

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Qihua Chen
Heard on:	Wednesday, 23 October 2024
Location:	Held Remotely via Microsoft Teams
Committee:	Ms Wendy Yeadon (Chair) Mr Trevor Faulkner (Accountant) Mr Andrew Skelton (Lay)
Legal Adviser:	Ms Melissa Coutino (Legal Adviser)
Persons present and Capacity:	Mr James Halliday (ACCA Case Presenter) Miss Mary Okunowo (Hearings Officer)
Observer:	Mr Alan Clamp (Appointments Board)
Summary:	Exclusion from Membership.
Costs:	£5,750.00

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Qihua Chen. The hearing was scheduled to last one day. Mr Chen did not attend, and he was not represented. ACCA was represented by Mr James Halliday.

2. The papers before the Committee consisted of a number of documents, including a Report of Disciplinary Allegations, consisting of 238 pages, a Separate Bundle consisting of 112 pages, an Additional Bundle consisting of 13 pages, and a Service Bundle of 21 pages.

PRELIMINARY APPLICATIONS

Service of Papers

3. The Committee was informed that Mr Chen had been served with a notice of today's hearing and all the relevant papers via his registered email address on 25 September 2024. Delivery confirmation of this email exists. The notice of hearing contained the date of today's hearing, its nature, how Mr Chen could engage with the process, and the potential outcomes of the hearing, also setting out the potential consequences of not attending the hearing.
4. The Committee was satisfied that emails had been sent to Mr Chen's registered email address in accordance with regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee noted that the email had been delivered successfully. CDR 22(8) stipulates that, when a notice has been sent by email, it is deemed to have been served on the day it was sent. Accordingly, the Committee was satisfied that Mr Chen has been given 28 days' notice with the necessary information required in accordance with CDR 10.
5. The Committee decided that Mr Chen had been properly served with Notice of Proceedings.

Proceeding in absence

6. The Committee noted that ACCA had attempted to call Mr Chen more than once on the mobile number registered with ACCA. On 21 October 2024, the call was answered by Mr Chen who initially after hearing the identity of the caller appeared to hang up. A further call led to ACCA detailing the disciplinary matter to Mr Chen. ACCA emailed Mr Chen confirming the detail of the telephone conversation.
7. ACCA has emailed Mr Chen a Microsoft Teams link to join this disciplinary hearing. He was advised to join the link in advance of the hearing for preliminary discussions with the Case Presenter and Legal Adviser. He has not responded to indicate whether he will attend or not or whether he required an interpreter.

8. On 22 October 2024, a further email was sent to Mr Chen. An attempt on 22 October 2024 to call Mr Chen at his registered mobile telephone number was not successful. The call disconnected without the possibility of leaving a message. The telephone number was the correct one. This is known because several other attempts to telephone Mr Chen were made with one call resulting in a conversation between ACCA and him, where he indicated that he had not read the emails but would.
9. The Committee considered that ACCA had done everything possible to enable Mr Chen to attend the hearing. The Committee was satisfied that the emails had been sent to the address on ACCA's register and that there was a record of the emails having been delivered successfully and opened. The Committee concluded that Mr Chen was aware of today's hearing and had voluntarily absented himself.
10. The Committee was also satisfied that, good service having been effected and taking into account the seriousness of the allegations, it was both fair and in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing, given that no such application had been made. It noted the lack of engagement by Mr Chen with ACCA.

SCHEDULE OF ALLEGATIONS

11. Mr Chen was at all material times an ACCA trainee.
 1. Whether by himself or through a third party applied for membership to ACCA on or about 25 September 2022 and in doing so purported to confirm in relation to his ACCA Practical Experience Training Record ("PER") he had achieved the following Performance Objectives ("PO"):
 - PO 1: Ethics and professionalism
 - PO 2: Stakeholder relationship management
 - PO 3: Strategy and innovation
 - PO 4: Governance, risk and control
 - PO 5: Leadership and management
 - PO 7: Prepare external financial reports
 - PO 8: Analyse and interpret financial reports
 - PO 14: Monitor performance
 - PO 18: Prepare for and plan the audit and assurance process

