

## Complaints which ACCA will investigate

ACCA will investigate complaints about its members<sup>1</sup>, and, where appropriate, will attempt to conciliate matters between parties. This document sets out both the types of complaint which we will investigate (see Section 1) and those we are unable to investigate (see Section 2). It explains why certain types of complaint are considered to be inappropriate as a matter of policy or because they fall outside of our jurisdiction.

ACCA acts in the public interest and as such we act for the benefit of the public as a whole, rather than for individual complainants or members. We are obliged to utilise our resources efficiently and effectively to achieve that purpose. In pursuance of this, most complaints will be subject to an initial assessment before they can be progressed further.

Parties to a complaint which is deemed unsuitable for investigation or conciliation will be advised at the earliest possible opportunity of detailed reasons why their complaint will not progress and will have an opportunity to make further representations if they disagree with ACCA's decision.

You should review this document if you are considering lodging a complaint about an ACCA member. We will be pleased to advise you on the phone if you are not sure whether your complaint falls within our policy of those we will investigate.

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### SECTION 1: COMPLAINTS WE WILL INVESTIGATE

Set out below is a list of complaints which are within our jurisdiction to investigate. It is not an exhaustive list. If you are unsure whether your complaint is one which we will investigate, please refer to Section 2 or telephone us for advice.

#### Conduct connected with the provision of accountancy or related services

- Poor quality of service
- Poor quality of work
- Signing audit reports when ineligible to do so
- Conduct which is dishonest or misleading
- Lack of objectivity, such as failing to deal with a conflict of interest
- Failure to maintain professional competence
- Failure to adequately train or supervise employees
- Breach of confidentiality
- Attempting to entice clients away from a former employer with the use of confidential information
- Making exaggerated claims or disparaging references to others during marketing activity
- Other breaches of ACCA regulations
- Carrying on public practice while unauthorised to do so
- Failure to hold professional indemnity insurance
- Failure to provide professional clearance or transfer information.

#### Conduct in any circumstances

- Criminal convictions
- Findings of dishonesty by a Court or Tribunal
- Disqualification as a director
- Disciplinary action taken by another body or process
- Failure to pay money owing under a Court order, for example a judgment debt that is in the name of the member or the member's accountancy firm within two months without reasonable excuse.

#### Fee disputes

Although fee disputes are not disciplinary matters, our conciliation service will attempt to resolve them where possible. Please note that ACCA does not prescribe the basis for calculating fees, nor does it set charge-out rates.

We regret that our conciliation service cannot assist in a dispute which is not connected with the provision of accountancy or related services.

<sup>1</sup> References to members include, where applicable, students, affiliates and firms.

## SECTION 2: COMPLAINTS WE ARE UNABLE TO INVESTIGATE

References to members include, where applicable, students, affiliates and firms.

### 1 Complaints which should be raised direct with our member before being raised with ACCA

Before raising a complaint with ACCA, you must give our member sufficient opportunity to resolve the matter through his or her firm's internal complaints procedures where appropriate. You may invoke those procedures using a proforma letter which is available on the [Making a complaint about an ACCA member](#) page of our website or upon request. If after four weeks the firm has not resolved your complaint, you may lodge a complaint with ACCA, enclosing a copy of your correspondence with the firm.

### 2 Complaints which do not engage ACCA's Code of Ethics and Conduct

The Code of Ethics and Conduct sets out the standards which ACCA members are required to observe in matters connected with their professional lives as providers of accountancy-related services. These include accounting, auditing, taxation, investment business, management consulting and financial management services. They may be services provided to members of the public, services provided as an employee (eg bookkeeper, finance director) where the 'client' is the employer, or services provided in relation to insolvency.

The Code is underpinned by five fundamental principles which apply to the following situations:

- integrity in professional and business relationships
- objectivity when making professional and business judgements
- competence and due care when providing professional services
- confidentiality in relation to information acquired as a result of professional and business relationships
- professional behaviour.

The Code does not apply to a member who is not providing accountancy-related services. Complaints that do not engage the Code will not be considered unless there is a finding in another forum which supports an allegation of misconduct under ACCA's bye-laws.

### 3 Complaints made more than twelve months after the grounds for complaint arose

We will not normally refer complaints considered to raise non-misconduct allegations for conciliation or investigation if more than twelve months have passed since the grounds for complaint arose. Rather, they will be considered for factors such as the seriousness of the complaint, the date on which the complainant became aware there were grounds for complaint and the time spent by the complainant attempting to utilise the member's internal complaints procedure. Time will not begin to run until local resolution with the member has come to an end.

Please note that the twelve month policy does not apply in those instances where ACCA considers that the allegations do amount to misconduct and/or where it is in the public interest to investigate.

Where possible, members should be made aware of a problem as soon as possible after it arose, so that they can respond to it while the facts are fresh in their minds and associated documentation is still available.

### 4 Complaints lodged in stages

We will not consider complaints submitted in stages, as it is important for ACCA to be able to take into account a member's overall conduct. Therefore, please ensure that all the complaints you wish to make are submitted to us at the same time, accompanied by all your supporting evidence.

