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On professional accounting body complaints procedures

Accounting body
complaints
procedures

Confronting professional authority and professional insulation within the Institute of Chartered Accountants in Ireland (ICAI)

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Abstract

Purpose – The purpose of this paper is to examine the operation of the Institute of Chartered Accountants in Ireland's (ICAI) complaint process from the complainant's perspective. The findings are interpreted drawing on key elements of Parker's private interest model of professional accounting ethics, particularly the private interest roles of professional authority and professional insulation.

Design/methodology/approach – The primary evidence used is drawn from numerous sources. These include: extensive "private" documentation comprising original correspondence between the complainant in the case examined (or his advisors) and various representatives of the ICAI spanning a five-year period; detailed supporting documentation included with this correspondence; Independent Experts' Reports on the complaints submitted; and in-depth interviews with the complainant prior to, during, and post the examination of the documentary evidence.

Findings – The paper reveals how high levels of professional authority and professional insulation worked in tandem to prevent complaints entering the complaint process and deny the complainant reasons for decisions taken. It demonstrates how a key structural barrier in the complaint process, the screening role of the professional accounting body's secretary, created a complainant impression of a process concerned primarily with protecting members' interests. Subsequent to complaint process changes, an erosion of professional insulation is unveiled. However, this proves fleeting and, in response to persistent complainant challenges to heightened demonstrations of professional authority, the degree of professional insulation intensifies further.

Research limitations/implications – The paper focuses on a specific case where the complainant was dissatisfied with the ICAI's procedures. It reveals the extent to which complainants using professional body complaints procedures may, often by virtue of the structures in place, feel that profession protection motives are overriding purported concerns for society protection.

Originality/value – The paper extends and advances the literature examining professional accounting body disciplinary and complaint procedures. Prior research investigating the operation of these procedures has neglected to examine complaint processes in depth to inform their evaluations, particularly from the perspective of potential users of these processes.

Keywords Professional associations, Accountancy, Professional ethics, Complaints, Ireland

Paper type Research paper

Introduction

Professional ethics codes and the disciplinary arrangements in place to enforce them are widely promoted by accounting bodies as serving a public interest role



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(Parker, 1994; Velayutham, 2003). This role is reflected in their concern with protecting the economic interests of professional members' clients and third parties[1] who place reliance on the pronouncements and advice delivered by professional accounting bodies and their members (Abbott, 1983; Millerson, 1964; Parker, 1994; Preston *et al.*, 1995). Recent research, however, challenges this proclaimed public interest role, in particular in the Irish, UK, US, Canadian and Australian contexts (Bedard, 2001; Canning and O'Dwyer, 2001, 2003, 2006; Fisher *et al.*, 2001; Lee, 1995; Mitchell *et al.*, 1994; Neu and Saleem, 1996; Parker, 1994; Preston *et al.*, 1995). This research implies that these codes and arrangements form part of a strategy involving the use of explicit professional signals aimed at providing a public interest face to what is effectively a process driven by private (economic) interests (Lee, 1995; Baker, 2005; Bedard, 2001; Citron, 2003; Fisher *et al.*, 2001; Mitchell *et al.*, 1994; Parker, 1987, 1994; Preston *et al.*, 1995; Sikka, 2001a, b; Sikka and Willmott, 1995a, b; Velayutham, 2003; Willmott, 1990). This paper aims to extend and advance this literature scrutinising the public interest claims made for disciplinary and complaints procedures. Using extensive documentary evidence and in-depth interviews with a complainant, it unveils the operation of a professional accounting body's complaint process (part of its disciplinary procedures) over a five-year period. The findings are interpreted using key aspects of Parker's (1994) private interest model of professional accounting ethics and the wider literature critiquing the power and accountability of professional accounting bodies (Cousins *et al.*, 2000; Mitchell *et al.*, 1998a, b; Mitchell and Sikka, 2004; Puxty *et al.*, 1997; Sikka and Willmott, 1995a, b; Sikka *et al.*, 1989; Sikka, 2001a, b; Willmott, 1986; Willmott *et al.*, 1993).

Much of the research to date specifically critiquing the rhetoric and public interest claims of accountancy bodies regarding their disciplinary and complaints procedures has primarily focused on examining: the external reporting of disciplinary cases (Canning and O'Dwyer, 2001; Parker, 1987); historical analyses of the development of ethical codes (Parker, 1994; Preston *et al.*, 1995); and internal and external media (Canning and O'Dwyer, 2003; Neu *et al.*, 2003). This study is unique in that it examines a specific complaint process using original documentary sources produced as part of the process. Prior research has also neglected to directly consider the perspectives of the parties disciplinary and complaint procedures are supposedly designed to protect. This paper gives voice to one complainant's experience of dealing with a professional accounting body's procedures, namely, the complaints mechanism supporting the Institute of Chartered Accountants in Ireland's (ICAI) disciplinary procedures.

The remainder of the paper is structured as follows. The next section critically reflects on interrelated issues encompassing the state-accounting profession relationship, professional power and the public interest as they relate to the operation of professional accounting body disciplinary procedures both generally and specifically in relation to the ICAI's procedures. Key elements of Parker's (1994) private interest model of professional accounting ethics are then discussed in the context of these issues. As the complaint period examined straddled two distinct ICAI disciplinary regimes, a brief outline of the ICAI disciplinary and complaint procedures pre- and post-December 1999 is then provided to help contextualise the case. The research method is subsequently discussed. A narrative illustrating the passage of the complaint through the complaints process is then presented and interpreted using key aspects of Parker's private interest model. The final section reflects on this narrative in

the context of the aforementioned issues of professional power, the role of the state and the public interest. This section also offers some specific policy prescriptions and suggestions for future research.

Critically examining the role of professional accounting body disciplinary procedures

Cementing state-profession mutual dependence

Many professional accounting bodies are granted the privilege of regulating themselves with little government (or other outside) interference. In Ireland, a “delegated self regulation” situation exists where the ICAI is recognised and supervised by appropriate government ministers under statutory powers encapsulated in various Companies legislation. In effect, the Irish state franchises elements of its power, in particular its decisional authority, to the ICAI (Willmott, 1986, pp. 563-4) and conducts broad oversight of its operation. Willmott *et al.* (1993) claim that this state-profession relationship can work to the advantage of both politicians and the accounting profession as it reflects an implicit “bargain” or “mutual dependence” (Willmott, 1986, p. 564) between the state and the profession. For example, from the perspective of politicians and their advisers, delegated self-regulation possesses economic appeal in that major administrative savings can arise from private sector regulation of accounting professionals (Willmott *et al.*, 1993). By affording status and quasi autonomy to the accounting profession, the state can also use the profession’s expertise to enable it to legitimise economic activity thereby serving the systematic private interests of capital (Sikka and Willmott, 1995a, b). Moreover, its political attraction derives from cushioning politicians and civil servants from any perceived regulatory failures since they can then be easily blamed on the self-regulating accounting body. From the accounting bodies’ perspective, they are granted a monopoly by the state over certain areas of business such as the preparation of audits and are accorded responsibility for public policy making in the area of setting and enforcing the (accounting and auditing) standards that formally regulate their work (Canning and O’Dwyer, 2001; Sikka and Willmott, 1995a; Willmott *et al.*, 1993). However, in return for their quasi autonomy, the accounting bodies must accept “public” interest objectives and, as such, the state pressurises them to accept and respect these (often dimly defined) responsibilities (Sikka *et al.*, 1989, Sikka, 2001a; Willmott, 1986; Willmott *et al.*, 1993). The ability of the accounting profession to maintain its delegated self-regulatory status is therefore largely reliant on safeguarding the belief that, as a regulator, effectively operating on behalf of the state, it should/will keep a certain distance from what it regulates (i.e. accounting firms and their members) and thereby serve the public interest (Puxty *et al.*, 1997). As such, the profession must continually display its capacity “to ‘responsibly’ and ‘reliably’ regulate the quality of [its] valued services” (Willmott, 1986, p. 558). It is in this capacity that the disciplinary processes of professional accounting bodies become crucial in allowing them to demonstrate this ability and willingness to regulate their members’ activities.

