

GUIDANCE FOR REGULATORY ORDERS

**ADMISSIONS, STAFF ADMISSIONS, READMISSIONS AND
BANKRUPTCY**

To be used in the Association's regulatory proceedings
from 1 April 2009

Updated: February 2013

CONTENTS

	Page
SECTION 1: INTRODUCTION	1
SECTION 2: ROLE AND REGULATORY POWERS OF THE COMMITTEE	3 - 6
SECTION 3: THE BASIC APPROACH FOR COMMITTEES WHEN CONSIDERING APPLICATIONS	7 – 11
SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES	13 – 22

SECTION 1: INTRODUCTION

- 1.1 The Guidance for Regulatory Orders has been developed by ACCA's Regulatory Board, which oversees the regulatory and disciplinary committees and reports to ACCA's Council on the fairness and impartiality of the arrangements in place.
- 1.2 The Guidance for Regulatory Orders is for use by the Admissions and Licensing and Appeal Committees (described in this publication as "the Committee") when they are considering what orders to impose upon an individual or firm.
- 1.3 It is important that an individual knows, prior to any decision being made, what the Committee's range of options are and which matters the Committee members may take into account when coming to a decision.
- 1.4 Each case will always be judged on its own facts. It is essential that members of the Committee are free to exercise their own judgement in making decisions but they must have regard at all times to the regulatory framework set out by ACCA contained in the Rulebook and any other relevant guidance.
- 1.5 This information is provided in the interests of fairness and transparency and in line with ACCA's duty to uphold public confidence in the profession. It is a 'living document' which will be updated and revised when the need arises.

SECTION 1: INTRODUCTION

SECTION 2: THE ROLE AND REGULATORY POWERS OF THE COMMITTEE

2.1 INTRODUCTION

2.1.1 The Committee is totally independent of ACCA and is free to exercise its own judgement in making decisions:

- according to the evidence provided and facts found
- in accordance with the burden and standard of proof, which on regulatory matters is generally accepted to be on the balance of probabilities, as modified by the seriousness of the matter
- with regard at all times to the regulatory framework set out by ACCA contained in the Rulebook, policy statements issued by the Regulatory Board and any other relevant guidance
- balancing the need to maintain public confidence in the profession with appropriate proportionality.

2.2 ROLE OF THE COMMITTEE

2.2.1 The Admissions and Licensing Committee is responsible for considering applications for:

- admission or readmission to the membership register, affiliate register or student register
- eligibility of an individual to retain his membership, affiliate or registered student status following a bankruptcy event
- admission to membership from members of ACCA staff.

2.3 PURPOSE OF AN ORDER

2.3.1 It is a settled principle of law that the purpose of orders issued by a professional regulatory body is to:

- protect the public interest
- maintain public confidence in the profession
- maintain proper standards of conduct.

2.3.2 The purpose of the Admissions and Licensing Committee is not to discipline the applicant for any past wrongdoing of which he may be culpable. Its purpose is to take appropriate action for the future to protect the public and maintain the reputation of the profession. In carrying out these roles the Committee is maintaining public confidence in the profession.

2.3.3 It was noted in Bolton v The Law Society [1994] 2 ALL ER 486 that the reputation of a profession as a whole is more important than the fortunes of an individual member of that profession.

2.4 REGULATORY POWERS

2.4.1 Admission and readmission

2.4.1.1 Membership Regulation 9(3) sets out the orders available to the Committee, in considering applications from applicants seeking admission or readmission to the relevant register.

The Admissions and Licensing Committee may decide to:

- grant the application
- refuse the application
- grant the application subject to such condition(s) as it considers appropriate
- adjourn consideration of any application or postpone the admission of any applicant to membership or, as the case may be, to the student register.

2.4.1.2 Membership Regulations 14(1)(a) and (b) and 14(2) provide the criterion in respect of readmission cases.

2.4.1.3 The Committee will take into account the following regulations, as applicable:

- Membership Regulation 3: Eligibility for membership
- Membership Regulation 5: Eligibility for affiliate status
- Membership Regulation 7: Eligibility for registered student status.

