

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Dur E Shahwar

Heard on: 01 March 2023, 02 and 03 August 2023

Location: Virtual hearing via Microsoft Teams

Committee: Ms Valerie Paterson (Chair)
Ms Andrea White (Accountant)
Mr Damian Kearney (Lay)

Legal Adviser: Ms Jane Kilgannon

Persons present

and capacity: Miss Dur E Shahwar
Ms Afshan Ali (ACCA Case Presenter, 1 March 2023)
Ms Michelle Terry (ACCA Case Presenter, 2-3 August
2023)

Ms Nikita Apostol (Hearings Officer, 01 March 2023)
Ms Anna Packowska (Hearings Officer, 2-3 August 2023)
Ms Rangez Shah (Interpreter, 01 March 2023)
Ms Hamida Begum (Interpreter, 2-3 August 2023)

Summary: Allegations 1, 2, 3a and 4a found proved.
Removal from the student register.
No cost order.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

1. The Disciplinary Committee (the Committee) convened to consider the case of Miss Dur E Shahwar (Miss Shahwar).
2. The Association of Chartered Certified Accountants (ACCA) was represented by Ms Afshan Ali (Ms Ali) on 01 March 2023 and by Ms Michelle Terry (Ms Terry) on 02 and 03 August 2023. Miss Shahwar attended the hearing and was not represented. Miss Shahwar was assisted by an Urdu interpreter, provided by ACCA.
3. The Committee confirmed that it was not aware of any conflicts of interest in relation to the case.
4. In accordance with Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
5. The hearing was conducted remotely through Microsoft Teams.
6. The Committee had considered the following documents: a Memorandum and Agenda (pages 1 to 2); a completed Case Management Form (pages 1 to 14); a Hearing Bundle (pages 1 to 239); a Tabled Additional bundle (1) (pages 1 to 9); a Tabled Additional Bundle (2) (pages 1 to 17); a Service Bundle relating to the hearing on 1 March 2023 (pages 1 to 30); and a Service Bundle relating to the hearing on 2-3 August 2023 (pages 1 to 16).

PRELIMINARY MATTERS

7. Miss Shahwar applied for parts of the hearing to be held in private – namely, those parts that related to her personal financial circumstances. Ms Ali, on behalf of ACCA, opposed the application submitting that the reason for the application – Miss Shahwar's desire to keep private any details about her personal financial situation – was not such an exceptional circumstance as to warrant a private hearing.

8. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 11(1) of the Regulations and the ACCA guidance documents 'Guidance for Disciplinary Committee hearings' and 'Guidance on publicity'.
9. The Committee noted that Miss Shahwar's personal financial circumstances did not appear to be relevant to the matters alleged and would therefore only become relevant in these proceedings if the Committee were to be considering an application for costs against Miss Shahwar. As such, the Committee considered that keeping those matters private would not cause prejudice to ACCA's interests in presenting its case against Miss Shahwar, nor to the public interest. Given that background, the Committee was satisfied that in the particular circumstances of this case, the public interest in holding the hearing in public did not outweigh Miss Shahwar's right to a private life in relation to her personal financial circumstances. The Committee therefore decided to hold any parts of the hearing that related to Miss Shahwar's personal financial circumstances in private.
10. On the first day of the hearing, Ms Ali, on behalf of ACCA, made an application for a typographical error in the Schedule of Allegations to be corrected. The word "and/" had been included in Allegation 3(a) in error and ACCA requested that it be deleted. Miss Shahwar did not object to the application. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 12(1) of the Regulations, which provides that the Committee has a broad discretion in relation to procedural matters, provided that it has regard to the interests of justice, the public, the Student Member, and of the profession as a whole, and to Regulation 10(5) of the Regulations, which provides that the Committee may amend an allegation provided that the Student Member is not prejudiced in the conduct of their defence. The Committee decided to grant the application on the basis that it was in the interests of justice and Miss Shahwar that the typographical error be corrected.
11. On the second day of the hearing, Ms Terry, on behalf of ACCA, made an application for the Schedule of Allegations to be amended. She proposed inserting the word "/or" after the word "and" in Allegation 4b, in order to clarify that it was ACCA's case that Ms Shahwar would be liable to disciplinary action

if only Allegation 1 was proved, if only Allegation 2 was proved, and if both Allegation 1 and 2 were proved. Miss Shahwar did not object to the application. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 10(5) of the Regulations which provides that the Committee may amend an allegation provided that the Student Member is not prejudiced in the conduct of their defence.. The Committee decided to grant the application on the basis that it would add clarity to Allegation 4b and would not cause any prejudice to Miss Shahwar in the conduct of her defence.

