

Members and firms, as well as students, affiliates and non-member holders of insolvency licences ('non-member IPs'), come within the jurisdiction of ACCA's disciplinary procedures. This factsheet relates to members, non-member IPs and firms only and reference to 'members' includes firms and non-member IPs. (The disciplinary procedures for students and affiliates are the same, but the orders that the Disciplinary and Appeal Committees can make against them are slightly different.)

This factsheet has no regulatory status. It is issued for guidance purposes only, and in the event of any conflict between the content of this factsheet and the content of the *ACCA Rulebook*, the latter shall at all times take precedence. Therefore, this factsheet should not be regarded by a member as a substitute for familiarising himself or herself with the appropriate regulations or, where necessary, obtaining specific advice concerning a specific situation.

INTRODUCTION

ACCA's disciplinary procedures deal with failure to observe proper standards of professional conduct and breaches of regulations which include conduct likely to bring discredit to ACCA and the accountancy profession and which may give rise to public concern.

ACCA has comprehensive disciplinary procedures in place which are compliant with the laws of natural justice and the UK Human Rights Act 1998. These procedures are subject to external review by the Professional Oversight Board and other external regulators such as the Insolvency Service and the Irish Auditing and Accounting Supervisory Authority (IAASA).

The rules governing disciplinary procedures are set out in ACCA's Bye-laws and Regulations, which are all contained in the *ACCA Rulebook*. If you wish to make further enquiries about matters that may be subject to disciplinary procedures, you should write to Governance – Professional Conduct (PCD) at ACCA's London address. If you wish to obtain a copy of the *ACCA Rulebook*, you should contact *ACCA Connect* by telephoning +44 (0)141 582 2000 (fax: +44 (0)141 582 2222) or emailing publications@accaglobal.com

All complaints against members are dealt with in accordance with ACCA's stated disciplinary procedures. These are set out not only in the *ACCA Rulebook* but also in the *Members' Guide to Disciplinary Proceedings*. These set out the procedures to be followed by ACCA when investigating complaints it receives about the conduct of members.

The *ACCA Rulebook* and *Members' Guide to Disciplinary Proceedings* can be viewed on ACCA's website at www.accaglobal.com/members/professional_standards

LIABILITY TO DISCIPLINARY ACTION

A member is liable to disciplinary action, whether or not he or she was a member at the time of the breach, if the member commits any of the breaches set out in Bye-law 8(a). Relevant firms are liable to disciplinary action for any such breaches committed by persons working in the firm. The breaches can be summarised as follows:

- being guilty of misconduct in the course of carrying out professional duties or otherwise;

- performing work erroneously, inadequately, inefficiently or incompetently to such an extent, or on such a number of occasions, as to amount to misconduct;
- breaching any ACCA Bye-law or Regulation;
- being disciplined by another professional body;
- becoming insolvent or entering into a voluntary arrangement or similar;
- failing to satisfy a judgment debt without reasonable excuse for two months.

Misconduct includes (but is not limited to) any act likely to bring discredit upon the member, ACCA or the accountancy profession.

DISCIPLINARY PROCEDURES

A member, or any other person, may bring to the attention of PCD any facts or matters indicating that a member may have become liable to disciplinary action. If, following investigation, liability is indeed indicated, PCD then prepares a report for consideration by an external assessor.

The assessor has the power to call for further information. It is the duty of every member, if asked, to provide such further information as is in their power to give and as the assessor considers necessary.

Before reaching his or her decision, the assessor must be satisfied that the member has been given an opportunity to make written representations.

If the assessor concludes that there is a case to answer, the assessor has two alternative courses of action:

- i to refer the matter to the Disciplinary Committee; or
- ii to rest the matter on the member's file. This option is reserved for complaints which the assessor believes render the member liable to disciplinary action, but which are not serious. The matter rests on file for three years, during which time an assessor has the power to refer it to the Disciplinary Committee if any subsequent allegations are made.

THE DISCIPLINARY COMMITTEE

When a complaint is referred to the Disciplinary Committee, PCD will notify the member concerned of the date on which the Committee proposes to hear the case. The member is entitled to be heard before the Committee, and is permitted to be represented, to call witnesses, and to cross-examine witnesses called against the member. The disciplinary hearing will normally be held in public.

If the Disciplinary Committee is satisfied that the complaint has been proved wholly or in part, it may make one or more of the following orders:

- i that the member be excluded from membership;
- ii that the member be severely reprimanded, reprimanded or admonished;
- iii having referred the matter to the Admissions and Licensing Committee, that the member's practising certificate, insolvency licence, investment business certificate (Ireland) and/or any other certificate issued by ACCA, and/or the member's eligibility to conduct exempt regulated activities, be suspended or made subject to conditions (until an order of the Admissions and Licensing Committee or Appeal Committee has been made);
- iv that any future application by the member for any of the certificates or authorisations referred to in (iii) above be referred to the Admissions and Licensing Committee;
- v that the member pay a fine not exceeding £50,000;
- vi that the member pay compensation to the complainant of a sum not exceeding £5,000.
- vii that the member waive or reduce his fees to the complainant by such sum as shall be specified in the order and which relates directly to the proven misconduct

In addition, the member may be ordered to pay costs (see below). If the Disciplinary Committee decides that none of the above orders is appropriate, it may order that no further action be taken. The Disciplinary Committee has similar powers in relation to firms.

THE APPEAL COMMITTEE

If an order is made by the Disciplinary Committee against the member, the member has 21 days from service of the written statement of the reasons for the Committee's decision in which to apply for permission to appeal. The member's application notice must be in writing, addressed to the committee officer, and must be in the form specified in Appeal Regulation 5(1). The application notice is considered by the Chairman of the Appeal Committee and, if the Chairman so directs, by the Appeal Committee.

If permission to appeal is granted, the Appeal Committee will consider the appeal at a hearing. It will be for the member to satisfy the Appeal Committee that the grounds of appeal are made out. The Appeal Committee may affirm, vary or rescind any order of the Disciplinary Committee. In addition, the Disciplinary Committee has the ability to substitute any other order which the Disciplinary Committee could have made.

COSTS

The Disciplinary Committee and the Appeal Committee may order the member to pay a sum by way of costs to ACCA. The member cannot generally apply for permission to appeal solely in respect of costs.

PUBLICATION OF FINDINGS

If the Disciplinary or Appeal Committee decides that no further action is to be taken on a complaint, their decisions are not published by ACCA unless the member requests otherwise. The orders of the Disciplinary and Appeal Committees are normally published in the professional press, referring to the member by name. Press releases are also forwarded to the local and national press. As these hearings are in public and the press may attend, ACCA has no control over what may be published in the press.

FURTHER INFORMATION

Further information is available from the ACCA website at www.accaglobal.com/members/professional_standards