

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Uzair Malik
Heard on:	Thursday, 14 April 2022
Location:	Held remotely by video conference
Committee:	Ms Wendy Yeadon (Chair) Mr Garrett O'Reilly (Accountant) Mrs Andrea White (Lay)
Legal Adviser:	Mr Andrew Granville Stafford
Persons present and capacity:	Mr Uzair Malik (Member) Mr Ben Jowett (Case Presenter) Miss Nyero Abboh (Hearings Officer)
Summary:	Allegations 1a), 1b), 2a), 2b) and 4 found proved Excluded from membership, to have immediate effect Interim Order rescinded
Costs:	£5,000

INTRODUCTION

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Uzair Malik.

2. The Committee had before it the report to the Disciplinary Committee and accompanying documents (254 pages), two pseudonymisation keys, a tabled additional bundle (2 pages) and a service bundle (18 pages).

ALLEGATIONS AND BRIEF BACKGROUND

3. The allegations faced by Mr Malik were as follows.

Allegations

Mr Uzair (Al Zahra) Malik, at all material times an ACCA trainee

1. Submitted or caused to be submitted to ACCA on or about 19 July 2018 an ACCA Practical Experience training record which purported to confirm:
 - a) his Practical Experience Supervisor in respect of his practical experience training in the period 09 February 2015 to 18 February 2016 was Mr A and in respect of his practical experience training in the period 12 March 2016 to 22 May 2018 was Mr B when Mr A and/or Mr B did not and/or could not supervise his practical experience training in respect of those periods of training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance (the Guidance).
 - b) he had achieved:
 - Performance Objective 3: Strategy and innovation;
 - Performance Objective 4: Governance, risk and control;
 - Performance Objective 5: Leadership and management;
 - Performance Objective 6: Record and process transactions and events; and
 - Performance Objective 8: Analyse and interpret financial reports
2. Mr Uzair Malik's conduct in respect of the matters described in allegation 1 above was: -
 - a) In respect of allegation 1a, dishonest, in that Mr Uzair Malik sought to confirm his Practical Experience Supervisors did and could

supervise his practical experience training in accordance with ACCA's requirements which he knew to be untrue.

- b) In respect of allegation 1b dishonest, in that Mr Uzair Malik knew he had not achieved the performance objectives referred to in paragraph 1b) as described in the corresponding performance objective statements or at all.
- c) In the alternative, any or all of the conduct referred to in paragraph 1 above demonstrates a failure to act with Integrity.

3. In the further alternative to allegations 2a and or 2b above, such conduct was reckless in that it was in wilful disregard of ACCA's Guidance to ensure:

- a) His Practical Experience Supervisors met the specified requirements in terms of qualification and supervision of the trainee; and /or
- b) that the performance objective statements referred to in paragraph 1 b) accurately set out how the corresponding objective had been met.

4. By reason of his conduct, Mr Uzair Malik is guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all the matters set out at 1 to 3.

4. Mr Malik was admitted as a member of ACCA on 27 July 2018, having applied for membership on or around 19 July 2018. At the relevant time he was an affiliate member of ACCA, having been admitted as a student in 2012. The word trainee is synonymous with affiliate.

5. A trainee cannot become a member of ACCA until they have completed three years of approved work experience (Regulation 3 of the Membership Regulations). Their training must be supervised by a PER (Practical Experience Requirement) Supervisor who is a qualified accountant, namely a member of an International Federation of Accountants (IFAC) member body, who has worked closely with the trainee and knows their work.

6. They must also complete a number of Performance Objectives (POs) which describe the type of activities they have undertaken as a trainee. The PO is met by providing a statement of 200 to 500 words which demonstrates how the

trainee has achieved the objective in question during their training. The statement must be personal to them and reflect their own unique experiences. The trainee must nominate a qualified supervisor to sign-off their POs.

