to the **regulation** so numbered among these **regulations**; and
 - iv. any reference to a report includes any appendices to such report;
 - b. any references to legislation include any amendments thereto or replacement legislation;
 - c. references to the date of a decision made by a **Fitness to Practice Committee Chair** or a **Fitness to Practise Panel**, or to an **order** made by an **Appeal Panel Chair** or an **Appeal Panel**, refer to the date on which the decision or **order** was made either on a review of papers or at a **hearing**;
 - d. any reference to a '**notice**' or to matters being 'notified' means **notice** in writing, which may include an electronic communication;
 - e. any reference to a decision being taken by **ICAEW** refers to a decision being taken by the **PSD Chief Officer** or by staff in the ICAEW Professional Standards Department under powers delegated from the **PSD Chief Officer**.

Service of notices

6. Subject to **regulation 7**, any **notice** or other document required to be served for the purposes of these **regulations** on an **applicant** may be served in person or sent:
 - a. by post to any address provided by the **applicant** in their **readmission / re-registration application**; or
 - b. by email to any email address provided by the **applicant** in their **readmission / re-registration application**.
7. If at any time the **applicant** makes a written request to **ICAEW** that an alternative postal or email address be used, that alternative postal or email address shall be used for the purposes of service of **notices** or other documents under these **regulations**.
8. Any **notice** or other document required to be served by an **applicant** in accordance with these **regulations** may be served in person or sent:

- a. by pre-paid post addressed to the **Head of Committees and Tribunals**, ICAEW, Professional Standards Department, Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ; or
 - b. by email to an address at which the **Head of Committees and Tribunals** has agreed to receive **notices** and documents under these **regulations**.
9. Service of a document under **regulations** 6, 7 and 8 shall be deemed to have been effected:
- a. where served in person, on the date of service;
 - b. where properly addressed and sent by first class, pre-paid post, on the second **business day** after posting;
 - c. where sent by email before 16:00, on the day it is sent, and if sent after 16:00 on the next **business day**.

Application of these regulations

10. These **regulations** apply to persons:
- a. applying for readmission to membership of **ICAEW** whose applications fall within the scope of regulation 5 of the **Regulations relating to Membership Cessation, Readmission and Resignation**;
 - b. applying for re-registration of **foundation qualification holder** status whose applications fall within the scope of regulation 24 of the **Foundation Qualification Regulations**,
 - c. appealing a decision of a **Fitness to Practise Panel** to refuse a **readmission / re-registration application** under paragraph (a) or (b) above.
11. For the purposes of these **regulations**:
- a. all proceedings before the **Fitness to Practise Committee** in relation to an application for readmission to membership of **ICAEW**, or an application for re-registration as a **foundation qualification holder** of **ICAEW**, are to be conducted in accordance with the relevant **ICAEW** regulations in force at the time of the filing of the application; and
 - b. all proceedings before an **Appeal Panel** in relation to a refusal of a **Fitness to Practise Panel** to grant such application, are to be conducted in accordance with the relevant **ICAEW** regulations in force at the time of the filing of the notice of appeal (save where the period for filing a notice of appeal commences before, but expires after, the date on which these **regulations** come into force where the previous **ICAEW** regulations governing such appeals shall apply).

Service of applications for readmission / re-registration to the Fitness to Practise Committee

12. Where an **applicant**:
- a. wishes to apply for readmission to membership of **ICAEW** and regulation 5 of the **Regulations relating to Membership Cessation, Readmission and Resignation** requires that their application be considered by the **Fitness to Practise Committee**; or
 - b. wishes to apply for re-registration as a **foundation qualification holder** of **ICAEW** and regulation 24 of the **Foundation Qualification Regulations** requires that their application be considered by the **Fitness to Practise Committee**,

the **applicant** may start this process by serving a **readmission / re-registration application** on the **Head of Committees and Tribunals** and by paying the **application fee**.

