

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Ms Jane Louise Francis

Heard on: Tuesday, 20 August 2019 and Thursday, 30 April 2020

Location: ACCA's Offices, 1-11 John Adam Street, London, WC2N 6AU
(20 August 2019)
Held remotely via skype (30 April 2020)

Committee: Mr Andrew Popat CBE (Chair)
Mr Martin Davis (Accountant)
Ms Lorna Jacobs (Lay)

Legal Adviser: Miss Juliet Gibbon (on 30 April 2020)
Mr Leighton Hughes (on 20 August 2019)

Persons present

and capacity: Mr Benjamin Jowett (ACCA Case Presenter) on 30 April 2020
Mr Mohammed Ismail (ACCA Case Presenter) on 20 August 2019
Ms Jane Louise Francis (Member) on 20 August 2019 only
Ms Anna Packowska (Hearings Officer) on 20 August 2019
and 30 April 2020

Summary: **Exclusion from membership with immediate effect.**

Costs: **Ms Francis ordered to pay costs in the sum of £9,000**

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PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) reconvened to conclude the disciplinary hearing of ACCA member, Ms Jane Louise Francis, that was adjourned part-heard on 20 August 2019. Ms Francis had admitted the allegations at the last hearing and the Committee had found all the allegations proved, and misconduct. The hearing was adjourned, following submissions on sanction and costs, for Ms Francis to obtain medical evidence from her general practitioner.
2. The disciplinary hearing had previously been scheduled for hearing on 13 June 2019, but had been adjourned on the application of Ms Francis.
3. At the hearing on 20 August 2019 the Committee had determined that any matters which might be raised in relation to Ms Francis’ health could be dealt with in private, pursuant to Regulation 11(1)(a) of the Complaints and Disciplinary Regulations 2014, as (amended) (“the Regulations”).
4. Mr Mohammed Ismail represented ACCA at the hearing on 20 August 2019. Ms Francis attended that hearing by telephone link, but was not represented.
5. Mr Benjamin Jowett represented ACCA at today’s hearing. Ms Francis did not attend the hearing and was not represented.
6. The Committee had before it a bundle of documents, numbered pages 1-345; tabled additional bundles 1 and 2 from the hearing on 20 August 2019, numbered pages 1-4 and 1-3 respectively, tabled additional bundles, numbered 346-355, 356-367 and 368-373. It also had service bundles for the adjourned hearing on 13 June 2019, the hearing that was adjourned part-heard on 20 August 2020, and today’s hearing. The Committee also had a transcript of the hearing that took place on 20 August 2019, numbered 1-8 and 1-15.

SERVICE AND PROCEEDING IN ABSENCE

7. The Committee was informed by Mr Jowett that under Regulation 10(8)(d) of the Regulations, there was no requirement to re-serve the member where she

had already been served with the requisite documents. Notice of today's hearing had been sent to Ms Francis on 06 April 2020.

8. Mr Jowett submitted that Ms Francis had been given every opportunity to attend the hearing by telephone link. The Committee was informed that both the Case Progression Officer and the Hearings Officer had made numerous attempts to contact Ms Francis. The Case Progression Officer had written to her on 19 September 2019, 29 October 2019, and 30 March 2020. The Hearings Officer had emailed Ms Francis on 06 April 2020, and 27 April 2020. The Hearings Officer had also made attempts to contact Ms Francis by telephone, but without success.
9. The Committee was told that the only communication received from Ms Francis since 20 August 2019 was a letter to ACCA, dated 02 December 2019, in which she informed the Case Progression Officer that she had an appointment with her general practitioner on 20 December 2019, and would ask for the medical report to be sent directly to ACCA. Despite this, no medical evidence had been received by ACCA, and there had been no further communication from Ms Francis.
10. Mr Jowett submitted that the Committee should proceed in the absence of Ms Francis. He submitted that she had been given every opportunity to attend the hearing by telephone or video link. She had failed to do so and had thus waived her right to attend. He told the Committee that there had been no request to adjourn the hearing and submitted that, in any event, there would be no useful purpose in adjourning the matter as there was no reason to suggest that Ms Francis would attend a future hearing. He reminded the Committee that full representations had been made by Ms Francis on sanction and costs at the hearing on 20 August 2019. He submitted that there was very little further that the Committee could hear from Ms Francis today in the absence of the medical evidence that she had been directed to provide to the Committee.
11. The Committee accepted the advice of the Legal Adviser. It was satisfied that Ms Francis had previously been served with the requisite documents and that

she had been notified of the time and date of today's hearing as soon as practicable, as required under Regulation 10(8)(d).

