

Policy on Disclosure of Criminal Convictions

Document 216018

Context and Purpose

This policy outlines the review and assessment process that is followed when a Fellow, Associate or Affiliate, or an applicant for enrolment as a Fellow, Associate or Affiliate, discloses a criminal conviction¹ to the Institute, pursuant to the Bylaws which state:

Bylaw 3.01.1 – “The Board shall adopt a Policy on Qualification Requirements that prescribes the requirements for enrolment, pursuant to Bylaw 3.00.2, that shall include the following: [...]

- (e) A requirement for a Fellow, Associate or Affiliate applicant to disclose, on their enrolment application, whether or not he or she has any criminal offence, penal offence punishable by incarceration or offences of a similar nature for which he or she is convicted, found guilty of or pleads guilty to, and for which he or she has not been granted a record suspension, or a disciplinary determination of guilt other than a CIA Disciplinary Tribunal decision. The conviction, plea, or determination shall be subject to review and assessment by the Institute and may or may not impact the approval of the application.”

and

Bylaw 3.1.14 – “A Fellow, Associate or Affiliate who is not claiming a waiver of dues under Bylaw 7.02(b) (fully retired), shall disclose to the Executive Director of the Institute, any criminal offence, penal offence punishable by incarceration or offences of a similar nature for which he or she is convicted, found guilty of or pleads guilty to, and for which he or she has not been granted a record suspension, or a disciplinary determination of guilt other than a CIA Disciplinary Tribunal decision, within a period of 30 days of the conviction, plea, or determination.”

It provides the assessing body, as well as members, with guidelines and structure surrounding the process, in order to ensure a fair, efficient, and confidential assessment of a criminal conviction when disclosed.

¹ For the purposes of this document, “criminal conviction” refers to any criminal offence, penal offence punishable by incarceration or offences of a similar nature for which the individual is convicted, found guilty of or pleads guilty to, and for which he or she has not been granted a record suspension (formerly a pardon), or a disciplinary determination of guilt. (Note that records of CIA Disciplinary Tribunal decisions are already on file and would therefore not require further disclosure.)

Scope

This policy applies to all criminal convictions that are disclosed to the Institute by a Fellow, Associate or Affiliate, or an applicant for enrolment as a Fellow, Associate or Affiliate.

Policy Statements

1. The Committee on Professionalism within the CIA (PROF) shall be the body which conducts the review and assessment of a criminal conviction upon disclosure to the Institute.
2. All decisions of the PROF will be based on the *Criminal Conviction Assessment Criteria* included as an appendix to this policy.
3. All disclosures of criminal convictions would be made either on an enrolment application form (from applicants) or to the Executive Director of the Institute (from existing members). The PROF would be advised of the disclosure and would initiate its review and assessment. The Head Office would, to the best of its ability, keep the names of the individuals confidential throughout the review and assessment process conducted by the PROF. However, by nature, a criminal conviction is public information and therefore names could become known by the PROF through other sources.
4. In assessing a disclosure from an **applicant to the Institute**, the PROF will determine whether or not the individual should be enrolled in the CIA, based on the Criminal Conviction Assessment Criteria.
 - a. An applicant to the Institute who is denied enrolment can appeal the PROF's decision to the governing council (e.g., Eligibility and Education Council (EEC)) within 30 days of receipt of the notice of the assessment. If the governing council upholds the PROF's decision, the applicant will be denied enrolment and the decision will be final. If the governing council does not uphold the decision, the applicant will be granted enrolment in the CIA, subject to meeting all other qualification requirements.
5. In assessing a disclosure from **an existing member**, the PROF will determine whether or not the offence puts the character of the member in question, possibly tainting his or her ability to perform professional services, based on the Criminal Conviction Assessment Criteria.
 - a. If the PROF's assessment results in a positive determination, the criminal conviction will be reported to the Committee on Professional Conduct (CPC) for further investigation, pursuant to Bylaw 20.09, and the normal CIA disciplinary process would be initiated. The name of the member would then be provided to the CPC but would only become public at the appropriate point in the CIA's disciplinary process (i.e., if charges are laid).
 - b. If the PROF's assessment results in a negative determination, there would be no further action taken by the PROF and the decision of the PROF would be final.
6. If a criminal conviction that was previously disclosed is subsequently reported to the

