

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Muhammed Ajnas Mansoor C K
Heard on:	Wednesday, 07 August 2024
Location:	Remotely via Microsoft Teams
Committee:	Mr Andrew Gell (Chair), Ms Joanne Royden-Turner (Accountant), Ms Caroline Robertson (Lay)
Legal Adviser:	Ms Giovanna Palmiero
Persons present and capacity:	Mr Benjamin Jowett – Case Presenter Ms Sofia Tumburi – Hearings Officer Ms Salila Vipinachandra – Interpreter Mr Rishal Muhammed – Representative
Sanction	Removed from the student register
Costs:	£7,500

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Muhammed Ajnas Mansoor C K (Mr C K).

2. Mr Benjamin Jowett (Mr Jowett) presented the case on behalf of the ACCA.
3. Mr C K did attend and was represented by his friend Mr Rishal Muhammed (Mr Muhammed). An Interpreter Ms Salila Vipinachandra (Ms Vipinachandra) was in attendance to assist Mr C K.
4. The Committee had confirmed that it was not aware of any conflicts of interest in relation to the case.
5. In accordance with Regulation 11(1)(a) of the Chartered Certificate Accountants Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
6. The hearing was conducted remotely via Microsoft Teams.
7. The Committee was provided with, and considered in advance, the following documents:
 - (i) A Report & Hearing Bundle with pages numbered 1-132;
 - (ii) A Memorandum & Agenda with pages numbered 1-2;
 - (iii) A Service Bundle numbered with pages numbered 1-17;
 - (iv) A Tabled Additional 1 with pages numbered 1-57;
 - (v) A Video of the exam
 - (vi) Two Cost Schedules provided to the Committee at the sanction stage.

PRELIMINARY MATTERS

8. Mr C K wished to be represented by his friend Mr Rishal Muhammed (Mr Muhammed). The Committee noted that under Regulation 10 (6), Mr C K is entitled to be represented by such person as Mr C K wishes. Mr Jowett did not object.

ALLEGATIONS

Mr Muhammed Ajnas C K, ACCA student:

1. On 12 September 2021 in relation to a remotely invigilated TX UK Taxation exam used during the exam an 'unauthorised item', namely a camera or a mobile phone with a camera, to take photographs of the exam content.
2. Caused or permitted one or more of the photographs referred to in Allegation 1 to be shared with a person or persons unknown.
3. By the reason of the matters referred to above in respect of Allegation 1 is in breach of one or more of:
 - (a) Exam Regulation 5 (a)
 - (b) Exam Regulation 12
 - (c) Exam Regulation 14.
4. By reason of the matters referred to in Allegation 2 is further in breach of Exam Regulation 4.
5. Any or all of the conduct described at Allegation 2 was reckless in that the sharing of the photograph or photographs created a clear and obvious risk that they could be seen by other entrants of the same exam in order to obtain an unfair advantage.
6. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2020, failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:
 - (a) 10 December 2021;
 - (b) 24 December 2021;
 - (c) 07 January 2022.

7. By reason of his conduct, Mr C K is:
 - (a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at Allegations 1 to 6 above; or, in the alternative,
 - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of any or all of the matters set out at Allegation 1, 3, 4 and/or 6

RESPONSE TO ALLEGATIONS AND ADMISSIONS

9. Mr C K entered formal admissions in respect of Allegations 1, 2, 3, 4, 5. The Committee found these allegations proved.
10. Mr C K denied Allegation 6.
11. In relation to Allegation 7, Mr C K made a formal admission, but the Committee confirmed that misconduct is a matter of judgment for the Committee to determine in the exercise of their discretion.

BRIEF BACKGROUND

12. On 17 July 2019, ACCA registered Mr C K as a student. As such, he is bound by ACCA's Bye-laws and Regulations, including the Exam Regulations and Exam Guidelines.
13. On 12 September 2021, Mr C K sat his remotely invigilated PearsonVUE session-based TX UK Taxation examination (the 'Exam').
14. On 02 December 2021, ACCA's Exams Integrity inbox received an email from a person who claimed to be an ACCA student. The email stated that "*candidates taking the REMOTELY INVIGILATED EXAMS are... keeping cameras or mobile phones in off angles which are not visible in the camera and taking pictures of the questions and sharing it to friends at the same to get answers...*". The email attached five separate images appearing to be screenshots of an ACCA exam. One image included a PearsonVUE 'access code', [PRIVATE] unique to Mr C K and the exam that he sat. This image is included as a File Note.