2. Mr Chen's conduct in respect of the matters described in Allegation 1 above was:
 - a) Dishonest in that Mr Chen knew he had not achieved all or any of the performance objectives referred to in Allegation 1 above as described in the corresponding performance objective statements or at all.
 - b) In the alternative, any or all of the conduct referred to in Allegation, 1 above demonstrates a failure to act with integrity.
3. In the alternative to Allegation 2a) and 2b) above, such conduct was reckless in that Mr Chen paid no or insufficient regard to ACCA's requirement to ensure that the statements corresponding with the performance objectives referred to in Allegation 1 accurately set out how each objective had been met.
4. Failed to co-operate with ACCA's Investigating Officer in breach of Complaints and Disciplinary Regulations 3(1) in that he failed to respond fully or at all to any or all of ACCA's correspondence dated:
 - a) 15 April 2024;
 - b) 30 April 2024;
 - c) 15 May 2024;
5. By reason of his conduct, Mr Chen is:
 - a. Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all the matters set out at 1 to 4 above; in the alternative in respect of allegation 4 only;
 - b. Liable to disciplinary action pursuant to bye-law 8(a)(iii).

BACKGROUND

12. Mr Halliday on behalf of ACCA, set out the background to the case. Mr Chen was originally admitted as an Affiliate with ACCA on 18 July 2016 and gained admission as a Member on 29 September 2022. From having student and affiliate admission to ACCA, Mr Chen is bound by the Association's Bye-laws, Codes and Regulations.

13. Mr Chen claimed to have been employed from 20 June 2019 to 24 September 2022 in the role of Institutional Business Manager by a single employer.
14. On or around 25 September 2022 Mr Chen supplied documentation indicating:
 - a) A PER training record claiming 39 months of relevant practical experience, meeting the minimum requirement of 36 months;
 - b) Recording his Supervisor details by providing a name of an individual, who he said was his "IFAC qualified line manager";
 - c) This individual's email address was the same as one of three email addresses that 91 different people have cited simultaneously as the email address of their supervisor;
 - d) That the named Supervisor could confirm all his PO and his experience;
 - e) Provided all nine PO statements which were either identical in part, or in full, to PO statements provided by others, where Mr Chen's statement was not the first in time.
15. Upon an ACCA student completing all their ACCA exams, they become an ACCA affiliate. However, in order to apply for membership, they are required to obtain a minimum of 36 months' practical experience in a relevant role ("practical experience"). It is permissible for some or all of that practical experience to be obtained before completion of ACCA's written exams. A person undertaking practical experience is referred to as an ACCA trainee, and this describes Mr Chen's status in this case.
16. Mr Chen's practical experience needed to be recorded in the PER, using an online portal tool called "MyExperience" which can be accessed via the student's "MyACCA" portal. As part of their PER, nine PO's must be completed under the supervision of a qualified accountant. An accountant can be recognised by ACCA as a qualified accountant if they are a member of an IFAC body (International Federation of Accountants). The supervisor will approve the POs completed, which are detailed by way of a statement that reflects their experience and insights and should be unique to the affiliate.
17. In addition to Mr Chen's supervisor approving the PO, the 36 months' experience would also need to be approved. This in conjunction with passing

ACCA exams and ACCA Ethics modules is required to apply for ACCA membership.

18. During 2023 it came to the attention of ACCA's Professional Development Team that the PER supervisors registered to 91 ACCA trainees shared one of three email addresses despite the names of the supervisors being different. There is no expectation or reason for supervisors to share email addresses.
19. Following the referral to ACCA's Investigations Team, Mr Chen was written to on 15 April 2024, which set out the complaint and asked for his response by 29 April 2024. It referred to Regulation 3(1) Complaints and Disciplinary Regulations ("CDR") which required Mr Chen to co-operate with the investigation by answering the allegation. An email was sent to check if he had received this, and there is confirmation that this was successfully delivered.
20. On 17 April 2024, ACCA's China office sent a mobile message to Mr Chen notifying him that ACCA were trying to make contact and confirmed that this had been successfully sent. A further email was sent on 30 April 2024, and again this was followed up with another email to check if Mr Chen had received this. A delivery receipt confirms successful delivery of the latter.
21. A final email was sent to Mr Chen on 15 May 2024 with a copy of the letter attached, and again an email to check delivery was also sent. The same email address used by Mr Chen to contact ACCA was used to contact him. The system that ACCA uses reveals when an email has been opened and this icon was evident suggesting that Mr Chen had read the documents.
22. Attachments to the emails included:
 - a) Details of the supervisor email details matching those provided by multiple other students, apparently for other named supervisors;
 - b) Mr Chen's supervisor's registration details;
 - c) The CIPFA registration card uploaded by Mr Chen's Supervisor.
23. Mr Chen was telephoned on 16 May 2024 and there was no response. Two further calls were made. In the first Mr Chen acknowledged that this was the right telephone number for him. In the second call, Mr Chen indicated that he was not reading his emails.

