

## HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF  
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

**In the matter of:** Mr Brian Edward Blackburn

**Heard on:** Wednesday, 14 May and Thursday, 15 May 2025

**Location:** Remotely via Microsoft Teams

**Committee:** Mr Andrew Gell (Chair)  
Ms Wanda Rossiter (Accountant)  
Ms Alison Sansome (Lay)

**Legal Advisor:** Ms Melissa Coutino

**Persons present**

**And capacity:** Mr Mazharul Mustafa (ACCA Case Presenter)  
Miss Sofia Tumburi (Hearings Officer)

**Summary:** Excluded from membership with immediate effect

**Costs:** £10,500, against Mr Blackburn

1. The Committee heard allegations under three separate cases against Mr Blackburn. Mr Blackburn was not present and not represented. The Committee had read in advance the relevant papers: a Report and Bundle of 75 pages, a Report and Bundle of 451 pages, a Supplementary bundle of 49 pages, a Case Management Form of 23 pages, a Case Management Form of 27 pages, a

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further Case Management Form also of 27 pages, and a Service Bundle of 24 pages. At a Case Management Meeting of 22 April 2024, an application for Joinder by ACCA was allowed. No challenge to this decision was received from Mr Blackburn.

### **SERVICE OF PAPERS**

2. The Committee was satisfied that Mr Blackburn had been served with the documents required by Regulation 10(7) and Regulation 22 of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014. The Notice of Hearing, dated 11 April 2025, listing the date, time and nature of the hearing, was viewed by the Committee. There was evidence that this was sent by post to the primary address notified by Mr Blackburn to ACCA. There has been a clear period of 28 days for Mr Blackburn to consider these papers. Accordingly, the Committee finds good service to be effected.

### **PROCEEDING IN ABSENCE**

3. There was an application on behalf of ACCA by Mr Mustafa to proceed in the absence of Mr Blackburn.
4. Mr Blackburn was not legally represented. Although he had not responded to the Notice of Hearing, he had in April 2024 highlighted his [PRIVATE] which he said prevented him from engaging with these disciplinary proceedings.
5. In an email from Mr Blackburn on 22 April 2024, he indicated that he had earlier consented for ACCA to contact his General Practitioner. However, Mr Blackburn had not facilitated confirmation from his General Practitioner [PRIVATE] to allow his matters to be considered by a Health Committee, despite multiple emails from ACCA inviting him to do so. His GP Practice has made clear that this could be done by Mr Blackburn requesting a copy of his own medical records and providing these to ACCA. Alternatively, Mr Blackburn has been informed that he can be examined by an ACCA appointed doctor. Mr Blackburn has not progressed ACCA being able to consider his [PRIVATE], nor did he complete any of the three Case Management Forms. He has not formally consented to the Committee proceeding with the case in his absence. [PRIVATE].

6. The Committee accepted the advice of the Legal Assessor about proceeding in the absence of Mr Blackburn, and the need to exercise its discretion to proceed in the absence of Mr Blackburn with care and caution, considering what was in the interests of justice and fair, applying the criteria as initially outlined in the case of *R v Jones* [2003] 1 AC 1.
7. The Committee determined that it was in the public interest to hear the case without unnecessary delay. It noted that there was no request for an adjournment from Mr Blackburn. [PRIVATE], the Committee was satisfied that there was no purpose in adjourning the hearing. Any injustice occasioned to Mr Blackburn by proceeding in his absence is outweighed by the public interest in proceeding. Accordingly, the Committee determined to do so, but would ensure that it scrutinised material carefully to be fair to Mr Blackburn.

#### **ALLEGATION(S)/BRIEF BACKGROUND**

8. Mr Blackburn has been a member of ACCA since 05 October 1989 and a Fellow of ACCA since 05 October 1994.
9. There are three cases to consider against Mr Blackburn: UF5478528, UF5495228 and UF 6346316.

#### **UF5478528 AND UF5495228**

10. The Allegations in respect of these cases were as follows:

##### Allegation 1

- a. That Brian Edward Blackburn FCCA prepared and/or filed at Companies House, or caused to be prepared and/or filed at Companies House, accounts for Company E as set out in Schedule A (“the Accounts”):
  - i. With false financial information;
  - ii Bearing a signature for Mr F that he knew to be false;

- iii Bearing an assertion that the Accounts had been approved by a board of directors that he knew to be false.
- b. Any and all of Brian Edward Blackburn FCCA's conduct at Allegation 1(a) was:
- i. Dishonest in that Mr Blackburn knew the information/signature/assertion contained in the Accounts was false and/or sought to misrepresent the Accounts as accurate and/or genuine; or in the alternative
  - ii. Contrary to the Fundamental Principle of Integrity (as applicable from 2016 to 2018); or in the alternative
  - iii. Contrary to the Fundamental Principle of Professional competence and due care (as applicable from 2016 to 2018).

#### Allegation 2

- a. That Brian Edward Blackburn FCCA did not inform Mr F and/or Company E of:
- i. A strike off notice pursuant to the Companies Act 2006 (Section 1000(3)) in respect of Company E dated 05 December 2017,
  - ii. A strike off notice pursuant to the Companies Act 2006 (Section 1000(3)) in respect of Company E dated 11 December 2018;
  - iii. The visit of Her Majesty's Revenue and Customs to the registered office address of Company E in or around March 2018.
- b. Any and all of Brian Edward Blackburn FCCA's conduct at Allegation 2(a) was:
- i. Contrary to the Fundamental Principle of Integrity (as applicable from 2017 to 2018); or in the alternative

- ii. Contrary to the Fundamental Principle of Professional behaviour (as applicable from 2017 to 2018); or in the alternative
- iii. Contrary to the Fundamental Principle of Professional competence and due care (as applicable from 2017 to 2018).