12. The Committee determined to proceed in the absence of Ms Francis. It considered that she had been given every opportunity to attend the hearing but had failed to do so. She had not engaged with ACCA since 02 December 2020, and had not provided a medical report, as directed at the hearing on 20 August 2020. The Committee did not consider that there would be any useful purpose in adjourning the hearing as, given her non-engagement, it was unlikely that Ms Francis would attend in the future. It noted that Ms Francis had made oral submissions in relation to sanction and costs, and that it had her letter of 14 May 2019 that set out her case in full. Without the medical evidence requested, there would be little more that Ms Francis could assist the Committee with.
13. In all the circumstances the Committee considered that Ms Francis had waived her right to attend the hearing and determined to proceed in her absence.

ALLEGATIONS

Allegation 1

- (a) Contrary to paragraph 14(2) of the Global Practising Regulations (as applicable in 2017 and 2018) between 8 February 2017 and 26 March 2018 Ms Jane Louise Francis failed to provide all information necessary to enable ACCA to complete its monitoring process efficiently.

Allegation 2

- (a) Contrary to paragraph 14(3) the Regulations (as applicable in 2017 and 2018), between 8 February 2017 and 26 March 2018 Ms Jane Louise Francis failed to co-operate with ACCA in its monitoring and enforcement of compliance with these regulations.

Allegation 3

Ms Jane Louise Francis breached Global Practising Regulations (as applicable in 2018) by virtue of not holding a valid practising certificate with regards to any or all of the following in that:

- (a) Between 1 January 2018 and 18 June 2018, she was the sole proprietor of Absolute Accounts which carried public practice, to Paragraph 3(2)(a) of the Global Practising Regulations as applicable in 2018);
- (b) She carried on public practice she produced accounts for Company C between 1 January 2018 and 17 January 2018 for the year ended 30 April 2017 contrary to Paragraph 3(1)(a) of the Global Practising Regulations (as applicable in 2018);
- (c) She carried on public practice, in particular, she produced accounts for Company B between 1 January 2018 and 20 February 2018 for the 369-day period ended 31 May 2017 contrary to Paragraph 3(1)(a) of the Global Practising Regulations (as applicable in 2018);
- (d) She carried on public practice, in particular, she produced accounts for Company A between 1 January 2018 and 31 May 2018 for the year ended 31 August 2017 contrary to Paragraph 3(1)(a) of the Global Practising Regulations (as applicable in 2018);
- (e) Between 5 September 2018 and 26 September 2018 held herself out to be a “Chartered Certified Accountant” in her LinkedIn profile contrary to paragraph 4(1)(c) of the Global Practising Regulations (as applicable in 2018);

Allegation 4

- (a) Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Ms Jane Louise Francis failed to co-operate with the investigation of a complaint in that she failed to provide any or all of the

information requested by an investigation officer in correspondence dated:

- i. 20 April 2018;
- ii. 11 May 2018;
- iii. 31 May 2018;
- iv. 10 August 2018.

Allegation 5

(a)By reason of her conduct in respect of any or all of the matters set out at 1 to 4 above, Ms. Jane Louise Francis is:

- i. Guilty of misconduct pursuant to bye-law 8(a)(i); or
- ii. Liable to disciplinary action pursuant to bye-law 8 (a)(iii).

BRIEF BACKGROUND

14. Ms Francis became a member of ACCA on 03 October 1996, and a fellow on 03 October 2001. She is the sole practitioner of Absolute Accounts (“the firm”). She held an ACCA practising certificate from 23 January 2006 until 31 December 2017.