7. In order to apply for membership, a trainee must submit details of their practical experience and their POs online. In support of his application for membership, Mr Malik submitted his PER record to ACCA on or about 19 July 2018. In it he claimed 12 months of workplace experience as an audit trainee, with an employer referred to in this decision as Company A, from 09 February 2015 to 18 February 2016. This claimed period of employment was approved by Mr A, an ACCA member, on 21 July 2018.
8. Mr Malik claimed a further period of 26 months' work experience at Company B as a Financial Executive between 12 March 2016 and 22 May 2018. This period of work experience was approved by a different PER Supervisor, Mr B.
9. ACCA's case was that neither Mr A nor Mr B had worked closely with Mr Malik or were in a position to be his PER Supervisor. Therefore, it was alleged that Mr Malik had been dishonest in his application for membership by representing that they were his PER Supervisors and had supervised his work.
10. Mr A had not himself become a member of ACCA until 23 September 2016. ACCA's case, therefore, was that Mr A could not have supervised Mr Malik's practical training experience between February 2015 and February 2016.
11. Mr B is not a member of ACCA. Although Mr Malik claimed Mr B was an ICAI (Institute of Chartered Accountants of India) member, he was unable to provide any satisfactory information about Mr B's qualifications to support this.
12. ACCA further alleged that Mr Malik had falsely claimed he had completed POs 3, 4, 5, 6 and 8. Mr Malik was one of a total of 52 trainees who submitted applications for membership to ACCA claiming that Mr A had been their PER Supervisor for some or all of their practical experience training. A PO statement should be unique to the trainee as it reflects the trainee's own personal work experience. However, these PO statements were worded the same as POs completed by other trainees that Mr A allegedly supervised. The similarities were as follows:
 - Mr Malik's Performance Objective 3: Strategy and innovation statement was identical to the statement of one other trainee, Mr C. Mr C's PER was submitted after Mr Malik submitted his PER to ACCA.

- Mr Malik’s Performance Objective 4: Governance, risk and control statement was identical to the statement of one other trainee, Mr D. This included grammatical errors. For example, both trainees had written ‘*one of my area of responsibility*’ and ‘*to be materialistic upon company’s financials.*’ Mr D submitted his PER four months before Mr Malik.
 - Mr Malik’s Performance Objective 5: Leadership and management statement was identical to the statement of one other trainee, Mr E. Again, this included idiosyncrasies of grammar. For example, both had written as their opening sentence ‘*With diversifying nature of tasks and time constraint from clients as well as law enforcement authorities, it remained a challenging work for us.*’ Mr E submitted his PER a month before Mr Malik submitted his.
 - Mr Malik’s Performance Objective 6: Record and process transactions and events statement was also identical to the one submitted a month before by Mr E. By way of example, both had written for their opening sentence ‘*At initial stage, I have been using the software for general entries relating day to day transactions of company.*’
 - Mr Malik’s Performance Objective 8: Analyse and interpret financial reports statement was identical to the statement of one other trainee, Mr F, who submitted his PER before Mr Malik submitted his.
13. As regards Mr Malik’s claim that he gained his practical experience at Company A, ACCA could not verify the existence of the firm. ACCA relied on a statement from Mr C who said:
- ‘I am aware that in their PER and POs, 15 of the former trainees of [Mr A] submitted to ACCA that they completed their supervised practical experience at a firm called [Company A] in Lahore, Pakistan. Neither myself nor any of my colleagues in Professional Development have been able to find any address or contact details for this firm and the only thing we have come across is a page on the www.rozee.pk website which describes it as a “Local firm of Chartered Accountants engaged in providing Taxation, Audit and Business Advisory to a wide range of Corporate and individual clients”.’ [sic]*
14. Mr A appeared before an ACCA Disciplinary Committee in January 2021 to answer allegations of misconduct in respect of the supervision of PER trainees. The Committee found that Mr A had:

- a) Approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Malik, when Mr A had no reasonable basis for believing they had been achieved and/or were true.
 - b) Falsely represented to ACCA that he had supervised the work experience of 52 ACCA trainees, including Mr Malik, in accordance with ACCA's PER.
 - c) Improperly assisted 52 ACCA trainees, including Mr Malik, in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives; and
 - d) Improperly participated in, or been otherwise connected with, an arrangement to assist 52 ACCA trainees to draft and/or approve their supporting statements as evidence of their achievement of their ACCA Practical Experience performance objectives, when those trainees were unable or unwilling to properly obtain verification from a supervisor that they had met ACCA's Practical Experience Requirements.
15. ACCA's investigations department wrote to Mr Malik on 24 January 2020, informing him that his conduct in relation to the submission of his PER was being investigated and asking him to answer a number of questions.
16. Mr Malik replied the same day by email, stating as follows.