### Allegation 3

- a. That Brian Edward Blackburn FCCA did not take any, or adequate steps to ensure that Company E complied with its obligation to provide Company Tax Returns for the years ending:
  - i. 31 December 2015;
  - ii. 31 December 2016;
  - iii. 31 December 2017.
- b. Any and all of Brian Edward Blackburn FCCA's conduct in respect of Allegation 3(a) was:
  - i. Contrary to the Fundamental Principle of Professional competence and due care (as applicable from 2016 to 2018); or in the alternative
  - ii. Contrary to Section 225.4 (Responding to non-compliance with laws and regulations) of ACCA's Code of Ethics and Conduct (as applicable from 2017 to 2018).

### Allegation 4

- a. That Brian Edward Blackburn FCCA did not respond to the correspondence relating to Dr B as set out in Schedule B.
- b. Any and all of Brian Edward Blackburn FCCA's conduct at Allegation 4(a) was:

- i. Contrary to the Fundamental Principle of Professional behaviour (as applicable from 2019 to 2020); or in the alternative
- ii. Contrary to the Fundamental Principle of Professional competence and due care (as applicable from 2019 to 2020).

#### Allegation 5

Contrary to Regulation 3(1)(a) of the Complaints and Disciplinary Regulations 2014 (as applicable from 2019 to 2020), Brian Edward Blackburn FCCA failed to co-operate fully with the investigation of a complaint in that he failed to respond fully or at all to ACCA's correspondence on:

- a. 14 October 2019
- b. 05 November 2019
- c. 11 December 2019
- d. 10 January 2020
- e. 27 January 2020
- f. 03 February 2020
- g. 18 February 2020
- h. 04 March 2020

#### Allegation 6

By reason of his conduct, Brian Edward Blackburn FCCA is:

- a. Guilty of misconduct in respect of any or all the matters set out at allegations 1 to 5, pursuant to bye-law 8(a)(i); or, in the alternative
- b. Liable to disciplinary action in respect of any or all the matters set out at allegations 1(b)(iii), 2(b)(ii) and (iii), 3(b), 4(b) and 5 pursuant to bye-law 8(a)(iii).

## Schedule A

<b>Company E's Annual Accounts for the Year-Ending</b>	<b>Stated Board Approval Date</b>	<b>Date Filed at Companies House</b>
31 December 2015	25 October 2016	25 October 2016
31 December 2016	07 December 2017	07 December 2017
31 December 2017	19 December 2018	20 December 2018

## Schedule B

<b>Date</b>	<b>Description</b>
22 January 2019	Email from Firm A to Mr Blackburn
22 January 2019	Email from Firm A to Mr Blackburn
22 January 2019	Email from Firm A to Mr Blackburn
23 January 2019	Email from Firm A to Mr Blackburn
23 January 2019	Email from Firm A to Mr Blackburn
6 February 2019	Email from Firm A to Mr Blackburn
13 February 2019	Email from Firm A to Mr Blackburn
25 February 2019	Email from Firm A to Mr Blackburn
1 May 2019	Email from Dr B to Mr Blackburn

## CASE HISTORY

11. In respect of Complaint UF5478528:

On 09 May 2019, Mr F submitted a complaint, which raised issues in respect of Mr Blackburn's conduct, to the Institute of Chartered Accountants in England and Wales (ICAEW) who subsequently passed details of the complaint to ACCA.

12. In respect of Complaint UF5495228:

On 23 May 2019, Dr B submitted a complaint, which raised issues in respect of Mr Blackburn's conduct, to ICAEW who subsequently passed details of the complaint to ACCA.

### **BACKGROUND TO UF5478528 (ALLEGATIONS 1 TO 3)**

13. On 09 December 2014, Company E was incorporated by Mr Blackburn with its office address registered as [PRIVATE]. This address is that of Mr Blackburn's company.
14. On 09 December 2014, Mr Blackburn sent HMRC Form 64/8 (Authorising Your Agent) and a letter of engagement to Mr F in respect of Company E.
15. On 25 October 2016, the Annual Accounts of Company E for the year-ending 31 December 2015 were submitted to Companies House. These state that they were approved by the board of Company E on 25 October 2016.
16. Company E's deadline for the filing of its Company Tax Return for the year-ending 31 December 2015 was 31 December 2016.
17. On 05 December 2017, a First Gazette Notice for the compulsory strike-off of Company E was sent to The Directors, Company E, [PRIVATE].
18. On 07 December 2017, the Annual Accounts of Company E for the year-ending 31 December 2016 were submitted to Companies House. These state that they were approved by the board of Company E on 07 December 2017.
19. On 09 December 2017, the compulsory strike-off of Company E was discontinued following receipt of a notice dated 07 December 2017.
20. Company E's deadline for the filing of its Company Tax Return for the year-ending 31 December 2016 was 31 December 2017.
21. In March 2018, HMRC visited Company E's registered office address at [PRIVATE].

22. On 11 December 2018, a First Gazette Notice for the compulsory strike-off of Company E was sent to The Directors, Company E, [PRIVATE].
23. On 20 December 2018, the Annual Accounts of Company E for the year-ending 31 December 2017 were submitted to Companies House. These state that they were approved by the board of Company E on 19 December 2018.
24. On 22 December 2018, the compulsory strike-off of Company E was discontinued following receipt of a notice dated 20 December 2018.
25. Company E's deadline for the filing of its Company Tax Return for the year-ending 31 December 2017 was 31 December 2018.
26. Company E initiated a transfer of accountancy services from Mr Blackburn to Firm G. On 19 March 2019, Mr Blackburn sent a letter to Firm G which contained Company E's Companies House authentication code and stated that "*...we have only ever received extremely limited accounting records which were not sufficient for accounts preparation*".
27. On 22 March 2019, Mr Blackburn sent a letter to Firm G in respect of Company E, stating that "*We also confirm...we had never received accounting records, despite requests [from Company E]*".
28. On 14 May 2019, the registered office address of Company E ceased being at [PRIVATE].

