

The Chartered Certified Accountants' Health Regulations 2014

Amended 1 January 2019

These regulations must be read in conjunction with the other regulations in Section 2. A regulation may affect members, affiliates and registered students in different ways depending on the application of other regulations to those members, affiliates and registered students. Regulations are not always cross-referenced to each other.

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The Council of the Association of Chartered Certified Accountants, in exercise of the powers conferred on it by bye-law 9 of the Association's bye-laws and all other powers enabling it, hereby makes the following regulations:

1. Citation, commencement and application

- (1) These regulations may be cited as The Chartered Certified Accountants' Health Regulations 2014. These regulations as amended shall come into force on 1 January 2019.
- (2) These regulations shall apply to all persons subject to bye-laws 8 to 11 or who otherwise agree to be bound by them.
- (3) These regulations may be amended by resolution of the Council.

2. Interpretation

- (1) In these regulations, unless the context otherwise requires:

Admissions and Licensing Committee, Disciplinary Committee, Appeal Committee, Health Committee and Interim Orders Committee mean committees of individuals having the constitution, powers and responsibilities set out in The Chartered Certified Accountants' Regulatory Board and Committee Regulations 2014;

affiliate means a registered student who has passed or obtained exemptions from the Association's ACCA Qualification examinations but has not progressed to membership;

the Association means the Association of Chartered Certified Accountants incorporated by Royal Charter granted in 1974 as amended from time to time;

Authorisation Regulations means The Chartered Certified Accountants' Authorisation Regulations 2014;

bye-laws means the bye-laws from time to time of the Association;

Complaints and Disciplinary Regulations means The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014;

case presenter has the meaning ascribed to him in the Complaints and Disciplinary Regulations;

Council means the Council of the Association from time to time and includes any duly authorised committee of Council;

disciplinary bye-laws means bye-laws 8 to 11 as amended from time to time;

firm means a sole practice, partnership or body corporate including a limited liability partnership;

member means an individual admitted to membership of the Association pursuant to the bye-laws and includes, where applicable, those entitled to be designated as Fellows of the Association;

registered student has the meaning ascribed to it in The Chartered Certified Accountants' Membership Regulations 2014;

relevant person means a member and other person (whether an individual or a firm and including a registered student) who has undertaken to abide by and be bound by, inter alia, the Association's bye-laws and the regulations made under them;

United Kingdom means the United Kingdom of Great Britain and Northern Ireland.

(2) Words importing the masculine gender include the feminine and words in the singular include the plural and vice versa. References to "he" or "his" shall include "it" or "its" where the context requires.

(3) Headings and sub-headings are for convenience only and shall not affect the interpretation of these regulations.

(4) Any reference to a statutory provision shall include where the context permits the subordinate legislation made from time to time under that provision and any reference to a statutory provision or regulation shall include that provision or regulation as from time to time modified or re-enacted so far as such modification or re-enactment applies or is capable of applying to such reference.

3. Applicability

These regulations apply where it appears that a relevant person:

- (a) during the course of an investigation into any complaint or after a case has been referred to the [Disciplinary Committee](#), may be too ill to participate in the disciplinary process;
- (b) at any time before or during a hearing before the [Admissions and Licensing Committee](#) under regulation 6 of the [Authorisation Regulations](#), may be too ill to participate in the proceedings; or
- (c) after a case has been referred to the [Appeal Committee](#), may be too ill to participate in the appeal process but does not wish to withdraw his appeal.

4. Ill health

(1) Assertion by relevant person

Where it is asserted on behalf of a relevant person that he is too ill to participate in the process or proceedings, the relevant person shall submit within seven days:

- (a) medical evidence to support the assertion, including a prognosis and indication as to when, if at all, the relevant person would be well enough to participate in the process or proceedings;
- (b) if he has been or is a principal of a [firm](#), details of any arrangements he has made for the continuity of his practice during the period of his ill health; and

- (c) if he holds a certificate or licence from the [Association](#), medical evidence addressing the extent to which his asserted ill health impacts upon his fitness to carry out the activities authorised by that certificate or licence and his ability to conduct his practice with reasonable care and skill.