Consideration of a readmission/re-registration application by a Fitness to Practise Panel on the papers

13. Where the **Head of Committees and Tribunals** receives an application made in accordance with **regulation 12** and the **application fee**, the **Head of Committees and Tribunals** shall request the **Fitness to Practise Committee Chair** to appoint a **Fitness to Practise Panel** to consider the **readmission/re-registration application** and shall notify the **applicant** of the date when the matter will be considered by the **Fitness to Practise Panel**.
14. The **Fitness to Practise Panel** shall consider the **readmission/re-registration application** on the papers and in private.
15. In addition to the **readmission/re-registration application**, the **Head of Committees and Tribunals** shall provide the **Fitness to Practise Panel** with details of any **disciplinary record** of the **applicant** and details of any **matters lying on file**.
16. The **Fitness to Practise Panel** may, prior to determining the **readmission/re-registration application**, request any further information and/or evidence from the **applicant**.
17. Where, after reviewing the **readmission/re-registration application** and any additional information and/or evidence provided by the **applicant** pursuant to **regulation 16**, the **Fitness to Practise Panel** decides to approve the application, the **Head of Committees and Tribunals** shall serve **notice** of its decision as soon as practicable on the **applicant** and the **ICAEW Members' Registrar**, and the service of that **notice** shall conclude these proceedings.
18. Where, after reviewing the **readmission/re-registration application** and any additional information and/or evidence provided by the **applicant** pursuant to **regulation 16**, the **Fitness to Practise Panel** decides to refuse the **readmission/re-registration application** on papers, the **Head of Committees and Tribunals** shall serve **notice** of its decision as soon as practicable on the **applicant**.

19. Within 14 days of being served with **notice** of the decision of the **Fitness to Practise Panel** to refuse the **readmission/re-registration application**, the **applicant** may request the opportunity to make oral representations on their application to the **Fitness to Practise Panel**. If such a request is received, the **Head of Committees and Tribunals** shall fix a date for the **Fitness to Practise Panel** to hear the oral representations and shall notify the **applicant** of the date, time, location or format of the **hearing**.
20. If no application is made within 14 days in accordance with **regulation 19**, this will conclude the proceedings, and the **Head of Committees and Tribunals** will inform the **ICAEW Members' Registrar** of the refusal of the **readmission / re-registration application**.

Pre-hearing procedure

21. Any application made in writing for a postponement of the **hearing** which has been fixed by the **Head of Committees and Tribunals** in accordance with **regulation 19** shall be considered by the **Fitness to Practise Panel Chair** and their determination will be final. If the postponement is granted, the **Head of Committees and Tribunals** shall notify the **applicant** of the new date, time, location or format for the **hearing**.
22. If the **applicant** wishes to rely on any document at the **hearing** which did not form part of their **readmission/re-registration application** or intends to call a witness to give evidence at the **hearing**, the **applicant** shall provide a copy of the document, or a summary of the evidence the witness shall give, to the **Head of Committees and Tribunals** at least 5 **business days** before the **hearing**.
23. At any time prior to the **hearing**, a **Fitness to Practise Panel** may require, through a request made by the **Head of Committees and Tribunals**, that an **applicant** provide such further information and/or evidence relating to the **readmission/re-registration application** as the **Fitness to Practise Panel** thinks is necessary to assist the **Fitness to Practise Panel** in determining the application. The **Fitness to Practise Panel Chair** may postpone the **hearing** until such information and/or evidence is provided.
24. If, prior to the start of a **hearing** of a **Fitness to Practise Panel**, any member of a **Fitness to Practise Panel** appointed by the **Fitness to Practise Committee Chair** in accordance with these **regulations** is unable to attend the **hearing**, the **Fitness to Practise Committee Chair** shall appoint another member of the **Fitness to Practise Committee** to the **Fitness to Practise Panel**. If no suitable member of the **Fitness to Practise Committee** is available on the date fixed for the **hearing**, the **Fitness to Practise Committee Chair** shall request the **Head of Committees and Tribunals** to fix a new date for the **hearing** and to notify the **applicant** of the new date.

