

A man in a dark blue cardigan and striped shirt is talking on a mobile phone in an office. He is looking out a window. In the background, there is a desk with papers and rolled-up documents, and a whiteboard with some diagrams.

Guide to
ACCA'S
CONCILIATION
SERVICE

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Introduction

This guide aims to assist complainants and members to understand ACCA's Conciliation Service procedure, within the complaints and disciplinary process. If there is any conflict between this guide and the ACCA Rulebook, the latter shall take precedence. The ACCA Rulebook can be found on our website at www.accaglobal.com

This guide is up to date as at 1 January 2019. The next edition is due to be issued on 1 January 2020.

Any reference to 'member' should be read to include all members, students, affiliates and firms, unless the contrary is indicated.

Overview

MAKING A COMPLAINT TO ACCA

Before raising a complaint with ACCA, the complainant should first lodge a formal written complaint with the member in question. ACCA regulations require firms to have in place internal complaints-handling procedures. The complaint should be investigated by a person of seniority within the firm who, where possible, has not been directly involved in the matter. Please use the template '*lodging a complaint with a member or firm*' available on the [Making a Complaint about an ACCA Member](#)¹ section of our website. Please note that we will not ordinarily consider a complaint, unless this route has been exhausted.

If the firm have not resolved the dispute after four weeks, the complainant may lodge a complaint with ACCA using our [Complaint Form](#)². Complaints not submitted on our standardised complaint form, may result in the consideration of the complaint being delayed. To avoid delays, please ensure that you answer all questions on the form and attach a copy of all your complaint correspondence with the firm and copies (not originals) of all other relevant documents which support your complaint. Please submit your completed complaint form by email to complaintassessment@accaglobal.com

Or by post to:

ACCA, Assessment Department
The Adelphi
1/11 John Adam Street
London WC2N 6AU

Please note that we may be unable to proceed with your complaint if you fail to provide supporting documentation, or if you do not confirm that you will be willing to give evidence at any future disciplinary hearing if asked to do so.

If you would like some advice prior to submitting a complaint form to ACCA, please contact the Assessment Department on: +44 (0)20 7059 5000.

¹ <https://www.accaglobal.com/uk/en/footer/toolbar/contact-us/make-a-complaint-about-an-acca-member.html>

² https://www.accaglobal.com/content/dam/ACCA_Global/disc/complain/complaint-form.pdf

ACCA Conciliation Service

RECOGNISED ADR PROVIDER

ACCA is recognised as an ADR (Alternative Dispute Resolution) provider by the UK Chartered Trading Standards Institute. [View a complete list of ADR entities published by the European Commission](#)³.

ACCA is also listed as a Dispute Resolution Body on the Online Dispute Resolution website accessible to EU consumers and traders and managed by the European Commission. If you have a complaint about goods or services you bought online in an EU country please view this list of [Dispute Resolution Bodies](#)⁴.

ACCA offers conciliation to help resolve complaints which are unlikely to lead to disciplinary action. When seeking to resolve complaints, ACCA will have regard to matters of public interest and the *ACCA Rulebook*, which includes ACCA's code of ethics and conduct which our members are bound to abide by.

WHAT IS CONCILIATION?

Conciliation is a flexible process that involves negotiation and discussion between the member and complainant with a conciliator assisting. It allows both parties to settle a problem and reach a satisfactory outcome. The conciliator assists both parties as he or she acts neither for the member nor the complainant, and seeks to find a solution which is acceptable to both.

ACCA's conciliation process is primarily telephone-based but can be conducted in writing if necessary. Both parties are required to engage in the procedure and a conciliatory approach is utilised in order to assist the parties in their disagreement. However, due to the fact that ACCA is a regulator, the investigations officer will also consider whether any breaches of our rules have occurred.

ADVANTAGES OF CONCILIATION

When people are in dispute with each other, it is sometimes difficult for them to step back from the situation and take stock. As a neutral party, the investigations officer is able to take an objective view and suggest solutions. A negotiated outcome is likely to be more satisfactory to both parties and often has the advantage of avoiding legal action.