BRIEF BACKGROUND

12. Miss Shahwar became a student member of ACCA on 25 February 2021.
13. On 27 January 2022 Miss Shahwar sat a Management Information (MA2) examination (the examination) at Tabani's School of Accountancy, Pakistan.
14. Later the same day, an invigilator and a supervisor at the examination completed 'SCRS 1B – Unauthorised Material' forms. The invigilator recorded that the examination had commenced at 5:15pm and that there had been an incident at 5:30pm. They recorded that Miss Shahwar had been found in possession of unauthorised materials at 5:25pm, stating "*She wrote formulas related to the exam she takes on her left arm*". They also stated that they had "*No idea*" whether the unauthorised material had been used or not. The invigilator described Miss Shahwar's behaviour when the unauthorised materials were found as "*calm*". They commented that Miss Shahwar had stated that she "*accepted she had written formulas to revise and forgot to wash them before exam*". The invigilator took photographs of the unauthorised materials written on Miss Shahwar's arm. The supervisor reported in very similar terms to the invigilator.
15. Also on the same day, Miss Shahwar completed an 'SCRS 2B – Unauthorised Material' form and an 'Examinations Candidate's Statement'.
16. In the 'SCRS 2B – Unauthorised Material' form Miss Shahwar confirmed that she was in possession of unauthorised materials whilst her examination was in

progress. She stated *“I wrote short forms of present value formulae and production volume ration on my left wrist”*. She accepted that the unauthorised materials were relevant to the syllabus being examined, stating *“I accept as I wrote the things I needed to revise before exam and forgot to wash it off in hurry”*. Miss Shahwar stated that she did not use the unauthorised materials, and nor did she intend or attempt to use them.

17. In the ‘Examinations Candidate’s Statement’ Miss Shahwar stated *“I was late due to unpleasant situations of traffic, I was in the public transport where I cannot afford to take out mobile phones or laptop so the only thing I had was my register with a pen, I wrote down important things to revise before the exam which I couldn’t as when I arrived the time was already up. I didn’t mean any misconduct. Hope you’ll understand I had written short form of production ratios and future value formulae”*.
18. In response to correspondence from ACCA, Miss Shahwar provided a response dated 17 May 2022. She stated: *“Sir I had no intention for any malpractice or cheating. The invigilator is also a witness that I wasn’t involved in any such activity. I know the ethics to achieve success in education. I apologize for my mistake, I shouldn’t have these formulas written whilst in the exam hall. Sir I believe that you will understand my situation I didn’t mean any cheating. I’ve written these formulas while standing in the public transport in very rush, due to suffocation a kid next to me vomited on me and when I reached the center while changing and cleaning it I became late for exam, I rushed to the exam hall and just after 5-10 minutes after exam started the invigilator sitting next to me saw these written on my arm and stopped my exam”*.

ALLEGATIONS

Miss Dur E Shahwar (‘Miss Shahwar’), a student member of the Association of Chartered Certified Accountants (ACCA):

1. *On 27 January 2022, during a Management Information (MA2) examination (the Exam), was in possession of unauthorised materials, in*

the form of notes written on her arm, whilst at her exam desk, contrary to Examination Regulations 4.

2. *Intended to use and/or used the unauthorised materials referred to in allegation 1, to gain an unfair advantage in the exam, contrary to Examination Regulation 6(a).*
3. *Miss Shahwar's conduct as referred to in paragraphs 1 and 2 above:*
 - a. *Was dishonest, in that Miss Shahwar intended to use any or all of the unauthorised material which she had written on her arm to gain an unfair advantage; or in the alternative,*
 - b. *Demonstrates a lack of integrity.*
4. *By reason of her conduct, Miss Shahwar is:*
 - a. *Guilty of misconduct pursuant to bye-law 8(a)(i); in respect of any or all of the matters set out at 1 to 3 above; or, in the alternative,*
 - b. *Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of allegation 1 and/or 2.*

DECISION ON ALLEGATIONS AND REASONS

Admissions

19. There were no admissions and so ACCA was required to prove all of the matters alleged.

Evidence and submissions on behalf of ACCA

20. On the first day of the hearing, Ms Ali took the Committee through the documentary evidence relied upon by ACCA. In particular, Ms Ali highlighted

the photographs of Miss Shahwar's arm taken by the invigilator on 27 January 2022. These showed handwritten notes in blue ink on Miss Shahwar's arm.