ALLEGATIONS 1 AND 2

15. By virtue of Global Practising Regulation (“GPR”) 14, all members holding an ACCA practising certificate or any others who fall within ACCA's regulations are subject to monitoring by ACCA, to ensure compliance with ACCA's regulations and with the bye-laws. Towards the end of 2016 the firm was selected by ACCA Monitoring for desk top monitoring.

16. On 11 January 2017, an ACCA practice reviewer (“the reviewer”) wrote to Ms Francis by email to inform her that the firm’s accounts had been selected for desk top monitoring, and to request that she return the following to ACCA by 08 February 2017:
 - a. A completed compliance questionnaire;
 - b. If applicable, a copy of the firm’s partnership agreement or latest annual return;
 - c. A copy of Absolute’s letterhead;
 - d. A copy of the current schedule of cover for the firm’s professional indemnity insurance “(PII)”;
 - e. A copy of the PII policy;
 - f. A copy of the last PII proposal form;
 - g. Details of any claims or matters notified to the firm’s insurers in the last six years;
 - h. A copy of the documents confirming the firm’s continuity arrangements;
 - i. An example of the firm’s letter of engagement for both a corporate and a non-corporate client.
17. On 02 March 2017, Ms Francis wrote to the reviewer by email to ask if she could submit her response by 03 March 2017 and, if necessary, submit any outstanding information by the following Monday, as she had been away on holiday since 14 February 2017 and was still away from her office. The reviewer informed Ms Francis that she had until 10 March 2017 to respond.
18. On 13 March 2017, Ms Francis wrote to the reviewer by email to say that she had been without Internet/email capability since the previous week and was

unable to scan and forward documents by email and would not be able to do so until replacement hardware had arrived.

19. On 28 March 2017, the reviewer wrote to Ms Francis by email reminding her that she was required to co-operate with ACCA's monitoring process.
20. On 18 April 2017, Ms Francis sent the reviewer:
 - a. a copy of the firm's letterhead;
 - b. a terms and conditions letter template;
 - c. pages 1 to 4 of the compliance questionnaire;
 - d. email correspondence between herself and her insurers regarding the firm's professional insurance.
21. Ms Francis informed the reviewer that she would send the insurance policy document by way of a separate email.
22. On 30 June 2017, the reviewer wrote to Ms Francis to inform her that ACCA had still not received from her the following:
 - a. A continuity agreement;
 - b. An engagement letter;
 - c. Pages 5-10 of the compliance questionnaire;
 - d. The PII policy summary;
 - e. The PII policy schedule.
23. Ms Francis was informed that she had until 07 July 2017 to provide the outstanding information.

24. On 10 July 2017, Ms Francis wrote to the reviewer by email to say that she was sorry she had not been able to provide the information because she was dealing with a family issue, and that she would re-send the documents as soon as she was back in the office.
25. On 19 July 2017, the reviewer wrote to Ms Francis by email to remind Ms Francis that she had still not provided all the information requested, and that she should provide it by 21 July 2017.
26. On 24 July 2017, Ms Francis wrote to the reviewer stating:

The email correspondence for [the insurer] has already been sent, attached was the renewal documentation.

Monthly DD is being taken by Premium Credit for [the insurer] but I don't appear to have received further documentation, I can chase this if you wish.

Our engagement letters have been updated so all services are included, and we just take out what we don't need – see attached for Sole Trader and Corporate examples.

[Company D] are our continuation of practice partnership. We have signed the continuity of practice document as recommended by ACCA. They changed from a partnership to an LLP and we are just re-signing in their new name, but I do have emails to confirm they are still happy to continue and have asked me to arrange a similar agreement should anything happen to one of their partners.

I am unsure which questions you are still waiting for answers on the compliance questionnaire. Is it possible you could send me the pages that you are waiting for?

27. On 10 August 2017, the reviewer wrote to Ms Francis by email to inform her that she was unable to send her recommendations without the missing information. She asked Ms Francis to consider the following list and to ensure

that ALL the requested information was sent to ACCA as soon as possible and, at the latest, by 16 August 2020.