#### **BACKGROUND TO UF5495228 ALLEGATION 4**

29. ACCA relies upon the following facts. On 02 August 2018, Dr B left Partnership C.
30. On 23 August 2018, Firm A sent a letter to Mr Blackburn, as Dr B's previously instructed accountant, to confirm that they had been invited to accept an appointment as Dr B's accountant and tax advisor.

31. On 12 September 2018, Mr Blackburn sent a letter to Firm A to confirm that he had no objection to Firm A acting for Dr B. He also stated, as accountant for Partnership C, that:

[PRIVATE]

32. On 22 January 2019, Firm A sent three emails to Mr Blackburn requesting information about the accounts of Partnership C.
33. On 23 January 2019, Firm A sent two emails to Mr Blackburn requesting information and documents relating to the accounts of Partnership C.
34. On 06 February 2019, Firm A sent an email to Mr Blackburn to request information and documents relating to the accounts of Partnership C.
35. On 13 February 2019, Firm A sent an email to Mr Blackburn to request information and documents relating to the accounts of Partnership C.
36. On 25 February 2019, Firm A sent an email to Mr Blackburn to request a response to their email of 06 February 2019, stating that they were awaiting “partnership page and amended accounts for Partnership C”.
37. On 01 May 2019, Dr B sent an email to Mr Blackburn which stated:

“Please send all outstanding finished accounts Re: Partnership C accounts for 2018/2019 for Dr B to Firm A ASAP and within maximum 2 weeks from the date of this email...”
38. On 30 January 2020, Firm A sent an email to Mr Blackburn to request information from him in respect of Partnership C in order to allow them to complete Dr B’s tax return for the year-ending 05 April 2019.
39. On 31 January 2020, Mr Blackburn sent an email to Firm A, summarising the reasons for the delay and attaching the Partnership Tax Return of Partnership C.

Allegation 5: Failure to co-operate

40. Further, that Mr Blackburn, at Allegation 5 failed to co-operate with ACCA's Investigation of Complaint

In respect of case UF5495228

41. On 14 October 2019, ACCA sent a letter to Mr Blackburn to request further information from him by 04 November 2019.
42. On 05 November 2019, ACCA sent a letter to Mr Blackburn stating that no response to its letter of 14 October 2019 had been received, reminding Mr Blackburn of his obligations under Regulation 3(1) of ACCA's Complaints and Disciplinary Regulations ("the CDRs") and requesting a response to the letter of 14 October 2019 by 19 November 2019.
43. On 08 November 2019, Mr Blackburn sent a letter to ACCA with incomplete details. Accordingly, on 03 February 2020, ACCA sent a letter to Mr Blackburn to request an update on those matters referred to in his letter of 08 November 2019 and a full response to its letter of 14 October 2019.
44. On 18 February 2020, ACCA sent a letter to Mr Blackburn stating that no response to its letter of 03 February 2020 had been received, reminding Mr Blackburn of his obligations under Regulation 3(1) of the CDRs and requesting a response to the letter of 03 February 2020 by 03 February 2020.
45. On 04 March 2020, ACCA sent a letter to Mr Blackburn stating that no response to its letters of 03 February 2020 and 18 February 2020 had been received and that an allegation under Regulation 3(1) of the CDRs would be raised against him unless a satisfactory response was received by 11 March 2020.
46. For the avoidance of doubt, ACCA did not receive any further response from Mr Blackburn in respect of this matter.

In respect of case UF5478528

47. On 11 December 2019, ACCA sent a letter to Mr Blackburn in respect of the complaint to request further information from him by 09 January 2020.
48. On 10 January 2020, ACCA sent a letter to Mr Blackburn stating that no response to its letter of 11 December 2019 had been received, reminding Mr Blackburn of his obligations under Regulation 3(1) of the CDRs and requesting a response to the letter of 11 December 2019 by 24 January 2020.
49. On 27 January 2020, ACCA sent a letter to Mr Blackburn stating that no response to its letters of 11 December 2019 and 10 January 2020 had been received and that an allegation under Regulation 3(1) of the CDRs would be raised against him unless a satisfactory response was received by 03 February 2020.
50. For the avoidance of doubt, ACCA did not receive any further response from Mr Blackburn in respect of this matter.

**SUBMISSIONS ON BEHALF OF ACCA**

Allegation 1(a) – Annual Accounts of Company E

51. It is submitted that Mr Blackburn prepared and/or filed at Companies House, or caused to be prepared and/or filed at Companies House, accounts for Company E as set out in Schedule A (“the Accounts”): with false financial information; bearing a signature for Mr F that he knew to be false; bearing an assertion that the Accounts had been approved by a board of directors that he knew to be false.
52. The following is relied upon in connection with the above submission:
  - a) Mr Blackburn was engaged by Company E to prepare its annual accounts;

- b) Mr Blackburn in the letter of engagement, told Mr F, sole director of Company E, that he would prepare and file annual accounts of Company E;
- c) Mr Blackburn possessed Company E's Companies House authorisation code, having incorporated the company and stated its registered office address to be [PRIVATE], the same address as Mr Blackburn's firm, Firm B;
- d) Section 393 of the Companies Act 2006 requires a director of a company to only approve accounts if they are satisfied that they give a true and fair view of the assets, liabilities, financial position and profit or loss of the company;
- e) Section 414 of the Companies Act 2006 requires a company's annual accounts to be approved by the board of directors and signed on behalf of the board by a director of the company;
- f) Mr Blackburn accepts that he only ever received "*extremely limited accounting records which were not sufficient for accounts preparation*" and that "*...we never received accounting records...*";
- g) Mr Blackburn states that he "*filed estimated financial statements with Companies House...*";
- h) The annual accounts of Company E for the years-ending 31 December 2015, 31 December 2016 and 31 December 2017 state that they were approved by the board and had been signed on their behalf by Mr F;
- i) Mr Blackburn provided professional clearance to Firm G, Company E's new accountants; and Mr F, the sole director of Company E, asserts that:  
  