21. Ms Ali explained that ACCA had made attempts to obtain witness statements from the examination invigilator and supervisor. However, they had not been able to make contact with them.
22. Person A provided a witness statement and live evidence to the Committee. Person A is a Qualifications Technical Advisor for ACCA. Such advisors are subject experts holding responsibility for ensuring that examinations are fit for purpose in terms of content, style, relevance, consistency, educational level and syllabus coverage. They also deal with queries relating to reviewing unauthorised materials found in and/or on students' possession during examinations.
23. Person A stated that it was their opinion that the unauthorised material found on Miss Shahwar's arm was relevant to the syllabus of the MA2 examination. Person A referred the Committee to the formulae and ratios written on Miss Shahwar's arm and stated that they were each linked to specific learning outcomes of the MA2 syllabus (namely, learning outcomes A3, D3 and B2).
24. In response to a question from Miss Shahwar, Person A confirmed that the formulae that were written on Miss Shahwar's arm are not provided within the MA2 examination paper.
25. On the second day of the hearing, Ms Terry made submissions on behalf of ACCA.
26. In relation to Allegation 1, Ms Terry submitted that:
 - a. Miss Shahwar was bound by the ACCA Examination Regulations (the Examination Regulations);

- b. Regulation 4 of the Examination Regulations stipulates that no one should be in possession of unauthorised materials during an examination;
- c. Miss Shahwar had accepted that she had written notes on her arm that were relevant to the examination;
- d. Those notes were unauthorised materials; and
- e. Therefore, Miss Shahwar had acted in breach of Regulation 4 of the Examination Regulations.

27. In relation to Allegation 2, Ms Terry submitted that:

- a. Person A had provided clear evidence that the notes written on Miss Shahwar's arm were relevant to the syllabus being examined;
- b. Miss Shahwar had accepted that the notes written on her arm were relevant to the syllabus being examined;
- c. As there had been a breach of Regulation 4 of the Examination Regulations and the unauthorised materials in Miss Shahwar's possession were relevant to the syllabus being examined, pursuant to Regulation 6(a) of the Examination Regulations, it was now for Miss Shahwar to prove that she did not intend to use the unauthorised materials to gain an unfair advantage in the examination;
- d. Miss Shahwar's account that she forgot to remove the written notes from her arm before the examination because she had had a difficult journey in which a child had vomited on her clothes and so she had to wash her clothing at the examination venue lacks credibility. This is because it is an account that was not provided to the invigilator and supervisor on the day of the examination, but only provided to ACCA after it had commenced an investigation into Miss Shahwar's conduct;

- e. If Miss Shahwar's account is true and she did have to wash her clothing before the examination, then she had the perfect opportunity to wash the written notes from her arm but chose not to do so; and
 - f. Miss Shahwar's account that she forgot to remove the written notes from her arm before the examination because she was in a rush having arrived late to the examination venue is implausible. This is because, even on her own account, Miss Shahwar nevertheless had time to remove and hang up her coat, enter the washroom and wash her scarf and the sleeves of her top, register for the examination, show her identity document, and go through security checks.
28. Taking these matters together, Miss Shahwar has failed to prove that she did not intend to use the unauthorised materials to gain an unfair advantage in the examination.
29. In relation to Allegation 3a, Ms Terry submitted that Miss Shahwar's conduct was dishonest because she would have known that having possession of unauthorised materials during her examination was not permitted, and yet she did have possession of unauthorised materials during the examination. In the alternative, in relation to Allegation 3b, Ms Terry submitted that Miss Shahwar's conduct demonstrated a lack of integrity for the same reason.
30. In relation to Allegation 4a, Ms Terry submitted that Miss Shahwar's conduct, in dishonestly being in possession of unauthorised materials during an examination with the intent to use them to gain an unfair advantage in the examination, was conduct that fell far below the standard expected of a professional accountant. As such, Ms Terry submitted that the conduct amounted to misconduct. In the alternative, in relation to Allegation 4b, Ms Terry submitted that Miss Shahwar's conduct at the very least rendered her liable to disciplinary action because it amounted to a clear breach of Regulations 4 and/or 6(a) of the Examination Regulations.