28. On 17 August 2017, Ms Francis wrote to the reviewer stating:

This is my first day back in the office after working on site away from home for a week, I'm afraid the ability to send emails was non-existent. I'm only in the office this morning until next week. I am seeing one of the partners from the firm with the continuity agreement, so I should be able to pick that up tomorrow. I will send the information requested to [her insurers]. I hope to be in a position to have the information requested over to you by Monday.

29. The reviewer wrote to Ms Francis by email to inform her that she expected to receive all the information by 21 August 2017.

30. On 22 August 2017, the reviewer wrote to Ms Francis by email to inform her that the information requested had still not been received.

31. On 10 October 2017, the reviewer wrote to Ms Francis by email in which she stated:

Although I have written to you on two separate occasions asking for completion of the Compliance Review questionnaire, I have not yet received your response. I would remind you of the agreed return date of 16 August 2017 and extended date of 21 August 2017.

You are required to co-operate with the monitoring process by Global Practising Regulation 14. Therefore, I trust you will now forward the completed Compliance Review questionnaire together with the requested attachments by return. If the questionnaire is not received promptly then I will refer your firm for a full monitoring visit and may also refer you to ACCA's Assessment department to consider whether disciplinary action is appropriate.

I look forward to hearing from you on this matter by return email.

32. On 13 October 2017, the reviewer wrote to Ms Francis by email to inform her that she had until 12 noon on 16 October 2017 to provide all the missing information, otherwise she would be referred for investigation.

33. Ms Francis replied to the reviewer on the same day, stating:

I am afraid I have been out of the office since Wednesday last week and although I am at home unwell today have just logged into my emails have seen your communication.

I can only offer that I will submit the outstanding information as soon as I am back in the office, suffering from a heavy cold, I don't expect to be away for more than a couple of days maximum.

I chased up the proposal form with my [PI insurance organisers] and they state that they do not require me to complete an annual proposal, just the email exchange (previously forwarded) showing turnover, largest fee, etc, they know that there have been no claims against the policy so this would not be stated as far as I am aware.

I can only ask that the deadline for the remaining information may be extended to when I return to the office within a couple of days and can only apologise for the delay.

34. The reviewer informed Ms Francis that she had until 19 October 2017 to provide all of the missing information.

35. On 20 October 2017, however, Ms Francis wrote to ACCA's practice referrer stating that due to poor health, she had not been in the office and had not been able to send the missing information to her. She was hopeful that she would be able to return to work in the near future.

36. The reviewer wrote to Ms Francis informing her that she would await Ms Francis' response by the close of business on the day she returned to work.

37. On 08 December 2017, Ms Francis wrote to the reviewer by email to say that she was due back in work on Monday and would therefore respond on 11 December 2017.
38. On 02 January 2017, Ms Francis wrote to the reviewer by email to ask her to confirm receipt of documents that she had posted to ACCA on 12 December 2017.
39. The reviewer informed Ms Francis on 02 January 2018 that no letter or documents had been received by ACCA.
40. On 05 January 2018, Ms Francis wrote to ACCA's practice reviewer in relation to documentation relating to the renewal of the firm's PII insurance. The referrer replied to Ms Francis stating that she would be happy to look at the 2010 proposal.
41. On 23 January 2018, Ms Francis wrote to the reviewer by email stating that she *"... had almost re-done the questionnaire that I returned in December and anticipate I will get the remainder completed this week, as this week is busy with the final tax return completion for clients. As noted in my response before Christmas, the links to the best practice review are not available, I am unsure whether this is a security protection with our system, so would be grateful if you could provide a copy of the review on PDF either by post or email"*.
42. On 29 January 2018, Ms Francis sent the reviewer pages 3, 4, 5, 6, 7 & 8 of the compliance questionnaire.
43. On 26 March 2018, ACCA's practice reviewer wrote to Ms Francis by email to attaching the report summarising her findings, including breaches of the Global Practising Regulations and Code of Ethics and Conduct. Ms Francis was advised to provide the following as soon as possible.
 - a. Confirmation that the firm has received this report and is dealing with the issues raised;
 - b. Pages 9 and 10 of the compliance questionnaire;

