

The CIPFA Disciplinary Scheme

**Information regarding the
Institute's approach to
bankruptcy or any arrangement or
composition with creditors
generally**

APRIL 2015

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services

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Information regarding the Institute's approach to bankruptcy or any arrangement or composition with creditors generally

1. INTRODUCTION

One of CIPFA key objectives is to maintain the reputation of and public confidence in the Institute, its members and the profession of accountancy.

In order to meet this objective CIPFA has membership and regulatory processes which assess and determine the suitability of individuals to be registered with or elected to Membership of CIPFA and to retain such a status. This extends to prospective student members, Registered Students and existing members - including Members, Affiliate members and Associate members (referred to as members in this document).

One aspect of this process is consideration of whether a member has been or becomes bankrupt or has made or makes any arrangement or composition with his creditors generally. Depending on the individual circumstances concerned, such matters may demonstrate that a member is unsuitable to be on CIPFA's register.

2. THE IMPORTANCE OF KEEPING THE INSTITUTE INFORMED

In accordance with Bye-Law 32A members have a duty to keep CIPFA informed of a wide range of matters, including matters related to their membership which CIPFA reasonably requests and information which CIPFA requires to pursue its aims.

Under the same Bye-Law members also have a duty to bring to the attention of the Institute any matter which may indicate that they (or another member) are liable to action under the Institute's Disciplinary Scheme. They also have a duty to co-operate with any inquiry in relation to any matter which is or may be considered under Bye-Law 23.

For the avoidance of doubt CIPFA requires all members, under Bye-Law 32A, to inform the Institute if they become bankrupt or make any arrangement or composition with creditors generally.

In any event, it is likely to be in the best interests of a member to promptly inform CIPFA of any matter which may fall to be considered by it under Bye-Law 23(e). The timing of notification may be a factor taken into consideration – either in mitigation or aggravation - by any regulatory Committee which considers the relevant circumstances.

3. THE CONSIDERATION OF BANKRUPTCY OR ANY ARRANGEMENT OR COMPOSITION WITH CREDITORS GENERALLY UNDER THE DISCIPLINARY SCHEME

CIPFA is aware that the financial and other circumstances experienced by members and the actions of each member in the face of those circumstances will be different. It, therefore, ensures that each case is assessed individually before any determination is reached on its impact on a member's suitability for membership. Thus the existence of a bankruptcy or arrangement or composition with creditors generally should not, in itself, be considered a bar to membership of CIPFA.

In accordance with Bye-Law 23(e) when it comes to the attention of CIPFA that a member may have been/becomes bankrupt or has made/makes any arrangement or composition with his or her creditors generally, the matter is drawn to the attention of the Institute's Investigations Committee.

The Investigations Committee considers the individual facts and circumstances of the matter. If it determines that there may be or has been a bankruptcy or arrangement or composition with creditors generally (as specified in Bye-Law 23(e)) and that it is appropriate to commence proceedings then it may request that the matter be investigated by the Investigations Unit.

After any investigation by the Investigations Unit, including an opportunity being afforded to the individual to make submissions about the matter, the matter will be re-considered by the Investigations Committee. At this stage the Investigations Committee will consider if there is prima facie evidence of a member having been/become bankrupt or having made any arrangement or composition with his creditors generally and, after considering all of the circumstances may determine, amongst other matters, to take no action, to issue a sanction of Entry on Record or Reprimand (with the agreement of the member) or to refer the matter for hearing before a Disciplinary Committee.

If a matter were referred for hearing before a Disciplinary Committee the member would be invited to attend a Disciplinary Committee hearing. That hearing, which would normally be held in public, would explore the relevant circumstances, including any mitigation brought forward by the member. The Disciplinary Committee would then determine whether or not any sanction should be imposed, and if so what that sanction should be. The sanction open to the Committee include an Entry on Record, a reprimand, a severe reprimand, a suspension or expulsion. The issue of costs may also be considered by the Disciplinary Committee.

Whether any particular circumstance falls to be considered by a Disciplinary Committee is determined by the Investigations Committee. Such Committees, which comprise both CIPFA and non CIPFA members, are independent of the Institute. They reach their own determinations on the basis of the facts and circumstances in each matter. The independence of the Committees ensures that each matter is considered, and demonstrated to be considered, in a fair and objective way.

One consequence of the Committees' independence is that although guidance may be provided to members about the regulatory process - including guidance based on the outcome of previous considered cases - neither the Institute nor its Investigations Unit are able to determine what the outcome of a particular matter under consideration will be or, indeed, seek to bind any Committee to any particular outcome.

In addition, it falls to the Investigations Committee to determine whether any particular arrangement falls under the terms of Bye Law 23(e). In consequence CIPFA and its Investigations Unit, although able to provide guidance on this issue, is unable to make a formal determination of this issue or bind a Committee to any particular interpretation of the provision.

The Disciplinary Scheme – April 2015