'[Company A] quality assures the firms and it is linked and working with Not for profit organization there is a guy who came from NP O named [Mr A] and he was overseeing my experience for a long time and monitored my work on different interval basis.

[Mr A] was from taxation working for not for profit organization (NPO) he provided us with the assignments related to NPO and was monitoring those assignments for quality purposes and was monitoring our team as well and since he was the acca member I requested him to sign my experience he was neither my boss or nor I reported him and hence i don't have any correspondence of emails from him or sent to him.

The local chartered accountants in [Company A] they didn't even bothered to come to our office and treated us so wrong on many levels we had to work there for countless hours without any overtime just to get the experience but

we had to work there since there was no option to get the experience and it is the same everywhere they always prefer local chartered accountants.

[Mr A] was also an acca member a fellow from same body and after going through a lot i had requested him to sign experience and he is the only one assisted me and no one from the firm assisted me and even if I would have left all these trainings no one would hire someone with foreign qualification. Since there are no mutual agreements with the firms from ACCA.

And since no local chartered accountant was helping me or hiring me and listening to me and because of my designation which was trainee and because of my foreign qualification no body assisted me or advised me regarding the submission of PER so I had no choice but to request [Mr A].

Other than that, regarding my employment copy I was hired there as trainee and in my country, trainee does not get more assistance and perks like UK or any other country because of local chartered accountants and their policies.

[Company A] did not provide me with the contract copy I was hired there as trainee and trainee does not even get the wages or salaries, I got monthly stipend equivalent to £24 in cash which is not even sufficient to afford a food for the whole day I had to survive my father assisted me whole time regarding my expenses for exams and transportation along with housing & food because he also understood the local laws and the hardships I have to face And therefore there is no documentary evidence provided to me regarding the employees contracts or wages it was all done verbally this is how it is in our country. if you don't believe me please do visit my country and see how tough it is to survive with foreign qualification.

After getting experience from there and suffering hard time I moved abroad in middle east it was that determination that has led me to be the person I am today and I am so thankful to my father and my family who never gave up.

And regarding these mentioned Performance objectives you highlighted I might have used these as sample from my colleagues and changed them in my wording because our experiences was the same so I might have copied and pasted them as well which I am really sorry.

If you reject these mentioned performance objectives, I am so willing to write them again and have no issues in writing these again.

In my country due to the monopoly of their local chartered accountants there is a very little respect of acca and since due to that we don't get good jobs and designations along with any document evidence or salaries as trainee's but we have to get the experience regardless of wages and salaries and that's why we have to survive the tough time to get experience.' [sic]

17. On 15 May 2020, ACCA emailed Mr Malik with some further enquiries. He was asked to clarify at which address he worked with Mr A and on what dates, to provide Company A's website details, to say which parts of his POs were 'samples' from his colleagues and which parts were his own, and why he submitted performance objectives that were not completed by himself, and to explain how his POs were submitted.
18. On 05 June 2020, Mr Malik responded to ACCA's enquiries. He said that Mr A was not his manager but was the only IFAC senior at his workplace. He met Mr A while working on some assignments in a car company since he was working in NPO and from there he asked Mr A to be his mentor. He said there was no website address for Company A, to his knowledge.
19. In respect of using colleagues' POs as samples, he said he just used some minor parts in only one PO, but he did not remember which one. He said it was not fully copied as he used his own wording and hence just took the idea and rewrote it. He added that, since they were facing a lot of difficulties and working more than 16 hours daily, he did not have much time, thus he rewrote what his friend did for one of his performance objectives.
20. Because of the similarities between his POs and those of other trainees, ACCA wrote to Mr Malik on 31 March 2021 asking for an explanation. Mr Malik responded on 26 April 2021. In his email he said:

'i was only in contact with [Mr A] as i have also mentioned . . . along with other trainees we were working in the same team and was facing day to day issues with local partners not signing and helping in our PER so i really didnt know at that time that this might create an issue in future as our supervisor was [Mr A] and was guiding us all along what needs to be done and i did took his help without knowing that it was wrong and due to circumstances we had to have experience letters and PER signed otherwise our effort of work would have been lost. So therefore i might have copied some PER for that i can re write them again.' [sic]

21. Mr Malik provided a copy of a letter on Company B notepaper dated 26 April 2021 and headed 'To whom it may concern'. The letter gave details of a number of tasks Mr Malik had successfully completed pertaining to POs 3,4,5,6 and 8 during the two years and two months he was with the firm. It was signed in the name of the Accounting Supervisor.

