

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Aayush Gupta

Heard on: Wednesday, 30 July 2025

Location: Remotely by MS Teams

Committee: Mr Martin Winter (Chair)
Ms Andrea White (Accountant)
Mr Nigel Pilkington (Lay)

Legal Adviser: Mr Alastair McFarlane

**Persons present
and capacity:** Mr Samuel Irving (Case Presenter on behalf of ACCA)
Miss Mary Okunowo (Hearings Officer)

Outcome: Removal from the Student Register with immediate effect
and no costs awarded to ACCA.

1. ACCA was represented by Mr Irving. Mr Gupta did attend but was not represented. The Committee had before it a bundle of papers, numbered pages 1 – 79, a tabled additional bundle numbered pages 1 – 9, a service bundle, numbered pages 1-17, and a copy of a video recording of the exam and a copy of the phone logs relating to the exam.

SERVICE

2. Having considered the service bundle, and the Notice of Hearing the

Committee was satisfied that notice of the hearing was served on Mr Gupta in accordance with the Complaints and Disciplinary Regulations 2014 (amended 01 January 2020) ("CDR").

ALLEGATIONS

Mr Aayush Gupta an ACCA student, in respect of his remotely invigilated Financial Reporting (FR) exam held on 14 December 2023 (the exam):

1. Attempted to deceive the exam Proctor and/or supervisor by giving false or misleading information to them, contrary to Exam Regulation 3.
2. Used an unauthorised item, namely a mobile telephone with camera, contrary to Exam Regulation 5(a).
3. Took photographs or video recordings of one or more exam questions with the said mobile telephone, contrary to Exam Regulation 11.
4. Mr Gupta's conduct in respect of any or all of allegations 1 to 3 above was:
 - I. Dishonest, in that he intended to gain an unfair advantage in the exam and/or a future FR exam, or in the alternative:
 - II. Demonstrates a failure to act with integrity.
5. By reason of the above, Mr Gupta is:
 - I. Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the conduct referred to above, or in the alternative:
 - II. Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of allegations 1 to 3.

BACKGROUND

3. Mr Gupta has been an ACCA student since 08 August 2019.

4. On 14 December 2023, Mr Gupta sat an ACCA remotely invigilated Financial Reporting exam. His exam was terminated after he was confronted during a call with the exam Proctor about using his phone.
5. The exam video, chat log and phone log were reviewed by the Investigations Officer. The exam video has a total run time of 2hr22m07s in which the exam itself commenced at approximately 9m00s. The Investigations Officer observed the following:
6. Mr Gupta can be seen holding up a black rectangular object (which appears to be a mobile telephone) to his exam screen at the following times:

02hr09m26s – 02hr09m34s

02hr09m35s – 02hr09m45s

02hr10m59s – 02hr11m04s

02hr11m20s – 02hr11m24s

02hr11m40s – 02hr14m35s

7. Mr Gupta could be heard on a call with the exam Proctor regarding his phone usage during the exam. His responses are detailed below:

“Student heard speaking to the online Proctor who says, “you are using the phone I can see”. Student says “sorry”.

Proctor repeats “you are using your phone” (x2)

Student says, “what you say what I am using mobile phone, no my mobile phone is outside my arms reach”.

Proctor says, “It was visible on the screen that you are taking the photos”.

Student says, “I’m so sorry but that is not the case”.

Proctor says, “there is a recording and we see it” (x2)

Student says, “No I am not using anything, I am just writing on the keyboard”.

Proctor says, “we have the evidence and because of this”.

Male voice / ACCA rep says “Hi this is the ACCA supervisor, invigilated since the start of the exam and we can see you are using your phone, you are recording the answers... We are clear we have just seen that you are using the phone... just accept that we are reporting this to ACCA”.

Student says “No erm there has been some misunderstanding my phone is outside arms reach, it is on the side of the table. I am not using, both of my hands are on the keyboard, I don’t know what you are seeing but this is not the case.....”