15. On 03 December 2021, two very similar emails were sent to ACCA's Exams Integrity inbox by what appeared to be another ACCA student. The first email, sent at 07:02:16 attached five images, with one including the same PearsonVUE 'access code'. The second email, sent at 07:03:10 attached four images, none of which showed an access code.
16. A File Note shows the full set of images attached to the three emails. ACCA wrote to the two senders on the two separate email addresses to establish further details, but no responses were received.
17. An investigation was commenced. This has involved obtaining documents and video footage relating to the Exam. The Complainants provided ACCA with six different photographs. The photographs have a similar format and appear to be taken from a similar angle. One photograph includes a screen header. This information is a unique PearsonVUE student access code of [PRIVATE], which relates to Mr C K. This is evidenced from the PearsonVUE extract from ACCA's records for Mr C K, and was the code used to access his exam footage on the PearsonVUE platform at the commencement of the investigation. It is also the code used by ACCA and PearsonVUE staff to access the remotely invigilated exam video footage and other documentation for around three months after the exam sitting. It was confirmed that all six images appeared in Mr C K's TX Exam.
18. A number of emails sent on 10 December 2021, 24 December 2021 and 07 January 2022, requesting Mr C K's response were sent to Mr C K at an email address he provided to ACCA, but none have been responded to. The email address had not changed throughout the course of the investigation. None of the emails have been returned or bounced back into the case management system.
19. On 01 May 2022, Mr C K sent an email where he stated:

"Dear Sir or Madam,

I hope you are doing well.

This email is in response to allegations made against me for misbehaving during the TX exam in September 2021.

First and foremost, I would like to express my heartfelt regret for my actions, as now I am fully aware of the seriousness and severity of the issue.

I admit that I cheated on the exam as I didn't think about the serious implications of my

actions at that time and the allegations levelled against me are correct. And I am hopeful that the Disciplinary Committee will handle my matter efficiently and fairly.

I have a few requests for ACCA to consider before the hearing begins.

1. I respectfully request to remove or amend the allegation number six, which states, *"Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2020, failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:*

(a) 10 December 2021;

(b) 24 December 2021;

(c) 7 January 2022 "

because I am unable to use my email account through which I receive ACCA emails due to some account recovery process, and I have only recently regained access to my Gmail account. So I just became aware of the problem after receiving an email from [PRIVATE] on April 29th. In addition, I didn't receive any calls or texts regarding the matter. So, please take into account the situation, and I am prepared to fully co-operate with the committee hereafter.

2. I kindly request to get help from an interpreter during the hearing, who could proficiently translate the language of [PRIVATE] (an Indian language) to English. Please let me know if this option is not available. I hope ACCA will consider the above said request and again, I apologize profusely for my misconduct, and I promise it will not happen again from my end. Please reply to this mail for any other information.

Sincerely,

Ajnas C K C K". (sic)

ACCA SUBMISSIONS

21. Mr Jowett addressed the Committee on the facts of all the allegations.
22. Mr C K would have been required to acknowledge and agree the Exam Regulations upon booking this exam, and a copy of these was set out on the reverse of the exam docket sent to him.
23. Exam Regulation 5 makes it clear that ACCA students are not permitted to use mobile phones or cameras (amongst other items) during the exam and refers to using such devices in accordance with ACCA's exam guidelines. This regulation goes on to state that if a student does bring into the exam such 'unauthorised items' then the student *"must declare this to the exam personnel prior to the start of the examination"*.