Mr Blackburn did not request any information or documents from the Company which would have allowed him to prepare annual accounts;
- j) Mr F did not provide Mr Blackburn with any financial information or documents that would have allowed him to prepare the annual accounts;

- k) Mr F never received annual accounts for review or approval; and
  - l) Mr F never signed or approved the annual accounts.
53. In respect of Allegation 1(b)(i) – Dishonest Conduct, ACCA rely upon the following:
- a) In *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67* at para 74 (since approved in *R v Barton and another [2020] EWCA Crim 575*):  
  
“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”
  - b) ACCA submits that the conduct set out at Allegation 1(a) clearly amounts to dishonesty on the basis that Mr Blackburn knew that he was preparing and/or causing annual accounts to be submitted in respect of Company E which did not contain correct information and had not been signed by Mr F or approved by the board of directors of Company E despite these stating that they had been.
  - c) It is further submitted that such conduct would be regarded as dishonest according to the standards of ordinary decent people.
54. In relation to Allegation 1(b)(ii) – Integrity, ACCA relies on the following:
- a) In *R (on the application of May) v The Chartered Institute of Management Accountants [2013] EWHC 1574 (Admin)* Stadlen J considered the

similar framework that governed the proceedings of CIMA and its standard of integrity and stated (at paras 155 & 156):

[155] When applied to human conduct or behaviour, the word straightforward is commonly used in the sense of honest and frank, not circuitous or evasive, honest and open, not trying to trick somebody or to hide something. In other words it is broadly synonymous with honest.

[156] This is in my judgment reflected in the fact that the s 100.4 (a) duty had the single heading: "Integrity". Integrity itself when used in the sense of a human quality is broadly synonymous with honesty...'

- b) In *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ 366, the Court of Appeal addressed what was required in a professional disciplinary context by the standard of integrity. At paras 95-97, Jackson LJ expressed the matter in a way that applied to regulated professions generally and said this:

*Let me now turn to integrity. As a matter of common parlance and as a matter of law, integrity is a broader concept than honesty...*

*Integrity is a more nebulous concept than honesty. Hence it is less easy to define, as a number of judges have noted.*

*In professional codes of conduct, the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. .... The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.*

- c) It is submitted that even if dishonesty is not found proved, the Committee are able to find a breach of the Fundamental Principle of Integrity. Further, Section 110.2 (Integrity) of ACCA's Code of Ethics and Conduct ("the Code") specifically refers to a professional accountant not knowingly being associated with returns where the professional accountant believes that the information contains a material false or misleading statement,

information provided recklessly, or omits information required to be included where such omission would be misleading.

55. In relation to Allegation 1b)iii – Professional competence and due care, ACCA rely upon:

- a) Section 130.1(b) (Professional competence and due care) of the Code required Mr Blackburn to act diligently in accordance with applicable technical and professional standards when providing professional services to Company E. The effect of Section 130.4 of the Code is that Mr Blackburn was required to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.
- b) It is submitted that Mr Blackburn acted contrary to Section 130.1(b) of the Code. A requirement of the assignment was for Mr Blackburn to prepare accurate annual accounts in respect of Company E but he did not do so as:
  - i The accounts that he prepared contained incorrect financial information based on minimal, if any, financial information relating to Company E; and
  - ii The accounts state that they were approved by the board of directors and signed by Mr F when they had not been.
- c) Whilst Mr Blackburn asserts that “estimated financial statements” were filed with Companies House in respect of Company E, these remained the only financial statements accessible on Companies House for Company E until Firm G filed amended annual accounts on 18 September 2019 for the years-ending 31 December 2015, 31 December 2016 and 31 December 2017 (page 308).

56. In relation to Allegation 2a)i – Strike-Off Notice dated 05 December 2017, ACCA rely upon the following:

- a) It is submitted that Mr Blackburn failed to inform Mr F and/or Company E that his firm had received a First Gazette Notice for compulsory strike-off in respect of Company E dated 05 December 2017:
    - i The First Gazette Notice was sent to [PRIVATE], the address of Mr Blackburn's Firm;
    - ii A response to the First Gazette Notice was sent on 07 December 2017 (which was also the date that Company E's annual accounts for the year-ending 31 December 2016 were filed at Companies House); and
    - iii Mr F, the sole director of Company E, asserts that Mr Blackburn never informed him of this First Gazette Notice.
57. In relation to Allegation 2a)ii – Strike-Off Notice dated 11 December 2018, ACCA rely upon the following:
- a) It is submitted that Mr Blackburn failed to inform Mr F and/or Company E that his firm had received a First Gazette Notice for compulsory strike-off in respect of Company E dated 11 December 2018:
    - i The First Gazette Notice was sent to [PRIVATE], the address of Mr Blackburn's Firm;
    - ii A response to the First Gazette Notice was sent on 20 December 2018 (which was also the date that Company E's annual accounts for the year-ending 31 December 2017 were filed at Companies House); and
    - iii Mr F, the sole director of Company E, asserts that Mr Blackburn never informed him of this First Gazette Notice.
58. In relation Allegation 2a)iii – HMRC visit in March 2018, ACCA rely upon the following:

- a) It is submitted that Mr Blackburn failed to inform Mr F and/or Company E that HMRC had visited the registered office address of Company E in or around March 2018.
- b) Mr F, the sole director of Company E, asserts that:
  - i) HMRC informed Firm G that they had undertaken a visit to Company E's registered office address at [PRIVATE] (the address of Mr Blackburn's firm, Firm B) in March 2018; and
  - ii) Mr Blackburn did not inform him of any visit by HMRC to Company E's registered office address in March 2018.

