



The following information is to assist members and complainants in understanding the practice and procedure of the Institute of Public Accountants (“IPA” or “Institute”) when we undertake an investigation of a complaint against an IPA member.

### **Complaints against an IPA member**

The IPA has an investigations and disciplinary process to accept written complaints against IPA members. As a condition of membership all IPA members are subject to this investigation and disciplinary process for alleged breaches of the IPA Constitution, By-Laws, Pronouncements and professional and ethical standards.

A complaint against a member must be in writing and the IPA complaint form completed to include:

- Details of the complaint including a background and chronological timeline of events (with relevant dates).
- Supporting documentation where applicable.
- Details of any action taken to resolve the matter (attempts to resolve the issue with the member or complaints lodged with other professional or regulatory bodies and their response).
- Details of any legal proceedings commenced.
- Contact details and signature of the complainant/s, and authorisation to act on the complaint.

A copy of the IPA complaint form can be found on the IPA website [www.publicaccountants.org.au](http://www.publicaccountants.org.au).

The IPA’s investigation is a process to determine whether a member has breached any of the Institute’s professional and/or ethical standards for continued membership. Where a member is found to have breached the relevant standards, the range of penalties that may be imposed are set out in the IPA Constitution at clause 98(3) and they are:

- Forfeiture of membership.
- Suspension of membership.
- Imposition of a fine.
- Censure.
- Admonishment.
- Any other penalty deemed appropriate.

The IPA does not have legal power to order payment of compensation or restitution to a complainant, require a member to produce documents or provide any particular service to a client. The IPA may discipline members who breach the IPA’s standards (refer to the IPA Constitution clause 98(3) as outlined above). The approach taken is protection of the reputation of the IPA and acting in the public interest.

The IPA cannot investigate all complaints. There are circumstances where the matter may be more appropriately dealt with by another body such as a regulatory body or the police. We will not investigate a complaint where:

- It relates to breaches of the law or matters that do not fall within our jurisdiction and there are no relevant professional and ethical issues present.
- It is a commercial dispute such as a dispute about fees where there are no relevant professional and ethical issues present.
- The nature of the complaint does not warrant investigation.
- It relates to historical conduct that occurred more than seven years prior to the date of the complaint.
- It does not relate to a current IPA member.

- The complainant is anonymous.

The IPA investigation does not preclude the complainant from taking their own action and the complainant is able to seek their own advice on how they may pursue the matter privately. However if legal action commences or is in progress the investigation will be suspended until the legal proceedings are finalised.

### **Investigation time frame**

Generally, an investigation will be completed within six to nine months, and around twelve months for matters referred to the IPA Disciplinary Tribunal. The time frame for the completion of the investigation will vary and factors that may impact on this include the complexity of the complaint, the provision of information by the member and complainant, enquiries that need to be undertaken, and whether or not external action is also taken.

### **What a member needs to do**

- Cooperate in the investigation of a complaint which includes responding to IPA correspondence in a timely manner in particular provide a written response to the complaint as requested by the Investigations Officer. A failure by the member to respond to correspondence from the Investigations Officer in the specified period is considered a breach of section 98(2)(h) of the IPA Constitution and will result in referral to the IPA Disciplinary Tribunal who may impose a penalty. If a member requires further time to provide a response, they may request an extension of time in writing detailing reasons for the request.
- The written response to the complaint should include a detailed explanation addressing each of the key allegations raised by the complainant together with any supporting documentation (eg. copies of correspondence such as letters and emails) and any information the member considers relevant to the IPA's consideration of the matter. A written response is required even if the member believes the complaint has no merit.
- Be informed about the IPA's complaints and investigations process by reviewing information on the IPA website and in the IPA Constitution and By-Laws (in particular Chapter 7). This information should be considered when the member compiles their written response to the IPA on the complaint.
- Be aware that the member's conduct in dealing with the IPA may also be considered when determining the appropriate sanction where a breach of the relevant standards has been established.
- Consider whether they should notify their insurer about the complaint.

### **The complaints and investigation process**

Refer to the *IPA Complaints Process* document for what happens when a complaint is made against an IPA member. This document can be found on the IPA website [www.publicaccountants.org.au](http://www.publicaccountants.org.au).

The IPA will notify the member in writing of the receipt of a complaint made against them and once a decision has been made on the complaint.

### **Request for review of complaint or conduct of investigation**

If a member or complainant is not satisfied with the decision on a complaint or the way in which the investigation was conducted, they may request a review in writing (except if the matter is referred to the IPA Disciplinary Tribunal) and must state the grounds for the review including any further information they wish to be taken into account in the review.

The request for a review should be made in writing by email to [complianceadvisor@publicaccountants.org.au](mailto:complianceadvisor@publicaccountants.org.au) or by post addressed to the Investigations Officer, GPO Box 1637 Melbourne VIC 3001.

The request for a review must be lodged within 30 days after notification of the decision on the complaint by the IPA.

The lodgement of a review against a decision shall operate as a stay of the implementation of that finding pending the final determination of the review.

The determination on a review may be:

- Confirm the decision and/or penalty.
- Vary the decision and/or penalty.
- Set aside the decision and/or penalty and replace it with another decision or penalty.
- Confirm the investigation was appropriately conducted.
- Confirm the investigation was not appropriately conducted.
- Other.

### **Cases before the Courts and subject to other proceedings**

Where a matter which is the subject of a formal complaint against a member is also before a court of law we will suspend further consideration of the complaint. We do this to ensure our investigation process is not used to thwart any legal action and to also ensure the legal process is not prejudiced by any actions undertaken during the investigation. If a court makes a determination, we will take that into account. The IPA may continue to receive information from either party as court action proceeds but no final determination on the complaint will be made until the court process is concluded. This may cause the investigation process to take longer than would otherwise occur.

### **Tax Practitioners Board**

A complaint before the Tax Practitioners Board is not considered to be a Court case and will generally have no effect on the ongoing investigation of a complaint. Although we are not bound by any decision we may take into account any determination of the Tax Practitioners Board.

### **Liens (holding documents pending payment of fees)**

A lien is a legal right to hold property until a debt is recovered. While we do not encourage members to claim a lien, we have no capacity to prevent members making such a claim where a legal debt exists. There are, however, restrictions on what kinds of documents can be held under a lien.

### **Mediation**

Our investigation process is not a form of mediation. It is a process to determine if a member has breached our professional and ethical standards. Mediation may be sought by either party. However, both parties must agree to the mediation and agree on how costs are to be met. If mediation is entered into, the IPA will not be involved, but we may take into account any outcomes of the mediation.

### **Tips for avoiding disputes**

- Ensure there is an adequate engagement document or letter of engagement to clearly communicate and document the terms of engagement with the client to avoid misunderstandings.
- Keep file notes and accurate records of client interactions with a clear document management process.
- Have a robust internal complaint resolution system to handle complaints and prevent them from escalating.
- Maintain open and effective communications with a client.

This document is not legal advice and is not a substitute for professional advice. You should conduct your own inquiries and/or seek your own professional advice in taking any actions. The Institute of Public Accountants is not liable for any statement or omission in the document, nor any loss that may arise with the use of information in the document.