



**INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
OF UGANDA**

GUIDELINES ON DISCIPLINARY PROCESS

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Institute of Certified Public Accountants of Uganda
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1.0 INTRODUCTION

1.1 Establishment

The Institute of Certified Public Accountants of Uganda (ICPAU) was established in 1992 by the Accountants Act, Cap 266. The functions of the Institute are:

- (i) To regulate and maintain the Standard of Accountancy in Uganda;
- (ii) To prescribe or regulate the conduct of accountants in Uganda.

ICPAU's Vision is "To be a World-class Professional Accountancy Institute".

ICPAU's Mission is "To develop and promote the accountancy profession in Uganda and beyond."

1.2 Overview of the ICPAU Disciplinary & Investigation Process

ICPAU has a statutory responsibility of regulating the conduct of accountants in Uganda. The Council of ICPAU is mandated to regulate the conduct and promote good ethical standards and discipline of members of the Institute.

The Institute's Investigation and disciplinary process is governed by the Accountants Act, Cap 266.

ICPAU takes steps to ensure that all members are fully aware of:

- a. all provisions of the code of ethics and other applicable professional standards, rules, and requirements (and any amendments) issued or applied by Institute and
- b. the consequences of non-compliance with these codes, standards, rules, and requirements.

The ICPAU Disciplinary and Investigation process is designed to ensure that it conforms to the rules of natural justice and effectively serves the public interest.

1.3 Disciplinary Committee

Section 26 (1) of the Accountants Act establishes a Disciplinary Committee consisting of five members, one of whom shall be a Chairperson.

The chairperson of the Committee is a member of the Council of ICPAU.

The purpose of the Committee is to handle and deliver judgment on cases of professional misconduct¹ and to develop and ensure guidance on the professional code of conduct.

Members of the Disciplinary Committee hold office for one year but are eligible for reappointment [Section 26 (3)].

The Secretary of the Institute is also the Secretary to the Disciplinary Committee [Section 28].

1.4 Duties & Responsibilities

- a. To receive and consider complaints against members in regard to alleged professional misconduct.
- b. To hear the defence of the member, where so decided.
- c. To inform Council of the appropriate disciplinary action to be taken in accordance with the provisions for the Accountants Act.
- d. To handle anything, not included above, regarding the discipline of members and report to Council.

2.0 COMPLAINTS AND ALLEGATIONS

Many complaints could be avoided if a Member addresses matters at an early stage and adopted a cooperative approach when dealing with the complainant and with the Institute. Members are encouraged to contact the Secretariat for a discussion if it is considered likely that a complaint will be lodged against you.

2.1 Complaints Against Members

Complaints or allegations of professional misconduct by an accountant may be made by the Council or by any other person [Sec 27 (1)].

The Professional Code of Conduct, in the Fourth Schedule of the Accountants Act, provides ethical standards to be followed, by all Accountants.

A person, who contravenes a provision of the Professional Code of Conduct, commits a professional misconduct and can be dealt with by the Disciplinary Committee as appropriate [Sec 45 (2)].

Generally, a Member is conclusively presumed to be guilty of professional misconduct if he/she has been convicted of a serious criminal offence or an offence involving fraud or dishonesty.

¹ Professional misconduct refers to any action by a Member that is likely to bring discredit to himself or herself, the Institute or the profession of accountancy.

ICPAU receives a number of complaints covering a diverse range of misdemeanours, such as: conflicts of Interest, acting without relevant authority (certificates, permits etc), dishonesty and breach of regulations or ethics.

Once a complaint has been received, the Disciplinary Committee assesses whether or not a complaint is incapable of being resolved by conciliation, and relates to possible professional misconduct or professional incompetence. The Disciplinary Committee requires all complaints to be made in writing.

Where additional information is required, a request for information may be made to the member complained of with a request that the member responds within a specified timescale.

2.2 Complaints from Clients

Audit firms will usually appoint a person within the firm with specific responsibility for dealing with clients' complaints. If a firm receives a complaint from a client or former client, the engagement partner or a nominated partner within the firm should investigate the matter. If having gone through this process the client remains dissatisfied the firm should advise the client of their entitlement to raise the matter with ICPAU.

2.3 How To Raise An Enquiry Complaint

ICPAU can only deal with complaints that are made against Members of the Institute. One should check that the individual is a member by contacting the Secretary of the Institute.

2.4 Submitting a complaint

ICPAU will investigate complaints that indicate that the member may be guilty of either professional misconduct or professional incompetence.

To submit a complaint, you should write to:

**The Secretary
Disciplinary Committee
Institute of Certified of Certified Public Accountants
Plot 42 Bukoto Street, Kololo
P.O. Box 12464, Kampala, UGANDA**

You are advised to do the following:

- a. State the name of the individual who you wish to complain about.
- b. Confirm that you have previously raised the matter with the individual and that the matter has not been resolved.