(2) Examination of the relevant person

- (a) If at any time it appears to the Association that the circumstances set out in regulation 3 may have arisen, the Association may:
 - (i) invite the relevant person to be examined by a doctor or other medical professional of the Association's choice;
 - (ii) invite the relevant person to sign a form of consent, granting the doctor or other medical professional of the Association's choice access to his clinical records for the purpose of the examination and report.
- (b) The Association shall disclose to the relevant person any written opinion or information received by it pursuant to its invitation, and shall give him a reasonable opportunity to respond.
- (c) Any failure on the part of the relevant person to co-operate with the process set out at (a) above shall be taken into account in the assessment of that person's ill health, and in assessing the weight to be given to the evidence filed on his behalf.

(3) Deferral or withdrawal of the disciplinary process

If it appears to the Association that the circumstances set out in regulation 3 may have arisen:

- (a) the investigating officer shall have discretion to defer the investigation, in accordance with regulation 4(5) of the [Complaints and Disciplinary Regulations](#);
- (b) the [case presenter](#) may apply to the [Health Committee](#) to withdraw the allegations against the relevant person completely or defer proceeding with the allegations for a period of time up to 12 months or rest the allegations on file.

(4) Referral to health hearing

Without prejudice to the foregoing provisions of this regulation, at any time at the request of the Association, the relevant person, the assessor, or by order of the Disciplinary Committee, Admissions and Licensing Committee, [Interim Orders Committee](#) or Appeal Committee, the question of the relevant person's fitness to participate in the process or proceedings shall be considered by the Health Committee at a health hearing.

5. Notice of hearings

- (1) On a case being referred to the Health Committee, the Association shall determine the date the case is to be heard and, subject to regulation 5(2) below, no later than 14 days before the date set, the relevant person shall be provided with a notice which shall specify:

- (a) the date, time and place fixed for the hearing of the case;
- (b) the basis on which the referral is made, and (to the extent to which it has not already been provided) the evidence that is relevant to the same;
- (c) the relevant person's right to attend the hearing and be represented;
- (d) the power of the Health Committee to proceed in the absence of the relevant person at the hearing;
- (e) the relevant person's right to cross-examine any witnesses called by the Association and to call his own witnesses;
- (f) that not later than 7 days before the date set for the hearing the relevant person must notify the Association whether he intends to attend the hearing and call any witnesses;
- (g) to the extent that the same has not already been provided, a list of witnesses whose evidence is relied upon by the Association, indicating those who have provided documentary evidence and those who have provided witness statements, whether in formal form or otherwise, or letters;
- (h) the names of any witnesses for the relevant person whose details have already been disclosed to the Association by the relevant person whom the Association requires to attend the hearing for cross-examination, identifying to what extent the Association disputes their evidence; and
- (i) a summary of the powers of the Health Committee.

(2) For the avoidance of doubt, the information and notifications specified in regulation 5(1) above may be provided at different times and supplemented as necessary from time to time.

(3) In exceptional circumstances the Association may provide all or any of the documents referred to in regulation 5(1) above to the relevant person less than 14 days before the date set for hearing. The Health Committee shall consider at the outset the appropriateness of short notice and the degree of urgency and may, if it is of the view that it is necessary in the public interest as weighed against any prejudice to the relevant person, order that the hearing proceed or be adjourned for such period and under such directions as it sees fit.

(4) Save in very urgent cases, the relevant person shall give the Association and the Health Committee at least 7 days' advance notice of:

- (a) whether he intends to attend the hearing;
- (b) any statement of defence to the application;
- (c) any documentary evidence or witness statements (whether in formal form or otherwise) on which he wishes to rely; and
- (d) the names of any witnesses from the list provided by the Association that he requires to attend for cross-examination, explaining to what extent he disputes their evidence.

6. Health hearing: procedure and evidence

(1) Burden of proof

It shall be for the person or body making the application, or, if the issue is referred by the Disciplinary Committee, the Interim Orders Committee or the Appeal Committee upon its own motion, the Association, to satisfy the Health Committee that the relevant person is unfit to participate in the process or proceedings.

(2) Attendance

If the relevant person is too ill to be present at the hearing, he may attend by way of telephone or video link.

(3) Proceeding in the absence of the relevant person

Where the relevant person fails to attend a hearing, the case may be heard in his absence provided the Health Committee is satisfied that he has been provided with any documentary evidence submitted by the Association pursuant to [regulation 5\(1\)](#) above.

(4) The Health Committee may hear oral evidence at the hearing from witnesses whose written evidence has been submitted under regulation 5(1) and/or 5(4) above, if the evidence is not agreed by the parties, or if it considers that supplementary oral evidence or the questioning of a witness will assist it in discharging its functions fairly and properly.