- c. Confirmation that the firm has notified the PII provider that it avails of the services of a subcontractors;
 - d. Confirmation that the firm has ensured that it has fidelity guarantee insurance in place;
 - e. A copy of the signed continuity agreement by which the firm has made arrangements in order to comply with GPR 11;
 - f. A copy of the revised firm's letterhead.
44. On 09 April 2018, Ms Francis wrote to the reviewer stating that she was looking at the report and would write back shortly. On 12 April 2018, the reviewer wrote to Ms Francis to inform her that her response to the report formed part of the monitoring procedure and requested that she respond by return email so that the matter could be concluded. Ms Francis was warned that she would be referred to ACCA's Assessment department to consider whether disciplinary action was appropriate, if she did not co-operate. She was advised to respond to the report by 16 April 2018 at the latest.
45. On 18 April 2018, the referrer wrote to Ms Francis informing her that she was referring her to ACCA's Assessment department, and that they would be in contact with her.

ALLEGATION 3

46. On 08 November 2017, ACCA's Authorisations Team wrote to Ms Francis by email regarding the renewal of her practising certificate for the coming year, 2018. ACCA's Authorisation Team is responsible for administering ACCA's regulatory arrangements for the issue of practicing certificates and licenses to members undertaking public practice work. Reminder emails were sent to Ms Francis on 22 November 2017, 04 December 2017, 19 December 2017, 19 January 2018, and 07 February 2018.

47. On 10 March 2018, Ms Francis applied online to renew her practising certificate for 2018. On 21 March 2018, ACCA's Authorisations Team wrote to Ms Francis by email attaching an invoice for the fee payable by her, informing her that her renewal application has been processed up to the "payment stage".
48. Ms Francis did not submit payment for her practising certificate until 12 June 2018, by which time it was not possible for ACCA Authorisations to issue the certificate because she was the subject of a disciplinary investigation.
49. On 17 January 2018, Ms Francis produced accounts for Company C for the year ended 30 April 2017.
50. Between 01 January 2018 and 20 February 2018, Ms Francis produced accounts for Company B for the 369-day period ended 31 May 2017.
51. Between 01 January 2018 and 31 May 2018, Ms Francis produced accounts for Company A for the year ended 31 August 2017.
52. On 05 September 2018, Ms Francis held herself out to be a Chartered Certified Accountant and owner of the firm on her LinkedIn profile page. On 06 September 2018, Ms Francis held herself out to be contactable at the firm.
53. On 07 September 2018, ACCA Investigations wrote to Ms Francis by letter confirming that as she did not hold a practising certificate she was not authorised to carry out public practice, and requesting her to provide an immediate undertaking that she would cease to carry out public practice and cease holding herself out to be in public practise. Ms Francis failed to respond to this letter.
54. Ms Francis continued to hold herself out to be a Chartered Certified Accountant and owner of the firm as at 26 September 2018.

ALLEGATION 4

55. On 20 April 2018, ACCA Investigations wrote to Ms Francis by letter informing her that her conduct was now being investigated and asking her to answer some questions. Ms Francis did not respond to the letter.

56. On 11 May 2018, ACCA Investigations wrote to Ms Francis by letter, informing her that she was under a duty to co-operate with the investigation and that she should respond by no later than 25 May 2018. Ms Francis did not respond to the letter.
57. On 31 May 2018, ACCA Investigations wrote to Ms Francis by letter, informing her that ACCA had still not received a response from her and that, as a consequence of her failure to co-operate, an allegation under the Complaints and Disciplinary Regulations would be raised against her if no response was received from her by 06 June 2018. Ms Francis did not respond to the letter.
58. On 10 August 2018, having become aware that Ms Francis did not hold a practising certificate for 2018, ACCA Investigations wrote to Ms Francis by letter asking her to answer further questions. Ms Francis did not respond to the letter.

HEARING ON 20 AUGUST 2019

59. Ms Francis attended the hearing on 20 August 2019 by telephone link. She admitted all of the allegations, including misconduct.