24. The investigation into the above recommended that Mr Chen is liable to disciplinary action as set out in the Schedule of Allegations.

RELEVANT PARTIES AND EVIDENCE

25. The relevant parties are:
- a Mr Chen, an ACCA Member (Complainee)
 - b ACCA (Complainant)
 - c Ms Linda Calder (An ACCA Professional Development Manager)
 - d Ms KW (Senior Administrator in ACCA's Member Support Team)
26. Ms Karen Watson provides a statement explaining ACCA's application process and that once an application is received it is recorded in an automated process. She exhibits the record for Mr Chen indicating that there is evidence to support that his application was received on 25 September 2022 and that Mr Chen was admitted to membership on 29 September 2022.
27. Ms Linda Calder in her statement provides an overview of the PER process, explaining how each PO comprises three parts, including the elements outlining i) what the PO relates to; ii) the tasks and behaviours that must be demonstrated, iii) a 200 - 500-word personal statement which describes how the trainee achieved the PO. She references the 2019 published guides which states:
- “Your situation and your experience are unique to you, so we do not expect to see duplicated wording, whether from statement to statement, or from other trainees. If such duplication occurs, then it may be referred to ACCA's Disciplinary Committee”.*
28. She explains the duplication between the supervisor details and the PO. She sets out that most supervisors are unlikely to have more than two-three supervisees at most. The 91 trainees (between August 2021 and March 2023) who referenced the same three email addresses for multiple supervisors, saw most of these supervisors claiming to be members of the Chinese Institute of Certified Public Accounts (CICPA), an IFAC body. Most of these supervisors uploaded what they claimed was a CICPA membership registration card, but despite providing different numbers, the vast majority used the same card with the same number, with a heavily pixelated image that was unidentifiable.

29. ACCA's China offices and ACCA's Customer Services Team in China email all ACCA affiliates in China inviting them to regular webinars provided by ACCA staff who can advise on the PER process. The webinars cover the membership application process, and ACCA WeChat group invites questions from prospective members. Guidance is set out in articles that makes clear the obligation to find an appropriate supervisor and how to complete the PO.
30. An investigation was commenced. This has involved obtaining documents and an analysis of the details provided as set out below.
31. Examination of the documents shows that Mr Chen's PO statements are identical or near identical to PO statements made by five other affiliates applying for membership of ACCA.

DECISION ON FACTS AND REASONS

32. The Committee took into account ACCA's written representations which were supplemented by Mr Halliday orally. The Committee further took into account the absence of written responses from Mr Chen. The Committee considered legal advice from the Legal Adviser, which it accepted.
33. ACCA submitted that the allegations are capable of proof by reference to the documents in the bundle of documents.
34. In relation to Allegation 1, ACCA submitted that this is capable of proof by reference to the following:
 - Ms Linda Calder's statement which describes ACCA's PER process;
 - Mr Chen's completed PER training record of 25 September 2022 which allowed him to gain membership on 29 September 2022;
 - Mr Chen's Supervisor details which record a named individual as his "IFAC qualified line manager" and therefore his practical experience supervisor;
 - Mr Chen's PER which records this Supervisor as having approved all Mr Chen's PO;

- That all nine of Mr Chen's PO statements are the same as many other trainees suggesting that at the very least, he had not achieved the objectives in the way claimed or at all.
35. In relation to Allegation 2(a) and the issue of dishonesty, ACCA submitted that the conduct set out at Allegation 1 amounts to dishonesty because Mr Chen at a minimum would know that the PO details submitted were meant to be personal to him and reflect his experience, and be approved by a suitable supervisor, along with his practical experience. He would know that obtaining assistance from a third party to give him an unfair advantage in applying for membership by using information that he did not create or using someone not permitted to approve his PO and work experience was not allowed by ACCA. Such conduct is objectively dishonest.
36. The Committee was referred to the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 where Lord Hughes at paragraph 74 provided the following guidance on the issue of dishonesty:
- 'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'*
37. ACCA submitted that it is not credible that Mr Chen would not have known that the PO work had to be his own, given the guidance readily available.
38. In relation to the issue of integrity, ACCA submitted that the Fundamental Principle of Integrity requires members to be straightforward and honest. Integrity also implies fair dealing and truthfulness.
39. The Committee was referred to *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ 366, where the Court of Appeal addressed what was required in a professional disciplinary context by the standard of integrity.