Conferring professional power

This delegation of disciplinary processes to professional bodies such as the ICAI affords them a large degree of professional power in that through these practices, these bodies get to “normalize some world views and establish [so-called] ‘regimes of truth’

by defining [what is meant by] right/wrong, moral/immoral and ethical/unethical conduct" (Sikka, 2001a, p. 755; Mitchell and Sikka, 2004). The processes thereby act as quasi courts and tribunals enabling the ICAI to judge and adjudicate on conduct, and dispense penalties in any manner they see fit (Mitchell and Sikka, 2004; Sikka, 2001a). Furthermore, the arrangements partly support bodies such as the ICAI in advancing their social claims for control of jurisdictions, markets and niches thereby enabling them to marginalise challengers and secure their wider legitimacy (Cousins *et al.*, 2000; Hanlon, 1994; Mitchell and Sikka, 2004; Sikka, 2001a). Sikka (2001a) argues that these disciplinary arrangements are remnants from the age of deference in that they require and, indeed, often receive, a deferential attitude by the mass public towards professional bodies. This, he claims, is actively encouraged by the state given that accountancy bodies are required to have effective arrangements for disciplining their members. However, this power has apparently allowed many professional accounting bodies to operate in secrecy away from the formal gaze of accountability and transparency (Sikka, 2001a).

Shielding and promoting private interests

The aforementioned power possessed by bodies like the ICAI can lead to opportunities for its abuse. This emerges from a recurrent risk and associated concern that organizations and individuals enjoying social power may subvert forms of accountability, for example, by suppressing information, denying citizen participation (for example, in disciplinary processes) or by ignoring the legitimate concerns of the public at large (Cousins *et al.*, 2000; Canning and O'Dwyer, 2003; Mitchell *et al.*, 2000; Mitchell and Sikka, 2004). Much prior research suggests that these concerns have some basis in the context of the operation of disciplinary arrangements in numerous contexts. For example, much work illustrates how disciplinary arrangements have often formed part of a strategy involving the use of overt professional signals designed to provide a public interest face to what is essentially a (disciplinary) process propelled by private (economic) interests (Lee, 1995). Further evidence suggests that these arrangements are highly likely to shield accountancy firms, especially larger ones, and their individual members (particularly partners) from public scrutiny (Sikka and Wilmott, 1995a; Sikka *et al.*, 1989; Mitchell *et al.*, 1998a).

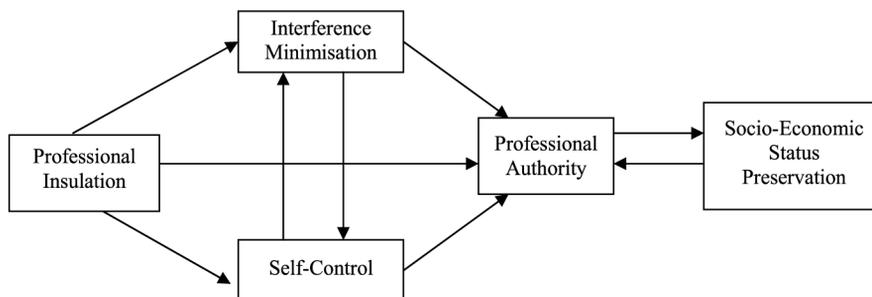
The recent work of Canning and O'Dwyer (2001, 2003, 2006) in the Irish context provides additional support for the above findings. Their examination of the operation of the ICAI disciplinary procedures has revealed predominant private interest motives driving their operation, particularly throughout the 1990s before major procedural changes were instigated[2]. For example, as a result of their examination of the disciplinary cases disclosure strategy of the ICAI over a ten-year period (from 1990 to 1999) prior to changes instigated in 1999, they concluded that the ICAI disciplinary process exhibited clear profession protection motives through the exercise of restrictions on disciplinary cases disclosure and the exclusion of complainants from direct involvement in the disciplinary process (Canning and O'Dwyer, 2001; Sikka, 2001a). In a subsequent study, they traced the evolution of the process from a private, insular procedure devoted to deterring any external assessment to a purportedly more accountable and publicly focused process established at the end of 1999 (Canning and O'Dwyer, 2003). This evolution occurred in response to much public and political outcry over the lack of transparency and accountability of the ICAI's disciplinary

procedures in the mid- to late 1990s with regard to the disciplining of ICAI members implicated for their involvement in three high-profile events involving political and corporate corruption. Implicit threats made by leading politicians to the ICAI's delegated self-regulatory status explicitly challenged the ICAI's legitimacy and were influential in triggering the revamp of the procedures. Using the voices of participants on various committees of the ICAI disciplinary process, Canning and O'Dwyer (2006) subsequently examined the operation of the internal decision-making processes within these committees, in particular the organisational components established by the ICAI to support them, again prior to the changes implemented in late 1999. They found a predominant, albeit not exclusive, focus on protecting the profession's interests supported by various informal and formal organisational components[3]. The study also revealed concerns about the treatment of complainants at the initial stages of the disciplinary process as well as conflicts between the ICAI's role as a representative of its members and its responsibilities to complainants. This study advances this work by specifically interrogating the operation of the complaint process from the complainant's perspective. Furthermore, it extends prior research in that it examines, through a specific case, the operation of the process prior to and post the major highly publicised changes which were implemented at the end of 1999 (see next section). Previous research has only focused on the operation of the process prior to these changes.

Before proceeding to outline, the nature of the current ICAI disciplinary process, we review Parker's (1994) private interest model of professional accounting ethics in order to conceptually locate many of the disciplinary process role-related issues discussed above.

A private interest model of professional accounting ethics

Parker's (1994) private interest model of professional accounting ethics (Figure 1) conceptualises five interrelated roles that ethics codes (and their supporting disciplinary arrangements) perform in serving the private interest of the accounting profession. Professional insulation is proposed as the primary private interest role served by ethics codes. Here, the profession is shielded from scrutiny and assessment by "external" factions through its construction of "professional mystique". Such mystique deters "outsiders from scrutinising, understanding, or evaluating [the profession's] activities" (Parker, 1994, p. 514). The production of this "professional mystique" allows the profession to operate with minimum outside interference[4] (interference minimisation) and accords it the freedom to control its own activities and



Source: Parker (1994)

Figure 1.
Parker's (1994) private
interest model of
professional accounting
ethics

members (self-control). This tends to support the desired deference required by professional bodies from the wider public and government agencies to allow them to regulate themselves without interference (Sikka, 2001a). Interference minimisation and self-control are, however, seen to be interrelated in that self-control can only exist where interference by outside parties in the profession's activities is diminished, and interference minimisation will only be permitted where the profession exhibits a sufficient level of self-control. The ethics codes' facilitation of the roles of professional insulation, interference minimisation and self-control operate to maintain its professional authority, which is defined as the profession's capacity to achieve professional autonomy and exclusivity over its technical knowledge base, and public trust and approval with respect to its claimed service ideals. This professional authority facilitates the professional power referred to above. The roles of professional insulation, interference minimisation and self-control are therefore seen to be subordinate and contributory to professional authority. Hence, there is a presumption that professional authority cannot be achieved without the ethics codes successfully satisfying these three former roles. Professional authority enables the profession to preserve its socio-economic status "in terms of social legitimacy and perceived social standing of the profession and the level of economic rewards achievable by members" (Parker, 1994, p. 515). Equally, however, socio-economic status preservation bolsters the public's perception of the profession's authority. These latter two roles are seen as mutually reinforcing and, according to Parker (1994, p. 515), "together serve as the focal private interest roles" of the ethics codes of professional accounting bodies[5].

While Parker's (1994) model attempts to illustrate how ethics codes can contribute to the private interest of the profession, our examination of the evolution of a specific complaint reveals how the various private interest roles, especially those of professional insulation and professional authority manifest themselves.