DECISIONS ON ALLEGATIONS AND REASONS

22. At the outset of the hearing, Mr Malik admitted Allegations 1b) and 2b). He denied the remaining allegations.
23. The Committee considered the documents before it, the oral evidence of Mr Malik, the submissions of Mr Jowett on behalf of ACCA and Mr Malik on his own behalf, and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities.

Allegation 1

24. The papers before the Committee included a copy of the PER submitted by Mr Malik in support of his application for membership of ACCA. This shows that he nominated Mr A and Mr B as his PER Supervisors for the two different periods of his practical training.
25. The Committee had to consider whether Mr A and/or Mr B could have or did supervise Mr Malik in accordance with practical experience training in accordance with ACCA's requirements, as set out and published in ACCA's PER Guidance.
26. Mr Malik told the Committee in his evidence that he had worked for Company A as an intern. He said he had found out about the opportunity from a fellow student and that he had made his application through that student. He said he had not met the partners but had worked on assignments with managers and other trainees. However, he said there had been a lot of issues during his time with the company, including salaries not being paid. He told the Committee that he was not able to provide any emails or correspondence which evidenced his time with the company though he would have been able to had he been asked in 2018, when he made his application for ACCA membership.
27. Mr Malik said that Mr A was not his manager. He described him as a mentor. He said he had come into contact with Mr A whilst working on an assignment. Mr A had claimed to be an ACCA member and had told Mr Malik he could

- supervise him. Mr Malik said in his evidence that he trusted Mr A. Mr A had told him how to complete his PER record and what to write.
28. The Committee did not find Mr Malik's evidence to be credible. It noted that, in relation to Allegation 2b), Mr Malik had accepted that he had been dishonest in submitting copied PO statements. He had also had to accept, during cross-examination, that he had falsified his PO 20 statement, in which he had claimed that he had gained relevant audit experience at Company B, which could not be true given that Company B was not a firm of accountants.
 29. Further, Mr Malik had originally said to ACCA in response to the allegations that, although he had used sample PO statements from colleagues, he had reworded them and had only used minor parts. This was clearly untrue, given that five of his POs were identical copies to those of other trainees. Mr Malik had been forced to change his story when confronted with the PO statements written by the other trainees. This further demonstrated to the Committee that Mr Malik was prepared to say things which were not true to avoid the consequences of his actions.
 30. The Committee did not, therefore, accept Mr Malik's account that he had been supervised by Mr A at Company A. Further, Mr A had only become an ACCA member in September 2016. He could not, therefore, have been Mr Malik's PER Supervisor between February 2015 and February 2016, as Mr Malik claimed. The Committee found no evidence that, even if Mr Malik had worked for Company A as he claimed, he had been supervised during this time in accordance with ACCA's training requirements.
 31. In light of Mr Malik's lack of honesty, the Committee was not prepared to accept his account that he had been properly supervised at Company B by Mr B. The Committee noted in particular that Mr B had signed off Mr Malik's PO 20 statement which, for reasons explained above, was a clear falsification. Mr B had also signed off POs 3, 4, 5, 6 and 8 which, Mr Malik now accepts, were copied. Further, the Committee noted that Mr Malik in his oral evidence confirmed he had provided the information to the Accounting Supervisor at Company B, which was contained within the letter he had provided. In light of the above, Mr B could not have supervised Mr Malik at Company B in accordance with ACCA's training requirements.
 32. Therefore, the Committee found Allegation 1(a) proved in full.

33. Allegation 1b) was a simple factual allegation. It alleged that Mr Malik had submitted his PER record to ACCA and that it purported to confirm that he had achieved POs 3, 4, 5, 6 and 8. Mr Malik admitted this allegation, and the Committee found that proved on the basis of that admission.

