



ICAEW Code of Conduct for Complainants

EFFECTIVE FROM 14 OCTOBER 2019



ICAEW Code of Conduct for Complainants

YOUR RIGHTS AND OBLIGATIONS WHEN YOU MAKE A COMPLAINT TO ICAEW

This ICAEW Code of Conduct for Complainants (the Code) explains your rights and obligations when you make a complaint to ICAEW about an ICAEW member, student, regulated individual or firm. It also explains when we will treat a complaint as vexatious or repetitive, and the action we will take if you are abusive or act unreasonably towards Professional Conduct Department (PCD) staff.

We protect the public interest by making sure ICAEW firms, members, students and affiliates maintain the highest standards of professional conduct and competence. Our disciplinary function is kept separate from our membership/representative role, so we can independently monitor members/firms and take appropriate disciplinary action if standards are not met.

In this Code, we refer to:

- **Complainants** – people who make complaints to PCD.
- **Vexatious complaints** – complaints that are made solely with the intent of causing annoyance, worry or trouble for the individual / firm.
- **Repetitive complaints** – complaints that are the same, or substantially similar, to complaints that have already been investigated by PCD and/or dealt with by one or more ICAEW disciplinary committee(s).

Our disciplinary process is overseen by the independent **ICAEW Regulatory Board (IRB)**. The IRB is committed to ensuring that:

- PCD deals with complaints raised in accordance with **ICAEW's Disciplinary Bye-laws (DBLs)** in a thorough, fair and efficient manner;
- PCD staff who investigate complaints can do so in a safe working environment; and
- PCD finite resources are used appropriately and efficiently to enable genuine complaints to be investigated in a timely manner.

How we will deal with your complaint

Subject to their compliance with this Code, any person or organisation has the right to raise concerns about the conduct of ICAEW members, students, regulated individuals or firms. This is explained in our DBLs.

When we receive a complaint, we will assess first whether there may be grounds for disciplinary action under the DBLs, which can be supported by evidence. If we think that the complaint meets this initial assessment, we will open a case and it will be investigated by an PCD case manager.

Your rights

As a complainant, you play an important role in assisting the PCD to investigate your complaint(s).

In liaising with you during the disciplinary process we will:

- help you to articulate your concerns and the key issues of complaint;
- adjust our processes, if necessary, to help you bring or frame your complaint;
- advise you of your rights under the DBLs;
- act courteously towards you;
- respond to your correspondence/requests in a timely manner; and
- act fairly and respectfully towards you in accordance with the Equality Act 2010.

Your obligations

We believe that it is in the public interest for PCD's resources to be used effectively and efficiently to ensure that a small number of vexatious or repetitive complaints, or the behaviour of a minority of complainants, doesn't undermine our ability to progress other matters.

We also have a responsibility under employment law to protect our staff from abuse and harassment and to ensure a safe working environment.

Therefore, as a complainant, you must:

- act courteously towards ICAEW staff and not act in an abusive, threatening or intimidating manner;
- respond to correspondence and requests for information in a timely manner;
- articulate your concerns clearly and succinctly;
- not make excessive demands on the time/resources of PCD staff through lengthy and/or overly frequent correspondence/telephone calls that provide little or no new information/evidence;
- not make complaints about case managers or demand the escalation of your concerns to senior managers without good cause;
- not raise vexatious complaints; and
- not raise repetitive complaints.

Remedies for breaches of this Code

If you breach these obligations, we have the right under this Code to adjust the way our case managers interact with you. In extreme cases, we can also refuse to investigate your complaint(s).

Vexatious or repetitive complaints

If the PCD Head of Investigation considers a complaint to be vexatious or repetitive, they have the discretion under this Code to refuse to investigate the complaint (see **Appendix 1**).

We will never label a complainant as vexatious; rather we will focus on the issues that are raised to determine whether they have been brought solely with the intent of causing annoyance, worry or trouble for the member/firm.