The ICAI disciplinary and complaints process

As outlined earlier, the case examined here straddles a major change in the operation of the disciplinary apparatus of the ICAI. In order to contextualise the case and provide some understanding of how the complaint process was structured during the period examined, this section briefly outlines the formal apparatus supporting the ICAI complaint procedures prior to and subsequent to this change.

The ICAI disciplinary and complaints process pre-December 1999

The ICAI disciplinary and complaints process is governed by the ICAI bye-laws. The process in existence up to the beginning of December 1999 operated as follows. On receipt of a complaint the ICAI secretary decided on one of three main courses of action: that the complaint was spurious or not one which could be dealt with by the ICAI; attempted conciliation which resulted in some action being taken by the member to the satisfaction of the complainant; or placed the correspondence before the Investigation Committee[6]. The Investigation Committee had a duty to decide whether or not a prima facie case of misconduct existed that required referral to the Disciplinary Committee[7]. If a complaint was found proven, the Disciplinary Committee could impose a range of sanctions. An appeal of any order made by the Disciplinary Committee could be made to the Appeal Committee[8]. This committee could affirm, vary or rescind any order of the Disciplinary Committee. Findings and orders of

the disciplinary and appeal committees were only published in *Accountancy Ireland*, the journal of the ICAI. Accounting body complaints procedures

In an apparent response to concerns raised as a result of two public tribunals which questioned the veracity of the ICAI's disciplinary procedures, the ICAI approved proposals to make its disciplinary process more transparent in May 1998. Under the new proposals, certain inquiries were now held in public, the procedures for dealing with complaints were speeded up, a greater representation of non-ICAI members was allowed on the Disciplinary Committees, and sanctions imposed by the process were publicised more extensively. Furthermore, the level of fines was increased. The proposed changes were overwhelmingly supported by ICAI members and came into effect in December 1999 (Canning and O'Dwyer, 2003, 2006). As a further result of these concerns, in 2003, the Irish Auditing and Accounting Supervisory Authority (IAASA) was established to supervise how the prescribed accountancy bodies (which include the ICAI) regulate and monitor their members. The number of members of professional accounting bodies on the board of the IAASA is strictly limited to no more than two out of a 13-person board and the body is funded 40/60 by the Irish Exchequer and the profession, respectively. The IAASA has the power, among other things, to: intervene in the disciplinary process of the accountancy bodies where it deems it necessary; carry out independent investigations in public interest cases; and apply to the courts to compel the directors of a company to amend accounts that are not in line with accounting standards.

The current ICAI disciplinary and complaints process – post-December 1999

Under the new process, when a complaint is received, it is acknowledged by the ICAI and a copy of it is sent to the member concerned who must reply within fourteen days. The complainant is provided with a copy of the member's response and is asked to comment on it. At this stage, there are now normally five options: place correspondence before the Complaints Committee; attempt conciliation under powers delegated by the Complaints Committee, which results in the complainant being satisfied; the complainant may be satisfied with action taken by the member and drop the complaint; the ICAI secretary may decide that there is insufficient evidence to support the complaint or the complaint is not one which can be dealt with by the ICAI at that time (e.g. where the complaint relates to a commercial dispute between the parties or where legal action has already commenced); the ICAI secretary may decide to await the outcome of enquiries or a monitoring visit instigated by one of the regulatory committees. Where the Complaints Committee decides that a complaint laid before it, or facts and matters which have been brought to its attention, gives rise to questions of public concern or is highly "complex" or "important", it may arrange for the complaint to be investigated by a Special Investigator (bye-law 71).

The Complaints Committee now consists of up to twelve people, of whom the majority must be non-ICAI members. Pre-December 1999, only a quarter of the Equivalent Committee (the old Investigation Committee) needed to be non-ICAI members. That committee decides whether or not a prima facie case has been made out against the member based on the correspondence placed before it. If the committee decides that such a case exists, it may decide to take no further action, or the matter may be dealt with in one of two ways: by way of consent order; or by referral to the Disciplinary Committee.

The Disciplinary Committee consists of up to 15 people of whom the majority must be non-ICAI members, and two must be lawyers. Pre-December 1999, only a quarter needed to be non-ICAI members and there were only 11 members. When a complaint is referred to it, the chairman appoints a tribunal. A solicitor or barrister chairs the tribunal. The tribunal consists of a lawyer, who is not a member of the ICAI, acting as chairman and one member of the ICAI and one non-member. The member who is the subject of the complaint has the right to attend the hearing and to be represented before it by counsel, by a solicitor, or by another member of the ICAI. A complainant also has the right to attend, and may be called as a witness. Unlike the situation pre-December 1999, all proceedings of disciplinary tribunals are held in public unless the Disciplinary Committee decides that this would be inappropriate. A member may appeal any order of the Disciplinary Committee to an Appeal Committee within 21 days. Publication of all findings is made in *Accountancy Ireland* (the ICAI's journal) and in summary form, in the ICAI's Annual Report. Where the name of the member is included in the publication of the finding, publication may also be made in the national press. The name of the complainant is not published.

Research method

The primary sources of evidence used to construct the complaint process narrative in this paper are drawn from extensive "private" documentary sources (Table I). The main part of this documentation comprised highly detailed original

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- 1 Correspondence between C1 and ABC throughout 1997-1998
 - 2 Initial complaint letter to the ICAI regarding ABC's actions and the ICAI response
 - 3 ABC's response to first complaint (two complaints were made at different times)
 - 4 Response of C1 to ABC's initial response to first complaint
 - 5 ICAI correspondence with C1 throughout the duration of the complaint pre- and post-December 1999 changes in the ICAI disciplinary procedures
 - 6 Correspondence between C1's solicitor (SOL1) and the ICAI on the first complaint
 - 7 Correspondence between SOL1 and the ICAI on both complaints
 - 8 Correspondence between a senior accountant (A1) and the ICAI on the first complaint
 - 9 Correspondence between A1 and the Irish Government's Department of Trade and Enterprise regarding the first complaint
 - 10 Correspondence between C1 and the Irish Government's Department of Trade and Enterprise regarding the both complaints
 - 11 Correspondence from solicitors for ABC and the ICAI regarding both complaints
 - 12 Correspondence from ABC partners and the ICAI regarding both complaints
 - 13 Second complaint letter from C1 to the ICAI subsequent to changes in the disciplinary procedures
 - 14 ICAI response to the second complaint letter
 - 15 Correspondence between C1's solicitors and DEF chartered accountants requesting assistance in the case (this led to the formulation of an Independent Expert's Report)
 - 16 Independent Expert's Report prepared as part of a legal case taken by D1 against C1 subsequent to the key event leading to the complaint to the ICAI (prepared by a member firm of the ICAI)
 - 17 Fee notes/invoices from ABC to C1 (these formed part of the initial complaint)

Table I.
A sample of the documentation analysed in constructing the case

Notes: Keys: C1 – Complainant and Director of company XYZ1; ABC – firm of chartered accountants (ICAI members) complained against; D1 – Director of XYZ1 and XYZ2; A1 – senior chartered accountant (an ICAI member) employed by C1 to assist in his complaint; SOL1 – C1's solicitor

correspondence between the complainant in the case (termed C1 here) (or his representatives) and various representatives of the ICAI spanning a five-year period. Detailed documentation supporting the core arguments made in much of this correspondence was also examined. In addition, we analysed Independent Experts' Reports and correspondence between an Irish Government Department and the complainant related to the complaints examined. A number of in-depth interviews with C1 prior to, during and post our examination of the documentary evidence were also undertaken[9].

In January 2003, we requested that the Irish Government's Department of Enterprise, Trade and Employment provide us with the names of people who had contacted them about ICAI members and the ICAI procedures[10]. The Department contacted a number of these people and asked them, on our behalf, if they would be willing to relay the history of their complaint experiences to us. C1 was one of the names provided. One of the authors met with C1 in July 2003 and C1 relayed in detail his key experiences of using the process. The initial parts of this conversation were tape-recorded. C1 provided us with detailed files containing original evidence of correspondence between himself (and his representatives) and the ICAI over the five-year period relating to his particular complaint(s). This time-frame straddles the period of change within the ICAI disciplinary procedures outlined in previous section. C1 also provided us with extensive supporting documentation directly related to the various forms of correspondence[11].

