



# ***Practice Assurance Regulations***

EFFECTIVE FROM 1 JULY 2019

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## PRACTICE ASSURANCE REGULATIONS

These Practice Assurance (PA) regulations were made by ICAEW's Council on 6 October 2004 and came into force on 1 November 2004. The regulations were last amended by the ICAEW Regulatory Board on 1 July 2019 and are applicable wherever members are required under the Principal Bye-laws to hold a practising certificate.

### Interpretation

1. In these *regulations*, unless the context otherwise requires or express reference is made, words and phrases have the same meaning as in ICAEW's Principal and Disciplinary Bye-laws. Furthermore:

*annual return* means the return sent to PA firms and PC holders by ICAEW requesting information for the purposes of the PA scheme;

*business days* means normal working days in England excluding Saturdays, Sundays, Public and Bank holidays;

*PA contact principal* means a person appointed by the PA firm to be the main point of contact with ICAEW for the purposes of the PA scheme and in connection with these regulations;

*PA firms* means the firms within scope of these regulations as set out in regulation 6;

*PA penalty* means the financial penalty which the PA firm or PC holder agrees to pay ICAEW for a breach or breaches of these or other regulations which the firm / PC holder agrees have been committed;

*PA reviewer* means the person or persons appointed by ICAEW to review PA firms and PC members;

*PA scheme* means the scheme, system or arrangements for the inspection, monitoring and review of the efficiency and competence of PA firms and PC holders made under sub-clause 1(b) (viiiB) of the Supplemental Charter;

*PA standards* means the principles-based standards issued in conjunction with the PA scheme;

*PC holder* means a member holding a practising certificate;

*PC member* means a PC holder engaged in public practice in a firm which is not a member firm;

*Practice Assurance Committee* means the committee appointed to have operational responsibility for the PA Scheme and which is accountable to the ICAEW Regulatory Board;

***regulations*** means these Practice Assurance Regulations

***review*** means the review of the PA firm or PC member by a PA reviewer which may take the form of a desktop and/or telephone review or onsite visit;

***review date*** means the date or dates specified in the review notice;

***review notice*** means a notice specifying a date or dates for a review served on the PA firm or PC member; such notice may include a description (whether in specific or general terms) of the information and records required during the visit.

***Use of Description Regulations*** means The Regulations governing the Use of the Description 'Chartered Accountants' and ICAEW general affiliates, as amended or modified from time to time.

2. Headings do not affect the interpretation of these ***regulations***. The ***regulations*** will be governed by, and interpreted according to, English law.
3. Any reference to legislation, bye-laws, regulations or other documents will apply to any re-enactment, re-issue or amendment.

## **Guidance**

Guidance is provided below to help with the application of these regulations. It is distinguished from the regulations by being in light type.

## **Notices**

4. A notice or other document to be served under these ***regulations*** may be delivered by hand, email or by first class post as follows:
  - a. if delivered by hand, service will take effect immediately;
  - b. if sent by email, service will be deemed to take effect at 9 am on the next ***business day*** following the date of transmission, provided the notice or other document is sent to the most recent email address given by the addressee; and
  - c. if sent by post, service will be deemed to take effect 2 ***business days*** after posting, provided the notice or other document is sent to the latest address given by the addressee.
5. Any notice or other document required to be given or sent to ICAEW shall be given or sent to ICAEW at the following address:

ICAEW – Professional Standards Department  
321 Avebury Boulevard  
Milton Keynes MK9 2FZ

## Scope

6. These regulations apply to:
- a PC holders;
  - b member firms;
  - c contracted firms as defined in ICAEW's Disciplinary Bye-laws; and
  - d firms which hold a dispensation to use the description 'Chartered Accountants' under the Use of Description Regulations and which are required, or have undertaken, to be part of the PA scheme.