Conciliation can be hugely helpful in resolving complaints that seem unresolvable. The process allows the parties to talk directly to the conciliator in order to express not only their complaint but also the consequences of an alleged error or lack of care.

In addition, conciliation can facilitate a practical resolution to a complaint. For example, whilst a complainant may feel incredibly frustrated by a member's failure to provide their new accountant with books and records, and want the member punished for their behaviour, this is not going to solve the immediate problem. In this situation, the conciliator would contact the member and remind them of their obligation to provide this information. Following the provision of the information, the conciliator would then consider whether the delay in providing the information has resulted in a breach of ACCA rules and whether any disciplinary action is warranted.

³ <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home.chooseLanguage>

⁴ <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home.chooseLanguage>

Access to ACCA's Conciliation Service

IS CONCILIATION APPROPRIATE FOR ALL COMPLAINTS?

When a complaint is lodged with ACCA about a member, the assessment manager will assess the complaint for any aspects which may be appropriate for conciliation and a member of the conciliation service will contact you shortly thereafter to discuss your complaint with you. Examples of areas that the conciliation service can assist with are fee disputes, dissatisfaction with the level of client care and problems when moving to a new accountant. If a complaint would benefit from conciliation and is retained by the conciliation service, it does not mean that it is less important than other complaints, but simply that it can be handled in a different way.

Further information in respect of ACCA's complaint assessment procedures can be found on the ACCA website [FAQs about complaint assessment](#)⁵.

COST

The Conciliation Service is free of charge. All we ask is that the parties to conciliation make themselves available to the process and provide evidence promptly when requested. As the conciliation process is free to all parties, we do not award costs at the end of the process.

REPRESENTATION

Neither party to ACCA's conciliation process is obliged to obtain independent advice or be represented or assisted by a third party (eg, appoint a lawyer or a legal advisor), although they may choose to do so.

Parties are not prevented from their right to independent advice or to be represented or assisted by, for example, a friend at any stage of the process should they want to.

CROSS-BORDER DISPUTES

ACCA is able to accept complaints relating to both domestic and cross-border disputes, where at the time of engagement, the member is established in one country (eg, UK) and the complainant is resident in another (eg, France).

ACCA is also able to receive complaints referred to us through the EU online dispute resolution platform (ODR). The ODR is an EU mechanism for directing disputes regarding online purchases to the appropriate approved ADR provider.

LANGUAGE

Whilst ACCA is able to accept an initial complaint in any language, we are currently only able to offer conciliation in English.

Please note that if a complaint is considered to be a matter of misconduct, the matter would be referred to our investigation department who would investigate regardless of language.

⁵ <https://www.accaglobal.com/uk/en/footer/footer/contact-us/make-a-complaint-about-an-acca-member/faqs-about-complaint-assessment.html>

Grounds for complaint rejection

ACCA POLICY

ACCA acts in the public interest and we are obliged to utilise our resources efficiently and effectively to achieve that purpose. We are committed to the principles of good regulation, which require us to discharge our public interest obligations in a manner which is proportionate, consistent, transparent, targeted and accountable.

With the above in mind, ACCA operates a policy whereby certain complaints will not be considered appropriate for conciliation or investigation as a matter of policy or because they fall outside of our jurisdiction:

- Complaints will not usually be referred for conciliation or investigation if more than twelve months have passed since the grounds of complaint arose, and a firm's internal-complaints process has come to an end. The end of a firm's internal-complaints process should be marked by a final response letter/deadlock letter from the firm. This twelve month policy will not apply in instances where ACCA considers that the allegations amount to misconduct and/or it is in the public interest to investigate the matter complained of.
- Complaints lodged in stages.
- Complaints which should be raised direct with our member before being raised with ACCA.
- Complaints which do not engage ACCA's *Code of Ethics and Conduct*.
- Complaints which are, or ought properly to be, the subject of proceedings in another forum eg, commercial or employment disputes.
- Complaints that a member has committed a criminal offence, where there is no conviction.
- Complaint that a member has lied or attempted to mislead in the course of court or tribunal proceedings.
- Complaints about members of other accountancy bodies.
- Complaints that a member is taking or is threatening to take legal action.