We assessed the quality of the documents analysed using Scott's (1990, p. 6, cited in Flick, 2006, pp. 248-9) four criteria of authenticity, credibility, representativeness and meaning. Authenticity refers to whether the evidence is genuine and of unquestionable origin. We were able to view original correspondence and signed photocopies of original correspondence. The documents were obtained from the complainant (C1) which might question their origin but we checked facts included in the correspondence provided with other sources such as Independent Experts' Reports. Credibility refers to whether the documentary evidence is free from error or distortion. Most of the documentation content was qualitative and of an official nature but we could not assess exactly how freedom from error could be detected as it is difficult to define what one might mean by "error" in this context. Representativeness is linked to typicality and refers to whether a record is typical (in other words does it contain the information the average record contains). In our case, we primarily examined original correspondence and independent reports so the issue of typicality did not necessarily arise as all documents were distinct and specific (however, some independent documentation analysed supported assertions made in certain correspondence prepared by the complainant). Meaning refers to the intended meaning of the author of the document, the meaning for the reader of it (or for different readers who are confronted with it) and the social meaning for someone who is the object of a document. Our interviews with C1 helped explore the meaning of the documents for him which was appropriate given one of our research objectives was to expose the complainant perspective. Other correspondence examined allowed us to reflect on the meaning of many of the documents for others such as representatives of C1 and the ICAI and an accounting firm and its partners who were the object of many of the documents. For example, in many instances, correspondence referred to meanings taken from previous correspondence thus allowing a picture of meaning for the various authors, readers and

objects of the documents to be built up as we read and analysed them. However, it is important to note that when dealing with complaints, individuals within the ICAI may be dealing with somewhat routine tasks and therefore some of the correspondence might have been routine for them with little ambiguity or hidden meaning therein. However, for C1 this was a unique experience as he was dealing with forms of correspondence that were entirely new to him[12]. Hence, given that C1 and the ICAI correspondents had different positions/experience in relation to the issues and the documents, it is entirely possible that both parties could assign competing meanings to the letters, words, exchanges and outcomes within the process. We must therefore recognise that in this case in particular there is a significant potential for dispute over meanings attached to documentary content by some of the correspondents. In summary, given our assessment of the four criteria outlined above (where directly applicable), we concluded that we could be broadly satisfied with the quality of the documents studied for the purposes of this case.

In our approach to analysing the documents, we were conscious that they were not just simple representations of facts or reality. They were produced for specific reasons and could only be analysed in context taking into account their usage and function. We were also mindful that the documents were not mere “information containers” (Flick, 2006, p. 249) in that we analysed them as methodologically created communicative turns which enabled us to construct a version of events surrounding the specific complaint process examined (Flick, 2006, p. 249). We accept that, as a stand-alone method, documentary analysis can give you a very specific approach to processes. However, the comprehensive array of documentation gathered allowed us to construct a detailed narrative bringing the reader inside the specific complaint process from the complainant’s perspective.

The actual task of analysis involved both researchers reading the documents independently in conjunction with a partial transcript of the initial interview with C1. This close reading was focused on drawing out the key phases and issues addressed in the complaint process, the motives of C1, and the impressions invoked by the written correspondence in particular. We also had a number of follow up telephone conversations with C1 regarding key events relayed in the correspondence examined. We then discussed our independent analyses and decided that in order to remain faithful to the “story” of the process, we would write our initial thick description of this “story” in a chronological order. This became especially important given that the changes to the ICAI complaints procedures were evidently central to C1’s persistence in pursuing his complaints over such a long period. One author then prepared a summary chronology of the key issues and events, highlighting where in the correspondence these were located. The other author checked this summary and then revisited the correspondence where he found gaps in the chronology, unexplained issues, or where he wanted to enrich the chronology. These issues were also explored as part of the follow up telephone conversations with C1. The analysis was undoubtedly influenced by issues surrounding the case background and context provided to us by C1 but we subjected this information to critical scrutiny using other independent sources in the documentation analysed such as an Independent Experts’ Report on C1’s first complaint prepared by a firm of chartered accountants.

An initial narrative detailing the chronology of events was written by one of the authors from this evidence. This was entirely descriptive but was subsequently interpreted by examining the public interest dimension of the ICAI complaints procedures evident therein. This narrative was then interpreted drawing primarily but not exclusively, on the concepts of professional authority and professional insulation depicted in Parker's (1994) private interest model of professional accounting ethics. While these drafts were being constructed, we constantly went back and forth from the detailed correspondence underpinning the analysis to the emerging narrative. Both authors subsequently met with C1 in February 2004 to discuss his experiences again and to clarify aspects of it which had emerged from this initial analysis. The narrative was then further revised in light of this meeting[13].

The case narrative – revealing the complaint process

This section commences by outlining the background to the complaints made by the complainant, C1 against an ICAI member firm, ABC. This is essential as the nature and context of the complaints made are crucial to obtaining any in-depth sense of the progress of the complaints through the complaints process. The ten initial complaints are then detailed (Table II). The succeeding narrative examines the evolution of the complaints through the ICAI complaints process.

Background to the complaint

In 1994, the complainant (C1) was given 50 per cent of the shares in a company XYZ1 by his father, one of the company founders. The other 50 per cent was owned by D1, a cousin of C1, who had been actively involved in running the company for a number of years and had been a director since 1992. C1 never had any active role in the management of XYZ1. Subsequent to C1 obtaining his shares, it was verbally agreed, although some supporting documentation does exist, that XYZ1 would be liquidated with the goodwill of the company transferring to a new company, XYZ2, to be run by D1. It was also agreed that D1 would take on responsibility for all tax and other liabilities related to XYZ1. In 1997, it became apparent that there were problems in

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- 1 Acting as auditors and company secretary of the company XYZ1
 - 2 Acting as auditors of the company XYZ1 and the company XYZ2 at the same time, in view of the controversial circumstances of the takeover, continuing to prepare calculations which affected the liability of the respective directors to the company, while aware of the fact that the directors were in dispute over these liabilities
 - 3 Failing to produce copies of invoices to fee charges when requested
 - 4 Production of apparently inaccurate information regarding fee charges
 - 5 Issue of fee invoices which were excessive in relation to the amount of work done
 - 6 Issue of fee invoices, on behalf of and with the authority of the auditors, by a person who appears to be an officer of the auditors and of the secretaries at the same time
 - 7 Failure to provide information regarding directors' signatures in the accounts for the year ended 31 August 1991 in the case of XYZ1
 - 8 Failure to respond to a request for nominal ledger accounts dealing with the fees of ABC and audit and accountancy charges
 - 9 Petitioning for the winding up of XYZ1 on misleading grounds
 - 10 Failure to take any action regarding the absence of any records of meetings of XYZ1 and the absence of any satisfactory records of shareholdings

Table II.
Outline of the complaints
regarding ABC made by
C1 to the ICAI

completing the liquidation of XYZ1. Around this time, C1 was also informed by ABC, accountants for XYZ1, that he was liable for tax on shareholder loans taken out before he became a director. This surprised him, as he believed that D1 had undertaken to pay all tax liabilities arising out of loans made by the company in return for being allowed to transfer the goodwill of XYZ1 to the new company XYZ2. D1 now disagreed with this. Subsequently, at a meeting with ABC, C1 was further surprised to learn that the business of XYZ1 had actually been transferred to XYZ2 without his knowledge and that ABC had acted as auditors and financial advisors to both companies while being aware that the directors of both companies (C1 and D1) were in dispute.