At paragraphs 95 to 97, Jackson LJ expressed the matter in a way that applied to regulated professions generally. He said this:

- '95. Let me now turn to integrity. As a matter of common parlance and as a matter of law, integrity is a broader concept than honesty...*
- 96. Integrity is a more nebulous concept than honesty. Hence it is less easy to define, as a number of judges have noted.*
- 97. In professional codes of conduct, the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.'*

40. In relation to recklessness, ACCA submits that in the further alternative, Mr Chen's conduct was reckless in that he paid no or insufficient regard to the fact that his PO should have been truthfully and accurately set out, reflecting how he himself had met the relevant objectives.

41. In *R v G* [2003] Lord Bingham approved the following definition of recklessness (para 41):

"A person acts recklessly within the meaning of section 1 of the Criminal Damage Act 1971 with respect to:

- i) A circumstance when he is aware of a risk that it exists or will exist;
- ii) A result when he is aware of a risk that it will occur;

And it is in the circumstances known to him, unreasonable to take that risk."

42. ACCA allege that Mr Chen in not having any or sufficient regard to the matters referred to above must have appreciated the unreasonable risk that not having completed the practical experience element of his training, and/or the PO as set out, was therefore ineligible for membership of ACCA.

43. In relation to a failure to co-operate, it is submitted that, more likely than not, emails had come to Mr Chen's attention as there is evidence that these have been opened, but that in not responding to any of the emails he has made a conscious decision not to co-operate with ACCA's investigation. The issues raised by the complainant are serious, involving Mr Chen's apparent achievement of ACCA's PER training record and experience as the basis for his application for ACCA membership. ACCA acts in the public interest by

ensuring that its students, affiliates and members uphold proper standards and thereby maintain public confidence in the accountancy profession. Mr Chen's failure to co-operate with this investigation has undermined ACCA's ability to act in the public interest and potentially identify others involved in false applications.

44. In relation to the issue of misconduct, ACCA referred the Committee to Byelaw 8(c):

Bye-law 8(c) states that *"for the purpose of bye-law 8(a), misconduct includes (but is not confined to) any act or omission which brings, or is likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession."*

45. Bye-law 8(d) provides that when assessing the conduct in question, regard may be had to the following:-

- (a) Whether an act or omission, which of itself may not amount to misconduct, has taken place on more than one occasion, such that together the acts or omissions may amount to misconduct;
- (b) Whether the acts or omissions have amounted to or involved dishonesty on the part of the individual or relevant firm in question; and
- (c) The nature, extent, or degree of a breach of any code of practice, ethical or technical, adopted by the Council, and to any regulation affecting members, relevant firms or registered students laid down or approved by Council.

46. The Committee was referred to the case of *Roylance v General Medical Council* [2001] 1 AC 311 where it was said *'the meaning of this term (i.e. misconduct) is of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety in any given case may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances'*.

47. ACCA submitted for the Committee to conclude that the facts found proved amount to misconduct, it must be satisfied that the misconduct is serious. Misconduct is a matter for the Disciplinary Committee's professional judgment.

48. ACCA submitted that the facts that underly the allegations, if proved, amount to misconduct, in that the conduct alleged brings discredit to Mr Chen, ACCA and the accountancy profession.
49. ACCA submitted Mr Chen's failure to co-operate with ACCA and reply to ACCA's correspondence breaches Regulation 3(1) of the Complaint and Disciplinary Regulations. However, if the Committee is not persuaded that any conduct found proved amounts to misconduct, then Mr Chen is liable to disciplinary action pursuant to be-law 8(a)(iii).
50. The Committee did not receive any oral submissions from Mr Chen, as he had not attended, nor written representations.
51. The Committee received and accepted the Legal Advice from the Legal Adviser. The Committee was advised that it was for ACCA to prove the allegations on the balance of probabilities. The Committee noted Mr Chen was of good character and this could be relevant in regard to Mr Chen's propensity to act in the way alleged, but the weight the Committee gave to this was a matter for it.
52. The Legal Adviser advised the Committee that only if the Committee found one or more of the allegations proved, it can go on to consider misconduct. The Committee was reminded that not all failures, omissions or acts will necessarily amount to misconduct. There is no burden or standard of proof. This is a matter entirely for the Committee's judgement. The Committee was reminded that Bye-Law 8 (c) states Misconduct includes but is not confined to any act or omission which falls short of what would be proper in the circumstances and includes (but is not limited to) any act likely to bring discredit upon the relevant person, ACCA or the accountancy profession.
53. The Committee was referred to guidance in *Roylance v General Medical Council* (No.2) [2000] 1 A.C. 311. The Committee noted that the misconduct must be considered serious. The Committee also considered the nuance in relation to misconduct as set out in the cases of *Remedy v. GMC* [2010] EWHC 1245 (Admin) and *Kumar v. GMC* [2012] EWHC 2688 that misconduct can relate to practise within the profession, and that which relates to conduct that is morally culpable or of a disgraceful kind. Further, it considered the principle set out in the case of *Calhaem* [2007] EWCH 2606 (Admin), where negligence that is particularly serious can amount to misconduct and for the gravity of the wrongdoing to be considered along with Mr Chen's culpability for the same.