## Continuing obligations

7. *PC holders and PA firms* shall, at all times, comply with these *regulations* and act in accordance with the *PA standards*.
8. *PC holders and PA firms* shall cooperate with ICAEW, its staff and the *Practice Assurance Committee* in carrying out its or their functions under the *PA scheme*. In particular, *PC holders and PA firms* shall comply with and/or fulfil any undertakings or assurances given to the *Practice Assurance Committee* or ICAEW staff following *reviews*.
9. If any functions or responsibilities of ICAEW under the *PA scheme* are undertaken by another person or body with the agreement of ICAEW, *PC holders and PA firms* shall cooperate with such other person or body as if it were ICAEW.
10. ICAEW's logo and/or the legend, 'A member of the ICAEW Practice Assurance scheme' may be used by:
- a member firms; or
  - b firms which are permitted to use the description 'Chartered Accountants' under the *Use of the Description Regulations* and which are required, or have undertaken, to be part of the *PA scheme*.

Contracted firms, which do not fall within the definition in paragraph (b) above, may use the legend but shall not use the ICAEW logo. Any use of the logo or legend shall be in accordance with the terms and/or guidance specified by ICAEW.

11. All *PA firms* shall appoint from that firm a *PA contact principal* who shall be:
- a in the case of a sole practice, the practitioner;
  - b in the case of a partnership, a partner;
  - c in the case of a limited liability partnership (LLP), a member of the LLP or a member or its management board; or
  - d in the case of a corporate body, a director or member of its management board.

Guidance The role of the *PA contact principal* is to be responsible for ensuring that the firm complies with these *regulations*. The *contact principal* should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions.

Except in the case of a sole practice, the firm shall notify ICAEW immediately of the appointment of the *PA contact principal* on joining the *PA Scheme* and shall notify ICAEW within 10 business days or any change to the appointment (see regulation 13).

12. ***PA firms and PC holders*** shall supply, in accordance with the terms and return dates specified, any information and/or documentation requested by ICAEW or the *Practice Assurance Committee* in exercising its functions and responsibilities under *the PA scheme and these regulations* (whether in the *annual return* or otherwise).
13. ***PA firms*** shall notify the ICAEW as soon as practicable and, at the latest, within 10 *business days* of the date of any changes to:
- a. the information that has previously been provided relating to the composition of the firm;
  - b. the name and/or contact details of the *PA contact principal*;
  - c. the name or trading name of the firm;
  - d. the firm's *registered address*;
  - e. the firm's main telephone number; and
  - f. the firm's email address.

Provision of this information under ICAEW's *Audit Regulations and Guidance*, *Local Audit Regulations*, *Designated Professional Body (Investment Business) Handbook*, *Probate Regulations* or *Licensed Practice Handbook* shall satisfy this regulation.

#### Practice Assurance reviews

14. ICAEW will notify a *PA firm* or a *PC member* not less than 30 *business days* in advance of a *review*.
15. Subject to regulation 16 if, on the receipt of the *review notice*, the *PA firm* or *PC member* is of the opinion that it will not be convenient to comply with regulations 18 and 19 on the *review date*, the *PA firm* or *PC member* shall, not more than 10 *business days* after service of the *review notice*, inform ICAEW in writing of 3 further dates (being *business days*) on which regulations 18 and 19 can be met.
16. The 3 'further dates' referred to in regulation 15 shall be no later than 45 *business days* after the *review date*, and the *PA firm* or *PC member* shall comply with all reasonable requests by ICAEW to reschedule the date of the *review*.
17. Regulations 14, 15 and 16 will not apply where the Chair of the *Practice Assurance Committee* is of the opinion that it is in the public interest for a *review* to be conducted with less than 30 *business days'* notice. Where the Chair is of that opinion, they will authorise the issue of a *review notice* to a *PA firm* or *PC member*.
18. A *PA firm* or *PC member* shall provide appropriate facilities to the *PA reviewer* to enable them to carry out their functions during an onsite review visit.

19. The *PA firm* or the *PC member* shall use best endeavours to ensure that the following are available during an onsite review visit:
- a in the case of a *PA firm*, the *PA contact principal* and all relevant staff;
  - b in the case of a *PC member*, the *PC member*;
  - c in the case of a *PA firm* and a *PC member* all information, books, records and documents whether in hard copy or electronic form (including those specified in the *review notice*) which ICAEW considers necessary to enable it and the *PA reviewer* to perform their functions under the *PA scheme*.
20. Following a *review*, any issues or concerns will be notified by ICAEW in writing to the *PA firm* or *PC member*. The *PA firm* or *PC member* shall, within 15 *business days* of service of such notification (or such longer period as may be allowed), provide a response in writing to ICAEW addressing such issues or concerns.
21. If, after considering any response received from a *PA firm* or a *PC member* under regulation 20 or for any other reason, ICAEW considers that a further *review* is necessary or desirable it shall notify the *PA firm* or *PC member* in writing. The *PA firm* or *PC member* shall be responsible for ICAEW's charge for the further *review*.