Submissions from Miss Shahwar

31. The Committee had regard to the various written responses that Miss Shahwar had provided to ACCA including her detailed response dated 21 July 2022, 'Statement of Defense' (sic) dated 19 August 2022 and 'Explanation' dated 6 February 2023. In summary, Miss Shahwar had denied all of the allegations. She had explained that she had written the notes on her arm as part of her revision whilst travelling to the examination. During the bus journey, a child had vomited on her and soiled her clothing. Therefore, upon arrival at the examination venue, she had to wash herself and her clothing. This made her concerned about lateness and caused her to rush. In her hurry, she entered the examination room quickly, forgetting about the notes on her arm. Miss Shahwar had stressed that she had no intention of using the notes to gain an unfair advantage in the examination, nor did she use the notes. As such, Miss Shahwar denied any dishonest state of mind, lack of integrity or misconduct.

32. In her submissions at the hearing, Miss Shahwar stated that:

- a. The journey to the examination was difficult in that she had to take two separate buses. The second bus was crowded and hot;
- b. Whilst on the second bus, she decided to revise for her examination. Due to security concerns and space constraints – she was having to stand for the journey due to the bus being crowded – she decided not to get her laptop or notebook out of her bag. Instead, she used a pen to write on her arms the relevant formulae and ratios that she could recall;
- c. Due to the heat, a child standing close to her vomited and this soiled her coat and scarf;
- d. When she arrived at the examination venue, she removed her coat and hung it up, washed her scarf and then put it back on her head wet, washed her sleeves and rolled them back;
- e. When she arrived at the examination hall, the invigilators were collecting candidates' bags and mobile telephones;

- f. She handed in her items, registered her attendance for the examination and produced her identity card for checking;
- g. She then undertook a security check involving a 'scanner'. She has explained that first the females were checked, and then the males;
- h. Shortly after, upon the instruction of the invigilator, she started the examination;
- i. She started answering examination questions 1 and 2, using the scrap paper provided to make notes of her calculations;
- j. Whilst she was writing down numbers and pointing at the screen, the invigilator that was sitting close to her noticed the writing on her arm. At that point, he intervened and stopped her examination attempt;
- k. She was taken outside of the examination hall, where she was spoken to by the invigilator and the supervisor;
- l. She did not hide anything from the invigilator and supervisor. She answered their questions and completed two forms at their request;
- m. After a pause during which she was left alone whilst the invigilator and supervisor went to another room, her belongings were returned to her; and
- n. She was informed that she could not continue with the examination and that ACCA would be in touch with her by email.

33. In response to questions from the Committee, Miss Shahwar stated that:

- a. She had fully prepared for the examination;
- b. Her intention had been to revise in the assembly hall, outside of the examination hall, before the start of the examination. That was the

reason that she took her laptop and notebook with her on the journey to the examination;

- c. She had written the notes on her arm from memory, without having to get the laptop or notebook out of her bag for reference;
- d. She had written the notes on her arm whilst on the bus as a way of revising the content that she needed to know for the examination. She did not do it with any bad intention;
- e. She did not wash the notes from her arm when she was in the washroom of the examination venue because she was already delayed and was trying to get to the examination hall as soon as possible. She was more focused on getting to the examination on time than anything else. As a result, she did not remember that she had the notes on her arm; and
- f. She did not notice the notes on her arm at that point. She would not have entered the examination hall with the notes on her arm had she remembered that they were there.

34. Miss Shahwar added that she had been honest and truthful throughout. She had made a mistake by having the notes written on her arm, but she had not sought to use them in the examination, and she had not sought to hide them when the invigilator noticed them. Miss Shahwar stressed that she had no intention to use the notes to gain an unfair advantage in the examination. Miss Shahwar stated that she is a high achiever, as evidenced by her high grades in previous ACCA examinations.

Decisions and reasons of the Committee

35. The Committee considered all of the oral and documentary evidence before it and the submissions of Ms Terry and Miss Shahwar.

36. The Committee accepted the advice of the Legal Adviser, which included reference to the applicable burden and standard of proof (including the reverse burden in relation to Allegation 2 due to the reference to Regulation 6(a) of the Examination Regulations), and the interpretation of the terms dishonesty, lack of integrity and misconduct.