DECISION ON ALLEGATIONS AND REASONS

Allegation 1(a)

60. Admitted and found proved.

Allegation 2(a)

61. Admitted and found proved.

Allegation 3(a), (b), (c), (d) and (e)

62. Admitted and found proved.

Allegation 4

63. Admitted and found proved.

Allegation 5(a)(i)

64. Misconduct admitted and found proved.
65. Ms Francis had accepted that she was guilty of misconduct. The Legal Adviser advised the Committee that the issue of misconduct, even if admitted by the member, is always a matter for the Committee to decide upon in the exercise of its own judgment. The Committee therefore considered whether the matters admitted and found proved amounted to misconduct.
66. Having carefully considered all the evidence before it, the Committee was satisfied that Ms Francis' admitted failings were collectively serious and amounted to misconduct. Having found misconduct, the Committee did not go on to consider Allegation 5(a)(ii), which was drafted in the alternative.
67. The case was opened by the Case Presenter and Ms Francis then gave evidence to the Committee by telephone link. This part of the hearing was heard in private due to the fact that Ms Francis intended to make reference to some health difficulties in her evidence. The Committee was referred to a letter from Ms Francis to ACCA, dated 14 May 2019, in which she set out in detail some of the reasons for her misconduct.
68. [PRIVATE]
69. Ms Francis told the Committee that after she left the building firm in December 2009, she had found it difficult to find work and so had set up herself up in practice on her own. [PRIVATE]. The firm, however, continued to grow. [PRIVATE].
70. Ms Francis told the Committee that it had not been her intention to frustrate the ACCA review process. She said that, at the time, she had found life difficult to

cope with. She was busy in work with the demand of emails and phone calls that took her focus.

71. At that time there were two other people working in the firm. One was a member of the Association of Accounting Technicians (“AAT”) and the other was support.
72. Ms Francis said that she had not realised that she did not have a practising certificate when she carried out public practice without one. She did not think that she would have prepared the accounts if she had realised that she did not have a practising certificate. She informed the Committee that she had held herself out as being a chartered certified accountant on her LinkedIn profile simply because she had not gone onto the site to alter it. She said that she could not recall the last time she had posted anything on LinkedIn, and that she should have taken it down a long time ago.
73. In relation to ACCA’s disciplinary investigation, Ms Francis did not think that she had received all the correspondence from ACCA. She said that she had not deliberately tried to frustrate ACCA’s investigation.
74. Looking forward, Ms Francis told the Committee that she had realised that she can’t run a practice on her own. She said that she had opened negotiations with the firm that provides continuity of practice, and that she hoped to merge the two practices. She said that would give her the support that she needed. [PRIVATE].
75. In relation to sanction, Ms Francis said that she definitely did not want to be excluded from membership of ACCA, especially as she had worked hard to pass her examinations.
76. Mr Ismail, on behalf of ACCA, had applied for costs in the sum of £12,569.82. In relation to that issue, [PRIVATE].
77. Ms Francis was asked by the Committee why she had not provided a medical report, as directed by the Committee when it had adjourned the hearing on 13 June 2019, following an application to adjourn made by Ms Francis by email on the day of the hearing. Ms Francis informed the Committee that she had been

trying to arrange an appointment to go back and see her general practitioner. She said that she would be happy to contact the surgery, however, and ask for a medical report.

78. The Committee retired to discuss this matter. It concluded that Ms Francis should be given another opportunity to provide it with medical evidence about her health difficulties prior to sanction. It directed that Ms Francis must send a report from her general practitioner to ACCA within 14 days providing details of her health condition, the treatment provided and any prognosis that the doctor was able to provide. The hearing was adjourned to resume on the first available date after 14 days. Ms Francis failed to provide any medical evidence for the Committee to consider.

SANCTION AND REASONS

79. The Committee accepted the advice of the Legal Adviser, given on 20 August 2019, who referred it to ACCA's current Guidance on Disciplinary Sanctions, ("the Guidance"). It bore in mind that it must act proportionately at this stage, balancing Ms Francis' interests against the public interest, and that any sanction imposed must be no more than necessary to meet the purpose of a disciplinary sanction.
80. The Committee first considered the seriousness of the conduct found proved before deciding upon any sanction (in accordance with paragraph E3 of the Guidance). It decided that the misconduct was very serious for the following reasons:
- a. This was a deliberate failure by Ms Francis to co-operate with her regulator, in breach of the regulations, in relation to ACCA's monitoring and investigation process, over a prolonged period of time;
 - b. Ms Francis had carried on public practice when she knew, or should have known, that she was not the holder of a practising certificate;

- c. There was the potential for client harm in that Ms Francis produced accounts for three clients when she was not certified by ACCA to carry on public practice;
- d. Ms Francis had held herself out to be a certified chartered accountant when she was not the holder of a practising certificate.

