



ACCOUNTANCY AND ACTUARIAL DISCIPLINARY SCHEMES

ICAEW welcomes the opportunity to comment on the consultation paper *Accountancy and Actuarial Disciplinary Schemes* published by the Financial Reporting Council (FRC) in June 2014, a copy of which is available from this [link](#).

This response has been prepared on behalf of ICAEW by the Professional Standards Department of ICAEW and reflects the views of ICAEW as a regulator.

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MAJOR POINTS

1. We support the FRC's objective of providing for a Joint Tribunal to hear formal complaints under both the Accountancy and Actuarial Scheme arising out of the same facts so as to provide increased consistency and co-ordinated resolution in disciplinary cases and promote costs savings.
2. The consultation does suffer some lack of detail in our view. Firstly, there is no information as to the number of cases where a joint tribunal is likely to be appropriate – either based on historic data or projected numbers. Secondly, whilst costs savings are referred to there is little information on how these will be achieved in practice other than by reference to the fact that the costs of one hearing should be less than the combined costs of two separate hearings.
3. Further, in the context of costs savings and efficiencies, the consultation is concerned with matters after the delivery of a formal complaint and it is unclear what impact, if any, the changes will have on the investigation of 'joint cases' and whether there is scope for costs savings in such cases prior to the delivery of a formal complaint.
4. These general points aside we have some drafting comments which we have picked up in the replies to the specific questions.

RESPONSES TO SPECIFIC QUESTIONS

Q1. Do you consider the proposed amendments to be understandable?

5. Generally, yes. There are a small number of drafting queries which we take the opportunity to list here:
 - Paragraph 11(5)
This refers to a Formal Complaint '...arising out of the same matter...' Paragraph 2.1 refers to Formal Complaints '...arising out of the same facts.' The latter is clearer in our view.
 - Paragraph 11(6)
Presumably, where there is only one notice of appeal by either the accountancy or actuarial scheme member that appeal will not be heard by a joint tribunal? Where there are two or more notices of appeal in the circumstances referred to in this paragraph the Conduct Committee has discretion to require a Joint Appeal Tribunal to be convened. Is this discretion to be exercised subject to any rights of representation?

Q2. Do you agree that provision for Joint Tribunals should be included in each Scheme?

6. Yes, in the context of the current separate arrangements.

Q3. Do you agree the proposed constitution of a Joint Tribunal?

7. The constitution provides for a lay majority which is in line with the current arrangements for Disciplinary and Appeal Tribunals under each scheme. Consequently, we agree that the constitution is appropriate.
 - Paragraph 11(7) refers to a lay person. This could be usefully defined in each scheme.

Q4. Do you agree that the proposed amendments to each Scheme to permit Joint Tribunals in the circumstances specified should, over time, tend to reduce the costs associated with the FRC's disciplinary schemes?

8. In relation to reducing the cost of disciplinary and appeal hearings in cases where a joint tribunal would be appropriate we believe that the proposals should be beneficial. However, we are unable to comment further without seeing data relating to the likely number of such cases and the comparative cost of hearings before joint tribunals and separate tribunals under each

scheme. Further, we are unclear whether enhanced savings may be achievable in investigating such cases prior to the delivery of formal complaints as this is outside the scope of the consultation.

Q5. Do you have any other comments about the proposed amendments?

- 9.** We have no further substantive comments at this stage save that it would be helpful, in our view, to revisit the drafting of paragraphs 11(5) to 11(8) under each scheme to ensure greater clarity and consistency, including with the corresponding provisions of the Actuarial Scheme.