8. The Investigations Officer wrote to Mr Gupta’s registered email address on 02 April 2024, requesting his comments and observations to the matter by 17 July 2024. A link to the exam footage video was also shared with Mr Gupta on this day.
9. In his responses on 16 April 2024, Mr Gupta admits that his phone was in his hand during the exam for the following reasons:

‘I realised that my home WiFi got closed due to which I was opening my mobile phone hotspot so that my exam could run smoothly and for the same reason I once stand up as well. My only and biggest fault is I didn’t update the WiFi issue with the Proctor and the reason behind not updating about the same is that I feared that if the Proctor would cancel my exam and suggest me to reappear the same exam’.

10. Mr Gupta denied any wrongdoing.

ACCA SUBMISSIONS

Allegation 1 – Breach of Exam Regulation 3

11. ACCA submitted that Mr Gupta breached Exam Regulation 3, in that he deceived the exam Proctor. When the exam Proctor brought to Mr Gupta’s attention his phone usage during his exam, he repeatedly denied this and insisted, amongst other things, that his mobile phone was out of arm’s reach and that he had been ‘adjusting his laptop and charger’ and that ‘both his hands and fingers were on the keyboard’, when this was not true.

Allegation 2 – Breach of Exam Regulation 5a

12. ACCA submitted that Mr Gupta breached Exam Regulations 5(a) in that he can be seen on multiple occasions holding and using his phone during his FR exam on 14 December 2023.
13. Mr Gupta has admitted to using his phone during the exam. These instances were noted and captured in the exam footage video and the exam supervisor's report form.

Allegation 3 - Exam Regulation 11

14. ACCA submitted that the contemporaneous evidence points to Mr Gupta capturing live exam content with his mobile telephone, either by photographing or recording it. The recording shows multiple instances of his holding the mobile phone up towards the screen in landscape, consistent with his capturing live content and inconsistent with his version of events, namely that he was securing a Wi-Fi hotspot.

Allegation 4 – Dishonesty / Lack of Integrity

15. Mr Gupta has used a mobile phone during the exam. ACCA submitted that Mr Gupta's explanation as to using the phone to obtain a hotspot connection was not credible, and the more likely explanation was that he was using the phone to gain an unfair advantage in the exam.
16. ACCA submitted that the contemporaneous evidence is consistent with his capturing live exam content as an aide memoire and/or to share with a third party (or parties) to obtain assistance in answering the question(s). Such conduct was dishonest in that Mr Gupta would have been aware that such conduct amounted to cheating in the exam. Cheating in an exam would be regarded as dishonest by ordinary decent people.
17. Furthermore, ACCA submits that Mr Gupta was dishonest, in that he denied using his mobile phone during the exam when confronted about this on a call with the exam Proctor and/or supervisor.

Integrity

18. A lack of integrity was submitted as an alternative, if the Committee did not find dishonesty.

Misconduct

19. ACCA's submitted, that if any or all of the facts set out in Allegations 1 to 4 are found proved, these findings were sufficiently serious to reach the threshold for misconduct under bye-law 8(a)(i).

Liability to disciplinary action

20. If the Committee is not persuaded that this matter amounts to misconduct, ACCA submits that Mr Gupta is liable to disciplinary action in any event on the basis that he is in breach of the regulations referred to in the allegations.

MR GUPTA'S SUBMISSIONS

21. Mr Gupta denied any wrongdoing. Specifically, he denied attempting to deceive the exam Proctor or taking any photographs or video recordings of the exam questions with his mobile phone. He denied that he was dishonest or had been intending to cheat or intending to gain an unfair advantage in the exam or any future exam. He maintained that his conduct was innocent. He maintained that he had only used his mobile phone because during the exam the Wi-Fi went down, and he was attempting to connect to his phone's hotspot.
22. The Committee noted that Mr Gupta had consistently denied any wrongdoing and had fully engaged with ACCA in its investigation and had provided answers in his email to ACCA dated 16 April 2025. He had also provided a "Statement of Defence" document, the most recent version of which was dated 09 July 2025.

DECISION ON ALLEGATIONS AND REASONS

23. The Committee accepted the advice of the Legal Adviser.

24. The Committee heard that there had been no previous findings against Mr Gupta and accepted that it was relevant to put his good character into the balance in his favour.