Further detailed information can be found within our published policy document: [Complaints – ACCA investigates](#)⁶ document (PDF format, 39 KB).

RIGHT TO MAKE FURTHER REPRESENTATIONS

If ACCA decides not to accept a complaint for conciliation or investigation, the complainant will be provided with the reasons for our refusal and an opportunity to provide further reasons (representations) and/or evidence as to why the matter should be conciliated or investigated. In order for ACCA to reconsider the complaint, the complainant is required to provide their further representations within 30 days of ACCA's refusal notification.

Any further representations will then be considered in consultation with another manager who has not previously had conduct of the complaint. If those further representations are accepted, the matter will be referred for either conciliation or investigation. If they are not, you will be informed and the decision will be deemed final.

The member will be provided with a copy of the complaint and if appropriate, asked to comment. They will also be advised of the reason for the rejection and that an opportunity for further representations has been provided.

⁶ https://www.accaglobal.com/content/dam/ACCA_Global/disc/complain/complaints-ACCA-will-investigate.pdf

Expertise, independence and impartiality

CONCILIATION SERVICE STAFF

The Conciliation Service is comprised of five ADR officials and consists of one manager and four senior investigators (case handlers), all of which have been appointed on a permanent basis after a rigorous interview to check competency.

Each member of the team is either legally qualified and/or an accredited mediator. Their role is both regulatory and conciliatory, in that they are obliged to ensure that our members are operating within the confines of ACCA rules and regulations, whilst also attempting to conciliate the complaint.

ACCA acts in the public interest and no investigations officer will discharge their duties in a manner which is biased to either party to the complaint or their representatives.

CONFLICTS OF INTEREST

When a complaint is allocated to an investigations officer within the Conciliation Service, the investigations officer will consider whether they have any connection with anyone involved in the complaint or a body referred to in the complaint, and if so, they will disclose the same immediately.

The investigations officer will remain alert to the possibility of a potential conflict of interest arising during the period of their involvement in a dispute, and the obligation to disclose any conflict will continue throughout the lifetime of the conciliation process.

Where it is identified that the investigations officer has a conflict of interest, the complaint file will be re-assigned to another investigations officer within the Conciliation Service. If it is not possible to re-assign the complaint within the Conciliation Service, the complaint file will be passed to an investigations officer within the Investigations Department. Alternatively, the parties may wish to explore ADR through an external organisation.

PRINCIPLES AND CONSIDERATIONS

ACCA acts in the public interest and in accordance with the principles of better regulation, which are enshrined within the Legislative and Regulatory Reform Act 2006. ACCA strives to take effective and proportionate disciplinary action, where appropriate, while carrying out procedures that are consistent and transparent.

ACCA acts within a framework of policy and procedural guidelines, to determine how best to apply the principles of better regulation in connection with the discharge of its regulatory responsibilities.

While seeking to resolve a dispute, the Conciliation Service will take into account the following non-exhaustive factors:

- The seriousness of the complaint(s)/allegations(s) made
- Any previous complaint/disciplinary history pertaining to the member
- ACCA's *Code of Ethics and Conduct* and other relevant provisions of the *ACCA Rulebook*
- Continuing and/or future risk to the public
- Any statutory activities involved
- Jurisdiction shared with another regulator
- The public interest.

The process

TYPES OF COMPLAINTS WE CONCILIATE

ACCA considers complaints about its members and will attempt to conciliate matters between parties where it considers it appropriate to do so.

The type of complaints considered appropriate for conciliation, can range from client care issues, fee disputes, competence and due care, provision of handover information and professional behaviour issues. It is not possible to provide an exhaustive list of the types of complaints considered appropriate, as each complaint is considered on its own unique facts.