C1 also became aware that accounts for XYZ1 had not been prepared or signed by the directors since 1991. At a directors' meeting in 1998 C1 and D1 signed financial statements for a four-year period ended 31 August 1995 and a two-year period ended 31 August 1997. As part of their audit procedures on these accounts, ABC asked C1 to sign a letter of representation confirming a breakdown of directors' loans from the company which indicated that C1 owed almost €30,000 to XYZ1. C1 stated that while he accepted the total amount was due to the company from directors he disagreed that any amount was due from him. Given his refusal to sign, ABC refused to issue audit reports on either of these sets of accounts.

C1 subsequently employed a senior accountant and member of the ICAI (A1) to investigate the accounts of XYZ1 and, in particular, the origin of his potential tax liabilities. A detailed list of queries was sent to ABC by C1 in October 1997 seeking: information on what was preventing ABC from issuing an audit report; copies of correspondence from the Irish-taxation authorities; explanations for the corporation tax liability in the balance sheet at the end of August 1997; and analyses of trade debtors on balance sheets as at August 1995-1997. An Independent Experts' Report deemed these reasonable queries for someone new to the affairs of a company "which he could have expected to be readily available to a director of any company". ABC, however, refused to answer the queries until they received payments for work completed in previous years. C1 requested supporting invoices for the payments claimed, as none seemed to exist, but ABC initially refused to provide them claiming that invoices prior to C1's involvement in XYZ1 were "not relevant". After much persistence, C1 eventually received a list of invoices which he claimed were "outlandish". This led to a number of antagonistic written exchanges between C1 and ABC. The focus on fees meant that none of the queries C1 had initially raised in October 1997 had been answered by April 1998.

As a result of C1's constant queries, two significant matters emerged that reflected poorly on ABC's work. Firstly, ABC admitted that tax returns made for XYZ1 in 1992 and 1993 may have been incorrect as they did not disclose the existence of directors' loans. Secondly, they admitted that the details finally provided to C1 regarding fee notes issued by ABC were inaccurate. However, after admitting to these inaccuracies, ABC threatened to resign as auditors citing four reasons: false allegations of misconduct against ABC made by C1 while querying ABC's actions; the directors' failure to finalise accounts since 1991; the directors' failure to deal with matters of taxation and company law; and the failure to discharge ABC's fees. Following a subsequent letter from C1's solicitor to ABC pointing out that ABC had acted in contravention of the ICAI's ethical rules, ABC resigned as auditors to XYZ1 and reported the company to the Irish taxation authorities in order to have the company

liquidated to recover their outstanding fees. However, the final three matters cited above only came to the attention of the XYZ1 directors (C1 and D1) as a result of C1's investigation into ABC's work. These issues had existed for many years before C1 became involved with XYZ1 and ABC had knowingly chosen to ignore them[14]. As the Independent Expert's Report stated:

To resign as auditors rather than prepare an audit report, albeit qualified, as requested by the directors, appears to be an extreme response to a relatively straightforward problem.

C1's complaint letter to the ICAI, sent at the end of October 1998, made a number of specific complaints about the actions of ABC. He outlined his concern at ABC's refusal to sign audited accounts due to his unwillingness to confirm his purported director's loan to the company. The specific complaints, as summarised in C1's letter to the ICAI, are included in Table II.

The next three sections proceed to unveil the progress of the complaints under the ICAI's pre-1999 complaints procedures.

Entering the complaints process

In response to the complaint submitted, the ICAI secretary indicated that he would refer the complaint to the member firm (ABC) complained against. He also reminded C1 that the ICAI did not have the power to order a member firm to compensate a client. Seven weeks later, the secretary wrote to C1 enclosing a letter from the member firm (ABC) refuting all of C1's ten allegations. ABC's letter provided a detailed background to the case and made serious allegations regarding statements C1 was supposed to have made which reflected poorly on his character.

While ABC's discussion of the context surrounding the complaints was detailed and highly personalised, the responses to the ten complaints were, by contrast, extremely brief and were included at the end of the letter. The secretary invited C1 to reply given that ABC "paint[ed] a different picture of events". C1 responded in a detailed letter challenging the personalised issues in ABC's letter and strongly refuting ABC's responses to the specific complaints. C1 also submitted original documentary evidence contesting many of ABC's responses.

Insulation and obfuscation – the secretarial barrier

In response to C1's reply, the secretary informed C1 that his letter had been sent to the relevant partner in ABC and that he (the secretary) had requested a meeting with this partner. C1 "would be kept advised of developments". C1 was not invited to partake in these discussions in line with the explicit exclusion of complainants from the ICAI complaints procedures. At this stage, the ICAI facilitated an open exchange of views and imposed little sense of professional authority over the complaint process.

However, the only information subsequently provided to C1 came from a newly appointed secretary indicating that a meeting had taken place between the former secretary and a partner in ABC at which C1's allegations were discussed. No account of these discussions was provided. C1 was also informed that certain matters would be placed in front of the ICAI's Investigation Committee in order to "decide whether or not a prima facie case of misconduct ha[d] been established". However, the secretary also indicated that specific complaints (Complaints 3-5 and 8 to 9 inclusive in Table II) "appear[ed] to amount to a commercial dispute between [C1] and the auditors [ABC]"

and on that basis did not come within the scope of the disciplinary process. She did not indicate how she arrived at this conclusion or provide any details of the responses of ABC to C1's detailed rebuttal of ABC's initial response. An additional air of mystique surrounded the nature of the secretary's meeting with ABC which may have influenced the decision. The insulation of this "consultative" process with ABC aided this demonstration of professional authority as it prevented C1 from scrutinising the evidence used when coming to this decision.

C1 replied to the secretary making a detailed case supporting his view that:

[...] none of the matters can even remotely be considered to be in the nature of a commercial dispute [...] they indicate a clear intention [by ABC] to deceive me and to withhold information.

He reiterated his key complaint and expressed his exasperation at the cursory dismissal of these claims with little evidence of a detailed investigation. We possess no evidence of a direct response to this letter from the secretary.

Twelve days later, following the Investigation Committee's meeting, the secretary wrote to C1 informing him that the committee had decided "that one matter [from the five remaining to be considered] should be referred to the Disciplinary Committee". There was no indication as to how the Investigation Committee arrived at its decision or which complaint (of the five remaining) the committee decided to refer to the Disciplinary Committee. Furthermore, no information was provided regarding the options now available to C1.

C1 then asked the senior accountant (A1) who had aided him in his initial attempt to investigate the accounts of XYZ1 to help him pursue his complaint further and correspond directly on his behalf with the ICAI. At A1's request, the secretary met with him at the ICAI headquarters in February 1999 and during the conversation reminded him that it was not the practice of the ICAI "to make the case for the complainant by requesting documents... from the member"[15]. A1 challenged this assertion but in response the secretary informed him that the discretion to request documents rested with the Investigation Committee and if they did not call for them, then they were evidently unnecessary for their decision. The implication was that the committee was beyond question and "that outside parties lack[ed] the requisite knowledge to make proper evaluations" (Parker, 1994, p. 510). A1 also expressed concern that many of C1's complaints were not being placed before the Disciplinary Committee and in a subsequent letter to the secretary (sent five days before the Disciplinary Committee was due to meet), he queried why documentary evidence provided by C1 was not submitted to the Investigation Committee. He also further refuted many of ABC's assertions in their initial response to C1's complaint drawing on his own extensive involvement in the initial attempts to gain information from ABC. He requested that all of the original matters of complaint be placed in front of the Disciplinary Committee and enclosed additional supporting documents including correspondence from ABC showing "a clear intention to misrepresent statements made by [C1]". He also expressed "surprise" that "the [*Investigation*] Committee accept[ed] without question the contention[s] of ABC" given the nature of the documentary evidence C1 had submitted.

One month later, following the Disciplinary Committee meeting, C1 received a letter from the secretary stating that "the complaint was not proved". The letter referred to the one complaint that had been forwarded for the first time. This related to ABC

acting as auditors and company secretary to XYZ1 (Complaint 2 in Table II), which ABC had admitted to in their initial response to C1's complaints. C1 was again given no indication as to whether the decision could be appealed. On the same date, the secretary sent a letter to A1, effectively dismissing A1's concerns about the Investigation Committee's unwillingness to put the other nine complaints before the Disciplinary Committee.