24. While session-based exams do require candidates to keep their mobile phone nearby, in order for the proctor (remote invigilator) to contact the student in case of technical difficulty, the Exam Guidelines instruct candidates to “*Move mobile phones...out of arm’s reach*”.
25. For Mr C K to have taken the photos he allegedly took, he would have needed to use an unauthorised item in a way not permitted by the Exam Regulations and Guidelines.
26. Exam Regulation 12 refers to computer-based exams, stating “*you are not permitted to copy exam content in any manner or take photograph(s) or videos of your screen or permit any other person to do the same*”.
27. Exam Regulation 14 reiterates that students are prohibited from “*photographing...or reproducing in any manner exam content*”.
28. The Complainants provided ACCA with six different photographs. The photographs have a similar format and appear to be taken from a similar angle. One photograph includes a screen header. This information is a unique PearsonVUE student access code of [PRIVATE], which relates to Mr C K. This is evidenced from the PearsonVUE extract from ACCA’s records for Mr C K, and was the code used to access his exam footage on the PearsonVUE platform at the commencement of the investigation. It is also the code used by ACCA and PearsonVUE staff to access the remotely invigilated exam video footage and other documentation for around three months after the exam sitting.
29. On 15 December 2021 this information was confirmed in an email from ACCA’s Business Analyst.
30. On 28 February 2022 it was confirmed by ACCA’s Exam Centre Operations Manager, that all six images appeared in Mr C K’s TX Exam.
31. In terms of how Mr C K may have been able to take these photographs without the invigilator being aware, it can be noted that on the video only Mr C K’s head and shoulders are visible and that his hands are not shown on screen. The screenshots provided in the 10 December 2021 letter to Mr C K show times when the photographs appear to have been procured. Mr C K regularly turns his head downwards.
32. Relevant timestamps are noted in the exam video chronology.

33. Exam Regulation 14 prohibits “*distributing, or seeking to exploit for commercial or personal gain, copies of exam questions or scenarios to any person including other ACCA registered students*”.
34. Six separate images were sent to ACCA in three emails. Image 6 shows an array of images on the left-hand side.
35. It is not apparent from the Complainant how they obtained the photographs. In any event, it is submitted that how the Complainant obtained the photographs is not relevant on the basis the original source of distribution would have been Mr C K as only he was sitting the exam in question.
36. It is submitted that taking photographs of exam questions and distributing them undermines the integrity of the exam in question and more generally ACCA’s qualifications, potentially causing considerable reputational harm.
37. Mr C K would have been aware that in distributing these photographs, to any other ACCA student studying for the TX Taxation exam, that would potentially enable that other student to gain an unfair advantage. Similarly, as Mr C K failed the exam, he could have used the photographs of the exam questions to assist him in preparing for his next attempt at the exam, thereby giving him an unfair advantage.
38. Mr C K’s sharing photos of the exam questions presented a clear and obvious risk that the photos of the exam questions, even if not directly supplied to someone who was intending to sit the same exam, would fall into the hands of someone who was. Such a person or persons would thereby obtain an unfair advantage in the exam.

ALLEGATION 6 - FAILED TO CO-OPERATE WITH THE INVESTIGATION

39. Mr Jowett referred to the evidence served in support of the contested allegation, 6.
40. On 10 December 2021, ACCA wrote to Mr C K at his registered email address attaching a series of screenshots taken from the footage of his 12 September 2021 TX exam and a series of questions. The deadline for a response was 23 December 2021. The ACCA case management system indicates that Mr C K opened this email. Mr C K failed to respond.

41. On 24 December 2021, ACCA sent Mr C K a first formal reminder of his duty to co-operate with the investigation. This correspondence attached a further copy of the 10 December 2021 letter. The deadline to respond was 06 January 2022. Mr C K failed to respond.
42. On 07 January 2022, ACCA sent Mr C K a second and final formal reminder of the duty to co-operate with the investigation, which included a copy of the 10 December 2021 and 24 December 2021 letters. This had a response deadline of 21 January 2022. Mr C K failed to respond.
43. On 01 March 2022, ACCA sent Mr C K a further email, in an unencrypted format, from the Outlook email system. A delivery receipt was obtained for this. Mr CK failed to respond.
44. On 01 March 2022, a further attempt was made to contact Mr C K, this time by telephone using the number he has on his registered ACCA account. The calls showed an 'unavailable' response and failed to connect.
45. On 01 May 2022, Mr C K sent an email where he stated "*I admit that I cheated on the exam as I didn't think about the serious implications of my actions at the time and the allegations levelled against me are correct*".
46. Mr Jowett submitted that the allegations referred to above are capable of proof by reference to the evidence above and the documents in the bundle of documents served as evidence.
47. The read receipt included in the bundle, would suggest that the email sent on 10 December 2021 was received and opened on the same day. This evidence also indicates that the accompanying letter was also accessed. There were several attachments including a detailed chronology of what the case officer observed during the examination, and it was clear to see that there were several concerns ACCA wished to consider and obtain an explanation. That explanation has not been forthcoming and prohibited ACCA from investigating those concerns. Mr C K undoubtedly received and accessed the letter and knew that ACCA was investigating and that he was being asked questions which required a response.