(5) Expert evidence

The Health Committee may at any stage instruct an expert to act as its medical adviser.

7. Health hearing: determinations

(1) Fitness to participate

During the health hearing, the Health Committee shall first determine whether it is satisfied that the relevant person is unfit to participate in the process or proceedings, and:

- (a) in the event that he is found to be fit to participate, the Health Committee shall make a finding to that effect, and shall make any directions required to enable the process or proceedings to continue as soon as reasonably practicable;
- (b) in the event that he is found to be unfit, the Health Committee shall further consider the matters set out below.

(2) Withdrawal, rest on file, deferral

- (a) The Health Committee shall determine, having regard to the nature of the allegations against the relevant person and the supporting evidence, whether the process or proceedings shall be withdrawn, rest on the file or be deferred for such period as it sees fit (but for no longer than 12 months).
- (b) Where an application for permission to appeal or an appeal is pending before the Appeal Committee or its Chairman, the Health Committee may determine that the

proceedings shall be withdrawn, rest on file or be deferred in accordance with (a) above; or it may determine that the appeal process shall continue, where it appears to the Health Committee to be in the interests of justice, having regard to all the circumstances.

(3) *Consequential orders*

- (a) In the event that the proceedings are deferred under regulation 7(2), the Health Committee shall further consider whether to make one or more of the following orders:
 - (i) that any certificate and/or licence issued to the relevant person by the Association and/or the relevant person's eligibility to conduct exempt regulated activities in accordance with the Designated Professional Body Regulations be suspended or made subject to conditions for a specified period or until further order of the Health Committee;
 - (ii) in the case of a relevant person who is an individual, that the relevant person's membership, [registered student](#) or affiliate status be suspended or made subject to conditions for a specified period or until further order of the Health Committee;
 - (iii) that the matter of the relevant person's fitness and propriety to hold a certificate and/or licence issued by the Association, and/or his or its eligibility to conduct exempt regulated activities in accordance with the Designated Professional Body Regulations, be considered by the Admissions and Licensing Committee by a specified date, such date to be no later than twelve months from the effective date of the order;
 - (iv) only in conjunction with an order under (iii) above, that the relevant person's certificate and/or licence issued by the Association, and/or his or its eligibility to conduct exempt regulated activities in accordance with the Designated Professional Body Regulations, be suspended, or made subject to such conditions as are specified in the order, until an order of the Admissions and Licensing Committee has been made;
 - (v) that any future application by the relevant person for any certificate or licence issued by the Association, or to conduct exempt regulated activities in accordance with the Designated Professional Body Regulations, be referred to the Admissions and Licensing Committee;
 - (vi) in the case of a relevant person who is an [affiliate](#) or registered student, that any future application for membership be referred to the Admissions and Licensing Committee.
- (b) In the event that the proceedings are withdrawn or rested on file under regulation 7(2), the Health Committee shall further consider whether to make one or more of the following orders:
 - (i) that any certificate and/or licence issued to the relevant person by the Association and/or the relevant person's eligibility to conduct exempt regulated

activities in accordance with the Designated Professional Body Regulations be withdrawn or made subject to conditions;

- (ii) in the case of a relevant person who is an individual, that the relevant person's membership, registered student or affiliate status be made subject to conditions;
 - (iii) that any future application by the relevant person for any certificate or licence issued by the Association, or to conduct exempt regulated activities in accordance with the Designated Professional Body Regulations, be referred to the Admissions and Licensing Committee;
 - (iv) in the case of a relevant person who is an affiliate or registered student, that any future application for membership be referred to the Admissions and Licensing Committee.
- (c) In considering whether or not to make any order under regulation 7(3)(a) or (b) above, the Health Committee may consider both the seriousness of the case in relation to the relevant person and the extent to which it appears that his ill health impairs his ability to carry out the activities authorised by any certificate or licence held by the relevant person and conduct his practice with reasonable care and skill. It shall make such orders as it is satisfied are necessary to protect the public.

(4) Orders made with immediate effect

The Health Committee shall specify whether any elements of any orders made under regulation 7(3) above are to have immediate effect regardless of any appeal that may be made by the relevant person.