2.4.2 Application for staff admission to membership

2.4.2.1 The Committee will consider all applications for admission to membership from ACCA staff under Membership Regulation 3(e).

2.4.2.2 Council has previously decided that applications for membership should be dealt with administratively by staff with the Admissions and Licensing Committee having a general oversight role. Since Council's decision, staff have dealt with applications under Membership Regulation 3 administratively with the option of referring them to the Committee where appropriate. Applications from staff under regulation 3(e) are automatically referred to the Committee so that an independent decision can be made.

2.4.2.3 The Committee should consider when making its decision whether the applicant has shown that he will be better able to represent ACCA and his advice and comments will have enhanced credibility, should he be admitted. In this regard the Committee is to take into account support for the application from the relevant Executive Director or Head of Department.

2.4.3 Eligibility to remain a member, affiliate or registered student following a bankruptcy event

2.4.3.1 Membership Regulation 13(3) sets out the orders available to the Committee.

2.4.3.2 The Committee will take into account the following regulations, as applicable:

- Membership Regulation 3: Eligibility for membership
- Membership Regulation 5: Eligibility for affiliate status
- Membership Regulation 7: Eligibility for registered student status
- Membership Regulation 13: Bankruptcy.

2.4.4 Certificates

2.4.4.1 Authorisation Regulation 3(3)(a) sets out the orders available to the Committee, in considering applications for certificates.

The Admissions and Licensing Committee may:

- grant the application
- refuse the application
- grant the application subject to such condition(s) as it considers appropriate
- adjourn consideration of the application.

2.4.4.2 Authorisation Regulation 5(1)(g) applies to members who currently hold certificates. The Committee may, if in its absolute discretion it thinks fit, withdraw, suspend or impose conditions upon a certificate if the holder of the certificate is not a fit and proper person to hold the certificate in question within the meaning of the Global Practising Regulations.

2.4.4.3 The Committee will take into account the following Global Practising Regulations when it considers an applicant's eligibility for a certificate.

- Global Practising Regulation 4: Meaning of public practice
- Global Practising Regulation 6: Eligibility for a practising certificate
- Global Practising Regulation 7: Qualifications
- Global Practising Regulation 8: Fit and proper persons
- Global Practising Regulation 9: Professional indemnity insurance
- Global Practising Regulation 10: Continuing professional development
- Global Practising Regulation 11: Continuity of practice.

2.4.5 Appeals

2.4.5.1 The Appeal Committee may make such order as it sees fit in respect of the appeal.

2.5 PROPORTIONALITY

2.5.1 In deciding on the appropriate order, the Committee needs to weigh the interests of the applicant against the need for public protection. The Committee in considering an appropriate order will have regard to the public interest. This includes the protection of members of the public, maintaining public confidence in the profession and maintaining proper standards of conduct.

2.5.2 In order to ensure that the order and conditions imposed are the minimum necessary to achieve the purpose, the Committee will need to consider whether the applicant:

- has shown a proper understanding of the past events so that the matters at issue are unlikely to recur
- will not contravene any of ACCA's bye-laws, rules or regulations if admitted or readmitted to membership or the student register, and as the case may be, is granted a certificate
- has any character and/or other references adduced in support of the applicant.

2.6 PUBLICITY

2.6.1 Publicity of the decision is not currently required and it is not usually the practice for applications for admission, readmissions and affiliate or registered students following a bankruptcy event.

SECTION 3: THE BASIC APPROACH FOR COMMITTEES WHEN CONSIDERING APPLICATIONS

3.1 INTRODUCTION

3.1.1 This guidance summarises the approach developed by the Committee for the consideration of applications for:

- admission to membership or to become a registered student following the disclosure of a previous conviction, bankruptcy event or exclusion by another professional body on disciplinary grounds
- readmission to membership, affiliate or registered student status following exclusion by ACCA on disciplinary grounds, resignation due to bankruptcy, or removal by ACCA as a result of a bankruptcy (including when the bankruptcy has not been notified to ACCA within one month of the event)
- certificates from applicants who are applying for admission or readmission to membership and require a certificate because they are engaged in public practice
- an individual's eligibility to remain a member, affiliate or registered student of ACCA following a bankruptcy event.