54. The Committee accepted that Mr Chen was bound by ACCA's Bye-laws and Regulations.

DECISIONS

Allegation 1: found proved

55. The Committee first considered Allegation 1. The Committee considered the factual position where the evidence was that Mr Chen had submitted an application for membership to ACCA on 25 September 2024 and provided evidence that he had met the requirement of 36 months of relevant experience and had met nine Performance Objectives.
56. Taking into account all the evidence, the Committee was satisfied on the balance of probabilities that ACCA had proved Allegation 1.

Allegation 2a: found proved

57. The Committee considered Allegation 2a. Given its finding in relation to Allegation 1, the Committee considered Mr Chen's state of mind. While there is nothing from Mr Chen, the Committee concluded that in providing work that is not your own and knowing this to be the case, along with the requirement that it should have been, the Committee found Allegation 2a proved on the balance of probabilities, with Mr Chen being dishonest.
58. The Committee determined Mr Chen was more likely than not to have known what an application needed to include and in providing work that was not his own, must have known this was clearly wrong and dishonest. The Committee went on to consider whether Mr Chen's conduct was dishonest by the standards of ordinary decent people. The Committee concluded ordinary decent people would conclude Mr Chen's conduct was clearly dishonest in accordance with the test laid out in the case of *Ivey v Genting Casinos*.
59. The Committee observed that the analysis of the material provided by Mr Chen and its similarity to others' work spoke for itself. Mr Chen's paragraphs were not created first in time and are therefore copies of others' work rather than his own. Mr Chen has supplied details of a supervisor where there is evidence to suggest that they are not in a position to supervise Mr Chen or approve his experience. There has been no attempt from Mr Chen to provide any innocent explanation that might exist for this as the Committee would expect when Mr Chen's registration is in question.

60. The Committee found Allegation 2a proven on the balance of probabilities and therefore did not need to consider Allegation 2b, or 3, which was charged in the alternative.

Allegation 4: found proved

61. The Committee considered Allegation 4. The Panel noted the multiple attempts by ACCA's Investigating Officer to make contact with Mr Chen and his failure to co-operate by responding fully or at all to any or all of ACCA's correspondence dated:

- d) 15 April 2024;
- e) 30 April 2024;
- f) 15 May 2024;

62. The Committee considers this lack of co-operation to be a breach of Regulation 3(1) of the Complaints and Disciplinary Regulations, acknowledging both the obligation to respond and Mr Chen's failure to meet this duty.

63. Further, the Committee noted that from the one ACCA Telephone Attendance Note which indicated that Mr Chen had represented that he had not opened his emails, it has information which contradicted this, because the electronic system used by ACCA provides by way of evidence a symbol which indicates when the email documentation is opened.

64. Given the burden and standard of proof, the Committee finds Allegation 4 proved.

Allegation 5a: found proved

65. The Committee considered whether Mr Chen's actions amounted to misconduct. Taking into account Bye-law 8 as to the meaning of misconduct and further guidance given in *Roylance v General Medical Council (No.2)*, [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and the cases of *Calhaem*, *Remedy* and *Kumar*, the Committee determined that using unauthorised information with a view to seeking to gain an advantage from obtaining membership where requirements are not met and is unwarranted is a very serious act of dishonesty and amounts to misconduct.

66. Given the Committee's finding in relation to misconduct at Allegation 5a) it did not need to consider Allegation 5b), which was charged in the alternative.