(5) Notice of determinations

- (a) The Health Committee shall announce its findings and orders at the hearing.
- (b) Written notice of the findings and of the terms of the orders shall be given to the relevant person within 14 days of the hearing. Such notice will be accompanied by a written statement of the reasons for the decision of the Health Committee, unless, in the circumstances, a longer period for the delivery of such reasons is necessary.

8. Rest on file

(1) A determination made under [regulation 7\(2\)](#) that proceedings should rest on file entails a decision to the effect that there is a case to answer against the relevant person in relation to the matters specified but that it is not in the public interest for the case to be heard by the Admissions and Licensing Committee, Disciplinary Committee or Appeal Committee, as the case may be.

(2) The matter shall rest on the relevant person's file for a period of five years from the date of such determination.

(3) In the event of a subsequent matter against the relevant person coming to the attention of the Association within this period of five years, any matter which has been rested on file may:

- (a) be taken into account by the Association or assessor or regulatory assessor in determining how to deal with the subsequent matter, even if it has already been taken into account in determining how to deal with another complaint brought subsequent to it; and/or
- (b) be the subject of subsequent disciplinary or regulatory action.

9. Reviews

- (1) Orders to defer the proceedings made under regulation 7(2) and orders made under regulation 7(3) shall be reviewed by the Health Committee not more than 12 months after the date when the order was imposed or last reviewed, or at an earlier date if the Association or relevant person requests an earlier review.
- (2) In the event that the Association and the relevant person have reached agreement upon the future conduct of the proceedings, a review may be carried out by the Chairman of the Committee.
- (3) If at the end of a three year period, or at any time thereafter, the relevant person is still unfit to participate in the proceedings, the Health Committee may order his exclusion from membership or removal from the relevant students' or affiliates' register.

10. Publicity and open hearings

(1) Attendance of the public

Health hearings shall be heard in private unless the Health Committee determines upon the application of either party or upon its own motion that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the relevant person, and require all or part of the hearing to be held in public.

(2) Exclusion of persons from a hearing

The Health Committee may exclude from any hearing, or limit the participation of, any person whose conduct, in the opinion of the Committee, is likely to disrupt the orderly conduct of the proceedings. For the avoidance of doubt, this includes the relevant person and/or his representative.

(3) Pre- and post-hearing publicity

- (a) The Association shall give advance publicity of the proceedings of the Health Committee, in such manner as the Association thinks fit.
- (b) Following a hearing the Association shall publish the order (as applicable) of the Health Committee, as soon as practicable.
- (c) Following the hearing, the Health Committee shall prepare a private set of reasons to be served upon the parties only, as soon as practicable.

11. Right of appeal

There shall be a right of appeal from an order made by the Health Committee at a health hearing, in accordance with regulation 18 of the Complaints and Disciplinary Regulations and the provisions of the Appeal Regulations.

12. Costs

(1) Costs to be paid by the relevant person to the Association

Subject to regulation 12(2) below, the Health Committee may direct that the relevant person pay such sum by way of costs to the Association as the Health Committee considers appropriate. In considering what sum shall be paid by way of costs, if any, the Health Committee shall take into account any effect the relevant person's actions in relation to the conduct of the case have had upon the costs of dealing with the case, whether beneficial or otherwise.

(2) Costs to be paid by the Association to the relevant person

Where the issue of ill health has been raised by the Association or by a Committee upon its own motion, and the relevant person has been found fit to participate in the proceedings under [regulation 7\(1\)\(a\)](#), the Health Committee may direct that the Association pay a sum to the relevant person by way of contribution to his costs incurred in connection with the proceedings in the Health Committee, in such amount as the Health Committee shall in its discretion think fit.

13. Correction of errors

Slip rule

(1) Where an order and/or written statement of the reasons for the decision of the Health Committee contains an accidental error or omission, a party may apply by way of an application notice for it to be corrected. The application notice shall describe the error or omission and state the correction required.

(2) The Chairman may deal with the application without notice if the error or omission is obvious, or may direct that notice of the application be served on the other party.

(3) If notice of the application is served on the other party, the application may be considered by the Chairman without a hearing with the consent of the parties, such consent not to be unreasonably withheld.

(4) If the application is opposed, it should, if practicable, be heard by the same Health Committee which made the decision, order and/or written statement of reasons for the decision which is or are the subject of the application. The Health Committee may not conduct a re-hearing of the case.

(5) The Health Committee may of its own motion amend the wording of its own decision, order and/or written statement of reasons for the decision for the purpose of making the meaning and intention clear.