

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Xinyi Chen

Heard on: Tuesday, 11 March 2025

Location: Remotely using Microsoft Teams

Committee: Ms Carolyn Tetlow (Chair)
Mr Ryan Moore (Accountant)
Ms Sue Heads (Lay)

Legal Adviser: Mr David Marshall

**Persons present
and capacity:** Ms Lucie Danti (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)

Summary: Removed from the student register.

Costs: £5000

1. The Committee heard an allegation of misconduct against Miss Chen. Ms Danti appeared for ACCA. Miss Chen was not present and not represented.
2. The Committee had a main bundle of papers containing 59 pages and a service bundle containing 18 pages.

SERVICE AND PROCEEDING IN ABSENCE

3. The Committee was satisfied that Miss Chen had been served with the documents required by regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 in accordance with regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email on 07 February 2025 to an email address notified by Miss Chen to ACCA as an address for all correspondence. That was 32 days ago.
4. The Committee considered whether to exercise its discretion to proceed in Miss Chen's absence. Miss Chen had provided her version of events on the day of the exam and again shortly after. Her response dated 26 January 2021 was the last communication from her. The matter then went to ACCA's Professional Conduct Department. She did not reply to their emails. More than a year later, on 13 May 2022 she was notified that the Assessor had referred her case to this Committee. It seems that she was not told anything more until 08 January 2025 when the Case Progression Officer apologised for 'the clear delay'. It would be understandable (although wrong) if Miss Chen had put ACCA proceedings out of her mind.
5. Following service of the notice of hearing, the Hearings Officer sent a number of emails asking if Miss Chen would be attending. On 06 March 2025 the Hearings Officer phoned Miss Chen on the number she had notified to ACCA. She spoke to a woman who said she was Miss Chen. The Hearings Officer explained why she was calling and that there was a forthcoming hearing. The attendance note records 'Miss Chen seemed confused and said that she did not understand. [The Hearings Officer] tried explaining again, but the call disconnected.' A further attempt to phone failed. A follow-up email was sent explaining that a hearing was scheduled, and a further telephone call a few days later was not connected. In total 5 emails were sent and 3 phone calls attempted.
6. The Committee took into account the long delay on ACCA's part but noted that there was a direct conversation between Miss Chen and an officer of ACCA as recently as 06 March 2025. If Miss Chen had been under the impression that

the proceedings against her were not proceeding, that would have been her opportunity to say so. She did not and appears to have cut off further conversation. The Committee concluded that Miss Chen knew of these proceedings but had decided not to attend the hearing. The diligence of the Hearings Officer removed any doubts the Committee had about the fairness of proceeding.

7. The Committee concluded that there would be no point in adjourning this hearing and it would be contrary to the public interest to do so. This matter has been dragging on far too long. The Committee determined to proceed in Miss Chen's absence.

ALLEGATION(S)/BRIEF BACKGROUND

8. Miss Chen became a student of ACCA on 07 August 2019. On 09 December 2020 she sat ACCA's Performance Management (PM) exam at the [PRIVATE]. The exam commenced at 13:30 and was due to last 3 hours 20 minutes. This was a traditional exam where the candidates sat in an examination hall under exam conditions, supervised by invigilators. About half an hour into the exam an invigilator noticed what she thought was suspicious behaviour and investigated. It was not in dispute that as a result of this a document was recovered from Miss Chen. She faced the following allegations:

Allegation 1

- (a) During a PM examination on 09 December 2020, Miss Xinyi Chen was in possession of unauthorised materials in the form of notes during the exam, contrary to Examination Regulations 4.
- (b) Miss Xinyi Chen used or intended to use any or all of the items set out in (a) above to gain an unfair advantage in the exam.
- (c) Miss Xinyi Chen's conduct in respect of (b) above was:
 - (i) Dishonest, in that Miss Xinyi Chen intended to gain an unfair advantage in the exam; in the alternative

(ii) Lacking in integrity in that such conduct is not straightforward and honest.

(d) By reason of [her] conduct, Miss Xinyi Chen is:

(i) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at 1(a) to 1(c) above; or

(ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of 1(a)above.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

9. ACCA did not call any oral evidence. It relied on statements made on the day by two invigilators and by Miss Chen, and on other documents obtained during the investigations such as the Examiner's irregular script report. Miss Chen did not submit any evidence or make further submissions apart from the documents in December 2020/January 2021 already referred to.

Allegation 1(a) 'During a PM examination on 09 December 2020, Miss Xinyi Chen was in possession of unauthorised materials in the form of notes during the exam, contrary to Examination Regulations 4.'

