



What should the Institute of Chartered Accountants in England and Wales do with £148 million of fines paid to it by its members?

May 2023

What should the Institute of Chartered Accountants in England and Wales do with £148 million of fines and related income paid to it by its members?

A proposal from the Corporate Accountability Network¹ and the Audit Reform Lab at Sheffield University Management School²

Prepared by Richard Murphy³

May 2023

Our research shows that the Institute of Chartered Accountants in England and Wales (ICAEW) has received more than £148 million from penalties and related cost recoveries paid by its members since 2015. The fines that form the basis of this income were levied because those members' work failed to achieve professional standards, thereby imposing a cost on society as a result⁴.

To put this figure in context, the total membership income of the ICAEW over that period was £399 million, which means that for every £1 of subscription income the ICAEW received over an eight-year period it received an additional 37.2p from fines, penalties and cost recoveries levied on its members.

As significantly, the ICAEW's retained funds grew over this period from £43.2 million to £159.9 million. That growth in reserves can be wholly attributed to fines, penalties and cost recoveries imposed on members of the ICAEW for their substandard work.

¹ Corporate Accountability Network Limited, 33 Kingsley Walk, Ely, Cambridgeshire, CB6 3BZ
www.corporateaccountabilitynet.work Registered at the above address. Registered number 11791864

² <https://auditreformlab.group.shef.ac.uk/about-us/>

³ Richard Murphy FCA FAcSS, Professor of Accounting Practice, Sheffield University Management School and director of the Corporate Accountability Network Limited

⁴ Based on a review of the ICAEW financial statements for 2015 onwards, these being available at the authors' request at https://icaew.access.preservica.com/index.php/SO_df20ebe8-a2f5-43b9-90ab-116f53f905a9/

Quite extraordinarily, it would appear that the worse the conduct of the members the richer the Institute of Chartered Accountants in England and Wales becomes. This is because of an agreement reached in 2004, and subsequently renewed in 2016, that required the UK Financial Reporting Council (FRC) to pay the income from fines it levies on ICAEW members to that institute in exchange for the ICAEW's agreement to refund the FRC if the costs of investigating failings by its members ever exceeded the costs of penalties imposed, which has not happened in the last eleven years.

The ICAEW has said of the receipt of these penalty payments from the FRC that:

Until quite recently, many audit-related investigations undertaken by the FRC were funded by the mechanism set out in the Accountancy Scheme established by the regulator in 2004. Any money received by ICAEW from fines levied by the FRC in cases conducted under this arrangement has not been used to offset our operational expenditure but has been allocated to our strategic reserves and it supports our wider commitment to serve the public interest, as required by the terms of our Royal Charter.

Audit-related investigations by the FRC are now usually conducted under its Audit Enforcement Procedure, introduced in 2016, by which all fines pass to HM Treasury. We would welcome a rationalisation of the different schemes which now exist to pay for this aspect of the FRC's regulatory work. We do not believe that any of the professional bodies would object to being removed entirely from the funding process, with all fines in future going to HM Treasury.

They added:

We don't segregate our reserves; they are used to deliver our strategy⁵.

We note that there is no such strategic reserve noted in the ICAEW's financial statements for 2022, meaning that in practice this split of funds has not, as a matter of fact, taken place. Nor is there discussion of such a reserve and its uses in the ICAEW's most recent accounts although its strategic goals are noted.

We have noted assurances provided by the ICAEW to MPs stating that after all the years in which they have been in receipt of these payments, which have reached as much as £18 million in a year, that they are now considering appropriate uses for these funds. They have suggested that such uses might include⁶:

⁵ Email from an ICAEW spokesperson to Professor Richard Murphy FCA dated 16 May 2023 supplied with the express intention that the statement be published.

⁶ <https://committees.parliament.uk/publications/22947/documents/168263/default/>

- Better regulation of ICAEW member’s continuing professional development.
- Increasing support to the Fraud Advisory Panel.
- Increasing support to the ICAEW’s Accounting for Sustainability initiative.
- Increased bursaries for students.

We have also noted that the ICAEW says that its strategic objectives for 2020 – 2030 are to⁷:

- Strengthen trust in ICAEW Chartered Accountants and the wider profession
- Help to achieve the Sustainable Development Goals (SDGs)
- Support the transformation of trade and the economy [after Covid]
- Master technology and data
- Strengthen the profession by attracting talent and building diversity

We have not been able to identify any budget that allocates funds to the achievement of these objectives and presume they are, as a result, being paid for out of ongoing income and not out of strategic reserves.