#### General

22. ICAEW shall keep confidential all material and information provided by *PA firms* or *PC holders* in connection with the *PA scheme*, whether oral or in writing, except that such material or information may be disclosed (directly or indirectly) to any person or body undertaking regulatory or law enforcement responsibilities for the purpose of assisting that person or body in exercising their functions or responsibilities or where such disclosure is required by law.
23. Any breach of these *regulations* by a *PA contact principal* shall be deemed also to be a breach by the *PA firm*.

#### Fees

24. Payment of the *PA scheme* fee is due on the same date, and under the same conditions, as apply to the practising certificate fee.
25. A member who has been granted an exemption from the requirement to pay the practising certificate fee will be exempt from the requirement to pay the *PA scheme* fee for the same period.
26. Failure to pay the *PA scheme* fee or a charge levied under regulation 21 will have the same consequences in relation to a *PC holder's* eligibility to hold a practising certificate as failure to pay the practising certificate fee.

#### The Practice Assurance Committee

27. The *Practice Assurance Committee* shall:
- a. comprise at least 10 members, of whom at least half must be lay (non-accountant) members; and

- b. have a quorum of 4 members, comprising 2 accountant members and 2 lay (non-accountant) members.

28. The *Practice Assurance Committee* is responsible for all operational matters relating to the *PA scheme*, including:
- a. considering reports arising from Practice Assurance *reviews* carried out by ICAEW's Quality Assurance Department;
  - b. requesting that *PA firms* and *PC holders* carry out remedial action or activities based on such reports;
  - c. obtaining assurances and/or undertakings from *PA firms* and *PC holders* to carry out remedial action or activities;
  - d. directing, in accordance with *regulation 21*, that *PA firms* or *PC members* be subject to a further monitoring *review* and determining the fee payable for that *review*;
  - e. considering issues or matters referred to the *Practice Assurance Committee* by the ICAEW Regulatory Board or ICAEW staff;
  - f. making representations to the ICAEW Regulatory Board on policy matters relating to the *PA scheme*;
  - g. referring potential disciplinary matters for investigation to ICAEW's Professional Conduct Department in accordance with *regulation 33*;
  - h. proposing *PA penalties* to *PC holders* and *PA firms* in accordance with *regulation 35* with the consent of the individual / firm.
29. The following persons may attend a meeting of the *Practice Assurance Committee*:
- a. members of the *Committee*;
  - b. the secretary to the *Committee*;
  - c. any member of ICAEW staff whose role it is to advise or inform the *Committee* on ICAEW's bye-laws, regulations or the law, or its responsibilities, duties, powers and procedures under these *regulations*;
  - d. any other person whom the *Committee* permits.
30. Except where *regulation 28(h)* applies, the *Practice Assurance Committee* may delegate any of its functions or duties to a sub-committee, ICAEW staff or other duly appointed agent.
- Guidance While the Practice Assurance Committee may, in general, delegate the exercise of its functions to a sub-committee, ICAEW staff or other duly appointed agent, it may not delegate the power to propose to a Practice Assurance penalty to an individual or firm for breaches of these or other regulations.
31. If the *Practice Assurance Committee* appoints a sub-committee to carry out one or more of its functions, that sub-committee shall comprise at least 2 accountant members and 2 lay (non-accountant) members.
32. The *Practice Assurance Committee* may propose a *PA penalty* or refer a fact or matter to ICAEW's Professional Conduct Department for investigation if it considers:
- a. that the *PA firm* or *PC holder* is not complying, or has not complied previously, with these *regulations* or other ICAEW bye-laws, regulations or standards;



- b. that the *PA firm* or *PC holder* is not complying with any legal requirements including those under anti-money laundering legislation;
- c. that the *PA firm* or *PC holder* is over 30 days late submitting any required returns, reports, information or documentation;
- d. that the *PA firm* or *PC holder* has failed to comply on one or more occasion with assurances or undertakings provided to the *Committee* or ICAEW;
- e. that the *PA firm* or *PC member* has failed to comply with its or their obligations under there *regulations* regarding monitoring *reviews*; or
- f. that, for any other reason, a *PA penalty* or a referral of the matter for further investigation would be appropriate given the conduct of the *PA firm* or *PC holder*.