48. Mr Jowett conceded that there was no evidence that the emails sent on 24 December 2021 and 07 January 2022 had been accessed at the time. However, ACCA database records show that Mr C Ks email was correct.
49. On 01 March 2022 an email to Mr C K references the three previous emails sent and asks if he would like ACCA to resend these documents. There is a delivery receipt of a safe delivery.
50. The letter sent to Mr C K from ACCA dated 29 April 2022 refers to the assessor's decision accompanied by a copy of the decision. This would have given Mr C K a clear understanding of what the issues were and that there would be disciplinary proceedings, regardless of his failure to cooperate. Mr C K responded to ACCA in the email dated 01 May 2024. He admits he cheated in the exam and takes issue with Allegation 6. He refers to problems with this email account and states he only regained access to this account in April, supposedly 2022.
51. Mr Jowett responded to Mr C Ks assertion made in his email dated 01 May 2022, that he was unable to respond:

“because I am unable to use my email account through which I receive ACCA emails due to some account recovery process, and I have only recently regained access to my Gmail account. So I just became aware of the problem after receiving an email from [PRIVATE] on April 29th..”
52. Mr Jowett submitted that if Mr C K was unable to access his email correspondence at the time it was sent and only regained access to this email account on 29 April 2022, this was difficult to reconcile with the fact that ACCA's case management system showed the email sent in December 2021 as having been opened on the same day it was sent.
53. Mr Jowett further stated that none of ACCA's emails were returned to ACCA, and the assumption had to be, that if there was a problem with Mr C Ks email account, there would have been some sort of notification or response from that email account.
54. Further, there is evidence to show that an email sent on 01 March 2022 by ACCA was delivered which is not consistent with problems Mr C K purported to have had with his

email account. There is a presumption that an error message may well have been generated in the circumstances.

55. Mr Jowett continued, that despite regaining access to his email account approximately 4 months after the initial email was sent, Mr C K has still not replied or responded to the questions raised by ACCA in the three emails sent during the investigation.
56. On 12 July 2024 ACCA wrote to Mr C K referring him to the bundle showing the report of the opened emails, and pointing out that he has still not answered the letter of December 2021. Mr Jowett commented that even putting Mr C K's case at the highest, there was a four month delay in his ability to respond to the ACCA's correspondence, but there is still no explanation as to why two years later there is still no response to the questions raised in the correspondence. Mr C K on completing the Case Management Form, (CMF) page 11 admits to the allegations apart from 6, and states he was not aware of the correspondence with ACCA within the timeframe, until he gained access to his email account approximately four months later.
57. By not engaging in the investigation process this hindered ACCA's further progress in investigating the wider implications of Mr C K's actions.
58. ACCA submits that in failing to respond to the requests of ACCA, Mr C K has breached Complaints & Disciplinary Regulation 3(1). Mr C K was under a duty to co-operate, and therefore respond, to ACCA's investigation correspondence, in which he was asked for a response to allegations raised against him.
59. Every ACCA student has an obligation to co-operate fully with their professional body, and to engage with it when any complaints are raised against the individual. Such co-operation is fundamental to a regulator being able to discharge its obligations of ensuring protection of the public and upholding the reputation of the profession.
60. Failure to co-operate fully with ACCA is serious, undermining its opportunity to regulate the profession properly.
61. Failure to co-operate, if allowed to go unchecked, would undermine public confidence in the profession, and ACCA needs to take action in the public interest to uphold proper standards of conduct and behaviour.

62. Mr Jowett then addressed the Committee on misconduct and submitted that to conclude that the facts found proved amount to professional misconduct, the Committee will have to be satisfied that the misconduct is serious. Misconduct is a matter for the Disciplinary Committee's professional judgment.
63. ACCA submits that the facts that underlie the allegations amount to serious professional misconduct, both individually and when considered in their totality, in that the conduct brings discredit to Mr C K, ACCA and the wider profession.
64. Mr C K's conduct breaches a number of ACCA's Regulations. If the Committee is not persuaded that any conduct found proved amounts to misconduct, then it is asked to consider whether the same conduct amounts to liability to disciplinary action pursuant to bye-law 8(a)(iii).