3.1.2 **In all cases, it is for the applicant to satisfy the Committee as to his eligibility for the relevant application which includes the applicant's general character and suitability.**

3.2 BROAD PRINCIPLES

3.2.1 The Committee will always consider each case on its own merits. However, the following broad principles are relevant factors that the Committee may consider in its deliberations on an applicant's eligibility, upon which the applicant must satisfy the Committee:

1. The underlying facts and surrounding circumstances of the matter for which the applicant was convicted, excluded or removed from ACCA membership or membership of another professional body or by which he became bankrupt.
2. The changes which have occurred since the applicant's conviction, misconduct or bankruptcy.
3. The applicant's current attitude to his conviction, previous misconduct or former or current bankruptcy.

SECTION 3: THE BASIC APPROACH FOR COMMITTEES WHEN CONSIDERING APPLICATIONS

4. The applicant's current work and circumstances, and reasons for wishing to be admitted or readmitted.
5. Any recommendations made by ACCA's Disciplinary Committee or any other relevant professional body.
6. In cases involving criminal convictions, whether the conviction is spent under the Rehabilitation of Offenders Act 1974 (the Association is not bound by this Act, but it is, nevertheless, a factor to consider).
7. In cases involving a disqualification under the Company Directors Disqualification Act 1986, whether the period of disqualification has now expired.
8. In cases involving bankruptcy, where an individual:
 - (a) is applying for admission to ACCA following the disclosure of a previous bankruptcy event; or
 - (b) notifies the Association that he has become the subject of a bankruptcy event and wishes to remain a member, affiliate or registered student, the Committee should assess the following:
 - (i) the background and circumstances leading to the bankruptcy event and, in particular, whether the individual was dishonest and/or reckless, incompetent or simply unlucky, with relevant evidence from the Official Receiver and/or Trustee in Bankruptcy;
 - (ii) the individual's conduct during the bankruptcy, with relevant evidence from the Official Receiver and/or Trustee in Bankruptcy;
 - (iii) the individual's current and future prospects, and reasons for wishing to be admitted, readmitted to ACCA or to remain a member, affiliate or registered student, as shown by detailed information provided by him; and
 - (iv) any past or outstanding disciplinary matters relating to the individual.
9. Whether the applicant will contravene any of the bye-laws, rules or regulations upon admission, readmission to ACCA or if permitted to remain a member, affiliate or registered student of ACCA following a bankruptcy event.

10. Whether the applicant has been the subject of further complaints or legal action since the conviction, exclusion from ACCA or membership of another professional body, or bankruptcy event.
11. That the applicant is not currently bankrupt or subject to judgment debts (for cases involving bankruptcy, please refer to paragraph 8 above).
12. The applicant is professionally competent with firm evidence of high professional standards. The applicant will need to demonstrate his professional competence for undertaking his specific chosen sphere of work, including issues such as whether he will be a sole practitioner, a partner or an employee.
13. References provided by the applicant in support of his suitability for admission or readmission, which can be verified by ACCA.

3.3 REFERENCES

- 3.3.1 The Committee is entitled to consider references provided by an applicant to deduce his suitability for admission or readmission to ACCA or eligibility to retain his membership, affiliate or registered student status following a bankruptcy event. All references must be in writing, signed and dated by the referee. **If the applicant is employed, the Committee would expect that one of the references provided is from the applicant's current employer.**
- 3.3.2 Relevant factors that may be taken into consideration (this list is not exhaustive):
 - references which are prepared specifically for the furtherance of the relevant application
 - the referee's personal or professional credentials and the capacity under which the reference is provided (for example, a personal or professional reference)
 - number of years and the circumstances under which the applicant is known to the referee
 - the referee's opinion of the applicant's personal or professional attributes which, in his view, makes the applicant eligible for the relevant application
 - confirmation from the referee that he is fully aware of the applicant's background, (for example, previous conviction, exclusion from ACCA or membership of another professional body or bankruptcy), including a view as to why he believes that the applicant should be considered for the relevant application.