Allegation 1 - proved

37. In relation to Allegation 1, the Committee noted that Miss Shahwar accepted that she had written notes on her arm before the examination and that the notes remained on her arm during the examination. The Committee had also seen photographs taken of Miss Shahwar's arm on the day in question and noted that those photographs showed a number of formulae that appeared to have been written by hand onto an arm.
38. Having reviewed Regulation 4 of the Examination Regulations, the Committee was satisfied that, during the examination, Miss Shahwar was not permitted to be in possession of any notes except those expressly permitted within the 'Exam Guidelines'. Having reviewed the Exam Guidelines, the Committee noted that, for centre-based examinations, the only items permitted at one's desk are: a photographic identity document; a small bottle of water; an examination attendance docket; a candidate answer booklet; the question paper; and scrap paper. The Committee was satisfied, therefore, that Miss Shahwar was not permitted to be in possession of the formulae written on her arm because they were not included on the list of permitted items in the Exam Guidelines. As such, the Committee found that the notes written on Miss Shahwar's arm were 'unauthorised materials'.
39. The Committee concluded that, during the examination, Miss Shahwar was in possession of unauthorised materials contrary to Regulation 4 of the Examination Regulations.
40. Accordingly, the Committee found Allegation 1 proved.

Allegation 2 – proved

41. In relation to Allegation 2, the Committee noted that it had already found that Miss Shahwar had breached Regulation 4 of the Examination Regulations by being in possession of unauthorised materials during the examination. Furthermore, drawing upon Person A's evidence to the Committee, it was satisfied that the notes on Miss Shahwar's arm included content relevant to the syllabus being examined. Given this context, the Committee noted that Regulation 6(a) of the Examination Regulations imposed a rebuttable presumption that Miss Shahwar intended to use the notes to gain an unfair advantage in the examination. The Committee was aware, therefore, that the burden of proof now rested on Miss Shahwar to prove that she did not intend to use the notes to gain an unfair advantage in the examination.
42. The Committee rejected Miss Shahwar's account of events – that she wrote the notes on her arm as part of her pre-examination revision and, because of a difficult journey to the examination venue, she forgot to remove the notes before sitting the examination. The Committee also rejected Miss Shahwar's assertion that she did not intend to use the notes to gain an unfair advantage in the examination.
43. In coming to those conclusions, the Committee had regard to what it considered were inconsistencies in Miss Shahwar's account of the events on the day in question. For example:
 - a. Miss Shahwar told the Committee that she did not refer to her laptop or notebook when writing the formulae on her arm during the bus journey to the examination venue. Rather, she was able to remember those formulae without reference to any other notes at that point. If that was the case, the Committee found it improbable that Miss Shahwar would have needed to write down the formulae as part of her pre-examination revision, because she already had a good recollection of the formulae at that point; and
 - b. Miss Shahwar did not mention her difficult journey to the examination venue to the invigilator or supervisor on the day of the examination, and that only became part of her account of events once the ACCA

had commenced its investigation into the matter. The Committee considered that if such a problematic journey had taken place and caused Miss Shahwar the difficulties that she has now described, it was surprising that Miss Shahwar did not inform the invigilator or supervisor before the examination or, at the very least when she was challenged about the presence of the written notes on her arm.

44. The Committee considered that Miss Shahwar would have been aware that she was not permitted to have relevant notes in her possession during the examination. It therefore considered it to be improbable that, having written the notes very recently – during the journey to the examination – Miss Shahwar, upon arriving at the examination venue could have forgotten their presence on her body and failed to consider the importance of removing them before the examination. The Committee also considered it improbable that, if Miss Shahwar had had to push up her sleeves to wash her arms before the examination as she has stated she did, that she did not notice the writing on her arms at that point. The Committee considered that the behaviour of Miss Shahwar, in not removing the notes from her arm before the examination, particularly given that she had an opportunity to do so in the washroom immediately before entering the examination hall, makes it more likely than not that she had an intention to use the notes to gain an unfair advantage in the examination.
45. Taking all of these matters into account, the Committee was not persuaded that Miss Shahwar had proven that it was more likely than not that she did not intend to use the unauthorised materials to gain an unfair advantage in the examination.
46. Accordingly, the Committee found Allegation 2 proved.