Conduct of the hearing

25. Subject to **regulation 26**, a **hearing** of a **Fitness to Practise Panel** considering a **readmission / re-registration application** shall take place in public and a notice of the hearing shall be published by the **Head of Committees and Tribunals** at least 7 days in advance.

26. If an **applicant** wishes to make a **private hearing application**, the **applicant** shall serve the application in writing on the **Head of Committees and Tribunals** at least **5 business days** before the **hearing**. Any such application will be considered in private by the **Fitness to Practise Panel** at the start of the **hearing** and its decision on the application will be final. The outcome of the application will determine whether all, or part, of the **hearing** shall be held in private.
27. In considering a **private hearing application**, a **Fitness to Practise Panel** shall only direct that all or part of the **hearing** be held in private where it identifies good reasons which outweigh the public interest in the **hearing** being in public.
28. If a **hearing** is held in public, a **Fitness to Practise Panel** may exclude from all, or part, of a **hearing**, any person or persons whose conduct has disrupted, or is likely to disrupt, the **hearing**.
29. If, after the start of a **hearing**, any member of the **Fitness to Practise Panel** is, for any reason, unable to continue to attend, the **Fitness to Practise Panel** will no longer be quorate and may not continue. In such circumstances, the **Head of Committees and Tribunals** shall request the **Fitness to Practise Committee Chair** to appoint a new **Fitness to Practise Panel** and shall fix a date and time for a new **hearing**. No members of the original **Fitness to Practise Panel** shall be appointed as members of the new **Fitness to Practise Panel**.
30. If, at any time during a **hearing**, the **Fitness to Practise Panel Chair** is, for any reason, of the opinion that it is impracticable or would be contrary to the interests of justice for the **hearing** to be completed by that **Fitness to Practise Panel**, they shall so inform the **Fitness to Practise Committee Chair** who shall direct that the matter be re-heard by a new **Fitness to Practise Panel**.
31. A **hearing** of the **Fitness to Practise Panel** may proceed in the **applicant's** absence where the **Fitness to Practise Panel** is satisfied that the **applicant** was provided with **notice** of the **hearing** by the **Head of Committees and Tribunals** in accordance with these **regulations**.
32. The **hearing** shall be informal and shall proceed on an inquisitorial basis and the normal rules of evidence shall not apply.
33. An **applicant** may represent themselves or their application may be presented by a **representative**. An **applicant** is deemed present when they appear by their **representative**. If an **applicant** does not attend a **hearing** either themselves or by a **representative**, but provides written representations, the **Fitness to Practise Panel** may take those representations into account in reaching its decision.
34. A **Fitness to Practise Panel** may, at its discretion, consider any evidence which was not notified to the **Head of Committees and Tribunals** in advance or the **hearing** in accordance with **regulation 22**.
35. During the **hearing**, the **Fitness to Practise Panel** may ask questions of the **applicant** and any witness giving evidence in support of the **readmission/re-registration application**, which are relevant to whether the application should be approved.
36. A **Fitness to Practise Panel** may adjourn the **hearing** of its own volition or upon an application by an **applicant** to a new date fixed by the **Fitness to Practise Panel**. An **applicant** may make an application to the **Fitness to Practise Panel Chair** for

a further adjournment before the **hearing** is resumed by making an application in writing to the **Head of Committees and Tribunals**. The **Fitness to Practise Panel Chair's** decision on such an application shall be final.

37. A **Fitness to Practise Panel** may deliberate in the absence of the **applicant** and their **representative** (if any) at any time during the **hearing**.
38. A written transcript or digital recording of the proceedings may be taken on behalf of the **Fitness to Practise Panel**.
39. No objection shall be upheld to any technical fault in the procedure adopted by a **Fitness to Practise Panel** provided that the proceedings are fair and in accordance with the relevant regulations.