SANCTION AND REASONS

67. Given the Committee have found the allegations proved, it determined that it would be fair and in the public interest to continue with the hearing in making a decision regarding sanction.
68. The Committee considered what sanction, if any, to impose taking into account all the evidence, ACCA's Guidance on Sanctions and Costs and the principle of proportionality. It had listened to submissions from Mr Halliday and to the legal advice from the Legal Adviser, which it accepted.
69. The Committee considered the available sanctions starting with the least serious. In reaching a decision on sanction, the Committee took into account the public interest and Mr Chen's own interests. It noted that the purpose of sanction was not punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
70. The Committee determined that using false information in an application for membership of ACCA is a very serious form of dishonesty.
71. The Committee considered whether any mitigating or aggravating factors featured in this case.
72. The Committee accepted that there were no previous findings against Mr Chen. There was no evidence of any other mitigating factors in this case. The Committee had not heard from Mr Chen, nor had it received any references or testimonials.
73. As for aggravating features, the Committee concluded that Mr Chen has not demonstrated insight, remorse, or reflection. He appears to have wilfully disregarded his professional requirements. He has not demonstrated any real understanding of the seriousness of his conduct or an appreciation that his dishonest conduct helped him gain an unfair advantage. His failure to co-operate with ACCA in its investigation which could reveal further wrongdoing given the number of people potentially impacted, suggests that he is putting his own interests before those of his profession, and the public. Consequently, the

Committee could not rule out the risk that he will engage in this conduct again if permitted to. The Committee also regarded Mr Chen's behaviour as a breach of trust. ACCA placed a high degree of trust in students to submit applications in accordance with the rules. Mr Chen breached that trust by his misconduct.

74. For the reasons set out above, the Committee determined that supplying false information in an application to secure membership of ACCA could lead to unqualified people holding themselves out as qualified accountants, misleading the public, they could make errors that would harm others and damage the reputation of the profession, and public confidence in it.
75. The Committee was particularly mindful there was no early admission, no evidence of insight, reflection, remorse or apology from Mr Chen. Had Mr Chen not been identified as having obtained membership dishonestly, he would have presented a risk to the public. Given the serious nature of the misconduct, the Committee determined Mr Chen's behaviour was a serious departure from relevant professional standards.
76. The Committee did consider the available sanctions in ascending levels of seriousness. Given the lack of probity of a particularly serious kind, which attempts to mislead his regulator, and fails to place the public interest before his own, or consider the reputation of the accountancy profession, the Committee was of the view that a sanction was required.
77. Having considered each of the possible sanctions in turn, the Committee determined the only appropriate and proportionate sanction available is to order the removal of Mr Chen from the Register. It noted that this deprived Mr Chen from practising in his chosen profession but considered no lower sanction would be appropriate given the serious finding of dishonesty that sought to mislead his regulator, and the subsequent lack of engagement, which it considered is incompatible with continuation within the profession.
78. The Committee found that no lesser sanction would protect the public, maintain public confidence in the profession, and its regulation, and uphold the relevant standards of conduct and behaviour.

EFFECTIVE DATE OF ORDER

79. Considering all the circumstances, the Committee decided that it was necessary for the protection of the public, and in the interests of the public, for this order to take immediate effect.

80. In reaching its decision, the Committee took account of the fact that Mr Chen has failed to demonstrate any insight, remorse or remediation, and there is a real risk of harm to the public. Furthermore, the Committee has no way of knowing if he will continue to hold himself out as a member until the order takes effect if it were not to be engaged immediately, given Mr Chen's failure to engage with this hearing.

COSTS AND REASONS

81. The Committee has been provided with a Detailed Costs Schedule.
82. The Committee concluded that ACCA was entitled to be awarded costs against Mr Chen. The amount of costs for which ACCA applied for was £6,266. Considering the nature of the investigation, the Committee carefully scrutinised the schedule and determined the costs incurred were reasonable, although it has decided to make some adjustment given the substantive case presentation had not occupied the full day. Accordingly, it reduced the costs of both the Presenting Officer and the Hearing Officer by two hours each. The reduced amount of costs is £5,750.
83. Mr Chen has had an opportunity to provide details of means, supported by documentary evidence. He has not taken that opportunity. The Committee noted that the Notice of Proceedings had made it clear that, if ACCA proved any or all of the allegations, it would be applying for costs and that he should provide details of his means if he wished to suggest that he was not in a position to pay all or any of the costs claimed. In the absence of such information, the Committee was entitled to approach the matter on the basis that Mr Chen was in a position to pay any amount of costs it was prepared to award.
84. In all the circumstances, the Committee exercised its discretion when determining the amount Mr Chen should be expected to pay. Taking account of what had been said by Mr Halliday and what was set out in the Costs Guidance, the Committee considered that it was reasonable and proportionate to award ACCA costs in the sum of £5,750.

Ms Wendy Yeadon
Chair
23 October 2024