3.4 READMISSION

3.4.1 The Committee may not consider any application from a former member, affiliate or registered student where a disciplinary order made against him prohibits him from seeking reinstatement to membership, affiliate or registered student status before a specified period has expired (*see section 2 of this publication*).

3.4.2 Under the Membership Regulations, the Committee is required to have specific regard to the circumstances of the applicant's cessation as a member, affiliate or registered student (*see section 2 of this publication*). The Committee will therefore be provided with a copy of the order(s) made by the Disciplinary Committee and where appropriate the Appeal Committee, together with the Reasons for the relevant Committee's decision. Any past or outstanding disciplinary matters will also be disclosed to the Committee.

3.5 CERTIFICATES

3.5.1 If an applicant seeking admission or readmission to membership is engaged in public practice work, his application must always be accompanied simultaneously by an application for a relevant certificate. **The Committee cannot grant the applicant membership without granting him a practising certificate.** This is because when the applicant becomes a member he will be in breach of ACCA's Global Practising Regulations for engaging in public practice without holding an ACCA practising certificate.

3.5.2 Eligibility for a certificate

3.5.2.1 In all cases, it is for the applicant to satisfy the Committee that he is eligible for the certificate applied for in accordance with the relevant Global Practising Regulations (*see Section 2 of this publication for the powers available to the Committee*).

3.5.2.2 Relevant factors that may be taken into consideration (this list is not exhaustive):

- the applicant's specific chosen sphere of work, including issues such as whether he will be a sole practitioner, a partner or an employee
- whether the applicant holds a valid certificate from a recognised national body or regulatory authority
- in cases involving readmission, whether the applicant:
 - (i) held a certificate prior to his exclusion
 - (ii) was excluded for matters that related to his practice

- whether the applicant should be issued with a certificate subject to conditions, for example, a Members' Advisory Visit by a set date post admission or readmission to membership.

3.5.3 Members' Advisory Visit (MAV)

- 3.5.3.1 An applicant who was excluded for matters that involved his practice is advised to consider whether it will assist his application to undergo a Members' Advisory Visit (MAV) at his own cost and/or complete a test of competence before his application is presented to the Committee. The MAV would be arranged by ACCA, on request, and the MAV report will contain information which the Committee will then be able to take into account.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.1 INTRODUCTION

4.1.1 In this section reference to an ‘application’ includes those for:

- admission to membership or to become a registered student following the disclosure of a previous conviction, bankruptcy event or exclusion by another professional body on disciplinary grounds
- readmission to membership, affiliate or registered student status following exclusion by ACCA on disciplinary grounds
- certificates from applicants who are applying for admission or readmission to membership and require a certificate because they are engaged in public practice.

4.1.2 **Before reaching a decision, the Committee will consider whether the order it has arrived at is appropriate to achieve the purpose of balancing the interests of the applicant and the public, in accordance with the principle of proportionality outlined in Section 2.5 of this publication.**

4.1.3 **The Committee may depart from ACCA’s recommendation and the guideline orders and conditions; however, the Committee should have regard to the guidance in this document and ensure that the written reasons for decision clearly explain the exceptional circumstances which resulted in any such departure.**

4.2 AVAILABLE ORDERS

Admission and readmission

4.2.1 Grant the application

4.2.1.1 This order is appropriate where the applicant satisfies the Committee that he is eligible for admission or readmission and, where applicable, a certificate without condition, in accordance with the relevant regulations and as to his general character and suitability.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.2.1.2 Relevant factors to take into consideration (this list is not exhaustive):

- personal understanding demonstrating that the matter which led to the applicant's exclusion on disciplinary grounds, previous conviction or bankruptcy event is unlikely to recur in future
- a good attitude to the previous misconduct, conviction or bankruptcy and an understanding and appreciation of the seriousness of actions or consequences
- satisfactory submissions received regarding the events and circumstances surrounding the applicant's previous conviction, misconduct, or bankruptcy
- a genuine expression of regret for the previous conviction, past conduct or bankruptcy
- current work and circumstances that demonstrate high professional standards
- discharge of any recommendations by the Disciplinary Committee or any other professional body
- in cases involving disqualification under the Company Director's Disqualification Act 1986, that the period of disqualification has lapsed
- in cases involving certificates, whether the applicant held a previous certificate and was not excluded for matters involving his practice
- sufficient good references.