59. In respect of Allegation 2b)i – Integrity, ACCA rely upon the following:

- a) It is submitted that the conduct set out at allegations 2(a)(i) to 2(a)(iii) amounts to a breach of the Fundamental Principle of Integrity as Mr Blackburn knew that these were matters of such importance to Company E, his client, and Mr F yet chose not to inform them of these.

60. In respect of Allegation 2b)ii – Professional Behaviour, ACCA rely upon the following:

- a) Section 150.1 (Professional behaviour) of the Code required Mr Blackburn to avoid any action that the professional accountant knows or should know may discredit the profession.
- b) For the following reasons, it is submitted that Mr Blackburn acted contrary to Section 150.1 (Professional behaviour) of the Code in respect of his conduct at Allegation 2a):
  - i) The relationship between Mr Blackburn and Company E was that of accountant-client;
  - ii) Notices for strike-off are serious matters for a company;
  - iii) Visits from HMRC are serious matters for a company; and

- iv) Mr Blackburn knew that Company E's registered office address was that of his firm and that therefore Mr F might not become aware of these matters.

61. In relation to Allegation 2b)iii – Professional Competence and Due Care, ACCA rely upon the following:

- a) Section 130.1 (Professional competence and due care) of the Code imposed an obligation on Mr Blackburn to act diligently in accordance with applicable professional standards when providing professional services to Company E. It is submitted that Mr Blackburn's failure to inform Company E or Mr F of those matters contained in Allegation 2(a) demonstrates a breach of his obligation to act diligently with those professional standards.

62. In relation to Allegation 3(a) – Preparation of Company Tax Returns, ACCA rely upon the following:

- a) For the following reasons, it is submitted that Mr Blackburn failed to take any, or adequate steps to ensure that Company E complied with its obligations to provide Company Tax Returns for the years-ending 31 December 2015, 31 December 2016 and 31 December 2017:
  - i) Company E was required to file a Company Tax Return with HMRC in respect of these periods of time;
  - ii) The letter of engagement that Mr Blackburn sent to Company E on 09 December 2014 states "*We will prepare the company's tax return...*";
  - iii) Mr Blackburn provided Company E with HMRC Form 64/8 (Authorising Your Agent) to allow them to liaise with HMRC on behalf of Company E;
  - iv) Mr Blackburn told Mr F, the sole director of Company E, that he would prepare and file the tax returns of Company E;

- v Mr F, sole director of Company E, was informed by Firm G that these Company Tax Returns had not been filed; and
- vi Company E incurred fines relating to the late filing of these Company Tax Returns.

63. In relation to Allegation 3b)i – Professional Competence and Due Care, ACCA rely upon the following:

- a) Section 130.1(b) (Professional competence and due care) of the Code imposed an obligation on Mr Blackburn to act diligently in accordance with applicable technical and professional standards when providing professional services. Section 130.4 of the Code adds that diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.
- b) For the following reasons, it is submitted that Mr Blackburn acted contrary to Section 130.1(b) of the Code in respect of his conduct at Allegation 3(a):
  - i) The requirements of the assignment included Mr Blackburn obtaining financial information from Company E in order to allow him to prepare its company tax returns so that it could comply with its obligations. As a result, even if Company E did not provide such financial information to Mr Blackburn when they ought to have done, Mr Blackburn should, at the very least, have informed Company E that he had not yet received this and would require this to prepare its company tax returns.
  - ii) Mr Blackburn's firm remained engaged by Company E for a significant period after Mr Blackburn would have become aware that tax returns had not been filed. After the Company Tax Return for the year-ending 31 December 2015 was not filed in respect of Company E by the deadline of 31 December 2016, Mr Blackburn was still actively undertaking work in respect of Company E up until as late as 20 December 2018.

64. In relation to Allegation 3b)ii – Non-Compliance with Laws and Regulations, ACCA rely upon the following:

a) It is submitted that:

- i) Section 225.4 of the Code required Mr Blackburn to alert Mr F to the fact that Company E had not submitted its Company Tax Returns and to remedy this by providing Mr Blackburn and/or his firm with the financial information that would allow for the preparation and submission to HMRC of the Company Tax Returns; and
- ii) By not alerting Mr F, as director of Company E, Mr Blackburn acted contrary to Section 225.4 of the Code.

65. In relation to Allegation 4a) – Failure to Respond to Correspondence, ACCA rely upon the following:

a) Firm A and Dr B sent Mr Blackburn correspondence on the following dates to request information and/or documents from him:

- 22 January 2019 (3 emails);
- 23 January 2019 (2 emails);
- 06 February 2019 (1 email);
- 13 February 2019 (1 email);
- 25 February 2019 (1 email); and
- 01 May 2019 (1 email).

b) Mr Blackburn did not respond to any of the above correspondence until 31 January 2020 following a further email that had been sent to him by Firm A on 30 January 2020.