Allegation 3a - proved

47. In relation to Allegation 3a, the Committee applied the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. Applying the first stage of the test, the Committee had regard to Miss

Shahwar's previous good character and considered that that made it less likely that she would have had a dishonest state of mind at the relevant time or since been untruthful about her state of mind at that time. However, bearing in mind its findings in relation to Allegations 1 and 2, the Committee considered that Miss Shahwar's subjective state of mind at the relevant times was that she knew that the notes on her arm were unauthorised materials and were not permitted to be in her possession during the examination. Nevertheless, she retained the notes on her arm during the examination with the intention to use them to gain an unfair advantage in the examination. Applying the second stage of the test, the Committee considered that Miss Shahwar's conduct would be viewed by ordinary decent members of the public, applying objective standards, to be dishonest because it amounted to an attempt to gain an unfair advantage in an examination – that is, an attempt to cheat in a professional examination.

48. Accordingly, the Committee found Allegation 3a proved.
49. Given its finding in relation to Allegation 3a, it was not necessary for the Committee to consider the alternative matter set out at Allegation 3b.

Allegation 4a – misconduct established

50. In relation to Allegation 4a, the Committee considered the seriousness of Miss Shahwar's conduct.
51. The Committee bore in mind its earlier findings that Miss Shahwar had intended to use the unauthorised materials to gain an unfair advantage in the examination and that that conduct was dishonest. The Committee considered that such dishonest conduct fell far below the standards expected of student members of ACCA. On that basis, the Committee concluded that Miss Shahwar's conduct was serious enough to amount to misconduct.
52. Accordingly, the Committee found Allegation 4a to be established in relation to Allegations 1, 2 and 3a. Given its finding in relation to Allegation 4a, it was not necessary for the Committee to consider the alternative matter set out at Allegation 4b.

SANCTION AND REASONS

53. In reaching its decision on sanction, the Committee took into account the evidence and submissions that it had already heard, and the further submissions made by Ms Terry and Miss Shahwar.
54. Ms Terry submitted that in assessing the seriousness of Miss Shahwar's dishonest conduct, the Committee may consider it to be at the higher end of the spectrum because it:
 - a. it related to cheating in an examination;
 - b. involved an element of premeditation and planning;
 - c. was purely for Miss Shahwar's personal benefit; and
 - d. had the potential to undermine trust in ACCA qualifications and the profession of accountancy.
55. Ms Terry submitted that, despite overwhelming evidence against her, Miss Shahwar had vehemently denied the misconduct. Ms Terry submitted that Miss Shahwar had shown no real remorse or insight.
56. Ms Terry submitted that a potential mitigating feature is the fact that Miss Shahwar does not have any previous ACCA regulatory findings against her. However, she stated that the Committee will wish to bear in mind that Miss Shahwar had been a Student Member for less than one year at the date of the conduct in question.
57. Miss Terry acknowledged that Miss Shahwar had fully cooperated with the ACCA investigation from the outset and with these proceedings. However, she submitted that Miss Shahwar's denials meant that a disciplinary hearing was required.

58. Miss Shahwar stated that [PRIVATE] at the date of the conduct in question. She stated that following completion of her O'Level examinations, she registered immediately to study with ACCA because she wanted to pursue an education in the United Kingdom.
59. Miss Shahwar submitted that she is a hard-working student as evidenced by her previous examination grades and the scholarship that she was awarded for study at Tabani's School of Accountancy.
60. Miss Shahwar submitted that she made a mistake in that she had forgotten to wash the notes off her arm before the examination and that she has never been involved in any conduct of this sort previously.
61. Miss Shahwar re-iterated her denial of the Allegations now found proved. She stated that she does not accept that she has done any cheating, malpractice or misconduct.
62. Miss Shahwar submitted that she had been truthful throughout the whole of the investigation and regulatory process.
63. Miss Shahwar stated that, as a result of the investigation and proceedings, she has wasted one and a half years of her time. She stated that she has seen her classmates progress and she has been unable to make any progress with her ACCA studies. Miss Shahwar asked the Committee to allow her to continue with her ACCA studies.
64. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 13(4) of the Regulations, relevant caselaw and the ACCA document 'Guidance for Disciplinary Sanctions'. The Committee bore in mind that the purpose of any sanction was not to punish Miss Shahwar, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate.