4.2.2 Refuse the application

4.2.2.1 This order is appropriate where the applicant has failed to satisfy the Committee that he is eligible for admission or readmission and, where applicable, a certificate in accordance with the relevant regulations and as to his general character and suitability.

4.2.2.2 Relevant factors to take into consideration (this list is not exhaustive):

- the nature and circumstances for which the applicant was convicted, or excluded from ACCA membership or another professional body on disciplinary grounds was serious and is likely to recur in future
- poor attitude to the previous misconduct or bankruptcy, evidenced by a persistent lack of insight, understanding or appreciation of the seriousness of actions or consequences
- the applicant's actions in the circumstances were considered to be reckless
- the applicant is subject to further complaints or legal action
- the applicant is bankrupt and has not satisfied the Committee as to his eligibility
- the applicant is subject to judgment debts

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

- in readmission cases, a failure to discharge any recommendations made by the Disciplinary Committee. For example, no readmission for a specified period of time or before the occurrence of a specified event
- in cases involving disqualification under the Company Directors Disqualification Act 1986, the period of disqualification has not lapsed.

4.2.3 Grant the application subject to a condition(s) as it considers appropriate

4.2.3.1 Any condition must be:

- appropriate
- proportionate
- workable and
- measurable.

4.2.3.2 The Committee may take advice from a relevant ACCA officer at the hearing as to the workability of proposed conditions, bearing in mind that the principle of proportionality requires that any condition imposed should be the minimum necessary to protect the public (*see Section 4 of this publication*). The advice must be taken in the presence of the member and he or she should have an opportunity to comment on the advice provided.

4.2.3.3 Relevant factors to take into consideration (this list is not exhaustive):

- whether a safeguard is required to enable the applicant to remedy deficiencies in his practice whilst at the same time protecting clients
- evidence that suggests that the applicant would benefit from training
- issues of eligibility for a certificate that require remedying or confirmation.

4.2.4 Order to adjourn the consideration or postpone the admission of the applicant (not available for certificate applications)

4.2.4.1 The Committee may agree to order an adjournment of the consideration of an application, at its absolute discretion. This order is available to the Committee in advance of the hearing, at the outset of the hearing, or at any time during the hearing.

4.2.4.2 The Committee may consider it appropriate to postpone the admission or readmission of the applicant, where it agrees to grant the application, but defers the admission or readmission until after the occurrence of a specified event.

Eligibility to remain a member, affiliate or registered student following a bankruptcy event

(Reference to an 'individual' refers to members, affiliates or registered students.)

4.2.5 Permit the individual to retain his membership, affiliate or registered student status

4.2.5.1 This order is appropriate where the individual satisfies the Committee that he is eligible to remain a member, affiliate or registered student without condition, in accordance with the relevant regulations and as to his general character and suitability.

4.2.5.2 Relevant factors to take into consideration (this list is not exhaustive):

- satisfactory submissions received regarding the events and circumstances surrounding the applicant's bankruptcy
- an understanding and appreciation of the seriousness of actions or consequences
- evidence confirming that the matter which led to the bankruptcy event is unlikely to recur in future
- evidence confirming the individual's co-operation with officials during the bankruptcy process
- current work and circumstances that demonstrate high professional standards
- appropriate explanation of current circumstances and how ACCA membership is beneficial
- no disciplinary history or current complaints.

4.2.6 Withdraw the individual's membership, affiliate or registered student status

4.2.6.1 This order is appropriate where the applicant has failed to satisfy the Committee that he is eligible to remain a member, affiliate or registered student, in accordance with the relevant regulations and as to his general character and suitability.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.2.6.2 Relevant factors to take into consideration (this list is not exhaustive):

- failure to explain adequately the circumstances leading to the bankruptcy event, and provide independent confirmation of assertions made, where necessary
- failure to show sufficient insight or understanding of the events leading to bankruptcy
- the applicant's actions in the circumstances were considered to be reckless
- no evidence to confirm that the individual has co-operated with officials during the bankruptcy process
- nature and circumstances of the bankruptcy event is serious and the individual may be in contravention of ACCA bye-laws, rules and regulations.