MR C K's SUBMISSIONS AND EVIDENCE

65. Submissions by Mr C K were that when he first joined ACCA, he had not realised how expensive it was going to be. He stated that [PRIVATE]. Before this incident he had failed one exam. [PRIVATE]. [PRIVATE]. [PRIVATE]. He confirms that he sent the photo of the exam to a friend but that he did not get a reply and eventually failed the exam. He apologised and stated that the mental pressure he was under at the time made him do this.
66. He stated that the reason why a response to the emails was not provided was due to the fact that his email account had been hacked, and he had no access to them for approximately 6 months.
67. Mr C K stated that he was not fully aware of the ACCA procedures and was not aware that he was not fully complying with his duty due to having made admissions to the allegations.
68. Mr C K initially confirmed that he would make submissions rather than give evidence, but on being asked if he was happy to answer questions by ACCA, he agreed.
69. Questions were put to Mr C K by Mr Jowett, who asked about the email from 10 December 2021 being accessed. Mr C K responded that at that time he did not have access to the emails, that he had been involved in playing a game and lost access to

his emails, and that someone else must have accessed that email. Mr Jowett asked Mr C K to clarify if he was saying that his email account had been hacked, Mr C K agreed. Mr Jowett pointed out that Mr C K had never previously mentioned that his email account had been hacked before today, and it was put to Mr C K that there is no reference to anyone hacking the account in his previous correspondence, or that he was trying to recover them.

70. Mr Jowett then referred Mr C K to the email of 12 July 2024 and asked him to clarify if anyone else had access to his emails. Mr C K stated that he was going to tell the Committee at the hearing today and did not understand the significance.
71. Mr Jowett referred to the email from Mr C K of 01 May 2022, and asked if he was aware of the problem with his emails on 29 April 2022 when he received an email from ACCA. Mr C K responded by saying that he did not receive his emails or have access to his account between December 2021 and April 2022 but was aware of the allegations since April 2022 after seeing the letters and emails from ACCA. When asked why he made no attempt to answer any of the questions raised in this correspondence, Mr C K denied not having cooperated with the ACCA and stated that he did not know the procedure was or how to handle this properly.
72. The Committee asked Mr C K to comment on the document in which Mr C K had stated, "I wasn't aware of the correspondence as my phone was lost". Mr C K confirmed that at the time the phone he used went missing.

ACCA FURTHER SUBMISSIONS

73. Mr Jowett confirmed that in the CMF, Mr C K stated he was not aware of the relevant correspondence with ACCA during the time frame and assumed this to mean between December 2021 and up to 29 April 2022, when Mr C K stated he regained access to his account. Mr C K's response in the email 01 May 2022 references that he was unable to use his account due to account recovery process. This is a different explanation to that given by Mr C K in the case management form, which stated that he had a difficulty due to not being able to use his mobile phone, which caused a disruption in communication. Mr Jowett submitted that the loss of a mobile phone, does not equate to not being able to access an email account, as another electronic device could be used to access the emails. This is an alternative explanation to the original, in that there was an issue with the account itself.

74. The suggestion is now that there was no issue with the email account, and the explanation of losing his phone is implausible and does not explain why he was not able to access his account.
75. In any event, regardless of this period of 4 months, Mr Jowett submitted there was still no explanation as to why Mr C K did not respond to the correspondence and there is still no answer to these questions.
76. ACCA sent an email on 12 July 2024 and a reply to the letter was expected from Mr C K. Mr Jowett queried whether it could be said by Mr C K that he did not understand what was required, which Mr Jowett states is not plausible. Whilst Mr C K did engage in the investigation to consider the allegations, he failed to make appropriate admissions and there are still no answers to the questions raised by ACCA.

DECISION ON FACTS AND REASONS

77. The Committee had found proved by way of Mr C K's admissions, allegations 1, 2, 3, 4 and 5. The Committee therefore was considering Allegations 6 and 7 only.
78. The Committee considered the documents before it, the submissions of Mr Jowett on behalf of ACCA, the evidence and submissions of Mr C K and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rest on ACCA and the standard to be applied is proof on the balance of probabilities.
79. The Committee had to first decide upon Allegation 6, and whether Mr C K had discharged this duty to cooperate with the investigation and whether he did cooperate.
80. The Committee was clear that as an ACCA student member, Mr C K had a positive duty to cooperate with the ACCA investigation.
81. The Committee did not fully accept the differing explanations given by Mr C K as to why he did not respond to the correspondence between December 2021 and April 2022, and his varying explanations undermined his credibility.
82. Whilst the Committee accepted that there was a language barrier, and even after the delay of 4 months, Mr C K may have believed that he was indeed complying with his

duty to cooperate by making admissions on the majority of the allegations in May 2022, they did not consider that this amounted to cooperation with ACCA's investigation.