Decision of the Fitness to Practise Panel

40. The **Fitness to Practise Panel** shall, after hearing and reviewing all of the evidence, determine whether to grant or refuse the **readmission / re-registration application** and shall, if the **applicant** is present at the **hearing**, inform them verbally of its decision.
41. As soon as practicable following the **hearing**, the **Head of Committees and Tribunals** shall confirm the decision of the **Fitness to Practise Panel** in writing to the **applicant** and shall provide them with a copy of its **record of decision**.
42. Where a **Fitness to Practise Panel** decides that the **readmission / re-registration application** should be approved, the **application fee** shall be refunded by **ICAEW** to the **applicant** within 30 days of the **hearing**. Where a **Fitness to Practise Panel** refuses the **readmission and / or re-registration application**, the **application fee** shall be retained by **ICAEW**.

Right of appeal against the decision of the Fitness to Practise Panel

43. An **applicant** may appeal a decision of the **Fitness to Practise Panel** to refuse a **readmission / re-registration application** on grounds that:
 - a. the **Fitness to Practise Panel** erred in law;
 - b. the **Fitness to Practise Panel** wrongly interpreted any relevant regulation or guidance;
 - c. the **Fitness to Practise Panel** did not comply with the procedure set out in the **principal regulations** and these **regulations**;
 - d. the **Fitness to Practise Panel** made a decision which no panel, correctly applying the **principal regulations** and these **regulations**, and acting reasonably, would have made;
 - e. there was evidence which the **Fitness to Practise Panel** had not considered and which:

- i. could reasonably have led the ***Fitness to Practise Panel*** to make a different decision; and
- ii. could not have been put before the ***Fitness to Practise Panel*** even if those concerned had done their best to produce it.

Filing a notice of appeal

44. In order to start an ***appeal***, an ***applicant*** must serve a ***notice of appeal*** on the ***Head of Committees and Tribunals*** and pay the ***appeal application fee*** within 28 days of service on them of the ***record of decision*** of the ***Fitness to Practise Panel***. The ***notice of appeal*** must specify one or more of the grounds of appeal set out in regulation 43.

Process after service of notice of appeal

45. Upon receipt of a ***notice of appeal*** and the ***appeal application fee*** within the time prescribed in ***regulation 44***, the ***Head of Committees and Tribunals*** shall as soon as reasonably practicable:
- a. provide a copy of any ***notice of appeal*** to the ***PSD Chief Officer*** who shall appoint an ***ICAEW representative*** to respond to the ***notice of appeal***;
 - b. request the ***Appeal Committee Chair*** to appoint an ***Appeal Panel*** for the ***appeal hearing***; and
 - c. fix a date for the ***appeal hearing*** which shall be no earlier than 35 ***business days*** from the date of service of the ***notice*** and confirm the date, time, location or format of the ***appeal hearing*** to the ***applicant*** and the ***ICAEW representative***.
46. If a ***ICAEW representative*** wishes to serve an ***answer*** to the ***notice of appeal***, this must be served within 20 ***business days*** from the date of service of the ***notice of appeal*** on the ***PSD Chief Officer***, and copies of the ***answer*** shall be served on the ***applicant*** and the ***Head of Committees and Tribunals***.
47. An ***applicant*** may, at any time, withdraw their ***appeal*** by serving a ***notice*** to that effect on the ***Head of Committees and Tribunals***.

Application for permission to appeal out of time

48. If an ***applicant*** fails to file a ***notice of appeal*** and/or fails to pay the ***appeal application fee*** within the 28 day period specified in ***regulation 44***, an ***applicant*** may apply for permission to appeal out of time by:
- a. serving on the ***Head of Committees and Tribunals*** a ***notice of appeal*** together with a statement of reasons as to why the application was not made

within the period specified (and any supporting evidence); and

b. by paying the **appeal application fee**.

