

Operational Protocol

The Association of Chartered Certified Accountants (“ACCA”) and the Legal Ombudsman

Introduction

1. ACCA and the Legal Ombudsman have in place a Memorandum of Understanding (MoU) that sets out a framework for how we will work together.
2. The aim of this protocol is to detail the arrangements in place to foster an effective and cooperative working relationship between the Legal Ombudsman and ACCA.

Review and feedback

3. The Legal Ombudsman and ACCA will monitor the operation of this protocol and review it as necessary.
4. As part of monitoring the effectiveness of our relationship, ACCA and the Legal Ombudsman will meet to review the protocol after 12 months, then as and when required. The purpose of the meetings is to:
 - a) provide feedback on the quality of the exchange of information between our two organisations including, but not limited to, conduct referrals;
 - b) review the effectiveness of processes in place to support the exchange of information;
 - c) discuss issues of wider concern that may impact on how we work together including the impact of complaint trends on either organisation; and
 - d) alert each other to any emerging issues, consultations or other activities that are of interest.

Cooperation

5. Both ACCA and the Legal Ombudsman will provide information to assist each organisation to signpost to the other.
6. Should the Legal Ombudsman receive complaints about firms that fall outside its jurisdiction, and these are complaints that are appropriate for ACCA to address, the Legal Ombudsman will signpost the complainants to ACCA.

Information sharing

7. The Legal Ombudsman agrees that it will share the following information with ACCA every 12 months, and as and when required, about ACCA regulated entities under the Act:
 - a) all ombudsman decision letters;
 - b) firms where the complainant is referred back to make a complaint direct to the authorised firm in the first instance;
 - c) numbers of complaints received by the Legal Ombudsman about ACCA firms that are accepted by the scheme for resolution;
 - d) numbers of referrals to ACCA for possible misconduct of authorised firms ;
 - e) the subject matter of all complaints received by the Legal Ombudsman about ACCA firms;
 - f) outcomes of all complaints about authorised firms;
 - g) numbers of complaints about authorised firms rejected by the Legal Ombudsman as being outside jurisdiction classified by closure code (e.g. out of time, conduct matters etc);
8. ACCA agrees that it will share the following information with the Legal Ombudsman every 12 months, and as and when required:
 - a) number of times (compared to numbers of conduct referrals made) that ACCA has investigated or taken some action in response to a referral for possible misconduct by the Legal Ombudsman;
 - b) number of times (compared to numbers of conduct referrals made) that ACCA has investigated or taken some action in response to a referral for possible misconduct by the Legal Ombudsman where the referral was made due to a lack of cooperation with the Ombudsman scheme; and
 - c) percentage of total conduct investigations conducted by ACCA that were triggered by a referral by the Legal Ombudsman.
9. ACCA agrees that it will share the following information with the Legal Ombudsman as soon as it is practical to do so:
 - a) instances where an authorised firm has closed, or has been intervened into or is no longer regulated, when requested by the Legal Ombudsman;
 - b) reports of the outcomes of a referral for possible misconduct where the Legal Ombudsman has specifically asked for ACCA to detail the action it has taken in response to the referral;
 - c) updates about any category of information that ACCA believes is required to assist the Legal Ombudsman to report to ACCA (e.g. information about complaints handling procedures), although in practice this is likely to happen on an ad-hoc basis; and
 - d) relevant changes to the code of conduct or other key guidance.
10. ACCA will provide guidance in relation to the referral of conduct matters and what it expects from the Legal Ombudsman.

Method of information exchange

11. ACCA and the Legal Ombudsman agree to share any necessary information using a secure transfer process. An email alert will be sent to the nominated email address(es) to advise that data has been transferred. It will be the responsibility of each organisation to ensure that any information transferred is accessed efficiently subject to the email alerts being received.

Referring possible misconduct to ACCA

12. The Legal Ombudsman will report promptly to ACCA, at any stage in its agreed business process, any potential misconduct that becomes apparent from a complaint that has been made to the Ombudsman scheme.

13. Any referral of possible misconduct made by the Legal Ombudsman to ACCA will include:

- a) information about the firm;
- b) a succinct summary of the reason for the referral for potential misconduct;
- c) any written information that the complainant or the firm has provided that has prompted the referral being made; and
- d) any telephone recordings of conversations with the complainant or firm.

14. If a referral for possible misconduct arises from a firm's non-cooperation with the Ombudsman scheme then only the information relevant to that non-cooperation will be shared with ACCA.

15. In the case of a referral of potential misconduct from the Legal Ombudsman to ACCA, the Legal Ombudsman will normally advise the complainant that a referral has been made to ACCA. If there is a risk that a regulatory investigation could be prejudiced, for example in a case of suspected money laundering, then the complainant will not be made aware of the referral.

Service complaints received by ACCA

16. Where a complainant has made a complaint about a regulated entity directly to ACCA, ACCA will refer the complainant to the Legal Ombudsman. The Legal Ombudsman will determine the substance of the complaint and address any service aspects in accordance with its established business processes. If the initial assessment determines that there are no service issues and the complaint relates purely to potential misconduct the complaint will be referred back to ACCA.

17. If ACCA believes that the complaint relates in part to conduct matters ACCA will assess those matters in accordance with its processes, as well as referring the complainant to the Legal Ombudsman as set out above.

Training and guidance

19. ACCA will provide training and updates to staff at the Legal Ombudsman upon reasonable request. Decisions about future updates and training requirements will be agreed on an individual basis dependent on the extent of the changes.
20. The Legal Ombudsman will provide training and guidance about its role and remit to ACCA as required.



Simon Tunnicliffe

Director of Operations, Legal Ombudsman

Date: 13.3.18



Joanne Vlahos

Head of Assessment, ACCA

Date: 14/3/18



Michelle Lawton

Head of Investigations, ACCA

Date: 14/3/18