83. The Committee noted that there is a time sensitive element to the duty to cooperate with an investigation, and whilst it had some sympathy for Mr C Ks lack of understanding in the process and procedure, Mr C Ks explanations for not being able to access his emails are not credible, due to the differing accounts given as to the reasons for not being able to access them.
84. The Committee therefore found that Mr C K has failed to comply with his duty to cooperate and has not discharged it even when making admissions. Mr C K was given a number of opportunities to answer the questions raised, but he continued not to respond. Even though the Committee have some sympathy with Mr C K, as he may have believed that he had discharged his duty, his actions were not sufficient to discharge his duty of cooperation.
85. The Committee therefore found Allegation 6 proved.
86. In relation to allegation 7, it was for the Committee to exercise its discretion to determine whether Mr C K's actions amounted to misconduct.
87. Mr C K admitted that he breached the examination rules and took a photograph of the remotely invigilated exam and sent it to a friend with a view to cheating. This behaviour in itself is serious and falls far below the standards expected of a student trying to pass professional qualifications.
88. This is made more serious due to the fact that Mr C K failed to cooperate with his regulator.
89. In relation to allegation 7(a), applying the test for misconduct in the case of Roylance V GMC, the Committee found that Mr C K's actions were serious and fundamentally fell short of the standards required of a professional person.
90. Having found allegation 7(a) proved it was not necessary for the Committee to consider allegation 7(b), which was alleged in the alternative.

SANCTION AND REASONS

91. In reaching its decision on sanction, the Committee considered the submissions made by Mr Jowett on behalf of ACCA. Mr Jowett confirmed that there was no disciplinary record for Mr C K prior to this hearing. However, the findings in relation to the allegations today are serious breaches. He admits to taking photos of exam content and sending them to a third party. There are two concerns. Students who are not confident that they will pass the exam, may well use the photos to assist them in passing future re-sits of the exams, or sharing of the photos result in them being widely circulated on social media and students who have not sat the exam, can gain an unfair advantage. This conduct undermines the credibility of the examination process and reputation of ACCA. Mr Jowett submitted that there is no explanation from Mr C K as to why he shared the photo or allowed to be shared the photos, or who he shared them with. The other issue is that ACCA was unable to investigate these concerns further, which is why it is imperative that cooperation in the investigation is provided.
92. Mr Jowett made no submission as to the actual sanction but referred to the Guidance on Sanction and in particular the summary of the general principles. He commented on potential mitigating and aggravating features of the case, referring to Mr C K's personal circumstance and that this was a single incident, and that Mr C K had no other known disciplinary findings. Section F failure to cooperate is a serious category. If members do not cooperate this hampers ACCA's ability to discharge its functions as a regulator, and to protect the public and declare and uphold proper standards of behaviour.
93. In relation to the effective date of the order, Mr Jowett stated that this was only relevant if the Committee decides, that Mr C K should be removed from the student register. If it is in the interest of the public the Committee can direct that such an order have an immediate effect. The Committee may be concerned that the regulatory risk is not especially high as he is not a member yet and ACCA did not deem it necessary to apply for an interim order, and there seemed to be no immediate concerns regarding public protection. However, this was a decision for the committee on its own assessment.
94. The Committee asked Mr C K if he would like to make any representations on sanction. He was asked whether he would act in this manner again. Mr C K stated that he failed the exam he was sitting at the time. He was not aware of the seriousness and consequences of his actions and would not repeat this behaviour again. He explained that [PRIVATE] and that he will not do this again.

95. The Committee asked Mr C K to explain how the photographs of the exam had been so widely shared. Mr C K stated that he sent the photograph to a friend, in the hope of assistance but this friend did not respond.
96. Mr C K asked the Committee not to exclude him. Mr C K apologised to the ACCA, and agreed with everything that has been said. He stated, "If I am removed from the student register [PRIVATE]. If I am removed, then I have no other options. [PRIVATE].
97. The Committee accepted the advice of the Legal Adviser who referred it to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose, the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr C K's own interests.
98. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr C K but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate.
99. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case.
100. The Committee considered the misconduct involved the following aggravating features:
- This was a deliberate act which required an element of planning and sophistication.
 - Mr C K's motivation was personal gain, in passing the exam.
 - Serious risk to the reputation of ACCA and professional standards, thereby undermining public confidence in ACCA's Professional membership.
101. The Committee considered the misconduct involved the following mitigating features:

- The absence of any previous disciplinary history with ACCA
- Some evidence of developing insight into his actions.
- Admissions made to most of the allegations at an early point.
- Expressions of apology were made to the ACCA and to the Committee.
- Engagement with the Hearing process.