- c. State what you believe the individual has done that would amount to either professional misconduct or professional incompetence, and provide copies of any documentation that supports your complaint.
- d. State what outcome you would like to achieve in submitting a complaint.
- e. Provide your name, address, contact telephone number and email address.
- f. Ensure that you sign the letter/form.

2.5 Assessment and Investigation

All letters of complaint are reviewed to assess whether there are grounds for complaint and whether the complaint is capable of being resolved by conciliation to the satisfaction of the Member and client.

If the complaint is incapable of being resolved by conciliation, and relates to possible professional misconduct or professional incompetence, then the complaint will be investigated and heard by the Disciplinary Committee.

2.6 Unfounded Complaints

ICPAU will consider all matters that are referred to it and it will take account of the rights and interests of all relevant parties.

Whilst every complainant has a right to have his concerns heard and considered, where a complaint is deemed by ICPAU to be unjustified or speculative, or where the actions of the complainant are unacceptable then no further communications will be entered into with the complainant once the complaint has been closed.

3.0 PROFESSIONAL MISCONDUCT AND PROFESSIONAL INCOMPETENCE

A complaint (incapable of being resolved by conciliation) that relates to possible professional misconduct or professional incompetence shall be investigated and heard by the Disciplinary Committee.

3.1 Professional Misconduct

Professional misconduct is where any act or default by a Member, whether in the course of carrying out professional work or not, is likely to bring discredit to himself or herself, the Institute or the profession of accountancy. Professional Misconduct includes any and all of the following:

- Criminal activity;
- Acts or omissions likely to bring the accountancy profession into disrepute;
- Breaches of professional standards, including breaches of ethical requirements;
- Gross professional negligence;
- A number of less serious instances of professional negligence that, cumulatively, may indicate unfitness to exercise practicing rights; and
- Unsatisfactory work.

3.2 Professional Incompetence

Professional incompetence is where a Member has performed professional work as a practitioner, employee or as an individual, incompetently to such an extent or on such number of occasions as to fall significantly short of the standards expected of a Member.

4.0 THE DISCIPLINARY PROCESS

Section 27 (1) - "A complaint or an allegation against an accountant which if proved would constitute professional misconduct may be made to the Disciplinary Committee by the council or any person".

The Disciplinary process is as follows:

Step 1

- a. The Secretary receives a complaint against an accountant and informs Council of the complaint;

OR

Council initiates a complaint against an accountant, setting out the charges to be inquired into.

- b. The Secretary then refers the complaint to the Disciplinary Committee.

Step 2

The Committee considers whether a complaint or an allegation against an accountant constitutes a professional misconduct and informs Council [*Section 27 (1)*].

Step 3

If a case is to proceed for hearing:

- a. Council awaits the outcome.
- b. The Committee requests the accountant to respond to the allegations within a specified period.

Step 4

Secretary fixes a date for the hearing of the complaint [*Section 27 (2)*].

Step 5

Disciplinary committee gives the accountant an opportunity to be heard and furnishes him/her with a copy of the complaint [*Section 27 (3)*].

Step 6 - Hearing

- a. A copy of the complaint or allegation will be sent to the accountant at least seven (7) days before the date fixed for hearing [*Section 27 (3)*].
- b. A statement setting out the charges (statement of charges) shall be given to each member of the committee, the accountant and the complainant (*Third Schedule - Para 1*).
- c. The Committee fixes a date and notify all parties at least fourteen (14) clear days before the date (*Third Schedule - Para 2*).

Step 7

After hearing the complaint and the accountant to whom the complaint relates and after considering the evidence adduced; the committee may:

- a. Dismiss the complaint if no ground for a disciplinary action is disclosed.
- b. Impose any or a combination of penalties if the grounds for a disciplinary action are disclosed (*Section 30*).

The Committee may invite any person to act as a consultant or specialist on the issue being inquired into (*Third Schedule - para 6*).

Step 8

Make a report of findings in writing to council (*Section 31*).

Step 9

Council implements the committee's decision and instructs the Secretariat to deliver the copy of the report to the complainant and the accountant (*Section 33*).

4.1 Appeal

An accountant or complainant, who is aggrieved by the decision or order of the Committee, may appeal against the decision to the High Court, within three months from the date of the receipt of the report of the Disciplinary Committee (*Section 32*).

5.0 OFFENCES

The offences set out on the pages to follow relate to the most common types of conduct that are brought before the Committee. The list is therefore not exhaustive.

The Committee is likely to continue to update the list of offences, as the profession continues to grow, and as cases continue to emerge and are brought before the Committee for hearing.