10. Examination regulation 4 defines 'unauthorised materials' as 'any written materials except those expressly permitted in the guidelines below'. The examination guidelines said:

What can you take to your desk?

- *Examination attendance docket*
- *Official means of photographic identification*
- *Rulers, pens, pencils and an eraser*
- *Geometrical instruments*
- *A noiseless, cordless pocket calculator which may be programmable but*

which must not have a printout or graphic/word display facility in any language

- *A small bottle of water or soft drink, all labels removed. No other drinks or food are permitted.*
 - *Black ballpoint pen*
11. The Committee had a copy of the document confiscated at the exam. It was a sheet of A4 paper with hand-written notes on both sides obviously related to accountancy. The sheet of paper clearly did not fall within the list above and was an unauthorised item.
 12. The evidence of both invigilators was that Miss Chen had the paper with her during the exam. This was clearly stated in their SCRS 1B forms completed on the day of the exam.
 13. In the SCRS 2B form she filled in after the exam, Miss Chen confirmed that she was in possession of unauthorised materials during the exam. She described them as '*ACCA study material*' and confirmed that they were relevant to the syllabus. She said that she had taken the document into the examination room by mistake but confirmed that once she had found it, she used it to find a formula. She expanded on this by email in January 2021:

'First of all, the piece of paper was not a cheat sheet, but a review material paper that I used to review. The day before the exam, I put it in my pocket after reviewing, so the review material was brought into the exam room by accident. [After finding the paper in her pocket] I took it out and found that it was my review materials. In a panic, I put my review materials under the Examination Attendance Docket. But I have to admit that in this brief two seconds, I did see the formula on the notes. ... after the review materials were taken away, I found that there was a question that needed to use this formula....

... my anxiety and regret made me unable to continue the exam. So I didn't finish the test paper. I was very remorseful, but in order not to affect the students around me in the exam, I just cried silently and did not make a sound. It was the most agonizing two hours in my life. ...'
 14. Miss Chen said that ACCA was really important to her. She was '*willing to bear*

a certain punishment ... And I hope you can give me another chance.'

15. At the relevant time the unauthorised document was on Miss Chen's examination desk, underneath the exam docket. Miss Chen accepted that she had hidden it there because she knew she should not have it. The Committee concluded that Miss Chen was 'in possession' of the paper in question. **The Committee found Allegation 1(a) proved.**

Allegation 1(b) 'Miss Xinyi Chen used or intended to use any or all of the items set out in (a) above to gain an unfair advantage in the exam.'

16. The first invigilator stated that Miss Chen used the document. In answer to question 10 in the form about whether the unauthorised materials were used, the invigilator said: 'Confirmed. The candidate was looking at the material'. The second invigilator answered: 'Confirmed. This candidate was peeking at the unauthorised material which is a folded written paper.'
17. Miss Chen stated in her SCRS 2B form that she had used the document, although she said it was for a short time. She repeated this subsequently.
18. The Committee considered that Miss Chen both used the document and had intended to use it. She claimed to have brought it into the exam room without realising it was in her pocket. If that was so, she should have notified an invigilator as soon as she discovered it. If she had been too nervous to do that, she could have left it in her pocket where it would be unlikely to be found. Instead, she took it out and hid it under the examination docket. She later *'took the material out and had a short view ...'*
19. The Committee came to this conclusion without relying on Examination Regulation 6 but if it had been in doubt, that Regulation was conclusive:

6. If you breach exam regulation 4 and the 'unauthorised materials' are relevant to the syllabus being examined, ... it will be assumed that you intended to use it or them to gain an unfair advantage in the exam. In any subsequent disciplinary proceedings, you will have to prove that you did not breach regulations 4 ... to gain an unfair advantage in the exam.

20. The examiner's irregular script report proved that the notes in question were relevant to the syllabus and to the exam. Miss Chen admitted this. Therefore, there was a burden of proof on Miss Chen to prove that she did not intend to cheat. She failed to do so. **The Committee found Allegation 1(b) proved.**

Allegation 1(c) Miss Xinyi Chen's conduct in respect of 1(b) above: (i) was dishonest, in that Miss Xinyi Chen intended to gain an unfair advantage in the exam; in the alternative ...

21. The facts so far found proved show that Miss Chen cheated or attempted to cheat or intended to cheat in the exam by using a pre-prepared crib sheet. That was clearly dishonest by the standards of ordinary decent people. **The Committee found Allegation 1(c)(i) proved.** It therefore did not need to consider the alternative Allegation 1(c)(ii).

