LEGAL ADVISER – Role and Responsibilities

Nature and scope of the role

Legal advisers play an integral role in safeguarding the fairness and impartiality of the hearing. The overarching function of legal advisers is, therefore, to provide ACCA’s regulatory and disciplinary committees with procedural and legal advice.

Legal advisers will sit with the committee throughout the hearing process, both when the committee sits in public session and during private deliberations. Legal advisers will be independent of the parties and will be the adviser to the committee on all legal and procedural matters. Legal advisers take no part in the decision-making process and their role is to advise only.

Key responsibilities

The key responsibilities of legal advisers are set out below:

- pre-reading the papers and identifying any important issues, research and preparing advice on likely legal issues and the relevance of ACCA bye-laws, rules and procedural guidance to the cases which are due to be heard with the chairman and/or ACCA as appropriate
- being available for any discussions between the chairman and/or ACCA
- advising/assisting, as necessary, on the consideration of adjournment applications
- advising/assisting, as necessary, on the consideration of permission to appeal applications
- assisting with the smooth running of the hearing, including meeting representatives of both parties together, in private as appropriate
- assisting unrepresented parties without becoming their advocate
- advising the committee on legal and procedural matters relating to hearings, including advising/assisting with decision whether to proceed in absence
- advising the committee on questions of law and intervening where necessary to prevent any procedural irregularity or errors of law
- advising the committee on the burden and standard of proof
- advising the committee at each stage of the hearing prior to the committee going into private session, responding to any challenges from either party to that advice
- ensuring committee considers all of the information presented so that it may make a decision based on the facts and the evidence in accordance with the relevant regulations and legal principles
- advising committee during private sessions on legal and procedural matters
- ensuring legal advice given to the committee in private session is repeated in the public session giving the parties the opportunity to make any representations on that advice
- ensuring parties are informed of the advice given and if rejected the reasons the committee rejected that advice
- advising the committee on their powers and orders available to them and the procedural guidance they should follow in reaching decisions (i.e. the application of Guideline Disciplinary Sanctions and Guideline Regulatory Orders as appropriate)
• recording the committee’s reasons for decision on the day. While the legal adviser drafts the reasons for decision, they remain the committee’s reasons and the committee retains editorial control
• advising the chairman and/or ACCA as appropriate on issues which arise after the hearing, if any (i.e. being available for discussion)
• identifying and recommending to ACCA amendments needed to the organisation’s procedures/regulations to reflect developing case law and effective practice elsewhere, and to improve the efficiency, fairness, clarity etc of ACCA’s disciplinary and regulatory arrangements.
• attending the scheduled meetings of chairmen and legal advisers.

Person Specification

Legal advisers will:

• be a barrister or solicitor of minimum ten years standing
• have at least five years of recent experience of working with tribunals in the field of regulatory law as an advocate, legal adviser or decision-maker
• not have presented cases for or against ACCA within the last three years
• not have been a member of staff of ACCA in the last three years
• not have been a panel member of ACCA’s disciplinary and regulatory committees in the last three years
• not have been a member of the Regulatory Board in the past three years
• have well-developed oral and written communication skills
• be able to respond under pressure and to tight deadlines
• have excellent ‘people skills’ with the ability to deal effectively with people at all levels
• have good typing skills.

Fees

A fee of £900 (including VAT) per hearing day (there are approximately two/three cases heard at each hearing) will be paid plus reasonable expenses (in line with ACCA’s expenses policy). This fee includes reading the papers in advance, any pre-hearing/post-hearing matters, including recording the committee’s decisions, and travel time. If the case extends beyond a single day, any additional hearing days will be at the rate of £450 (including VAT) per day. No fee will be paid where the hearing day is cancelled in advance but the fee will be paid if the entire hearing is cancelled on the day of the hearing itself.

A fee of £400 (including VAT) plus reasonable expenses will be paid for any other meetings and training days legal advisers are required to attend.