4.2.7 Permit the individual to retain his membership, affiliate or registered student status subject to such condition(s) as it may specify

4.2.7.1 Any condition must be:

- appropriate
- proportionate
- workable and
- measurable.

4.2.7.2 The Committee may take advice from a relevant ACCA officer at the hearing as to the workability of proposed conditions, bearing in mind that the principle of proportionality requires that any conditions imposed should be the minimum necessary to protect the public.

4.2.7.3 An individual engaged in public practice work is advised to consider whether it will assist his application to undergo a Members' Advisory Visit (MAV) at his own cost and/or complete a test of competence before his application is presented to the Committee. The MAV would be arranged by ACCA, on request, and the MAV report will contain information which the Committee will then be able to take into account.

4.2.7.4 Relevant factors to be take into consideration (list is not exhaustive):

- whether a safeguard is required to enable the applicant to remedy deficiencies in his practice whilst at the same time protecting clients
- evidence that suggests the applicant would benefit from training
- issues of eligibility to continue holding a certificate that require remedying or confirmation.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.2.8 Make such other decision as it thinks fit in respect of the individual

4.2.8.1 The Committee may require and take into account any information it considers appropriate regarding an individual's eligibility to remain a member, affiliate or a registered student. In all cases, the Committee has a wide discretion in terms of the decision it considers to be appropriate.

4.3 APPLICATION GUIDELINES

4.3.1 The guideline orders set out below relate to the most common types of applications that are brought before the Committee.

4.3.2 The guideline orders are for **guidance only** and are not intended to be treated as appropriate in all cases. Each case will be judged on its own facts and merits.

4.3.3 In assessing the appropriate order, the Committee must consider factors relevant to the application in question. The Committee is free to attach such weight as it thinks fit in its absolute discretion to any factor. The list of factors is not exhaustive.

Admission and readmission

4.3.4 Guideline: grant the application:

4.3.4.1 Relevant factors (list is not exhaustive):

- applicant is eligible in accordance with relevant regulations and has satisfied all or a combination of the relevant factors under the broad principles regarding his character and suitability for admission or readmission
- evidence of the applicant's understanding and appreciation of past failings
- a genuine expression of regret
- in readmission cases, a previous good history prior to exclusion
- in certificate cases, the applicant held a previous relevant certificate and demonstrates his fitness and propriety, in accordance with the relevant regulations, to be issued with another.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.3.5 Guideline: refuse the application:

4.3.5.1 Relevant factors (list is not exhaustive):

- failure to comply with any recommendations or conditions made under an exclusion order without reasonable excuse
- the applicant is engaged in public practice and is found to be ineligible for a certificate
- applicant refuses to disclose information to any relevant person(s) that the Committee considers to be essential under the circumstances
- admission or readmission to ACCA would render the applicant in breach of ACCA's bye-laws and regulations.

4.3.6 Guideline: grant the application subject to conditions:

4.3.6.1 Relevant factors (list is not exhaustive):

- committee is satisfied that the applicant is eligible for membership and a certificate but there are issues in relation to his certificate or practice that can be remedied within a specified period
- applicant may be in breach of ACCA's bye-laws and regulations if admitted or readmitted to membership if not subject to the imposition of a condition.

4.3.6.2 *Examples:*

- (a) The applicant is granted admission or readmission to membership and a practising certificate after attending a practical audit course, approved by ACCA, and passing paper P7, Advanced Audit and Assurance, of ACCA's professional examinations (applicable for applications for practising certificates and audit qualification).
- (b) The applicant is granted admission or readmission to membership and a practising certificate subject to successful completion of an open book case study and a viva (applicable for applications for practising certificates for general practice).
- (c) The applicant is granted admission or readmission to membership and a practising certificate and is required to undergo a Members' Advisory Visit (MAV), at his own cost, within a set period of time, following the issue of the practising certificate.

4.3.6.3 In respect of (c) the Committee needs to consider whether it wishes the report to be referred back to the Committee or whether this should be left to the discretion of ACCA.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.3.6.4 NB There is a cost to the member associated with each of the above conditions.