We note that the Institute of Chartered Accountants in England and Wales already has a charitable foundation that is meant to address the last of these issues⁸. The others all appear to be within its routine operating remit and as such do not support its wider commitment to serve the public interest. As a result, it is not clear to us what is distinct or different about the planned use of the funds in question.

We therefore suggest that the ICAEW should change its approach to this issue. The ICAEW Royal Charter as revised in 1948 says that the purpose of the Institute is⁹:

to advance the theory and practice of accountancy, finance, business and commerce in all their aspects, including in particular auditing, financial management and taxation.

Given that the ICAEW is solvent and able to fund its activities from its membership fees, we suggest that another purpose should be found for these funds in pursuit of the ICAEW’s Royal Charter.

⁷ <https://www.icaew.com/about-icaew/who-we-are/icaew-strategy>

⁸ <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/313983/accounts-and-annual-returns>

⁹ <https://www.icaew.com/-/media/corporate/files/about-icaew/who-we-are/charters-by-laws/supplemental-charter-of-the-21st-december-1948.ashx?la=en> para 1(a)(i).

Our suggestions take three issues into account.

Firstly, we think that the obvious conflict of interest that the receipt of these funds creates for the ICAEW should be resolved. We cannot see how a professional body charged with upholding the highest standards of conduct by its members can be seen to gain from the misconduct of those same members, which appears to be the case at present. We suggest that it is only by passing the funds in question to a third party that cannot benefit current members of the ICAEW that this conflict can be resolved.

Second, it is now widely acknowledged that public knowledge of accountancy, finance, business and commerce in all their aspects is limited, and this is especially true amongst young people causing higher financial risks as a consequence.

Third, we are aware of the many scandals in which the accounting profession has been involved over recent decades that range from tax haven abuse, to the mis-selling of financial products including (but not limited to) advice on tax avoidance, to major audit and accounting failures involving companies such as Carillion, BHS, and others Patisserie Valerie. The audit profession notably failed to notice the potential failure of many UK banks in 2008 and has done little better in anticipating some of the failures following the Covid crisis. Some members of the profession have proved to be poor appraisers of risk, anticipators of events, and judges of public sentiment and expectation, whilst being in possession of even worse moral compasses.

For the reasons outlined above, we propose that the entire net proceeds to the ICAEW from the receipt of the revenue from fines originally imposed on its members by the FRC since 2012 be transferred to an independently managed charitable body. This charitable body should be given the specific task of spending those funds in two ways over the next ten years (or longer if additional sums become available). As the ICAEW balance sheet for 2022 (attached as appendix 1) shows, liquid funds are available to do this.

The first of these activities would be intended to improve the training that young trainee accountants get whilst at university and from their professional exams so that they might be better equipped to understand the demands now being made on chartered accountants. We suggest that substantial research funding is required to develop the curriculum for both undergraduate university degrees in accounting and in the professional exams that trainee members of the profession take to cover five issues of particular significance that it avoids at present:

1. Ethical issues in auditing, reporting and corporate structuring to cover matters where there is legal compliance but ethical non-compliance, as has so often been

the case surrounding much corporate structuring, tax abuse, accounting standards arbitrage, and other issues. This would require the development of case study materials. It would also require new texts for teaching purposes.

2. The development of better awareness of the role of audit within society, to also consider the role and responsibility of the auditor and how the public might be made more aware of these.
3. Accounting and sustainability as an issue in its own right to cover both what is required now and what might be required. The development of a comprehensive curriculum with a body of support materials is essential.
4. The responsibility of the accountant and auditor to stakeholders outside financial markets. If a quoted multinational corporation is a public interest entity (PIE) then it cannot only be of concern for audit purposes to its stakeholders and suppliers of capital. All stakeholders need to be considered. This work would require consideration of the needs of suppliers, customers, employees, regulators, tax authorities and civil society.
5. Small and medium sized enterprises (SMEs) have always had accounting standards cut down from those of multinational corporations, which makes no sense because the needs of their stakeholders are fundamentally different. Research is required on the accounting data that the SME community really requires and how it should be supplied with a resulting development of a relevant curriculum.

Each of these might take up to three years and based on experience of multi-university and stakeholder Horizon 2020 projects might cost between £7 million and £10 million each, including a commitment to long term funding for PhD research in these issues.