81. The Committee found the following mitigating features:

- a. Ms Francis had admitted the allegations and, therefore, demonstrated some insight into her failings;
- b. Ms Francis had engaged with the proceedings by attending the hearing on 20 August 2019;
- c. Ms Francis had no previous disciplinary history and no previous adverse monitoring history.

82. Ms Francis had failed to provide any medical evidence, as directed at the hearing on 20 August 2019. The Committee was not, therefore, able to find that health difficulties had adversely contributed to Ms Francis' misconduct as she had asserted at the previous hearing and in her letter of 14 May 2019.

83. The Committee first considered whether to conclude this case without taking further action. It decided that to do so would not be appropriate, given the seriousness of the matters which were admitted and found proved.

84. The Committee then considered whether an Admonishment would be an appropriate and proportionate sanction in this case. It decided that the matters were too serious to be dealt with by an Admonishment. This sanction was insufficient to uphold the reputation of the profession and maintain proper professional standards.

85. The Committee next considered whether a Reprimand would be an appropriate and proportionate sanction. The Guidance states that this sanction is usually applied, "*...where the conduct is of a minor nature ...*". Ms Francis' conduct,

which involved failing to co-operate with her regulator and carrying on public practice when she did not hold a practising certificate, was not of a minor nature and the Committee therefore concluded that a Reprimand would not be a sufficient sanction.

86. The Committee next considered a Severe Reprimand. In doing so, it took account of Section C4 of the Guidance. This states that:

“This sanction would usually 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”.

The Committee could not be satisfied that there was no continuing risk to the public. Indeed, Ms Francis had continued to fail to co-operate with ACCA and the proceedings by failing to provide medical evidence to the Committee, as previously directed on two occasions. There was, therefore, a risk of repetition and a continuing risk to the public. The Committee determined that a Severe Reprimand would not be an appropriate sanction.

87. In the Committee’s determination, the conduct of Ms Francis in failing to co-operate with ACCA over a protracted period of time and holding herself out to be a chartered certified accountant, and indeed carrying on public practice over a prolonged period, was fundamentally incompatible with her continued membership of ACCA. The Committee determined that the appropriate and proportionate sanction was exclusion from membership of ACCA. The Committee was of the view that there was no evidence before it that would enable it to impose a lesser sanction than exclusion.
88. The Committee considered that, given the seriousness of the misconduct in this case, a failure to remove Ms Francis from membership of ACCA would seriously undermine public confidence in the profession and in ACCA as the regulator.

89. The Committee ordered that Ms Jane Louise Francis be excluded from membership of ACCA.

COSTS AND REASONS

90. Mr Ismail had applied for costs in the sum of £12,569.82 on 20 August 2019. Mr Jowett informed the Committee that ACCA was not asking the Committee to take into consideration the costs of today's hearing. [PRIVATE]. She had not completed the Statement of Financial Position that had been sent to her by ACCA, and the Committee did not have any documentary evidence as to her current financial means.
91. The Committee gave careful consideration to the issue of costs. Whilst it considered the amount of the costs claimed by ACCA to be reasonable for the work undertaken, it decided that it would be fair to Ms Francis to reduce the sum by £3,569.82. It ordered that Ms Francis should pay costs to ACCA in the sum of £9,000.

EFFECTIVE DATE OF ORDER

92. In accordance with Regulation 20(b), the Committee directed that in the particular circumstances of this case it was in the interests of the public for the order to have immediate effect, subject to it being varied or rescinded on appeal as described in the Appeal Regulations.

INTERIM ORDER

93. The interim suspension order imposed by the Committee sitting as an Interim Orders Committee on 13 June 2019 is rescinded, in accordance with Regulation 12(5)(b).

Mr Andrew Popat CBE
Chair
30 April 2020