66. In respect of Allegation 4b)i – Professional Behaviour, ACCA rely upon the following:

- a) Rule 115.3 (Subsection 115 – Professional Behaviour) of the Code required Mr Blackburn to behave with courtesy and consideration towards Firm A and Dr B.
  - b) It is submitted that Mr Blackburn’s failure during the period of 22 January 2019 to 30 January 2020 to respond to the above correspondence sent to him by Dr B (his former client) and Firm A (his former client’s new accountants) demonstrates a breach of his duty to behave with courtesy and consideration. If Mr Blackburn was unable to provide the requested information/documents, then this should have been communicated to Dr B and/or Firm A prior to 31 January 2020.
67. In respect of Allegation 4b)ii – Professional Competence and Due Care, ACCA rely upon the following:
- a) R113.1 of the Code required Mr Blackburn to act diligently in accordance with applicable technical and professional standards.
  - b) R113.1 A3 explains that diligence “encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.”
  - c) For the following reasons, it is submitted that Mr Blackburn’s conduct at Allegation 4(a) was contrary to R113.1 of the Code:
    - i Mr Blackburn’s response to the correspondence listed in Schedule A, sent to him by his former client (Dr B) and his former client’s new accountants (Firm A) was not timely; and
    - ii Firm A required the information sought from Mr Blackburn to undertake work for Dr B and were entitled to expect a response from Mr Blackburn, even if that response indicated that he was not in a position to provide the requested information, as a professional courtesy.
68. In respect of Allegation 5 – Failure to Co-Operate with ACCA’s Investigation, ACCA rely upon the following:

- a) It is submitted that this allegation is capable of proof by reference to the factual summary above and the documentary evidence presented of letters from ACCA to Mr Blackburn, on eight occasions between 14 October 2019 to 04 March 2020.
- b) Regulation 3(1)(a) of the CDRs imposed a duty upon Mr Blackburn to co-operate with the investigation of a complaint.
- c) Regulation 3(1)(c) of the CDRs is clear that a partial failure to co-operate fully shall constitute a breach of the CDRs.
- d) It is submitted that Mr Blackburn failed to provide a substantive response to ACCA's correspondence and that this represents a breach of the duty contained in Regulation 3(1)(a) of the CDRs.

69. In respect of Allegation 6, ACCA rely upon the following:

- a) Misconduct – in respect of the conduct contained in Allegation 1
- b) In order for Mr Blackburn's conduct to amount to a breach of bye-law 8(a)(i) it must amount to misconduct. Bye-law 8(c) states that "for the purpose of bye-law 8(a), misconduct includes (but is not confined to) any act or omission which brings, or is likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession."
- c) Bye-law 8(d) provides that when assessing the conduct in question, regard may be had to the following:-
  - i Whether an act or omission, which of itself may not amount to misconduct, has taken place on more than one occasion, such that together the acts or omissions may amount to misconduct;
  - ii Whether the acts or omissions have amounted to or involved dishonesty on the part of the individual or relevant firm in question;  
and

- iii The nature, extent or degree of a breach of any code of practice, ethical or technical, adopted by the Council, and to any regulation affecting members, relevant firms or registered students laid down or approved by Council.
- d) In respect of the meaning of “misconduct”, the case of *Roylance v General Medical Council* [2001] 1 AC 311 states that the meaning of this term is of “general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a ...practitioner in the particular circumstances.”
- e) If any or all of the facts are found proven in allegations 1, it is ACCA’s submission that Mr Blackburn has brought discredit to himself and is therefore guilty of misconduct.
- f) In relation to Allegations 1a)i to iii and 1b)i to iii, ACCA’s submission on misconduct is made on the basis that:-
  - i Mr Blackburn’s preparation of annual accounts without the financial information of Company E and/or causing these to be filed at Companies House without these having been approved by the board of directors of Company E brings discredit to him, ACCA and the accountancy profession as a result of the importance in ensuring the accuracy of publicly-available accounts which are filed at Companies House.
  - ii Any finding of dishonesty/breach of the fundamental principle of integrity also amounts to serious professional misconduct which brings discredit to Mr Blackburn, ACCA and the accountancy profession.
  - iii Any finding of breach of professional competence and due care also amounts to serious professional misconduct which brings discredit to Mr Blackburn, ACCA and the accountancy profession.

70. In the event that Allegation 1a) is found proven but Allegation 1b) is not, ACCA submitted that Mr Blackburn is guilty of misconduct on the basis that the conduct alleged at Allegation 1a) amounts to serious professional misconduct on its own which brings discredit to Mr Blackburn, his firm, ACCA and the accountancy profession. The conduct brings discredit as it is important that ACCA members take steps to ensure the accuracy of accounts which are filed at Companies House.
71. In the alternative, ACCA submits that Mr Blackburn is liable to Disciplinary Action – in respect of Allegation 1b)iii
- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to by-law 8(a)(iii).
  - b) Allegation 1b)iii alleges that Mr Blackburn has acted contrary to the Fundamental Principle of Professional competence and due care. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to by-law 8(a)(iii) in the event that Allegation 1(b)(iii) is found proven.
72. ACCA submits that Mr Blackburn is Liable to Disciplinary Action – in respect of Allegation 2b)ii
- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to by-law 8(a)(iii).
  - b) Allegation 2b)ii alleges that Mr Blackburn has acted contrary to the Fundamental Principle of professional behaviour. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to by-law 8(a)(iii) in the event that Allegation 2b)ii is found proven.
73. ACCA submits that Mr Blackburn is liable to Disciplinary Action – in respect of Allegation 2b)iii

- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to by-law 8(a)(iii).
  - b) Allegation 2b)iii alleges that Mr Blackburn has acted contrary to the Fundamental Principle of professional competence and due care. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to by-law 8(a)(iii) in the event that Allegation 2b)iii is found proven.
74. In relation to misconduct – in respect of the conduct contained in Allegation 3, ACCA relies upon the following:
- a) Misconduct is a matter of judgment for a Disciplinary Committee. However, if any or all of the facts are found proven in Allegation 3 it is submitted that Mr Blackburn is guilty of misconduct on the basis that the conduct alleged amounts to serious professional misconduct on its own which brings discredit to Mr Blackburn, his firm, ACCA and the accountancy profession. The conduct brings discredit as it is important that accountants take steps to ensure their clients comply with their obligations.
75. ACCA submits that Mr Blackburn is Liable to Disciplinary Action – in respect of Allegation 3b)i, relying on:
- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to by-law 8(a)(iii).
  - b) Allegation 3b)i alleges that Mr Blackburn has acted contrary to the Fundamental Principle of Professional competence and due care. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to by-law 8(a)(iii) in the event that Allegation 3b)i is found proven.