For more general guidance on the types of complaints considered by ACCA, please download the [Complaints ACCA Investigates](#)⁷ document (PDF format, 39 KB). This document also sets out the grounds on which ACCA can refuse to accept a complaint for conciliation or investigation.

THE CONCILIATION PROCESS

- The conciliation process is ordinarily conducted by telephone but can also be conducted in writing. The investigations officer will contact both parties in order to gain full background information and an understanding of what the complainant is hoping to achieve. The complainant will be required to inform the investigating officer of their full complaint during the initial phone call and provide supporting evidence if requested. Complaints added later may not be considered and delays in providing supporting evidence may result in the investigating officer being unable to assist.
- During the conciliation process the parties will be afforded the opportunity to express their points of view and upon request, the parties will be provided with the arguments, evidence and facts put forward by the other party. Parties will be provided with a reasonable amount of time (14 days) to provide information and comment on information received.
- Once the investigating officer has a clear picture of the problem, he or she will suggest possible ways of resolving it and will encourage the parties to adopt a practical approach.
- The investigating officer may need to remind the member of his or her obligations under ACCA's *Rulebook*. If the member is found to have breached a regulation, the investigating officer will require the breach to be rectified where appropriate.
- At the conclusion of the process, the investigating officer will confirm the outcome by telephone and in writing. Many cases are resolved successfully, however, sometimes parties are unwilling or unable to accept a solution and in such cases conciliation is considered to have been unsuccessful.

THE END OF CONCILIATION

After the conciliation process has concluded (whether successfully or unsuccessfully), if the investigating officer has identified that a breach of ACCA's rules or regulations has occurred, and it is not sufficiently serious to warrant disciplinary action, it will be stated when the case is closed. However, if there are any disciplinary issues indicated, such as serious breaches of regulations, the case will remain open and will be referred to the investigations team.

8 https://www.accaglobal.com/content/dam/ACCA_Global/disc/complain/Guide-to-complaints-and-disciplinary-procedures.pdf

The process

POSSIBLE CONCILIATION OUTCOMES

The parties will be advised in writing of the outcome of the conciliation process and the grounds on which the outcome is based.

- Closed – Conciliation successful.
- Closed – Conciliation unsuccessful (no case to answer/lack of evidence).
- Closed – Conciliation successful/unsuccessful (case to answer) – no disciplinary action taken but allegation recorded on the member's file for five years and may be taken into account if a subsequent complaint is received during this period.
- Referred to the Investigations Department.

RIGHT TO INDEPENDENT REVIEW

If the complaint is closed following unsuccessful conciliation, the parties may request that the investigating officer's decision be reviewed by an independent assessor. A request must be submitted in writing with detailed grounds for review within 30 days of notification of the decision. Further information on the role of the Independent assessor can be found in [Guide to ACCA's complaints and disciplinary process](#)⁸. No right to independent review is available where a complaint has been successfully conciliated.

HOW LONG DOES IT TAKE TO CONCILIATE A COMPLAINT?

The conciliation process is predominately telephone based and as such, we are usually able to resolve complaints faster than a paper-based investigation. However, the resolution of a complaint in conciliation is highly dependent on the parties' willingness to engage in the process and how long it takes to receive a 'complete complaint file'.

On average complaints allocated to the Conciliation Service take four months to be resolved, from the time we receive a complaint, to the time that an outcome is reached.

Where a complaint requires further investigation, we aim to complete our investigation within six months of allocation. However, depending on the nature of the complaint the investigation may progress beyond this time scale.

COMPLETE COMPLAINT FILE

A complete complaint file means we have received all the relevant information relating to the dispute. This is not limited to information from the complainant and member, but also includes any technical advice, witness statements, external evidence etc.

The investigations officer will notify the parties in writing when we are in receipt of a complete complaint file, and further written notification of the outcome of conciliation will be provided to the parties (in writing) within 90 days of that notification.

