

Dear Sir/Madam

Ref: 544792

HOW TO LODGE A COMPLAINT AGAINST A SAICA MEMBER – PROCEDURE AND DISCIPLINARY PROCESS

1. Kindly be advised that persons who wish to lodge a complaint of improper conduct against a person who is a member of the Institute must do so on an original affidavit (sworn statement) commissioned by a Commissioner of Oaths. In this regard, we hereby request that you furnish us with an affidavit setting out the allegations and facts upon which the allegations are based (including supporting documentation) (“**complaint**”). The complaint must either be hand delivered to SAICA, **17 Fricker Road, Illovo, Sandton, Johannesburg, 2196** for the attention of the **Project Director: Legal and Discipline division**, or faxed to **+27 11 622 3321** or e-mailed to discipline@saica.co.za.
2. Upon receipt of the complaint, and on confirmation that the accused is a Chartered Accountant we will take the necessary steps in accordance with our complaints procedure and disciplinary process, a summary of which is provided below.
3. **NOTE:** In terms of SAICA By-Laws, in circumstances where a person is a Chartered Accountant as well as a Registered Auditor (registered with the Independent Regulatory Board of Auditors (IRBA), the Institute is obliged to refer the complaint to the IRBA for investigation and adjudication.
4. **Complaints procedure and disciplinary process**
 - 4.1. If the complaint indicates that there is a *prima facie* contravention of the Institute’s Code of Professional Conduct, the person against whom the complaint is lodged shall be notified about the complaint and the nature thereof and shall be given an opportunity to respond thereto **within 21 (twenty-one) days** of having been so notified.
 - 4.2. Please note that in order for the accused to properly respond to the complaint, we must provide her with details of the complaint. In this regard, such disclosure might entail providing the accused with a copy of the affidavit deposed to by the complainant. As such, we request that the complainant provide us with their consent, by stating so in the affidavit, permitting the Institute to provide the accused with a copy of the complaint, if necessary.
 - 4.3. Upon receiving a response to the complaint from the accused, we will consider same and if necessary, allow the complainant an opportunity to respond to the accused’s response within **21 (twenty-one) days**.
 - 4.4. The matter will be considered by the Professional Conduct Committee (PCC). If the PCC is not satisfied with the accused’s explanation, the PCC has the power to caution or reprimand the accused or to impose a fine on the accused. The PCC may refer a matter to the Disciplinary Committee (DC) for adjudication if the PCC considers the offence to be so serious that it might warrant



- the imposition of a fine greater than that which the PCC is mandated to impose.
- 4.5. If the DC finds the accused guilty of a punishable offence, it has the power to order that the accused be cautioned, reprimanded, fined, suspended from membership, excluded from membership or disqualified from applying for membership permanently or for such periods as the DC may determine.
 - 4.6. **Note:** A decision of the Disciplinary Committee is final and binding on a member. An accused has the right to appeal a decision of the Professional Conduct Committee to the Disciplinary Committee. However, an accused must lodge an appeal within 21 (twenty-one) days from the date of the finding of the Professional Conduct Committee.
 - 4.7. An inquiry of improper conduct, by its nature, takes time to process. Once all documentation and relevant information have been collated, the matter will be investigated and referred to the relevant adjudication committee.
 - 4.8. All questions regarding any aspect of the Institute's complaints procedure or disciplinary process should be directed to the Project Director: Legal and Discipline at discipline@saica.co.za

5. Guidelines for the Affidavit (complaint)

Please note the following guidelines regarding the preparation and submission of an affidavit (complaint):

- 5.1. The affidavit must contain allegations of improper conduct and facts on which those allegations are based. A complainant must specifically identify what conduct she believes constitutes improper conduct. Affidavits which simply state that "*the member has acted unprofessionally as can be seen from the attached documents*", or similarly phrased affidavits, will be returned for clarification. This will unnecessarily prolong the process. Therefore, please be clear and thorough when making a statement.
- 5.2. It would be helpful if supporting documentation attached to the affidavit is properly referenced or marked. References on the attachments should correspond with the references mentioned in the affidavit.
- 5.3. Where possible single-sided documentation is preferable. The reason for this is that the affidavit (and supporting documentation) will be reproduced.
- 5.4. Please ensure that when attaching e-mails, only the relevant e-mails are attached and that these are in chronological order, starting with the oldest one and running to the latest one, with no extraneous material



attached.

- 5.5. Please ensure that every page of both the affidavit itself and all the attachments thereto are initialled by both yourself and the Commissioner of Oaths. This is very important.
- 5.6. An affidavit is a statement under oath which means that it is a statement of truth. Therefore, please only record statements that are true. In addition, we advise that you refrain from statements that can be regarded as offensive or defamatory.
- 5.7. The form of an affidavit follows hereunder.

AFFIDAVIT

I, the undersigned _____ do hereby make oath and say that:

1.(*Statement about who you are and what you do*)
2.(*then the allegations and the facts on which the allegations are based*)

The affidavit, together with attachments thereto, must be signed and initialled on every page by the deponent (the person making the statement under oath) before a **Commissioner of Oaths**.

The Commissioner of Oaths must also sign the affidavit in the place where his/her signature and details must appear. Every page of the affidavit including attachments should be initialled by the Commissioner of Oaths.

- 5.8. A Commissioner of Oaths can be any bank manager, attorney, Chartered Accountant, postmaster or member of the South African Police Services. The Institute cannot provide any assistance regarding the substance of the complaint/affidavit as it must remain impartial when dealing with complaints.
6. Should you wish to find out more about our complaints procedure and disciplinary process, you can visit our website on www.saica.co.za (on the home page click "technical information" and then click "discipline"). The Institute's By-Laws, Code of Professional Conduct and Chartered Accountants Designation (Private) Act, 67 of 1993 are available on our website.
7. If you do not have access to the internet, we will gladly send you our disciplinary function information manual or you can pick up a copy from our offices. Kindly contact our office should you require us to send you the information manual.
8. Finally, in fulfilling our duty as a professional body in terms of applicable legislation and professional code of conduct, the Institute is mindful that its processes and procedures should not unduly advantage or prejudice either one or other of the parties insofar as



other parallel processes are being followed or contemplated. Should the latter possibility exist, the Institute may, at its discretion, hold the matter in abeyance until such time that the stated process, whether civil or criminal, has been concluded.

9. We trust that this provides you with sufficient information regarding our complaints procedure and disciplinary process.

Yours faithfully,

Alicia Daniels

Project Director: LEGAL AND DISCIPLINE

SAICA Legal and Governance