102. The Committee did not think it appropriate, or in the public interest, to take no further action in a case where a student member had attempted to cheat during an exam. The misconduct was at the higher end of the spectrum, there is clearly a potential for an adverse effect on the public confidence if no action is taken.

103. In respect of an Admonishment, the Committee considered that there has been an early admission to the allegations. Mr C K has shown some insight into his actions and expressed remorse and apology. There is an indication given by Mr C K that there would not be any repetition of this incident. This was an isolated incident but there was a deliberate and planned element and non-cooperation with the regulator. The Guidance indicates that such behaviour is considered to be very serious.

104. Taking into account the guidance, the Committee decided that an admonishment would not adequately mark the seriousness of the misconduct. The conduct in this case was a deliberate act even in light of the fact that this was a single incident.

105. The Committee went on to consider whether a reprimand was the correct sanction. The guidance indicates that a reprimand would be appropriate in cases which were minor in nature, with no risk of repetition, and evidence of understanding and insight. The Committee felt that in the circumstance of this particular incident, the facts did not warrant such a sanction. Mr C K was aware of his actions, and the conduct was a deliberate action by himself, and he did not cooperate with the investigation.

106. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that a severe reprimand would usually be applied in situations where the conduct is of a serious nature but where there are circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved.
107. The Committee considered that none of these criteria were met and that a severe reprimand would not adequately reflect the seriousness of Mr C Ks behaviour. Whilst it was difficult to say that there is no further risk due to this being an isolated incident, there was no real understanding of the impact of his conduct or expression of remorse. There is no evidence of rehabilitation and no testimonials. This misconduct was deliberate, and not a reckless act.
108. The Committee considered the ACCA guidance on the approach to be taken which is said to be regarded as a particularly serious matter because it undermines trust and confidence in the profession and the qualification process. The guidance also states that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances. Students find themselves in similar situations in respect of pressure to pass exams and [PRIVATE].
109. The Committee considered that Mr C K's behaviour involved a number of features referenced in ACCA's guidance in relation to removal from the student register. The motivation for the acts was personal gain and the acts of Mr C K would have an adverse impact on the public and represented a serious departure from professional standards. The Committee also considered that there was nothing exceptional in Mr C K's case that would allow it to consider a lesser sanction than removal from the student register. Mr C K's acts, of knowingly cheating coupled with failing to cooperate with the regulator in their investigation, and demonstrating a lack of understanding of the seriousness of his behaviour are fundamentally incompatible with his continued student status. The student's interests are subordinate to the public interest. The Committee concluded that the only appropriate and proportionate sanction was removal from the student register.

110. The Committee also concluded that the removal as a student member from the Register should not be immediate under Regulation 20(1)(b).
111. The Committee noted that the default period of removal is 12 months. The Committee decided not to extend this period, given the mechanisms in place at ACCA for readmission.

COSTS AND REASONS

112. ACCA submitted a schedule of costs and applied for costs against Mr C K in the sum of £7726.27. Mr Jowett went through this costs schedule and confirmed that there was a slight overestimate of the time required for the hearing and the costs applied for required adjustment.
113. The Committee noted that there was no further information from Mr C K regarding his finances in order to assess his ability to meet the costs order requested. Mr C K had been asked by the HO to upload a financial statement, but this was not responded to. The Committee only had the word of Mr C K regarding his finances.
114. The Committee was satisfied that ACCA was entitled to claim its costs. The Committee carefully considered the limited information provided by Mr C K about [PRIVATE]. It had regard to the important principle that in disciplinary proceedings the majority of 'members' should not subsidise the minority who find themselves within the disciplinary process. Nevertheless, in this case, the Committee considered that it was appropriate for Mr C K to pay costs in the sum of £7,500. This had been reduced to take into account the hearing taking less time. and it considered that this order was appropriate as it could not speculate as to Mr C K's finances.
115. The Committee therefore ordered Mr C K to pay ACCA's costs in the sum of £7500

Mr Andrew Gell
Chair
07 August 2024