DECISION ON FACTS

25. The Committee carefully considered all the documentary evidence it had received, both from ACCA and from Mr Gupta, as well as Mr Gupta's oral evidence and the submissions of both parties. It reminded itself to exercise caution in relation to its reliance on documents. The Committee reminded itself that the burden of proving the case was on ACCA and had regard to the observation of Collins J in *Lawrance v General Medical Council* on the need for cogent evidence to reach the civil standard of proof in cases of dishonesty. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the 'balance of probabilities'.
26. The Committee noted that in the circumstances of this case Mr Irving conceded that ACCA did not seek to rely on the "reverse burden" of proof provision under Exam Regulation 6.
27. The Committee agreed that the central issue in this case was whether ACCA could prove on the balance of probabilities that Mr Gupta had used his mobile phone to take photographs of one or more exam questions during his remotely invigilated exam on 14 December 2023. Mr Gupta did not dispute that he had his mobile phone in his hands during the exam but maintained that this was for the purpose of trying to connect to a hotspot because of a Wi-Fi failure.
28. The video recording of the exam, which the Committee had carefully considered, showing Mr Gupta holding a mobile phone in a landscape position in front of his computer screen. This continues for about four minutes. This evidence was not disputed by Mr Gupta.
29. Mr Gupta maintained that he only used the mobile phone for the purpose of trying to connect to its Wi-Fi hotspot and that he was not using the phone to cheat in the exam.

30. In resolving this main factual issue, the Committee considered that the evidence of the video recording and the transcript had particular weight owing to it being contemporaneous. In both the video and the transcript of the conversation between Mr Gupta and the Remote exam invigilator (the Proctor) there was in the Committee's judgment no contemporaneous evidence to support Mr Gupta's explanation of a Wi-Fi problem. When challenged by the Proctor as to the use of the phone, Mr Gupta did not refer to any connectivity issues and initially stated that he was not using his phone. This goes against the direct evidence of the video. Mr Gupta explained that he was anxious and nervous and referred to communication difficulties. Whilst making due allowance for the fact that Mr Gupta's first language was not English, the Committee found that Mr Gupta's explanation lacked plausibility. It was unsupported by the contemporaneous documentation and the Committee concludes that the most likely response to the Proctor's intervention would have been instinctively to detail the connection problems and explain the proper use of the mobile phone.
31. Further, during the course of his oral evidence Mr Gupta explained that he had used the "chat box" facility to communicate the connectivity problems that he was having. There was no evidence in the relevant logs to support this assertion, and the Committee noted that this was the first time Mr Gupta had raised this matter. For these reasons, the Committee rejected this evidence. The Committee also noted that Mr Gupta had explained that there was a time gap between using his phone to try and secure a hotspot and the Proctor contacting him to question the use of the phone. The Committee is satisfied that the video recording undermines this explanation and for that reason makes it unreliable.
32. The Committee determined that the video showed Mr Gupta holding the mobile phone in a landscape mode in front of his computer screen for a prolonged period. The Committee rejected that this was consistent with any connectivity issues and, on the balance of probabilities, found it to be more consistent with using the phone to take photographs of the computer screen. Whilst the Committee had no direct evidence of any photographs of any particular exam questions, the Committee concluded that it was a reasonable inference to draw from the facts that it has found, that Mr Gupta was taking photographs of exam questions on his computer screen during the exam.

33. Having made these findings on the central issues for the reason set out paragraph 27 to 32 above, the Committee considered the specific allegations.

Allegation 1

Attempted to deceive the exam Proctor and/or supervisor by giving false or misleading information to them, contrary to Exam Regulation 3.

34. The Committee was satisfied that Mr Gupta's recorded discussion with the Proctor where he said, for example, that he did not have the phone in his hand and that it was out of reach, amounted, on the evidence of the video, to false information. The Committee was satisfied that the provision of this information to the Proctor responsible for the exam was an attempt by Mr Gupta to deceive the Proctor. Accordingly, the Committee was satisfied that Allegation 1 was proved.

Allegation 2

Used an unauthorised item, namely a mobile telephone with camera, contrary to Exam Regulation 5(a).