76. ACCA submits that Mr Blackburn is Liable to Disciplinary Action – in respect of Allegation 3b)ii, relying on:
- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to be-law 8(a)(iii).
77. ACCA submits that Allegation 3b)ii alleges that Mr Blackburn has acted contrary to Section 225.4 of the Code. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to bye-law 8(a)(iii) in the event that Allegation 3b)ii is found proven.
78. ACCA submits that misconduct – in respect of the conduct contained in Allegation 4 can be found if any or all of the facts are found proven in Allegation 4 it is submitted that Mr Blackburn is guilty of misconduct on the basis that the conduct alleged amounts to serious professional misconduct on its own which brings discredit to Mr Blackburn, his firm, ACCA and the accountancy profession. The conduct brings discredit as it is important that accountants respond to requests made to them by their former clients and fellow professional accountants.
79. ACCA submits that Mr Blackburn is Liable to Disciplinary Action – in respect of Allegation 4b)i, relying on the following:
- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to be-law 8(a)(iii).
80. Allegation 4b)i alleges that Mr Blackburn has acted contrary to the Fundamental Principle of Professional behaviour. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to bye-law 8(a)(iii) in the event that Allegation 4b)i is found proven.
81. ACCA submits that Mr Blackburn is Liable to Disciplinary Action – in respect of Allegation 4b)ii, relying on:

- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to bye-law 8(a)(iii).
82. Allegation 4b)ii alleges that Mr Blackburn has acted contrary to the Fundamental Principle of Professional competence and due care. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to bye-law 8(a)(iii) in the event that Allegation 4b)ii is found proven.
83. ACCA submits that Misconduct can be found – in respect of the conduct contained in Allegation 5, if any or all of the facts are found proven in Allegation 5 it is submitted that Mr Blackburn is guilty of misconduct on the basis that the conduct alleged amounts to serious professional misconduct on its own which brings discredit to Mr Blackburn, his firm, ACCA and the accountancy profession. The conduct brings discredit as it is important that accountants fully co-operate with their regulatory body in respect of the investigation of a complaint.
84. ACCA submits that Mr Blackburn is Liable to Disciplinary Action – in respect of Allegation 5, relying on:
- a) In the event that Mr Blackburn has committed any breach of ACCA's by-laws or of any Regulations made under them in respect of which he is bound, then he shall be liable to disciplinary action pursuant to be-law 8(a)(iii).
85. Allegation 5 alleges that Mr Blackburn has breached Regulation 3(1)(a) of the CDRs. Accordingly, it is submitted that Mr Blackburn is liable to disciplinary action pursuant to bye-law 8(a)(iii) in the event that Allegation 5 is found proven.

## **THE MEMBER'S RESPONSE**

### Allegations 1 to 3

86. In his letter to ACCA of 29 October 2019, Mr Blackburn stated:

*“The company was sent a letter of engagement on 9th December 2014 and returned it approved...Section 2.21(d) clearly stated that full accounting records must be provided on an annual basis by 30th April. The company never complied with this requirement.”*

*“No accounting records were ever received from the company.”*

*“We filed estimated financial statements with Companies House in order to maintain the company’s listing.”*

*“...upon reflection, we should have dis-engaged with the client company because accounting information was not being provided.”*

For Allegations 4 to 5

87. In his letter to ACCA of 08 November 2019, Mr Blackburn stated:

*“...we still act for Partnership C. We do no longer act for a former partner namely Dr B...”*

*“The two then partners (Dr B and Dr D) separated on very poor terms and I require information from Dr D to supply the Dr B new advisors...the personal circumstances of Dr D have prevented a suitable discussion...”*

*“I will try again to arrange a suitable meeting with Dr D but feel I must leave it...”*

**DETERMINATION AS TO FACTS/ALLEGATIONS AND REASONS.**

88. The Committee accepted the advice of the Legal Assessor. It bore in mind that ACCA brings the case and that it is for ACCA to prove the facts on the balance of probabilities. Where there is doubt, it will be exercised in favour of Mr Blackburn.

Allegation 1a)i:

89. The Committee first considered whether Mr Blackburn prepared and submitted accounts with information that was inadequate or false. Both the company and

Mr Blackburn accept that there was inadequate information to produce accounts. Mr Blackburn was retained to prepare and submit accounts and Mr Blackburn agrees that he did provide and submit the accounts as an estimate in the absence of having relevant information. However, in the absence of adequate information, the information he provided was incorrect. Without the relevant information, he should not have filed accounts.

90. Accordingly, given the burden and standard of proof, the Committee found that Allegation 1a)i is proved on the basis of the documentary evidence which is not contradicted.

Allegation 1a)ii:

91. The Committee considered whether Mr Blackburn knew that he submitted a false declaration that Mr F had signed the Annual Accounts.
92. Evidence from Mr F was that he did not know about the accounts submitted and did not sign them. The Committee carefully considered the evidence presented on behalf of ACCA, and took into account that the documentation before it did not show an actual physical signature. However, the Committee took into account that signatures can be electronic and that the wording of the declaration is clear.
93. Accordingly, given the burden and standard of proof, the Committee found that Allegation 1a)ii is proved on the basis of the documentary evidence which is not contradicted.