Confronting professional authority

C1 and A1 were not prepared to quietly accept this demonstration of professional authority. A1 subsequently wrote to the secretary seeking clarification on a number of issues regarding how the final decision was reached. A1 noted how the secretary had passed on the complaint to the Disciplinary Committee as being one against an individual partner in ABC. He reminded the secretary that the complaint had been made against the firm ABC and not the individual partner. The secretary's response noted that the current disciplinary procedures (bye-law 61) "did not allow for a complaint to be made against a *firm* . . . [only] in respect of a *member or a student*" (emphasis added). Accordingly, she had framed the complaint as if it was made against the individual partner in ABC who had been mentioned prominently in the complaint in order to allow it to proceed. A1 replied forcefully stating that:

Your replies [. . .] to my queries are not very convincing and leave me with the feeling that this case has received scant attention. However, the damage has been done and I do not propose to waste any more time in drawing attention to the many obvious examples of the reluctance of the *Investigation Committee* to deal properly with the case.

However, he also asked for further clarification regarding whom a complainant could complain against. The secretary replied confirming that only students or individual members could be complained against, not firms. On receiving this confirmation, A1 argued that:

In the circumstances, you should not have altered the content of the complaint without reference to the complainant. You should have returned the complaint to the complainant with an indication that bye-law 61 did not permit the processing of the complaint.

He also pointed out that the other nine matters not passed on were also complaints against the firm and wondered if these were "rejected, irrespective of content, as not eligible for processing under Article 61 of the bye-laws". He queried why they were not returned to the complainant for redrafting in compliance with bye-law 61. Given that the ICAI bye-laws were about to change to allow for complaints against firms (the post-December 1999 procedures described earlier), he contended that:

All of the ten complaints in question could have been withdrawn pending the coming into force of the new bye-laws and this would have been the proper way for the Institute [ICAI] to have dealt with these matters.

His frustration with the process led him to conclude that:

[. . .] there has been little evidence of openness and transparency on the part of the Institute [ICAI] in dealing with this case and I can appreciate the public disquiet on such matters[16].

The secretary's response was short and dismissive. Her correspondence failed to directly address the points raised by A1. She again questioned the authority of A1

to query the insulated decision-making process and the authority of the Investigation Committee to make its decision privately with no accountability to the complainant:

It is not appropriate for you or me to second-guess the decisions [of the Investigation and Disciplinary committees]. As far as the Institute [ICAI] is concerned, the matter is now closed (emphasis added).

Parker (1994) notes that professional authority often enables a profession to place “clients in a subordinate position to professional members by virtue of the latter’s [presumed] monopoly over expertise and judgement” (Parker, 1994, p. 512). However, in the context of this case, it appears that professional authority operated to place the public (in this case C1 and A1) in such a position. Once more, C1 was not informed as to whether he could appeal the decision. A1 subsequently wrote to the secretary stating that he was unwilling to accept the decisions of the various committees and intended to register “a protest with the appropriate authorities”. This was undertaken by filing a complaint to the Department of Enterprise, Trade and Employment, an Irish Government Department which registers professional bodies[17].

A second visitation

Almost three years later, C1 revisited his complaint in light of the widely publicised changes to the ICAI complaint and disciplinary procedures. C1 had also gathered some additional evidence and wanted to make certain new complaints against ABC. He employed a firm of solicitors (SOL1) to guide him through the new complaints process and correspond on his behalf.

In June 2002, the solicitors (SOL1) issued a new complaint in writing to the ICAI. With reference to the initial complaints, three-and-a-half years earlier they noted that:

[...] ultimately those complaints were dismissed by the Institute [ICAI] on the basis that the complaints were levied against *the firm* of [ABC] rather than *any individual partner within that firm* (emphasis added).

They also pointed out that new information had come to light and that further complaints were being made regarding the behaviour of ABC’s partners.

An erosion of professional insulation

The secretary initially acknowledged the complaint and a case officer assigned to the complaint (a new development in the changed procedures) wrote to SOL1. He indicated that the member firm (ABC) had been made aware of the new allegations and that their response would be forwarded to SOL1 for their comments. In addition, he stated that on receipt of C1’s comments on ABC’s response a decision would be made as to whether the matter should be referred to the newly formed Complaints Committee. He also included a copy of the guide on how the new disciplinary process worked. This response was much more complainant friendly and forthcoming compared to the equivalent under the old procedures. However, the case officer also indicated that:

[...] [f]or the avoidance of doubt, it is not proposed to re-open the following allegations [...] which were dealt with by the Investigation Committee and the Disciplinary Committee in 1999 (emphasis added)[18].

There was no further explanation offered for this decision.

The solicitors (SOL1) refuted the suggestion that the previous complaints made by C1 to the ICAI had been dealt with by the various committees. They reminded the case officer that the initial complaints had been made against the firm ABC but that the one complaint passed on to the Disciplinary Committee was framed as being against an individual partner in ABC, as under the old rules, a case could not be brought against a firm. SOL1 also noted that this case was found not proven by the Disciplinary Committee despite the firm admitting to the breach in correspondence with the secretary at the time[19]. They stated that “our client (C1) was given no reason for this finding, which to him seemed quite incredible” and proceeded to argue that the other nine complaints should now be dealt with as complaints against the firm as rules of procedure may have meant they could not be dealt with in the first instance.

Given the ICAI’s continued reluctance to re-visit the original complaints SOL1 challenged them to explain why this might be and who had the ultimate power to make this decision. Furthermore, additional questioning of the secretary’s/case officer’s exhibition of professional authority was aimed at eroding the professional insulation that pervaded the process throughout the initial complaint:

If you persist in this approach [refusing to deal with the original complaints] however we would ask you to let us know precisely which of the complaints we have made are not to be, in your words, re-opened and, in light of this letter, if you would indicate why. You might please also advise whether under the complaints procedures of the Institute [ICAI], this is a decision to be made by the Case Officer or by the Secretary.

The case officer’s reply initially revealed further evidence of the emergence of a less-insulated process. He provided, based on his review of the case file, a detailed explanation as to why the original complaint considered by the Disciplinary Committee was deemed “not proved”. This was in complete contrast to the attitude of the secretary under the old process. SOL1 could not resist highlighting the apparent openness now compared to when the case was previously under consideration and expressed suspicion that this new openness only emerged as ABC’s socio-economic status was now less likely to be threatened:

[...] Now, when the information is no longer relevant, the Institute [ICAI] appears to have no difficulty in indicating the reasoning of the Disciplinary Committee. This calls into question the approach of the Institute [ICAI] to complaints of this nature. It seemed to [C1] in 1999 and it appears to him again now that the Institute [ICAI] are far more concerned with protecting its own members than dispensing justice to complainants.

Self-control and the member’s private interest

The case officer responded by stating that the previous decision of the Investigation Committee found that there was no prima facie case in relation to nine of the ten matters initially complained about and that it would be “*grossly unfair to the firm*” to re-open matters which were already the subject matter of a complaint made in 1999” (emphasis added). In response, SOL1 expressed bafflement and sought an explanation as to why this might be the case:

You do not seek to give any justification for this conclusion. We, with respect, entirely disagree with that conclusion. We suggest that it would be grossly unfair to [C1] not to re-open these issues [...] *Where is the gross injustice to [ABC] in having these complaints re-opened?* (emphasis added).

SOL1 also reminded the case officer that previous correspondence between the ICAI and C1 indicated the possibility of re-opening complaints if the evidence in the action indicated that ABC acted in such a way to make them answerable to disciplinary action. They also asked if it would be permissible for C1 to withdraw his present complaints and make them under the new rules. They further suggested that if ABC could have availed of a procedural technicality to avoid censure previously (by having the complaint framed as one against a partner as against the firm, ABC), then surely C1 could avail of procedural technicalities to assist him. This represented a direct challenge to the proclaimed operation of the process in the public as opposed to members' interests.