If the PCD Head of Investigation refuses to investigate your complaint on the basis that they consider it vexatious or repetitive, you can ask for a sub-committee of the Investigation Committee

(IC) to review this decision. If the sub-committee disagrees with the view of the PCD Head of Investigation, the matter will be investigated. If the sub-committee agrees with the decision, the matter will not be investigated. The decision of the sub-committee is final.

Abusive behaviour/unreasonable demands

Appendix 2 sets out the steps we may take if you are abusive towards PCD staff (either in writing or by telephone) or if you continue to make unreasonable demands on their time/resources.

Any issues will be dealt with initially through a warning and a reminder of your obligations under this Code. If the behaviour continues, we may escalate the matter to senior management and we may take steps to limit or manage how often we communicate with you and in what way. You will always retain your right to make representations in accordance with the DBLs but, in serious cases, we will take steps to restrict communication if we think this is necessary to protect the health and well-being of PCD staff.

Any steps we take to restrict or manage communication under this Code will be proportionate and evidence-based. We will always provide you with an opportunity to modify your behaviour before we impose any restrictions.

APPENDIX 1: VEXATIOUS/REPETITIVE COMPLAINTS AND ABUSE OF PROCESS

Vexatious complaints

A person refers facts or matters to the Head of Staff (effectively the PCD Head of Investigation) in accordance with DBL 9.1, which the PCD Head of Investigation considers to be made solely with the intention of causing annoyance, worry or trouble for a respondent/respondent firm (a vexatious complaint).

Repetitive complaints / abuse of process

A person refers facts or matters in accordance with DBL 9.1 which, in the view of the PCD Head of Investigation, are substantially similar to a complaint(s) that have been previously investigated and closed by PCD or in respect of which the disciplinary process has been concluded (a repetitive complaint).

The PCD Head of Investigation will write to the person advising them that they consider that the referral constitutes a vexatious or repetitive complaint and that it will not be accepted for assessment/investigation. The PCD Head of Investigation will inform the referrer of their right to request a review of the decision by the IC within 28 days.