RIGHT TO WITHDRAW FROM THE CONCILIATION PROCESS

ACCA's conciliation process is voluntary and neither party is obliged to partake in the process and is at liberty to withdraw from the process at any time. It is, however, important to note that a refusal to partake in the conciliation process will not result in an automatic referral of the complaint to the Investigations Department. As mentioned above, conciliators are also senior investigations officers and as such, whilst the conciliation process may have ceased, it is ACCA's decision as to where that resource is used most effectively.

THE EFFECT OF SUCCESSFUL CONCILIATION ON ACCA'S ABILITY TO DISCIPLINE A MEMBER

An agreement to settle does not excuse a member's conduct if it does not meet ACCA's standards. A member can still be liable to ACCA disciplinary action, even where conciliation has resulted in a successful outcome for the parties.

The impact of conciliation

THE LEGAL EFFECT OF A CONCILIATION AGREEMENT

Any settlement agreed upon during ACCA's conciliation process, is not legally binding on either party to the process and is not enforceable by law. However, ACCA does not resolve disputes by imposing solutions, therefore parties to the process normally honour the agreements they arrive at.

Parties to ACCA's conciliation process are advised that:

- they have a choice as to whether or not to agree to, or follow a proposed solution
- participation in the conciliation process does not prevent them from seeking redress through court proceedings
- the proposed solution may be different from an outcome determined by a court applying legal rules
- the proposed settlement is not legally binding.

Further information

COMPENSATION

ACCA's Conciliation Service does not have the power to compel a member to pay compensation to a complainant.

Making a complaint against a member is not a substitute for seeking damages or other redress through the courts. Therefore, while ACCA members or firms may be ordered to pay compensation if a complaint against them is referred to a Disciplinary Committee and found proved, the maximum sum payable is £1,000.

ACCA itself cannot provide compensation for any loss suffered.

COMPLAINTS ABOUT ACCA'S HANDLING OF A COMPLAINT

ACCA aims to ensure that the conciliation process is impartial and that both complainants and members are treated fairly. Any party who is unhappy with the way in which the conciliation has been handled is encouraged to raise his or her concerns with the investigating officer direct.

If the investigating officer is unable to allay your concerns, you may lodge a formal complaint by sending it to complaintassessment@accaglobal.com. You will be sent details of our formal complaints handling procedures including details of the oversight regulator to whom you may escalate any concerns if you are not able to obtain reassurance through our own procedures.

The investigating officer's manager will normally conduct a review of the way in which the conciliation has been handled. In appropriate cases, a review will be conducted by an independent assessor. Such a review is limited to the handling of the conciliation and is not a way of appealing a decision.

THE ACCA MEDIATION AND ARBITRATION SCHEMES

ACCA has an agreement with the Chartered Institute of Arbitrators to set up and independently administer The *ACCA Mediation Scheme* and The *ACCA Arbitration Scheme* independently from ACCA. Full details, including guidance notes and application forms, are available in the scheme documents on our website at www.accaglobal.com or in hard copy upon request from ACCA.

Copies can also be obtained direct from the Chartered Institute of Arbitrators by telephoning +44 (0)20 7421 7444. Further information about the Chartered Institute of Arbitrators can be found at <http://www.ciarb.org>

FURTHER INFORMATION

Further information about ACCA's Conciliation Service can be found in the [FAQs about the Conciliation Service](#)⁹ section of ACCA's website.

A full guide to ACCA's complaints and disciplinary process, inclusive of the investigation is available [here](#)¹⁰.

⁹ <https://www.accaglobal.com/uk/en/footer/footer/contact-us/make-a-complaint-about-an-acca-member/faqs-about-the-conciliation-service.html>
¹⁰ https://www.accaglobal.com/content/dam/ACCA_Global/disc/complain/Guide-to-complaints-and-disciplinary-procedures.pdf



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Think Ahead