The re-emergence of professional insulation and professional authority

The case officer's reply to this detailed letter signified a return to the short, somewhat dismissive replies received by C1 under the old procedures. The suggestion that the complaint be withdrawn until the new bye-laws were effective was robustly refuted. SOL1 were reminded that, in effect, once a complaint is made, the complainant has no further part to play in the process and it becomes an internal matter for the ICAI and its member. This resembled the secretary's previous reminder to A1 that the ICAI did not make the case for the complainant. SOL1 expressed C1's dissatisfaction with the decision and noted that ABC had still not commented on the issues "which you have decided have already been dealt with and should not be re-opened".

In an apparent about-turn, and for reasons unclear to C1 or evident from the documentation examined for this case, the case officer indicated in a subsequent letter that all correspondence would now be put before the Complaints Committee "in order to determine whether old complaints should be re-opened." Hence, the ultimate decision was being passed on by the case officer and the secretary. SOL1 replied immediately indicating that they:

[...] would be prepared to attend the [Complaints Committee] meeting with a view to presenting the matter orally or responding to any queries which the Complaints Committee may have in relation to the issue.

Two weeks later, the secretary wrote to SOL1 signifying that:

[...] the Complaints Committee determined that an oral hearing was not necessary [and] that it was not appropriate for the Committee to re-consider those matters, included in your recent complaint, which had already been considered by the Investigation Committee in 1999.

While some reduction in professional insulation permeated the complainant's initial experience of the new procedures, this was dampened by the Complaints Committee's eventual reluctance to allow SOL1 to attend their meeting to witness how this decision was reached.

A key concern for C1 and SOL1 was the fact that ABC's solicitors had submitted a letter to the Complaints Committee which it had evaluated without SOL1's knowledge of its existence. This letter was included with the correspondence above. Furthermore, the secretary noted in this letter that the Complaints Committee had directed that only those matters which had not previously been dealt with by the old Investigation Committee in 1999 should be put before the Complaints Committee for its consideration at its next meeting. SOL1 responded noting the position taken but further highlighting that correspondence from the solicitors of ABC was placed before the Complaints

Committee on which SOL1 was given no opportunity to comment. SOL1 responded in detail to ABC's solicitor's letter and indicated that they expected that evidence of the overall conduct of ABC would be taken into account in assessing the new complaints put forward. They concluded their letter with a challenge to the ICAI's purportedly changed processes:

What all of this comes down to is the attitude of the Institute [ICAI] to complaints against its own members. If the Institute [ICAI] take the view that it is for the complainant to prove his case as if he was in a court of law but otherwise to ignore the evidence against its members, this complaint will have a predictable outcome. If, on the other hand, the Institute [ICAI] has a role in investigating and following up on complaints which seriously question the honesty and integrity of [its] members, then it is for the Institute [ICAI] to follow up on the information furnished and to test the veracity of the complaints made for itself.

Three months later, the secretary wrote to SOL1 informing them that with regard to all of the new complaints made, a *prima facie* case had not been made out. SOL1 then wrote to C1 stating that they felt that they had "reached the end of the road with the complaint".

Discussion and conclusions

Recent research critically analysing the public interest claims of professional accounting bodies regarding their ethics and disciplinary procedures has omitted to consider the experiences of ordinary complainants who may be most affected by these procedures (Canning and O'Dwyer, 2001, 2003, 2006; Parker, 1994; Preston *et al.*, 1995). By revealing in depth the operation of one such complaint process from the complainant's perspective, this paper attempts to remedy this omission. The case reveals how high levels of professional authority and professional insulation worked in tandem to prevent complaints entering the complaint process and deny the complainant reasons for decisions taken. It demonstrates how a key structural barrier in the complaint process, the screening role of the ICAI secretary, operated to encourage a complainant impression of a process concerned primarily with protecting ICAI members' interests. Subsequent to the post-1999 complaint process changes, an erosion of professional insulation was unveiled. However, this proved fleeting and, in response to persistent complainant challenges to heightened demonstrations of professional authority, the degree of professional insulation intensified further.

The ICAI secretary's demonstrations of professional authority pervade the narrative. Bedard (2001) has highlighted the importance of the complaint stages of disciplinary processes in filtering cases and protecting the public or private interests. He bemoans the fact that prior research has largely ignored consideration of this crucial stage in these processes especially as the ability to control the agenda may be more important than the power to influence the decision in a case. This case supports Bedard's (2001) assertions by highlighting the way in which the secretary used his/her power and presumed professional authority to support high levels of professional insulation by repelling complaints without, in many cases, justifying decisions taken. This initial stage of the complaints process is the one where "the level of regulation and public participation is low[est]" (p. 431) and where, according to Bedard (2001), the private interest of the profession can play a predominant role in the decision whether or not to facilitate a complaint. Under the old ICAI process (pre-December 1999) dealing with C1's initial ten complaints, the secretary refused to provide any

justification for decisions taken. In the new system (post-December 1999), new documentary evidence produced in support of complaints was dismissed without supporting reasons.

While the post-1999 process sharpened the administrative procedures, and responses were initially more polite and helpful to the complainant, when justification for decisions was requested it was again denied despite explanations being made available in relation to the older complaints. This short-lived erosion of professional insulation suggests that many of the post-1999 changes evident in this case merely supported an image of change and bear many of the hallmarks of disciplinary symbolism. Furthermore, while Parker (1994) suggests that professional authority is dependent on the initial establishment of professional insulation, our analysis suggests that established and presumed professional authority can be used to justify further insulation of the disciplinary decision-making process.

These case findings can also be considered in the broader context of our earlier examination of the roles professional accounting disciplinary procedures play in promulgating professional power and shielding professional institute members' work from scrutiny. The extent of the professional power conferred on the ICAI by the Irish state through their delegation of the disciplinary arrangements is prevalent throughout the case. This was especially evident in the flexibility afforded to the ICAI – through the secretary – to determine exactly what errant conduct represented and what evidence was deemed appropriate to support a complaint entering the process. This private system was not only private in the sense that there was little accountability to the complainant for decisions taken, it was also private in the sense that the complainant was placed in a position of having to effectively “prove” misconduct with little information provided to him as to what type/level of evidence would support his case or how this evidence, if available, was to be assessed. This privacy was reinforced by the absence of any systematic case law which gave greater power to the impulses of the secretary and the various committees (Canning and O'Dwyer, 2006; Sikka, 2001a) in making decisions. This professional power also operated to repel the enormous and costly efforts of C1 to have his complaints considered. Without the expense of considerable financial resources evident in the assistance of an accountant (A1) and a solicitor (SOL1), C1 would have had little chance of challenging the prevailing demonstration of professional authority and insulation. Furthermore, C1's lack of deference to the ICAI or their procedures was the main reason the questionable operation of the procedures in this case was exposed in the first instance. This supports Sikka's (2001a) claim that disciplinary arrangements rely on the deference of the public and, indeed, the state to comfortably propagate a message purporting to support accountability, transparency and the public interest.

The case illustrates how the complaint procedures operated to shelter ABC from the complainant, C1, in effect shielding private ICAI members (the ABC partners) from the public (C1). This was especially facilitated through the ongoing suppression of information by the ICAI's representatives throughout the duration of the complaint. For example, as noted earlier, the secretary decided whether the initial conduct complained of was ethical/unethical without providing any supporting evidence other than allusions to meetings with the member firm (ABC). No account of the initial discussions between the secretary and ABC was provided to C1 and no information regarding potential appeals process routes was explicitly offered to C1 throughout. Moreover, decisions taken were

often presented with no offer or prospect of a supporting rationale, again in complete contrast to what one would expect in a regular court of law. When rationales were offered, they emerged long after they could have had any adverse impact on ABC's socio-economic status. Furthermore, documentary evidence provided by C1 was not submitted to the Investigation Committee as they did not request it, while, in contrast, a letter submitted by ABC's solicitors was presented to the Complaints Committee without C1's solicitors' (SOL1) knowledge. These findings merely serve to reinforce the private, insular nature of the process in primarily serving the interests of its members. Given this evidence, it becomes highly problematic to see how this process could effectively work in the public interest given it seems so structurally crafted to challenge, impose costs on, and deny compensation to complainants. In fact, this case would lead us ask why one might use these procedures at all to complain against ICAI members.

