

ICAEW practice monitoring review (Lecture A842 – 8.06 minutes)

In 2022, the ICAEW Quality Assurance Department (QAD) carried out more than 1,500 practice assurance reviews. All of which reverted back to pre-pandemic review procedures.

The report confirms that in 2022, the Practice Assurance Committee considered 45 reports (in comparison to 24 in the prior year). Some of the reasons for these reports are as follows:

Money laundering	17 cases had significant weaknesses in compliance with Anti-Money Laundering Regulations. Some failed to fulfil assurances provided at the previous review to improve their procedures. In some cases, they also failed to fully comply with Clients' Money Regulations.
Clients' Money Regulations	4 cases had significant breaches of the Clients' Money Regulations.
No responses	7 failed to respond to findings raised at a QAD review.
Use of description 'chartered accountants'	5 cases used the description 'chartered accountants' when they were not eligible to do so.
Practising certificate	3 cases related to ICAEW members being in public practice without a practising certificate.
Professional indemnity insurance	4 cases had significant gaps in their professional indemnity insurance.

The Practice Assurance Committee issued penalties of between £245 and £11,200 to 19 of these firms. 17 were referred to ICAEW's Conduct Department for further investigation.

1.1 Most common findings

The report outlines the most common findings as follows:

Finding	What QAD find
Money Laundering Regulations	ICAEW publish an annual report on anti-money laundering (AML) which explains the findings from their monitoring reviews, together with information on their regulatory role and how they fulfil. ICAEW recommends members read the report for a breakdown of AML compliance issues and relevant resources.
Clients' Money Regulations	Non-compliance with Clients' Money Regulations remains one of the top areas of concern. ICAEW identified that: <ul style="list-style-type: none">96 firms did not have a bank trust letter to acknowledge the status of clients' money bank accounts.

- 46 firms had not carried out and documented an annual clients' money compliance review.
- 37 firms were not using designated clients' money accounts when holding £10,000+ for more than 30 days.
- 26 firms had used their office account to hold clients' money.
- 22 firms had held clients' money which did not relate to accountancy services, in breach of Regulation 8A.

Eligibility issues, ICAEW records, annual return and notifying ICAEW of changes

The report confirms that finding errors in firms' annual return data and/or ICAEW records is the third highest area of concern.

The report clarifies that when firms are completing their annual return, the firm should carefully check all standing data. Where an error is spotted, the firm should contact ICAEW and let them know where to correct it.

Firms are also reminded that they must notify ICAEW of any changes to the structure of the firm within 10 business days. The annual return is not to be used for this purpose as otherwise the firm will be in breach of the Practice Assurance Regulations.

Basis of fees and complaints and engagement letters

ICAEW found 164 firms had not informed their clients on the basis on which fees are charged or the firm's complaints procedure, including the client's right to complain to ICAEW. While the firm need not issue engagement letters to clients, these are two matters that must be communicated to all clients in writing.

Where a firm chooses not to issue an engagement letter, ICAEW suggests the following ways of communicating these matters:

- a standard terms of business letter;
- a brochure provided to the client; or
- a paragraph in the body of initial correspondence.

ICAEW also found issues where firms were not keeping engagement letters up to date, did not cover specialist services and/or were incorrectly informing clients that they were able to carry out work requiring a DPB (Investment Business) licence when this was not the case.

Code of Ethics, referral fees and commissions

ICAEW have identified gaps in accounting for unregulated commission and/or referral fees at 51 firms. Typically, this is where firms have not told their clients in writing how much they received and/or obtained their consent to retain it.

ICAEW's Code of Ethics, sections 330.12 A1 to 330.14A1, sets out the requirements as follows:

- notify all relevant clients in writing of the amounts you have received;
- obtain their written consent to retain it; and
- treat the amounts received as clients' money and bank them in a client account until you have permission to retain the money.

For unregulated activities, the firm can obtain advanced informed consent by including an appropriate paragraph in the engagement letter that contains examples of likely commissions and amounts. However, the firm will still need to inform the client of the amount once received.

Professional indemnity insurance	<p>ICAEW state that their main findings in this area is inadequate coverage and/or having a policy that does not comply with the ICAEW PII Regulations. Firms must ensure that PII meets the ICAEW’s minimum requirements:</p> <ul style="list-style-type: none"> • The cover should be at least two and a half times your gross fee income for the accounting year preceding the start of the policy (subject to a minimum requirement of £100,000 and a maximum of £1.5m). • The policy needs to be with a participating insurer who has agreed to meet the requirements of ICAEW’s minimum policy wording. This can be reviewed at icaew.com/pii. <p>There were several findings relating to notifications not being made to the insurers and errors on proposal forms. Both can result in problems should a claim arise.</p>
Data protection	<p>41 firms had not registered with the Information Commissioner’s Office. In addition, 12 firms had still not put adequate procedures in place to meet the requirements of the General Data Protection Regulation (GDPR).</p>
DBP boundary issues and referrals to financial advisers	<p>Issues were found in respect of referrals at 89 firms.</p> <p>ICAEW reminds firms that they should only refer clients to financial advisers who are able to give sufficiently objective advice. Hence, the firm will need to know whether the chosen financial adviser is independent or restricted by the FCA. To make a referral to a restricted adviser, you need to ensure that your client’s needs will be addressed appropriately by making an assessment of whether the restricted adviser places business with product providers who account for a large majority of the relevant market or offer the sector of the market which is most suitable for your client’s needs. If you are not confident that you have the knowledge to make this assessment, you should only refer to independent financial advisers.</p> <p>Firms should also be aware that some types of referrals to financial advisers may require a DPB (Investment Business) licence.</p> <p>In addition, firms must not forget to review the requirements outlined in the ICAEW Code of Ethics, when considering making referrals to financial advisers.</p>

1.2 Future areas of focus

The focus of Practice Assurance reviews for 2023 is anti-money laundering (AML). In addition to routine AML monitoring procedures, they will also cover:

- The role of the Money Laundering Reporting Officer.
- Firm-wide risk assessments.
- Sanctions.
- Prohibition of accountancy services to Russia.
- Suspicious Activity Reports.

- Client due diligence.