33. The *Practice Assurance Committee* shall notify ICAEW's Professional Conduct Department of any fact or matter which, in the opinion of the *Committee*:
- a. indicates that the a *PA firm* or *PC holder* may be liable to disciplinary action under the Disciplinary Bye-laws; and
  - b. is appropriate for referral rather than disposal by way of a *PA penalty*.
34. In carrying out its responsibilities under regulation 28(h) the *Practice Assurance Committee* may have regard to the disciplinary record of the *PA firm* or *PC holder*.

Guidance In determining the action required following a PA review, the Practice Assurance Committee may take into account the disciplinary record of an individual or firm.

### Practice Assurance penalties

- Guidance The Practice Assurance Committee may decide that a referral to ICAEW's Professional Conduct Department to investigate an apparent failure to comply with these or other regulations is not appropriate. Instead, with the agreement of the individual / firm, the Practice Assurance Committee may propose a Practice Assurance penalty to the individual / firm. The following regulations explain this process.
35. The *Practice Assurance Committee* may propose a *PA penalty* to a *PA firm* or *PC holder* subject to the following:
- a. The *Practice Assurance Committee* will decide the amount of the penalty and when it is to be paid (which may be by way of instalments) and will set this out in a letter to the *PA firm* or *PC holder* proposing the penalty; and
  - b. If the *PA firm* or *PC holder* accepts that a breach of these or other regulations has occurred and wishes to accept the terms on which the penalty is proposed, they must notify the PCD Committee Secretary within 10 *business days* of the date of service of the letter from the *Practice Assurance Committee* containing the proposal.
36. The *Practice Assurance Committee* will take account of any comments made by a *PA firm* or *PC holder* on the terms or the amount of the *PA penalty*. It may then reduce the amount of the penalty.

37. If the *PA firm* or *PC holder* accepts the penalty proposed under regulation 36, the *Practice Assurance Committee*, as soon as practicable:
- a will make the order; and
  - b may publish its decision in any way it decides once the order has taken effect.
38. If the *Practice Assurance Committee* makes an order under regulation 37, it shall take effect after 7 days following service on the individual / firm.
39. ICAEW will keep the details of any agreed penalty, and the order made, and the *Practice Assurance Committee* and ICAEW may use this information in the future.
40. Where the *Practice Assurance Committee* has proposed a *PA penalty* in accordance with regulation 35, but the *PA firm* or *PC holder*:
- a does not agree that a breach or breaches have been committed;
  - b does not agree to the terms of the proposed penalty; or
  - c fails to comply with the terms of the penalty,
- the matter may be referred to ICAEW's Professional Conduct Department for investigation and dealt with in accordance with ICAEW's Disciplinary Bye-laws.

Guidance PA penalties are likely to be offered for less serious breaches of the Practice Assurance and other regulations e.g. where:

- a member has engaged in public practice without holding a practising certificate;
- a firm has failed to submit an annual return within the timeframe specified; or
- a firm has failed to supply a copy of a bank trust letter upon request.

Once a matter has been dealt with by way of a Practice Assurance penalty there will be no further disciplinary action against the individual / firm, however details of the penalty will form part of the individual / firm's disciplinary record and may be taken into account in the future.

41. There are no rights of review or appeal against a *PA penalty*.

Guidance As a PA penalty may only be imposed on an individual or firm with their agreement, there is no right of review or appeal.

### Transitional arrangements

42. These *regulations* were amended with effect from 1 July 2019. Any issues arising out of, or identified during the course of, *reviews* commenced by ICAEW prior to 1 July 2019, or issues arising during follow-up activity to those *reviews*, shall be dealt with on the basis for the PA regulations in force up until 30 June 2019.
- Reviews*, or scheduling and/or follow-up activity carried out by ICAEW in connection with those *reviews* on or after 1 July 2019 shall be conducted on the basis of these *regulations*.