

Guidance on imposing sanctions as a result of a disciplinary hearing

Objective

The guidance below is designed to provide assistance to the Disciplinary Committee (DC) on evaluating the evidence and establishing the level of seriousness of the investigation subject's breach and hence deciding on the sanctions that should be imposed on the subject.

The purpose of imposing sanctions is protection of public interest such as protection of the members of the public, maintenance of public trust in the Emirates Association for Accountants and Auditors (hereinafter – the Association) and the accountancy profession as a whole and upholding of professional standards including ethics.

Sanctions

Imposition of sanctions should be guided by matters of public interest and the subject's own interest and considerations of each individual case should be made including the subject's past and future conduct.

There are a number of principles that must be maintained when selecting a sanction measure.

- Proportionality – a balance between the offense committed and the sanction imposed where it should be sufficient to protect the public interest but not excessive for achievement of the purpose.
- Mitigating factors – factors both present at the time of the offense and those in current circumstances which support the subject's case such as their adherence to good conduct and demonstration of understanding of their wrongdoing.
- Aggravating factors - factors both present at the time of the offense and those in current circumstances which act against the subject by indicating the they are not regretful of their wrong doing or have a past history of offense.

The DC will need to support its decision on sanctions with reasons including the factors that were taken into consideration, their importance in arriving at the decision and consideration of all options available prior to arriving at the final decision.

As a result of a disciplinary hearing, the DC may impose the following **sanctions on the Association members** in order of seriousness starting from least serious to most serious:

- a) No further action;
- b) Censure or reprimand;
- c) Severe reprimand;
- d) Completion of professional development or another education programme at own expense;
- e) A payment of compensation to the complainant for the inconvenience caused as a result of the breach (but not aiming to compensate the financial losses or damages incurred by the complainant which should be pursued through legal channels);
- f) Suspension of membership of the Association and removal from the register for a specific period of time;
- g) Exclusion from membership of the Association where the breach is incompatible with the subject remaining a member (e.g. abuse of trust, dishonesty, cover up of misconduct, serious departure from professional standards);

- h) A fine of a **defined amount** to be paid within **a reasonable timeframe** from the date of the decision (the member's mean should be considered when deciding on the amount of fine payable);

As a result of a disciplinary hearing, the DC may impose the following **sanctions on the Association students** in order of seriousness starting from least serious to most serious:

- a) No further action;
- b) Censure or reprimand of the subject;
- c) Severe reprimand;
- d) Removal from student register and revocation of student status for a specified period of time;
- e) Part or all of the student's professional experience not recognized subject to the student and member admission requirements;
- f) Suspension from sitting qualification examinations for a specified period of time;
- g) Voidance of the student's some or all examination results;
- h) Removal from the student register where the breach is incompatible with the subject remaining a student (e.g. abuse of trust, dishonesty, cover up of misconduct, serious departure from professional standards);
- i) Non-admission to membership indefinitely or for a specific period of time.

In the case of suspension or exclusion from membership with the right to apply for re-admission, it is recommended that the minimum period from the date of the decision until re-admission/application for re-admission should be 12 months.

In imposing the sanctions, the DC should consider any court rulings made against the subject and disciplinary actions taken by another professional body the subject is a member of. Although it is not the purpose to punish the subject twice, the DC must consider the sanctions placed on the subject by other relevant bodies and decide whether any additional sanctions are required from the perspective of the Association's disciplinary process and commitments to maintaining public trust and interest.

Consideration of evidence

Upon conclusion of the disciplinary hearing, the DC have considered the evidence and arguments presented by both sides and should make a decision as to which of the sanctions above to place on the subject. The decision will be impacted by mitigating factors which provide explanation of the offense and may soften the sanctions. The decision may also be impacted by aggravating factors which provide more grounds for concern.

The following **mitigating factors** should be considered:

- No prior disciplinary sanctions have been imposed on the subject;
- The impact of the issue on public interest, EAAA, the profession as a whole is minimal;
- The subject has self-reported the issue or has admitted to misconduct early on;
- Actions to prevent recurrence of the same circumstances have been taken;
- There is evidence of good conduct since the filing of the complaint and understanding of the issue and its impact by the subject;
- Remedial action has been taken to address the issues stated in the complaint;
- Personal circumstances of the subject;
- Full cooperation with EAAA during the investigation;

- The subject acted on the basis of professional advice.

The following **aggravating factors** should be considered:

- Prior disciplinary sanctions have been imposed on the subject:
- High public interest impact
- Damage to EAAA and/or profession reputation;
- The subject concealed information or failed to bring relevant information to the attention of the EAAA;
- The subject has refused to accept the allegations of misconduct;
- No mitigations have been put in place to address the issues and no follow-up actions to prevent recurrence;
- The issue is related to the abuse of the position of trust;
- The subject ignored prior reprimands or instructions from EAAA;
- There is no evidence that the subject understands their wrongdoing and impact;
- The subject has obtained benefits as a result of the offense;
- There is a need for deterrence for others;
- Additional evidence has come to light;
- There is evidence of internal control deficiencies;
- Lack of cooperation with EAAA during the investigation.

Once all the evidence, mitigating and aggravating factors have been considered, the DC will make a decision as to the level of seriousness of the issue. Sanctions to be imposed on the subject shall be proportionate to the offense as follows:

1. Low level of seriousness: reprimand, order to complete professional development programmes
2. Medium level of seriousness: suspension of membership/student status, suspension of rights to sit exams, annulment of some exam results of practical experience, fines
3. High level of seriousness: expulsion of membership, removal from student register, fines

Examples of offenses and level of seriousness

Offense/breach	Low level of seriousness	Medium level of seriousness	High level of seriousness
Breach of the Association's regulations, professional standards			X
Failure to cooperate with the investigative process			X
Failure to comply with CPD requirements		X	
Acting with dishonesty, misleading, deceiving			X
Conflict of interest			X
Unprofessional behaviour		X	
Lack of independence			X
Defective work, failure to supervise and control over services provided		X	
Neglect of client, slow correspondence	X		
Performing duties without a license/authorization to do so			X
Dismissal as a company director			X
Bankruptcy			X