65. When deciding on the appropriate sanction, the Committee carefully considered whether there were any aggravating and mitigating features in this case.
66. The Committee considered the following to be aggravating features in this case:
 - a. There was an element of pre-meditation and planning to the misconduct;
 - b. The misconduct had the potential to undermine trust in ACCA qualifications and the profession of accountancy; and
 - c. Miss Shahwar's reference to the wasting of her time demonstrated a lack of insight into the importance of ACCA's regulatory process.
67. The Committee considered the following to be mitigating features in this case:
 - a. there were no previous disciplinary findings against Miss Shahwar (although the Committee noted that she had been a Student Member for less than one year at the relevant time); and
 - b. this appeared to have been a single, isolated incident.
68. The Committee noted that Miss Shahwar had apologised for her "*mistake*" in her written response to ACCA. However, at the hearing, Miss Shahwar did not accept that her actions were intentional or amounted to misconduct.
69. Given this background, the Committee considered there had been insufficient evidence of remorse, insight and remediation to reassure it that there was no more than a very low risk of repetition of the conduct.
70. The Committee considered the available sanctions in increasing order of severity.

71. The Committee first considered whether to take no further action, but considered that such an approach was not appropriate given the seriousness of the misconduct.
72. The Committee considered that neither admonishment, reprimand nor severe reprimand would be appropriate and proportionate. The Committee noted that the misconduct was intentional, dishonest and had the potential to cause harm to the reputation of ACCA and the profession of accountancy. It considered that the misconduct was therefore at the higher end of the spectrum in terms of seriousness. As such, the Committee concluded that none of these three sanctions would be sufficient to mark the seriousness of the misconduct, to provide adequate protection of the public and to address the wider public interest in promoting proper professional standards and maintaining public confidence in the profession.
73. The Committee considered that removal from the student register was the appropriate sanction in this case because Miss Shahwar's conduct:
- a. was fundamentally incompatible with being a Student Member;
 - b. amounted to a serious departure from professional standards;
 - c. had the potential to have an adverse impact on members of the public if trust was undermined in ACCA qualifications and the profession of accountancy;
 - d. was dishonest; and
 - e. had demonstrated a lack of insight into the importance of the ACCA regulatory process.
74. The Committee noted the guidance at section E2 of the 'Guidance on Disciplinary Sanctions' that:

- a. *“Dishonesty, even when it does not result in direct harm and/or loss, or is related to matters outside of the professional sphere undermines trust and confidence in the profession”;*
- b. *“The public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics”;* and
- c. *“The Committee should bear these factors in mind when considering whether any mitigation presented by the member is so remarkable or exceptional that it warrants anything other than exclusion from membership or removal from the student register”.*

75. Having considered the mitigating features of this case, the Committee concluded that they were not so remarkable or exceptional so as to warrant anything other than removal from the student register.
76. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that could be imposed and recognised that it could have negative consequences for Miss Shahwar in terms of her reputation and financial circumstances. However, the Committee considered the sanction to be proportionate in the circumstances, given the seriousness of the misconduct, the need to protect the public, and the wider public interest in declaring and upholding proper professional standards and maintaining public confidence in ACCA and the profession of accountancy.
77. Accordingly, the Committee decided to remove Miss Shahwar from the student register.
78. The Committee did not deem it necessary to impose a specified period before which Miss Shahwar could make an application for re-admission as a Student Member.

COSTS AND REASONS

79. Ms Terry made an application for an award of costs against Miss Shahwar, totalling £13,374.50. The Committee was provided with both a simple and a detailed version of the Schedule of Costs, providing a breakdown of the activity undertaken by ACCA and the associated costs. Ms Terry submitted that the costs claimed were appropriate and reasonable.
80. Miss Shahwar provided the Committee with a Statement of Financial Position, setting out limited details of her financial means.
81. [PRIVATE]
82. [PRIVATE]
83. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and the ACCA document 'Guidance for Costs Orders' (1 January 2021).
84. The Committee was satisfied that ACCA was entitled to costs in principle and had been justified in investigating these matters. It considered that the costs applied for were reasonable and appropriate. However, the Committee considered that Miss Shahwar had demonstrated that [PRVIATE].
85. Given the circumstances of the case, the Committee considered that the appropriate and proportionate action would be to make no award for costs.

ORDER

86. The Committee made the following order:
 - a. Miss Shahwar shall be removed from the ACCA student register.

EFFECTIVE DATE OF ORDER

87. In accordance with Regulation 20(1) of the Regulations, the order relating to removal from the ACCA student register will take effect at the expiry of the appeal period.

Ms Valerie Paterson
Chair
03 August 2023