4.3.7 Guideline: adjourn consideration of any application or postpone the admission or readmission:

4.3.7.1 Relevant factors (list is not exhaustive):

- applicant has failed to make the appropriate disclosure of his previous conviction, past misconduct or bankruptcy to any relevant person(s)
- applicant is eligible for membership but admission or readmission is postponed until the occurrence of a specified event, for example, the lapse of a period of disqualification under the Company Directors Disqualifications Act 1986
- applicant is engaged in public practice and is eligible for membership, but is required to undergo training or to pass further examinations and/or tests before he is granted a relevant certificate.

Eligibility to remain a member, affiliate or registered student following a bankruptcy event

4.3.8 Guideline: permit the individual to retain his membership, affiliate or registered student status

4.3.8.1 Relevant factors (list is not exhaustive):

- the individual is eligible in accordance with relevant regulations and has satisfied all or a combination of the relevant factors under the broad principles regarding his character and suitability to remain a member, an affiliate or a registered student
- circumstances that led to the bankruptcy event appear to be an isolated incident, not deliberate
- evidence of the individual's understanding and appreciation of causes of the bankruptcy
- written confirmation to show that the individual has co-operated with the bankruptcy process
- previous good history.

4.3.9 Guideline: withdraw the individual's membership, affiliate or registered student status

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.3.9.1 Relevant factors (list is not exhaustive):

- nature and circumstances of the bankruptcy event shows that the bankruptcy resulted from the individual's deliberate or reckless actions
- insufficient independent information regarding the background and circumstances leading to the bankruptcy event, for example confirmation from the Official Receiver and/or Trustee in Bankruptcy
- no evidence to confirm that the individual has co-operated with the bankruptcy process
- relevant disciplinary history
- persistent lack of understanding and appreciation of the seriousness of actions or consequences.

4.3.10 Guideline: permit the individual to retain his membership, affiliate or registered student status subject to such condition(s) as it may specify

4.3.10.1 Evidence that a safeguard is necessary to ensure the standards of the individual's audit or general practice work, as applicable, or that he requires training or to pass further examinations and/or tests before he is permitted to retain his membership and where appropriate his certificate, affiliate or registered student status.

4.3.10.2 *Examples:*

(a) The application is granted, subject to the member attending a practical audit course, approved by ACCA, and passing paper P7, Advanced Audit and Assurance, of ACCA's professional examinations (applicable for holders of practising certificates and audit qualification).

(b) The application is granted, subject to successful completion of an open book case study and a viva (applicable for holders of practising certificates for general practice).

4.3.10.3 In respect of (a) and (b), the Committee will need to specify what action should be taken if the individual fails to meet the requirement(s) of any the conditions imposed within a specified period.

(c) Application is granted and a monitoring visit be carried out on the member's firm before a set date.

(d) Application is granted and the individual is required to undergo a Member's Advisory Visit (MAV), at his own cost, before a set date.

4.3.10.4 In respect of (c) and (d), the Committee needs to consider whether it wishes the report to be referred back to the Committee or whether this should be left to the discretion of ACCA.

SECTION 4: DESCRIPTION OF THE AVAILABLE ORDERS AND CONDITIONS AND APPLICATION GUIDELINES

4.4.11 Guideline: make such other decision as it thinks fit in the respect of the individual

4.4.11.1 The Committee may require and take into account any information it considers appropriate regarding an individual's eligibility to remain a member, affiliate or a registered student. In all cases, the Committee has a wide discretion in terms of the decision it considers to be appropriate.

Application for admission to membership from a member of ACCA staff

4.4.12 Guideline: grant the application

- The applicant has demonstrated that he or she will be better able to represent ACCA as a member and his or her advice and comments will have enhanced credibility
- The Executive Director or Head of Department has confirmed that he or she supports the application.

4.4.13 Guideline: refuse the application

- The applicant has not demonstrated that he or she will be better able to represent ACCA as a member and that his or her advice and comments will have enhanced credibility
- The Executive Director or Head of Department has not provided confirmation that he or she supports the application.