49. Upon receipt of an application pursuant to **regulation 48**, the **Head of Committees and Tribunals** shall provide a copy of the **notice of appeal** and the statement of reasons to the **ICAEW representative** who shall have 10 **business days** from service of the application to make representations on the statement of reasons.
50. After the expiry of 10 **business days**, or receipt of representations from the **ICAEW representative** (if earlier), the **Head of Committees and Tribunals** shall provide a copy of the application, the **notice of appeal**, the statement of reasons and any representations from the **ICAEW representative** to the **Appeal Committee Chair** who shall determine whether the application should be allowed on the papers and who shall provide reasons to support their determination. The **Appeal Committee Chair** should only allow the application to proceed if there are good reasons why the **notice of appeal** could not reasonably have been served within the time limit specified in **regulation 44**. The **Head of Committees and Tribunals** shall notify the **parties** of the **Appeal Committee Chair's** decision and provide them with a copy of the **Appeal Committee Chair's** reasons.
51. Where the **Appeal Committee Chair** determines that the application for permission to appeal out of time should be refused, that determination shall conclude the proceedings and the **appeal application fee** will be refunded by **ICAEW** within 30 days.
52. Where the **Appeal Committee Chair** determines that the application for permission to appeal out of time should be allowed, the process for hearing the **appeal** shall proceed in accordance with **regulations 45 - 47 and 53 onwards**.

Private hearing applications

53. **Appeal hearings** for **readmission/re-registration applications** shall be held in public unless a **party** makes a successful **private hearing application**.
54. If a **party** wishes to apply for the whole, or part, of any **appeal hearing** to be held in private, a **private hearing application** must be made in writing to the **Head of Committees and Tribunals** within 10 **business days** of the **parties** being notified of the date fixed for the **appeal hearing**, setting out the reasons why the **party** considers that the **appeal hearing** should be held in private.

Pre-hearing review

55. Once an **Appeal Panel** has been appointed in accordance with **regulation 45**, the **Appeal Panel Chair** may, of their own volition, or on an application by either **party** (including a request to consider a **private hearing application**) direct the **Head of Committees and Tribunals** to arrange for a **pre-hearing review** to take place prior to the date fixed for the **appeal hearing**.

56. At a **pre-hearing review**, an **Appeal Panel Chair** may consider any applications for **directions** made by the **parties** (made either orally at the **pre-hearing review** or in written representations) and shall give such **directions** as they think necessary for the purpose of securing the just, expeditious or economic disposal of the **appeal proceedings**, which may include **directions** relating to:
- a. whether the **Appeal Panel** should hear at the same **appeal hearing** more than one **appeal** by an **applicant** against decisions made by **Fitness to Practise Panels**;
 - b. whether the **Appeal Panel** should hear **appeals** by two or more **applicants** in relation to separate proceedings at the same **appeal hearing**;
 - c. any proposed amendment of the **notice of appeal** (including the grounds of appeal) or the **answer**;
 - d. the admission of any new evidence in response to new evidence served with the **notice of appeal**;
 - e. the admission of any facts or documents;
 - f. whether the whole or part of an **appeal hearing** should be held in private (if a **private hearing application** has been made in advance by a **party** in accordance with **regulation 54**);
 - g. the way in which evidence is to be given at the **appeal hearing**;
 - h. changing the date or the length or the venue or platform of the **appeal hearing**.
57. When considering a **private hearing application**, an **Appeal Panel Chair** shall only make an **order** that an **appeal hearing** be held in private where they conclude that the press and public should be excluded from the whole, or part, of an **appeal hearing** in the interests of justice and/or due to the exceptional circumstances of the case which outweigh the public interest in the **appeal hearing** being held in public.