The second of the activities that this charitable body should promote would be education amongst 16 to 21 year olds (and those who are older if they wished to participate online) either in their place of education or via relevant online materials on issues such as:

- Accounting, including an understanding of the basic content of accounts.
- Finance, including most especially:
 - Personal budgeting.
 - The types of credit facility available to young people.
 - The risks and pitfalls of property renting and purchase.
 - The essentials of insurance.
 - Renting, mortgages and related issues.

- Avoiding fraud and other risks.
- The difference between employment and the various types of self-employment available to people in the UK.
- An outline of the UK's major taxes and how they are relevant to young people, including an understanding of their role in the economy and its management.
- When and how to ask for help.

We believe that an online exam leading to the grant of a certificate from this course would be a valuable contribution to wider education on these issues and might be something that many employers might both encourage and appreciate.

It is our belief that this suggested programme would:

1. Address a considerable social need that fits entirely with the ICAEW's purpose.
2. Advances the aims of the ICAEW and promotes its activities.
3. Removes the current conflicts of interest within the ICAEW.
4. Makes the ICAEW accountable for the harm its members have caused and demonstrates its intention to offer remedy.

We believe that this proposal would win widespread public support. We also think this is legally possible as it fits within the remit of the ICAEW charter.

We welcome support for this proposal, which we wish to discuss with the ICAEW.

Richard Murphy FCA, Professor of Accounting Practice, Sheffield University Management School

Adam Leaver, Professor of Accounting, Sheffield University Management School and Copenhagen Business School; Director of the Audit Reform Lab

Lord Prem Sikka FCCA, Emeritus Professor of Accounting, Sheffield University Management School

Dr Atul Shah FCA, Visiting Professor in Accounting, City, University of London

Dr Meesha Nehru, Director, Corporate Accountability Network

John Christensen, Director, Corporate Accountability Network

Supporting data

This data is based upon the attached analysis of the ICAEW's financial statements from 2015, when it seems that significant income from the Financial Reporting Council might have begun based upon commentary in those accounts, until 2022, which is the most recent set of financial statements available.

Institute of Chartered Accountants in England and Wales

FRC fines and penalties and related costs and revenues from 2015 to 2022 and related data

	2022 £'m	2021 £'m	2020 £'m	2019 £'m	2018 £'m	2017 £'m	2016 £'m	2015 £'m	Totals £'m	Increase £'m
Membership fee income	55.3	53.6	53.3	50.5	48.1	47.2	46.0	45.2	399.2	
FRC conduct committee charges to members	6.9	7.6	11.6	4.4	4.6	4.5	4.5	8.5	52.6	
FRC conduct committee costs	-7.0	-4.5	-10.3	-6.9	-5.1	-6.0	-5.5	-7.1	-52.4	
FRC Conduct Committee cost recoveries	8.2	8.9	12.8	3.5	0.0	0.0	0.0	0.0	33.4	
Net FRC conduct committee	8.1	12.0	14.1	1.0	-0.5	-1.5	-1.0	1.4	33.6	
FRC Fines	14.8	13.5	15.7	18.3	16.3	14.6	6.7	4.7	104.6	
FRC cost recoveries	0.0	0.0	0.0	0.0	1.9	2.8	3.8	1.9	10.4	
Total FRC income	14.8	13.5	15.7	18.3	18.2	17.4	10.5	6.6	115.0	
Net FRC income	22.9	25.5	29.8	19.3	17.7	15.9	9.5	8.0	148.6	
Cumulative net FRC income	148.6	125.7	100.2	70.4	51.1	33.4	17.5	8.0		
ICAEW Group Reserves	178.0	171.0	136.0	109.7	77.7	90.4	62.6	57.8		120.2
ICAEW reserves	159.9	151.9	116.9	92.1	61.7	74.1	46.7	43.2		116.7
Difference	18.1	19.1	19.1	17.6	16.0	16.3	15.9	14.6		3.5
Reserves from charitable trusts included in Group Reserves	15.4	16.9	15.2	15.4	14.2	15.3	14.4	13.5		1.9
% of ICAEW reserves due to fines and related issues	92.9%	82.8%	85.7%	76.4%	82.8%	45.1%	37.5%	18.5%		74.4%
Number of ICAEW members ('000)	166.4	161.4	157.8	154.5	151.8	149.3	147.5	145.7		20.7
ICAEW reserves per member £	960.9	941.1	740.8	596.1	406.5	496.3	316.6	296.5		664.4
Reserves excluding cumulative fines and related issues per member	67.9	162.3	105.8	140.5	69.8	272.6	198.0	241.6		-173.7

Data in this table has been checked with the ICAEW or comes directly from its published annual financial statements to which they have referred us.