Awaiting the outcome of one complaint before deciding whether to submit others would amount to an abuse of ACCA's procedures, be contrary to the public interest and cause significant unnecessary extra burdens upon ACCA's resources.

### 5 Multiple complaints

Where multiple complaints are lodged by one complainant against a member, we will investigate only those which appear to be relevant to the core issues. Any others will not be investigated unless they appear to be serious.

### 6 Complaints which are, or ought properly to be, the subject of proceedings in another forum

Making a complaint against a member is not a substitute for seeking redress through the proper channels.

Where jurisdiction over the subject matter of the complaint lies elsewhere, we will not consider it unless the proper channels for pursuing it have been exhausted and they have resulted in a finding that the member has acted inappropriately. If it has not been possible for any finding to be made, for example due to a Court case settling in advance of trial, we will not be able to take the matter forward. Some examples are described below.

#### Employment issues

We will not investigate a complaint about matters which are within the jurisdiction of the Employment Tribunal or an employer's internal disciplinary procedures. If there has been a formal finding that the member has acted inappropriately then we will consider it.

We will not investigate complaints that a member has left his or her employment without working the full notice period, unless there has been a finding by a Court or Tribunal that the member has acted inappropriately.

#### Commercial disputes and other issues of law and related facts

ACCA does not have jurisdiction to make rulings on the law and related facts. That jurisdiction lies with the Court or other appropriate forum with the power to make such rulings.

Once the Court process has concluded, if there are findings of the Court which can be relied upon, we will consider whether they give rise to liability to disciplinary action. In the absence of any such findings, we will not investigate.

Such complaints tend to fall into two categories:

- 1 commercial disputes such as breach of contract, partnership disputes and shareholder disputes;

ACCA will only consider these matters in those instances where there is supporting evidence that demonstrates a lack of integrity by the member and it is in the public interest to investigate.

2 allegations of negligence, fraud, criminal acts and other breaches of legislation.

If your complaint falls into the first category, you may wish to consider using the ACCA Arbitration Scheme or the ACCA Mediation Scheme as alternatives to legal action. Further information on the benefits of the Schemes and how to use them can be found on our website or upon request.

ACCA's conciliation service can offer some assistance in resolving a dispute if it is connected with a member's provision of accountancy or related services. However, ACCA cannot give legal advice. We recommend that you obtain legal advice as to the merits of your claim before taking any action through the Court.

#### **Disqualification from acting as a company director**

We will not consider complaints about a member's conduct as a company director unless a disqualification order has been made or disqualification undertaking given. The Secretary of State has statutory responsibility for determining whether a director's conduct warrants disqualification proceedings being taken against him.

#### **7 Complaints that a member has committed a criminal offence, where there is no conviction**

ACCA will not investigate whether a member has committed a criminal offence. Such complaints should be made to the police. However, if a member has already been convicted of an offence which is discreditable to ACCA or to the profession, ACCA will usually take forward an allegation based on the fact of the conviction.

In the event a criminal investigation does not proceed and/or the member is acquitted, ACCA is not precluded from investigating the conduct in question if it appears that the member has not met the relevant professional standards.

Please note that where a member has been charged and is awaiting trial, ACCA has a mechanism to consider whether to restrict the member's authorised activities for the protection of the public pending the outcome of the trial.

#### **8 Complaint that a member has lied or attempted to mislead in the course of Court or Tribunal proceedings**

The court hearing the evidence is the appropriate authority to determine whether a witness has lied or attempted to mislead during court proceedings. Therefore we will not investigate such complaints unless the court has made an express finding to that effect. The weight of evidence required to show that a witness knew a statement was untrue when he made it (as opposed to having made a mistake or having a different interpretation of events) is too great to achieve within the limitations of an ACCA investigation. It would be inappropriate for ACCA to encroach upon the jurisdiction of a court in such a way.

#### **9 Complaints about members of other accountancy bodies**

A member of ACCA outside the UK and Ireland will usually be regulated primarily by his or her local accountancy body. In that situation, we will normally await the outcome of the local body's investigation before looking into the matter.

Where a member of ACCA in the UK and Ireland is also a member of another body, the question of which is the appropriate body to look into the matter will depend on the facts of the case.

#### **10 Complaints made about an accountant who is no longer a member of ACCA**

A former member of ACCA remains liable to disciplinary action after ceasing to be a member (normally for no longer than five years), if the matter complained of occurred during the period of membership. However, it would not be in the public interest for ACCA to utilise its resources to investigate complaints against non-members. Instead, we keep a record of the complaint so that if the individual were to apply for re-admission to ACCA in future, the complaint can be drawn to the attention of the Admissions and Licensing Committee, which must satisfy itself of the individual's character and suitability to be re-admitted as a member.

#### **11 Complaints that a member is taking or is threatening to take legal action**

Members are entitled to exercise their legal rights and ACCA will not investigate the manner in which those rights are exercised. To threaten legal action is not of itself a disciplinary matter.