1. Being a partner or sole proprietor in firm engaged in public practice without holding a Practising Certificate.
2. Being subject to an insolvency process other than bankruptcy.
3. Breach of confidentiality.
4. Breach of relevant Acts, Statutes, Regulations, Notices, Legal Instruments, Professional Standards, Notifications, Advisories or Guidance issued by ICPAU.
5. Breach of provisions of the Code of Ethics.
6. Bribery or corruption.
7. Conflict of interest.
8. Criminal conviction for a serious criminal offence.
9. Criminal conviction for bankruptcy.
10. Criminal conviction for or an offence involving fraud or dishonesty.
11. Criminal conviction for serious assault.
12. Deceiving/misleading ICPAU or a statutory regulator.
13. Defective accountancy work (e.g. poor quality, late filing, not in statutory format, not complying with rules/requirements of client's regulator etc).
14. Disciplined by another body (The Committee will have regard to the sanction imposed by the other body, but is not constrained to follow it).
15. Engagements conducted of a defective standard or poor quality.
16. Engaging in public practice without holding a Practising Certificate.
17. Failing to act with integrity.
18. Failing to exercise adequate control and supervision over a practice.
19. Failing to hold (or hold adequate) Professional Indemnity Insurance.
20. Failing to respond expeditiously or adequately or at all to professional correspondence.
21. Failure to comply with an order by or an undertaking given to ICPAU.
22. Failure to comply with CPD requirements.
23. Failure to cooperate with a disciplinary investigation.
24. Failure to cooperate with ICPAU's audit monitoring programme.
25. Failure to inform ICPAU of relevant matters indicating that member himself may be liable to disciplinary action (e.g. non disclosure of criminal conviction)

26. Failure to satisfy a judgment debt without reasonable excuse for a period of 2 months.
27. Falsely describing/misrepresenting the firm as Certified Public Accountants.
28. Lack of objectivity/independence.
29. Poor advice/delay in advising in relation to client's affairs/neglect of client's affairs.
30. Professional Incompetence.
31. Responsible Individual signs audit report without conducting audit.
32. Unprofessional behaviour (a lack of professional courtesy and consideration).
33. Unsatisfactory conclusion of quality assurance reviews conducted by ICPAU.
34. Failure to respond promptly to all communications by ICPAU or the Committee.

6.0 SANCTIONS

The purpose of sanctions issued by a professional regulatory body is to:

- a. Protect the public interest.
- b. Maintain proper standards of conduct.
- c. Maintain public confidence in the profession.

The Institute therefore has a duty not simply to discipline the individual or firm for any wrongdoing of which he or it may be culpable, but to protect the public and maintain the reputation of the profession by sending a signal as to how serious the Committee considers the conduct to be. In carrying out these roles the Committee is maintaining public confidence in the profession.

Each case will be judged on its own facts. After hearing each case, the committee may dismiss the complaint if there is no ground for a disciplinary action. If the Committee finds grounds for disciplinary action it may impose any or a combination of the following penalties.

6.1 *Admonish accountant [Section 30 (a)]*

The Committee may apply this penalty where the conduct is of a minor nature and there is no continuing risk to the public. This penalty may also be appropriate where the conduct is of a serious nature but the Committee is satisfied that based on the particular circumstances of the case or mitigation measures advanced, there is no continuing risk to the public.

6.2 *Suspension of Certificate/License [Section 30 (b)]*

The Committee may suspend that the certificate or licence of the accountant for a specified period not exceeding two years. The length of the suspension will usually be a reflection of the Committee's view of length of time that the member needs to reflect upon his conduct and make any necessary improvements.

6.3 Suspension from Membership [Section 30 (c)]

The Committee may suspend the accountant from membership of the Institute for a specified period not exceeding two years. Suspension from membership would usually entail automatic suspension of certificate or license held by the Member.

6.4 Fine [Section 30 (d)]

The Committee may impose a fine on the Member as the only sanction, or combine the fine with another sanction. The amount of the fine will usually vary depending on the severity of the case, personal circumstances of the individual or firm and any other aggravating or mitigating circumstances. It should be noted that the Committee has the discretion to set any amount of fine that it deems fit under the circumstances.

6.5 Compensation [Section 30 (e)]

The Committee may order the accountant to pay compensation to any person who may have suffered loss as a result of the misconduct. The compensation could be reimbursement of costs suffered (e.g. if another accountant had to be employed to rectify the member's errors) or compensation for time spent, for legal costs or for inconvenience suffered.

6.6 Exclusion [Section 30 (f)]

The Committee may order that the name of the accountant be struck off the roll of accountants. The Committee may impose this penalty when it determines that the misconduct is so serious that it undermines the public confidence in the accountancy profession and it is the only way to protect the public interest.

It should be noted that a Member who has been convicted of a serious criminal offence or an offence involving fraud or dishonesty will usually automatically face such a penalty.