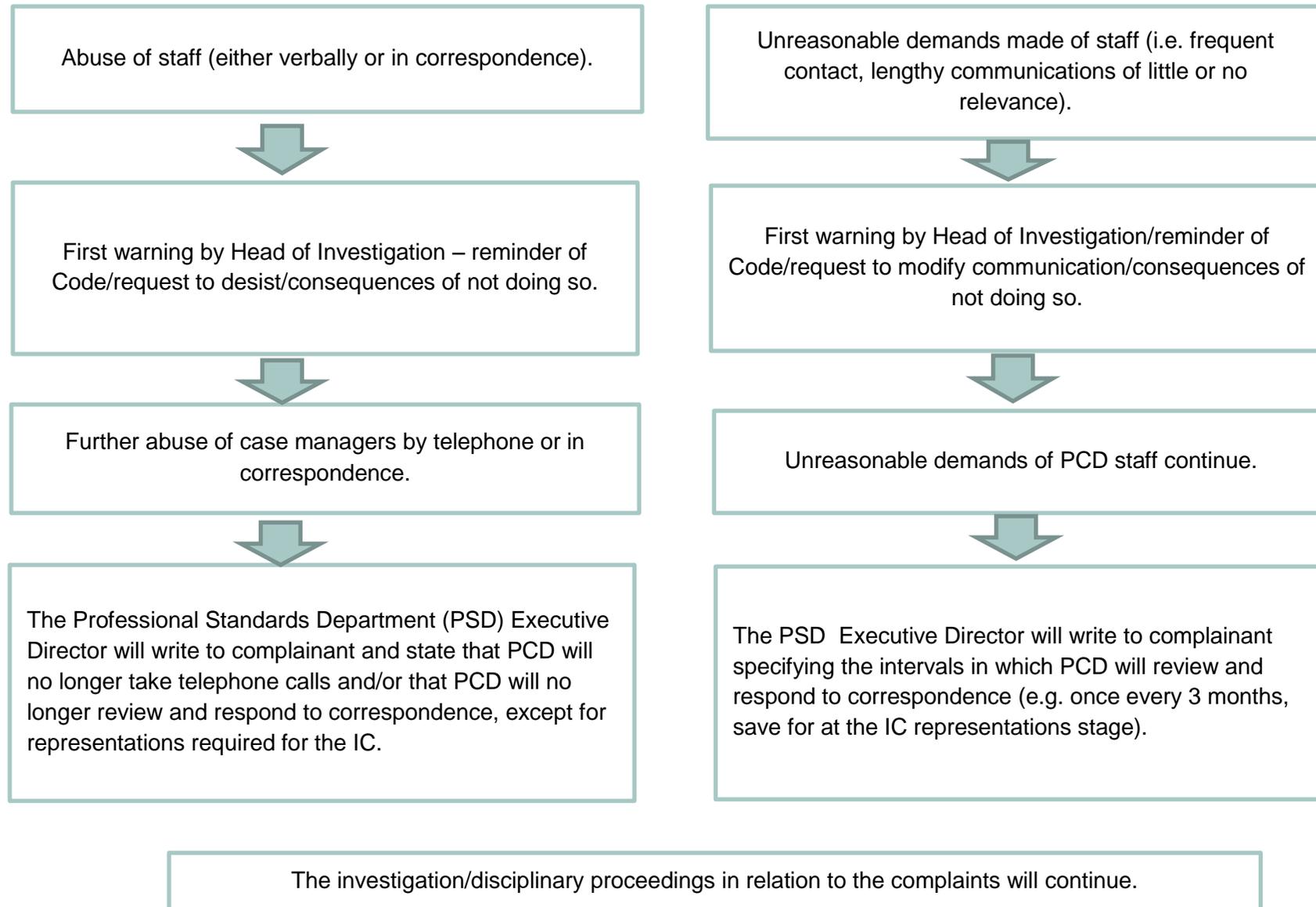
At the request of the referrer, a sub-committee of the Investigation Committee will review the decision of the PCD Head of Investigation to refuse to accept the referral for assessment/investigation. The sub-committee will comprise at least three members including the IC chair and will have a lay majority.

If the sub-committee agrees with the PCD Head of Investigation, it will inform the referrer that the matter will not be accepted for investigation and its decision will be final. If the sub-committee disagrees with the PCD Head of Investigation, it will direct the PCD Head of Investigation to treat the facts or matters as a complaint/complaints for the purposes of DBL 9.3 and commence an investigation.

The referrer will be informed of the IC sub-committee's decision.



APPENDIX 2: UNACCEPTABLE BEHAVIOUR BY COMPLAINANT



ICAEW's regulatory role is distinct from its representative role. Managed by our Professional Standards department and overseen by the independent ICAEW Regulatory Board, we protect the public interest by making sure our firms, members, students and affiliates maintain the highest standards of professional competency and conduct. Our role is to:

- authorise our members and firms to undertake work regulated by law: audit, local audit, investment business, insolvency work, and probate;
- monitor firms and insolvency practitioners to ensure they undertake work correctly and to the highest standards;
- investigate complaints and hold members and firms accountable where they fall short of standards;
- lobby and comment on proposed changes to the law and regulation affecting our stakeholders; and
- provide guidance, advice and award-winning training films to ensure our stakeholders comply with laws, regulations and professional standards.

There are over 1.8m chartered accountants and students around the world – talented, ethical and committed professionals who use their expertise to ensure we have a successful and sustainable future.

Over 180,000 of these are ICAEW Chartered Accountants and students. We train, develop and support each one of them so that they have the knowledge and values to help build local and global economies that are sustainable, accountable and fair.

We've been at the heart of the accountancy profession since we were founded in 1880 to ensure trust in business. We share our knowledge and insight with governments, regulators and business leaders worldwide as we believe accountancy is a force for positive economic change across the world.

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