Given the above analysis, and that contained in Canning and O'Dwyer (2001, 2003, 2006), it is necessary to consider if these forms of disciplinary arrangement have a future. As long as complainants are given few "rights" in the system through their denial of any substantive participation within it, it remains a powerful private process which can come at considerable cost to a complainant if they want to effectively pursue a complaint. There is no financial aid available to complainants with economic difficulties, and in this particular case, C1 indicated to us that he had relied on the goodwill of his accountant (A1) and on loans to pursue the complaint for so long through the process. While the process undoubtedly has to deal with many minor, "nuisance" complaints as well as misunderstandings, there needs to be greater accountability with regard to how more complex complaints like those of C1 are denied entry into the process. This requires, at a minimum, the establishment of a panel with some independent members to consider initial cases and to publicly reveal why cases are refused admission into the system. Furthermore, consideration needs to be given to providing some form of support fund for certain complainants; otherwise ordinary members of the public will be deterred from complaining about the behaviour of professional accountants. The method of selecting lay members to serve on committees also needs to be taken out of the hands of the ICAI (Canning and O'Dwyer, 2006). This is necessary in order to ensure that a more independent "sense" exists within the various committees and that these lay members operate, in Canning and O'Dwyer's (2006) terms, in an "active" as opposed to a "passive" manner. Key to this is the public provision of detailed background information on the independent *bona fides* of these lay members.

Currently, the Complaints Committee may, in its absolute discretion, give the complainant the opportunity of being heard before it (bye-law 73.3), something C1 was denied. Hence, there is the distinct possibility that complainants will be given no such opportunity. This discretion needs to be removed and the right to be heard before the Complaints Committee should be given to all complainants whose complaints come before it. Finally, the recently formed IAASA has a real opportunity to investigate more deeply the inner workings of these processes to assess if they are operating in the public interest. It should use this authority actively to test the procedures and follow up on any complaints made by the public with vigour and rigour. Furthermore, it should practice active as opposed to passive oversight and demand the reasoning behind decisions taken, especially those of the secretary. Instead of waiting for members of the public to approach it, the IAASA should use its

statutory powers to act to investigate how the processes are operating. We posit that had the IAASA been established with its current remit after the first series of complaints in this case, C1 could have brought his correspondence to them and they could have investigated on his behalf. The ICAI would then, we expect, have been required to provide detailed information supporting their treatment of the complaint.

Many of the recommendations above are primarily about pressurising the ICAI and other professional bodies who hold powerful self-regulatory positions in society to account more robustly for the enactment of their disciplinary procedures. Our broad suggestions, we accept, are reformist and probably far from ideal given wider structural constraints but are offered in the context of current institutional arrangements. However, their adoption may mean an increased possibility of holding powerful professional bodies like the ICAI to account for the enactment of their delegated self-regulatory role in the public interest. If more robust, independent oversight of these arrangements is not forthcoming, then they have little future beyond providing an unreliable disciplinary symbol to a largely compliant public and state.

By revealing and examining the nature of the complaints and the correspondence which evolved in this case, we have illustrated how ensuring the public interest is served in complaint processes can be problematic in the face of grave structural barriers. This suggests that expressions of professional authority by professional bodies in this context need substantial scrutiny when invoked in order to support the insulation of decision-making procedures. Future research should seek out and scrutinise cases similar to the one presented here in order to further illuminate how these processes operate for or against the public (i.e. complainants) interest(s).

Notes

1. Parker (1994) notes that these third parties may encompass corporate shareholders (or intending shareholders), borrowers and lenders, regulators, government, social interest groups, or any other members of the public.
2. These examinations came at a time when the disciplinary arrangements of professional accounting bodies in Ireland were subject to intense governmental scrutiny and much adverse press comment due to widespread allegations of audit failures and certain accountants' complicity in widely publicised corruption scandals.
3. We should also note that a recent journalistic expose of the operation of the Complaints Committee and appeals panels which form central elements of the new disciplinary procedures post-1999 also painted a less than flattering picture of the operation of these new ICAI procedures. Question marks were raised over the reasoning supporting a decision taken, the independence of lay members, and the expertise of ICAI Committee members (Ross, 2007). The newspaper article claimed that the procedures were unreliable and operated to protect the Big 4 firm KPMG from the complainant.
4. Interference primarily from the government and its agencies.
5. It is important to note that even though the social standing of the accounting profession worldwide has dropped as a result of widespread scandals involving accountants (especially auditors) in the early 2000s, the economic success of accountants has improved significantly as a result of regulations such as the Sarbanes-Oxley Act introduced to deal with some of the problems accountants and auditors seemed unable or unwilling to address. Hence, somewhat

paradoxically, and in contrast to Parker's conceptualisation above, an apparent decline in the professional authority and social standing of accountants has actually coincided with an increase in their economic success in contexts such as the USA, Ireland, the UK, and many mainland European countries. We would like to thank one of the anonymous reviewers for pointing this out to us.

6. The Investigation Committee consisted of 12 people of whom at least one-quarter had to be non-ICAI members (lay members).
7. The Disciplinary Committee consisted of 11 people of whom at least one-quarter had to be non-ICAI members (lay members).
8. The Appeal Committee consisted of a lawyer and three further members, one of whom had to be a non-ICAI member (lay member).
9. We did not approach the ICAI for interviews. In previous work in this series spanning 2000-2003 when we sought details of potential interviewees who sat on various ICAI Disciplinary Committees, we were informed that the ICAI wished to contact them on our behalf. We acceded to this request but we felt it reflected a clear caution on the part of the ICAI regarding the nature of our work. We also interviewed the ICAI secretary for prior studies and while she was most helpful and highly professional, this caution prevailed. Our experience dealing with the ICAI intermittently over a period of five years has left us with a clear impression that the ICAI, for confidentiality reasons, will not discuss individual cases. Given that key ICAI personnel in the area we were examining had not changed over the past seven years, we did not envisage that conducting interviews with ICAI personnel would prove fruitful. More fundamentally, while we are presenting the complainant's perspective, the majority of our analysis is based on our study of detailed correspondence emanating from both the complainant and ICAI representatives and it is from this that we draw and justify our key findings.
10. This process took some time and we are very grateful for the assistance of Niamh Brennan in getting us access to key individuals in this department.
11. We hope that we do not give the impression, as pointed out by one reviewer, that we are mainly subscribing to positivist philosophies indicating that without concrete, so-called "hard" evidence, the anxieties, pain, sorrow and anger of individuals cannot be recognised. Our evidence could indeed be incomplete in some respects but it does not invalidate our efforts to reveal how C1 constructed his view of the disciplinary process experienced by him.
12. He indicated to us that prior to getting professional help it took him days to write letters to the ICAI given his limited educational background.
13. The narrative has, as is to be expected, evolved through several drafts in response to comments received from academic conference referees, readers, conference participants, and academic journal referees.
14. This insight is drawn from the Independent Experts' Report.
15. Quoted directly from correspondence between A1 and the secretary.
16. The public disquiet A1 referred to related to the widespread media and public concern about the ICAI's handling of alleged misbehaviours by some of its members, including a former Irish Prime Minister, in prominent corporate scandals around this time (Canning and O'Dwyer, 2003).
17. As part of our analysis for this study, we have also analysed the correspondence relating to this complaint.
18. These allegations were listed in the case officer's letter and related to the initial complaints made under the old procedures (Table II).

19. This original complaint may have been deemed “not proved” despite a written admission by ABC as the secretary framed the complaint as being made against an individual partner and not the firm in order to allow it to proceed. In subsequent correspondence, SOL1 made this suggestion but, as indicated in the previous sections, no rationale for this decision was ever offered by the secretary so this is merely conjecture.

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Further reading

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