Conduct of an appeal hearing – general provisions

58. Where, prior to the start of an **appeal hearing**, a member of an **Appeal Panel**, appointed in accordance with **regulation 45**, is unable to attend the **appeal hearing**, the **Appeal Committee Chair** shall appoint another member of the **Appeal Committee** to the **Appeal Panel**. If no suitable member of the **Appeal Committee** is available on the date(s) fixed for the **appeal hearing**, the **Head of Committees and Tribunals** shall fix a new date for the **appeal hearing** and shall notify all **parties** of the new date.
59. Where, after the start of the **appeal hearing**, any member of the **Appeal Panel** is, for any reason, unable to continue to attend, the **Appeal Panel** will no longer be quorate and may not continue. In such circumstances, the **Head of Committees and Tribunals** shall request the **Appeal Committee Chair** to appoint a new **Appeal Panel** and shall fix a date and time for the **appeal hearing** to take place. No members of the original **Appeal Panel** shall be appointed as members of the new **Appeal Panel**.
60. If, at any time during an **appeal hearing**, the **Appeal Panel Chair** is for any reason of the opinion that it is impracticable or would be contrary to the interests of justice for the

hearing to be completed by that panel, they shall so inform the **Appeal Committee Chair** or any **Appeal Committee Vice-Chair** who shall thereupon direct that the **appeal** be re-heard by a new **Appeal Panel** so appointed. (If the **Appeal Panel Chair** is the **Appeal Committee Chair**, they shall direct that the **appeal** be re-heard by a new **Appeal Panel**).

61. An **appeal hearing** may proceed in the absence of the **applicant** where the **Appeal Panel** is satisfied that the **applicant** has been notified of the date, time, location or format of the **appeal hearing** in accordance with these **regulations** and that proceeding is desirable for securing the just, expeditious and economic disposal of the **appeal**.
62. An **Appeal Panel** may adjourn proceedings of their own volition or on the application of either **party**. A **party** may also make an application to the **Appeal Panel Chair** for a further adjournment before the **appeal hearing** is resumed, which must be copied to the other **party** who shall be entitled to make written representations on the application before a decision is made by the **Appeal Panel Chair**.
63. A **party** may only amend the **notice of appeal** or any **answer** at an **appeal hearing** with the permission of the **Appeal Panel**.
64. An **Appeal Panel** may deliberate in private in the absence of the **parties** and their representatives at any time.

Conduct of an appeal hearing - order of proceedings

65. At the start of the **appeal hearing**, the **Appeal Panel** shall consider as a first matter any representations from the **ICAEW representative** on whether the **appeal** falls within one or more of the grounds of appeal set out in **regulation 43**. If such representations are made, the **Appeal Panel** shall consider any representations made in response by the **applicant**.
66. Where the **Appeal Panel** considers, after hearing any representations, that the **appeal** does not fall within one or more of the grounds of appeal set out in **regulation 43**, it shall dismiss the **appeal**.
67. Where the **Appeal Panel** considers that the **appeal** falls within one or more grounds of appeal set out in **regulation 43**, the **Appeal Panel** shall continue to hear the **appeal** in respect of that ground or grounds only.
68. The **Appeal Panel**:
 - a. shall consider the record of evidence given before, and the documents produced to, the **Fitness to Practise Panel**;
 - b. shall consider any written representations of the **parties** and shall provide the **parties** with a reasonable opportunity of being heard (either in person or via their representative);

- c. may, if it thinks fit, re-hear any witness who gave oral evidence before the ***Fitness to Practise Panel***; and

may, in exceptional circumstances (as to which the ***Appeal Panel*** shall be the sole judge) receive fresh evidence.