CPC by a third party, the CPC will consult the Head Office to ensure that it had indeed been reported and assessed. The PROF's initial assessment will remain binding, and the applicant/member will not be assessed again, by any entity within the CIA, for the same criminal conviction (the "double jeopardy" rule would apply).

7. The documentation of all of the PROF and governing council assessments will be kept strictly confidential. For transparency, all assessments will be reported anonymously, in a regularly scheduled report to the members, identifying the criminal convictions and the result of the assessments.
8. The names of the individuals assessed will not be publicized, and will be kept in a confidential and secure file, as a reference for the Head Office or the CPC, as required. This will ensure consistency in the decisions where similar criminal convictions are assessed. It will also serve to ensure that an individual who discloses a criminal conviction, and is assessed pursuant to this policy, is not investigated again, if the CPC is made aware of the criminal conviction from a third party.

Exemptions

N/A

Escalation Procedures/Management of Non-compliance with this Policy

N/A

Definitions and Abbreviations

N/A

Associated Documents

Bylaws (ref. Bylaw 3.1.16)

Policy Regarding Qualification Requirements

Rules of Professional Conduct (ref. Rule 11)

References

N/A

| Monitoring, Evaluation, and Review | |
|---|-----------------------------------|
| Approval date | Month XX, 20XX |
| Effective date | Month XX, 20XX |
| Approval authority | Board |
| Review owner | Eligibility and Education Council |
| Prior review and revision dates | N/A |
| Review cycle | Every three years |
| Next review date | 2019 |

Procedures
Appendix A – Criminal Conviction Assessment Criteria

Appendix A

| Criminal Conviction Assessment Criteria |
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| <p>The criminal conviction assessment criteria shown below has been established in order to provide the Committee on Professionalism within the CIA (PROF) and its governing council with some guidance in assessing criminal convictions that are disclosed to the Institute.</p> <p>Judgment and reasonableness will still be needed on the part of the PROF members, to assess the seriousness of the criminal conviction and the implications of their determination, on a case-by-case basis.</p> <p>The criteria listed below are not the sole factors to be used in determining the best course of action, but provide guidance to the PROF/governing council about the issues to consider:</p> |
| <p>1. Has a similar assessment been done previously? Referencing the master list of previous decisions may be helpful, but each case is unique and should be considered on its own merits as well.</p> |
| <p>2. Is the criminal conviction related to the practice of the actuarial profession? It is not an easy task to answer this question and would need to be done with competence, sensitivity, and judgment. According to the professional case law in the province of Québec, the expression “relates to” connotes the idea of a relationship or a connection between separate elements. On the other hand, there can be no link between two distinct elements when they are found to be independent of each other, incomparable, or unrelated.</p> |
| <p>3. If it is not related to the practice of the actuarial profession, does the offence put the character of the member in question, tainting his or her ability to provide professional services? Is it likely to undermine (perhaps irreparably) the trust of the public? When a professional commits an offence while practicing his or her profession, the correlation is obvious. It might not be the case for other offences, which may perhaps complicate the matter under closer examination. However, protecting the public must extend to criminal convictions that are not committed in the course of professional activities. Indeed, some offences committed in a non-professional context could still have an impact on the profession if they are likely to undermine the trust of the public and those with whom the professional shall intervene while practicing his or her profession.</p> |
| <p>4. Would it be unfair to prevent the individual from earning a living in his or her chosen profession, given the nature of the offence that was committed? There is an issue of proportionality to be considered—what fate does the member deserve based on the offence, and is it fair, considering the impact of the actions that the Institute may take?</p> |