Allegation 1(d) By reason of her conduct, Miss Xinyi Chen is: (i) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at 1(a) to 1(c) above; or

22. Exam misconduct of this kind is a very serious matter. Every exam candidate must be aware of that. Within the context of ACCA student registration cheating in an exam is one of the worst types of departure from proper standards that a student can commit.
23. The Committee had no doubt that Miss Chen's actions constituted misconduct. **The Committee found Allegation 1(d)(i) established.** It therefore did not need to consider the alternative in (ii).

SANCTION(S) AND REASONS

24. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2024). It first sought to identify mitigating and aggravating factors.
25. Miss Chen had no previous disciplinary findings against her in the 16 months

that she had been a registered student prior to the exam in question. She had made an apology and claimed to feel remorse. These could be regarded as mitigating factors, but of little weight. Miss Chen had not demonstrated real insight or remorse. She did not demonstrate that she understood why her misconduct was so serious and her remorse seemed to be for the situation she found herself in rather than for the damage she had done.

26. There were some aggravating factors. The lack of insight and genuine remorse has already been mentioned. Miss Chen had not co-operated with the Professional Conduct Department's investigation. Her attempt to cheat was planned.
27. The Committee was satisfied that the misconduct required a sanction. Not to do so would be contrary to the public interest. The Committee considered the sanctions of admonishment and reprimand, and the factors suggested in the Sanctions Guidance. It concluded that these would be wholly inadequate to mark the seriousness of Miss Chen's actions.
28. The Committee next considered the sanction of severe reprimand. The Guidance says that this can be applied:

'...in situations where the conduct is of a serious nature but there are particular 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.'

29. This did not apply to Miss Chen's case where there was little sign that she understood the importance of complying with exam regulations and little mitigation existed. There was therefore a continuing risk to the public. Few if any of the suggested factors in the Sanctions Guidance were present.
30. The next relevant sanction was removal from the student register. Section E2 of the Guidance states:

'E2.1 Dishonesty, even when it does not result in direct harm and/or loss, ... undermines trust and confidence in the profession. The Committee should

consider all possible sanctions and/or combinations of sanctions available to it in every case, nevertheless the courts have supported the approach to exclude members from their professions where there has been a lack of probity and honesty ...

E2.2 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. It is a cornerstone of the public value which an accountant brings.

E2.3 The Committee should bear these factors in mind when considering whether any mitigation presented by the member is so remarkable or exceptional that it warrants anything other than exclusion from membership or removal from the student register.'

31. The Committee was satisfied that Miss Chen's conduct was incompatible with remaining registered as a student of ACCA and that removal was the minimum sanction it could impose.
32. Miss Chen will be entitled to apply for readmission after one year. The Committee did not find it necessary to extend this period. If Miss Chen does apply, she will have to persuade the Admissions and Licensing Committee that she has learnt the relevant lessons, has taken steps to ensure that there will be no repetition, and is a fit and proper person to be registered with ACCA.

COSTS AND REASONS

33. Ms Danti applied for costs totalling £5,875.50.
34. The Committee was satisfied that the proceedings had been properly brought, and that ACCA was entitled in principle to a contribution to its costs. The Committee considered the time spent and the rates claimed. There appeared to be an error in the schedules of costs. They contained an item for the Senior Investigator's attendance at the hearing being 5 hours at £115 per hour. The Senior Investigator did not attend the hearing, and such attendance would not have been justified. On the other hand, there was no item dealing with the

Hearings Officer (or Committee Officer) attending the hearing which would be expected. It was possible that the intention was to claim 5 hours for the Hearings Officer rather than the Senior Investigator, but the Hearings Officer rate was £60 per hour. The Committee took a broad-brush approach and assessed the costs at £5,000.

35. Miss Chen did not provide a statement of means or any other evidence about her ability to meet an order for costs of that amount. The Committee was therefore not able to consider whether any reduction on the grounds of hardship would have been appropriate.

EFFECTIVE DATE OF ORDER

36. No interim had been made in this case. Ms Danti did not apply for the order made to take immediate effect. The Committee did not consider that there would be a risk to the public sufficient to justify an immediate order. The order will therefore take effect at the normal time, after the expiry of the appeal period.

ORDER

37. The Committee **ordered** as follows:
- (a) Miss Xinyi Chen shall be removed from the student register.
 - (b) Miss Xinyi Chen shall make a contribution to ACCA's costs of £5,000.

Carolyn Tetlow
Chair
11 March 2025