69. The rules as to the admissibility of evidence in a court of law shall not apply. The ***Appeal Panel*** may determine the conduct of the ***appeal hearing*** in such manner as it considers appropriate for the clarification of the issues in the ***appeal*** and generally for the just conduct of the proceedings. The default process shall be:
 - a. The ***applicant***, or their ***representative***, shall address the ***Appeal Panel*** first on the merits of their ***appeal***.
 - b. The ***ICAEW representative*** shall then address the ***Appeal Panel*** as to why the ***appeal*** should not be allowed.
 - c. Where an ***Appeal Panel*** allows a witness to be called by a ***party*** to give oral evidence, the witness may, after being questioned by the ***party*** calling them, be questioned by the other ***party***. They may then be re-examined by the ***party*** calling them but only in relation to the evidence given by them under cross-examination. The ***Appeal Panel*** may ask questions of any witness at any stage during their evidence. The ***Appeal Panel*** may, on the application of a ***party***, agree that the identity of a witness should not be revealed to the public. Witnesses will not be required to swear an oath or affirm.
 - d. The ***parties*** may make closing addresses to the ***Appeal Panel*** with the ***applicant*** being heard last
70. A shorthand or stenographic note of the appeal hearing may be taken, or a recording made, on behalf of ***Appeal Panel***.

Decision of the Appeal Panel

71. After hearing an ***appeal***, the ***Appeal Panel*** may by ***order***:
 - a. allow the ***appeal*** and approve the ***readmission / re-registration application***;
 - b. remit the ***readmission / re-registration application*** to the ***Fitness to Practise Committee*** for re-consideration by newly appointed ***Fitness to Practise Panel***; or
 - c. dismiss the ***appeal***;
72. Where an ***Appeal Panel*** allows an ***appeal***, the ***application fee*** and the ***appeal application fee*** shall be refunded by ***ICAEW*** to the ***applicant*** within 30 days of the ***hearing***. Where an ***Appeal Panel*** remits the application back to the ***Fitness to Practise Committee*** for re-consideration, the ***appeal application fee*** shall be refunded by ***ICAEW*** to the ***applicant*** within 30 days. Where an ***Appeal Panel*** dismisses the ***appeal***, the ***application fee*** and the ***appeal application fee*** shall be

retained by **ICAEW**.

73. The **Appeal Panel** shall either notify the **parties** of its decision and any **orders** at the end of the **appeal hearing** or, if not, shall notify the **parties** of its decision and any **orders** as soon as reasonably practicable after the **appeal hearing**, through the **Head of Committees and Tribunals**. The **Head of Committees and Tribunals** shall also inform the **ICAEW Members' Registrar** of the **Appeal Panel's** decision on the application.
74. An **order** made by an **Appeal Panel** under these **regulations** shall take effect on the date of the **order** unless the **Appeal Panel** directs that it shall take effect as from some later date specified in the **order**. The **Appeal Panel** shall also provide its **record of decision** as soon as reasonably practicable to the **Head of Committees and Tribunals** who shall, in turn, provide a copy of the **record of decision** to both **parties**.

Review of decisions and correction of errors

75. The **Appeal Panel Chair** may, of their own volition or upon application by either **party**, review any **order** made by the **Appeal Panel** or the **record of decision** and may, on such review, correct any accidental slip or omission in the **order** or the **record of decision** that does not accurately reflect the findings, reasoning and / or **orders** of the **Appeal Panel**.
76. An application made under **regulation 74** shall be made within 28 **business days** from the date the **record of decision** of the **Appeal Panel** was served on the **parties**.

Confidentiality

77. All written material and information provided by either **ICAEW** or the **applicant** in connection with proceedings shall at all times remain confidential and no such material or information shall be disclosed (directly or indirectly) except:
- a. to legal advisers for the purposes of the proceedings;
 - b. where the applicant is a principal in, or employed by, a member firm, contracted firm or regulated firm, to a principal in that firm;
 - c. to any other person to whom disclosure is necessary for the purposes of obtaining information or assistance in connection with proceedings;
 - d. to an insurer where disclosure is required under the terms of a policy or in connection with any application for insurance cover;
 - e. where the disclosure to any person or body undertaking regulatory, disciplinary or law enforcement responsibilities is for the purpose of assisting that person or body to undertake those responsibilities required or allowed by law.

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