We comment on that summary as follows:

1. Membership income data is shown for comparative purposes only.
2. Income from FRC related activity has been clearly disclosed by the ICAEW in two parts since 2016. They are:
 - a. Direct payments of penalties recovered from the FRC plus costs recovered, which appear not to have been separately disclosed since 2018.
 - b. The activities of the FRC Conduct Committee, in three parts:
 - i. Charges to ICAEW members a fee to cover budgeted costs of FRC related disciplinary hearings. In 2022 this income came to £6.9 million.

- ii. Cost billed incurred, or estimated to be incurred, by the ICAEW in undertaking FRC related investigations, which sums are paid to that body.
- iii. Cost recoveries by the IACEW relating to those investigations, which have grown considerably in size since 2020.

Until 2019 the FRC Conduct Committee of the ICAEW broadly broke even if income from fines was ignored. Since then it has made a surplus of £35.2 million as a result of cost recoveries from members in excess of apparent costs incurred.

- 3. Net FRC income combines all income and expenditure from FRC related activity and states a net income or expenditure figure for each year, which has then been stated cumulatively over the period.
- 4. The ICAEW reserves are stated in two ways. The ICAEW Group is made up of the ICAEW itself plus the charitable ICAEW Foundation plus a few other very minor activities. The reserves of the Foundation, which are not available to the ICAEW to use, are shown separately to highlight the difference between the Group's funds and those available to its membership.
- 5. The calculation of the percentage of reserves explained by cumulative net income from fines and penalties (stated after costs) is based on ICAEW reserves alone, as are the figures for reserves per member.
- 6. The Institute of Chartered Accountants in England and Wales's balance sheet for 2022 is attached as appendix 1. It shows that the ICAEW has these assets that could be transferred to a charitable structure of the type proposed in this note:
 - a. Financial asset investments, £90.5 million
 - b. Cash and cash equivalents, £68.3 million.

Appendix 1

ICAEW Balance Sheet 31 December 2022

FINANCIAL REVIEW & STATEMENTS

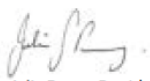
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GROUP AND ICAEW STATEMENTS OF FINANCIAL POSITION

as at 31 December 2022

	Note	Group		ICAEW	
		2022 £m	2021 £m	2022 £m	2021 £m
Assets					
Non-current assets					
Property, plant and equipment	13	36.7	38.3	36.7	38.3
Right-of-use assets	14	1.9	0.5	1.8	0.4
Intangible assets	15	19.1	20.4	19.1	20.4
Investments in subsidiaries and associates	16	0.4	0.5	0.5	0.5
Financial asset investments	17	105.9	49.4	90.5	35.2
Net pension asset	24	15.5	23.0	15.5	23.0
		179.5	132.1	164.1	117.8
Current assets					
Inventories	18	0.4	0.7	0.4	0.7
Trade and other receivables	19	21.9	33.1	23.0	32.4
Financial asset investments	17	-	71.1	-	68.5
Cash and cash equivalents	20	71.3	49.6	68.3	47.5
		93.6	154.5	91.7	149.1
Total assets		273.1	286.6	255.8	266.9
Liabilities					
Current liabilities					
Trade and other payables	21	(50.3)	(69.7)	(51.2)	(69.4)
Current tax liabilities		-	(0.1)	-	-
FRC Conduct Committee provision	22	(2.7)	(3.9)	(2.7)	(3.9)
		(53.0)	(73.7)	(53.9)	(73.3)
Non-current liabilities					
Grants payable due after more than one year		(0.1)	(0.1)	-	-
Other payables due after more than one year	21	(38.6)	(35.3)	(38.6)	(35.2)
Provisions	23	(1.1)	(1.5)	(1.1)	(1.5)
Deferred tax liability	12	(2.3)	(5.0)	(2.3)	(5.0)
		(42.1)	(41.9)	(42.0)	(41.7)
Total liabilities		(95.1)	(115.6)	(95.9)	(115.0)
Total net assets		178.0	171.0	159.9	151.9
Reserves					
Revaluation reserve	26	17.4	16.4	17.4	16.4
Accumulated fund	26	142.1	132.4	139.1	129.9
Other reserves	26	3.1	5.3	3.4	5.6
Charitable trust funds	26	15.4	16.9	-	-
		178.0	171.0	159.9	151.9

Approved on behalf of Council and authorised for issue


Julia Penny, President
 6 April 2023


Michael Izza, Chief Executive
 6 April 2023