Allegation 2

34. The Committee had found, in respect of Allegation 1a), that Mr A and Mr B could not have acted as Mr Malik's PER Supervisors to supervise his practical experience training. The Committee was satisfied that Mr Malik knew this to be the case. The Committee considered Mr Malik's evidence that he was not aware of ACCA's requirements in respect of PER supervision as incredible. It was satisfied that, by submitting his PER record, he had falsely claimed Mr A and Mr B as PER Supervisors when he knew that they had not acted as such in accordance with ACCA's training requirements.
35. The Committee was further satisfied that, by representing that Mr A and Mr B had supervised his practical training when he knew this to be untrue, Mr Malik's actions were dishonest by the standards of ordinary and decent people. It therefore found Allegation 2a) proved.
36. Mr Malik admitted Allegation 2b). The Committee was satisfied that this admission was a proper one to make on the evidence. It is clear that Mr Malik's PO statements 3,4,5,6 and 8 and those of a number of other trainees were copies of each other. Indeed, Mr Malik did not now dispute that he had copied PO statements which he submitted to ACCA as part of his application for membership. That would be regarded as dishonest by ordinary and honest members of the public.
37. Having found Allegations 2a) and 2b) proved, there was no need for the Committee to consider the alternative Allegation 2c).

Allegation 3

38. As Allegation 3 was an alternative to Allegations 2a) and 2b), there was no need for the Committee to consider it.

Allegation 4

39. The Committee bore in mind that it should only find that conduct amounted to misconduct if it was a serious departure from the standards to be expected of a member of the profession. Making a dishonest application for membership of

ACCA falls so far short of acceptable standards that it clearly amounts to misconduct. It brings discredit to the member, the Association and the profession.

40. The Committee was therefore satisfied that Allegation 4 was proved.

SANCTION AND REASONS

41. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. It took into account the submissions of the parties and the advice of the Legal Adviser.
42. Having found that Mr Malik's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
43. The Committee considered that the following were aggravating factors. Mr Malik's dishonesty was pre-meditated and sustained over a period of time. He had maintained his denial of the misconduct, save that he had only on the day of the hearing accepted he had copied the PO statements. In the circumstances, the Committee found he had lacked insight into his behaviour.
44. In mitigation the Committee took into account that no previous disciplinary findings had been made against Mr Malik. It noted that there had been engagement from Mr Malik and he had co-operated with the investigation.
45. An admonishment was clearly not an appropriate sanction. The Committee considered that none of the factors identified in the GDS which suggest that admonishment might be justified were present in this case.
46. The GDS suggests that a reprimand may be appropriate if the misconduct is of a minor nature. This was a serious departure from expected standards and, therefore, a reprimand was not a sufficient sanction in this case.
47. Given that Mr Malik's dishonesty was deliberate and there had been no early or genuine acceptance of his misconduct, a reprimand was not an appropriate sanction.

48. Further, the Committee considered that the misconduct was so serious that a severe reprimand would not be appropriate.
49. The Committee considered that exclusion from membership was the only appropriate and proportionate sanction. The public is entitled to expect a high degree of probity from a member of the Association and Mr Malik had failed to demonstrate he was worthy of such trust. Further, there is clearly an adverse impact both on the reputation of the profession and the public itself when someone who is not properly qualified gains membership of an organisation like ACCA by making a false application.
50. This was deliberate and dishonest conduct which was not only a serious departure from acceptable standards but was, in the Committee's view, fundamentally incompatible with continued membership of a professional body.
51. Therefore, pursuant to CDR 13.1(c), Mr Malik is excluded from membership of ACCA.
52. The Committee did not consider it necessary to stipulate a period in which Mr Malik would be prohibited from re-applying for membership. It noted that any such application would in any event have to be considered by the Admissions & Licensing Committee.

COSTS AND REASONS

53. ACCA applied for costs in the sum of £9,840. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
54. The Committee considered that, in principle, a costs order should be made in favour of ACCA. Further, the Committee considered that the sums sought had been reasonably incurred.
55. Mr Malik addressed the Committee as to his financial circumstances and the Committee accepted that his means were limited. In light of this, the Committee accepted some reduction would be appropriate.
56. The Committee determined that the appropriate order was that Mr Malik pay ACCA's costs in the sum of £5,000.

RECISSION OF INTERIM ORDER

57. Pursuant to CDR 12(5)(b), the Interim Order suspending Mr Malik's membership is rescinded.

EFFECTIVE DATE OF ORDER

58. The Committee determined that it would be in the interests of the public for the sanction of exclusion to take immediate effect. Therefore, pursuant to CDR 20, the orders made by the Committee will take effect immediately.

Ms Wendy Yeadon
Chair
14 April 2022