35. The Committee was satisfied on the video footage that Mr Gupta used a mobile phone during the exam. He did not dispute this. Accordingly, the Committee was satisfied that Allegation 2 was proved.

Allegation 3

Took photographs or video recordings of one or more exam questions with the said mobile telephone, contrary to Exam Regulation 11.

36. For the reason set out above the Committee was satisfied that it was a reasonable inference to draw on the fact that it accepted that on the balance of probabilities Mr Gupta was taking photographs of exam content on his mobile phone during the exam. Accordingly, it was satisfied that Allegation 3 was proved.

Mr Gupta's conduct in respect of any or all of allegations 1 to 3 above was:

I. Dishonest, in that he intended to gain an unfair advantage in the exam and/or a future FR exam, or in the alternative:

II. Demonstrates a failure to act with integrity.

37. The Committee specifically considered Mr Gupta's knowledge or beliefs to the facts. The Committee was satisfied that Mr Gupta knew that it was a requirement of the regulations that photographs of his exam paper were not to be taken by anybody. He had indicated his agreement to the exam rules and had sat previous online ACCA exams. For the reason set out above it was satisfied that Mr Gupta took photographs of the exam content with an intention to gain an unfair advantage in that exam or future exams. In effect, he was cheating. The Committee was satisfied that each of the facts that it has found proved at Allegations 1 to 3 were dishonest conduct and would be judged as such by the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 4(I) was proved.

38. Given its findings on Allegations 4(I) the Committee did not go on to consider the alternative set out in Allegations 4(II).

Allegation 5

By reason of the above, Mr Gupta is:

I. Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the conduct referred to above, or in the alternative:

II. Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of allegations 1 to 3.

39. The Committee next asked itself whether the proven conduct amounted to misconduct.

40. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Mr Gupta's actions brought discredit on him, the Association and the accountancy profession. It was satisfied that dishonest conduct in a professional exam was deplorable conduct and reached the threshold of seriousness for misconduct. Being honest and trustworthy is a fundamental tenet of the accountancy profession. His conduct therefore had the potential to undermine the integrity of ACCA's examination system and public confidence in those taking the examinations and thus the profession.
41. In the light of its judgment on misconduct, no finding was needed upon liability to disciplinary action.

SANCTIONS AND REASONS

42. The Committee noted its powers on sanction were those set out in Regulation 13(4). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
43. The Committee considered that the conduct in this case was very serious. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Being honest is a fundamental requirement of any accountant.
44. The Committee identified two mitigating factors:
- Mr Gupta was of previous good character with no previous disciplinary record
 - He had engaged and fully co-operated
45. The Committee identified the following aggravating factors:
- No evidence of insight of the impact of this behaviour

- Breaching the trust placed in examinees undertaking professional exams remotely
 - Potential damage to the examination system
 - Potential to undermine the reputation of the profession.
46. Given the Committee's view of the seriousness of Mr Gupta's conduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. In considering a Severe Reprimand, the Committee noted that a majority of the factors listed in the guidance were not present and, in particular, there was no evidence of insight. The Committee had regard to Section E2 of the Guidance on Dishonesty and the seriousness of such a finding on a professional. It considered the factors listed at C5 of the Guidance for removal of Mr Gupta and was satisfied that his conduct was fundamentally incompatible with remaining on the register. The Committee was satisfied that only removal from the register was sufficient to mark the seriousness to the profession and the public.

COSTS AND REASONS

47. ACCA claimed costs of £7,102.50 and provided detailed schedules of costs. It noted Mr Gupta has provided a formal statement of means and has had supporting information from him. It had regard to ACCA's Guidance for Costs Orders. The Committee decided that the costs claimed were reasonably incurred. The Committee decided that it was appropriate, in principle, to award costs in this case, and considered the costs claimed by ACCA to have been reasonably incurred. However, given Mr Gupta's [PRIVATE] the Committee considered it appropriate and proportionate to reduce the costs claimed to a nil award.

EFFECTIVE DATE OF ORDER

48. The Committee was persuaded that the ground for imposing an immediate order was made out given the serious facts of this case and that there is a risk

of Mr Gupta holding himself out as an ACCA student if an immediate order is not imposed.

Martin Winter
Chair
30 July 2025