Allegation 1a)iii.

94. The Committee heard that the accounts were only put together after Companies House chased these and has checked this chronology. With the pressure of time against him, it is more likely than not that Mr Blackburn prepared and submitted the estimated reports to remedy this deficiency without approval from the Board. There is no evidence to counter Mr Blackburn's information that he prepared the estimated accounts. Mr F's evidence is that Company E/Mr F was not aware that these had been prepared, and did not see or approve them.

95. Accordingly, the Committee was of the view that it was more likely than not that Mr Blackburn knew that the accounts did not have board approval even while he submitted them on this basis.
96. Accordingly, given the burden and standard of proof, the Committee found that Allegation 1a)iii is proved on the basis of the documentary evidence which is not contradicted.

Allegation 1b)i Dishonesty

97. The Committee considered whether Mr Blackburn convinced himself that providing false information was a legitimate approach, given that he wanted to protect Company E/Mr F.
98. There is no evidence before the Committee that Mr Blackburn did not know that it was dishonest to provide false information within the accounts, hold out that these had been signed by Mr F and approved by Company E's Board of Directors. As a qualified accountant of many years standing this should have been apparent to him. The Committee also noted that Mr Blackburn had submitted Annual Accounts for Company E in these circumstances over several years.
99. The Committee applied the test as set out in *Ivey v Genting* and considered that Mr Blackburn knew that he was being dishonest in providing false information and that other right minded people would consider what he had done to be dishonest. There is no evidence to contradict this.
100. Given the burden and standard of proof, the Committee considered that Allegation 1b)i is found proved in respect of Allegation 1a)i-iii on the basis of the documentary evidence which is not contradicted.

Allegation 1b)ii-iii

101. The Committee noted that these Allegations were in the alternative to Allegation 1b)i. Having found Allegation 1b)i proved, Allegations 1b)ii-iii fall away.

Allegation 2a)i-ii

102. The Committee considered whether Mr Blackburn did not inform Mr F/Company E of two Strike-Off Notices. The Committee noted that the accounts were prepared and filed post the dates of the Strike-Off Notices. There is no evidence from Mr Blackburn that he notified Mr F/Company E. Mr F provides evidence that he was not so informed of the Strike-Off Notices and only found out that this had occurred when he appointed a new accountant to replace Mr Blackburn.
103. Given the burden and standard of proof, the Committee finds that Allegations 2a)i-ii proved.

Allegation 2a)iii

104. The Committee considered whether Mr Blackburn informed Company E/Mr F of the visit from HMRC.
105. The Committee had regard to Mr F's statement which is not objected to. Mr F's evidence is that he was not told of HMRC's visit to Mr Blackburn's company address which was also the registered address of Company E. Mr F indicated that he had only found out from his subsequent accountants that this had occurred.
106. The Committee considered that Mr F's account included second-hand hearsay of what someone else had told his accountants. However, it noted that Mr Blackburn had not contradicted what Mr F had said.
107. Given the burden and standard of proof, and the documentary evidence before the Committee, it determined that there was a HMRC visit that Mr Blackburn did not inform Company E/Mr F about.
108. The Committee find Allegation 2a)iii proved.

Allegation 2b)i

109. The Committee considered whether the facts found proved at Allegation 2a) made out a lack of integrity. It had regard to whether Mr Blackburn had demonstrated adherence to the fundamental principles of integrity by reference to ACCA codes of ethical conduct.
110. The Committee considered that an HMRC visit was a significant event and that Mr Blackburn should have been transparent and discussed with Mr F/Company E what had occurred. This was expected behaviour that Mr Blackburn did not exhibit.
111. Given the burden and standard of proof, the Committee finds that Allegation 2b)i is proved.

Allegation 2b)ii-iii

112. Having found Allegation 2b)i proved, the Committee noted that the alternatives at Allegation 2b)ii-iii fall away.

Allegation 3a)

113. The Committee had regard to the letter of engagement whereby Mr Blackburn undertook to file Tax Returns, Mr F's evidence that this did not occur, and that there were financial penalties imposed for the non-filing of tax returns. The Committee had sight of the late-penalty figures. The Committee considered whether the letter of engagement did constitute a contract and concluded that it did, given that the consideration Mr F supplied was to agree that Mr Blackburn would file his Tax Returns rather than any other accountant, and that Mr F would supply him with the relevant information.
114. The Committee found that Mr Blackburn did not take adequate steps to either obtain the relevant information or disengage from his role. The Committee noted that there is a single letter from Mr Blackburn to Mr F asking for the relevant information but that this does not cover the multiple occasions on which the company failed to file Tax Returns: 31 December 2015; 31 December 2016; and 31 December 2017.

115. Given the burden and standard of proof, the Committee finds Allegations 3a)i-iii proved on the basis of undisputed documentary evidence.

Allegation 3b)i

116. The Committee finds that Mr Blackburn did not act diligently in following up to obtain the required information, and accordingly did not exhibit competence.

117. Given the burden and standard of proof, the Committee finds Allegation 3b)i proved on the basis of Mr Blackburn's inadequate performance of his responsibilities as a practising accountant.

Allegation 3b)ii

118. The Committee did not consider this Allegation which was provided in the alternative to Allegation 3b)i.

Allegation 4a)

119. The Committee had regard to correspondence concerning Dr B.

120. There is no evidence that Mr Blackburn did reply as required. There is evidence of multiple requests, with subsequent requests referencing the earlier requests, which have not been complied with. The Committee had regard to each of the emails requesting information. None received a substantive and full response.

121. Given the burden and standard of proof, the Committee find that Allegation 4a) is proved.

Allegation 4b)i

122. The Committee found that Mr Blackburn had an obligation to provide information in relation to his former client to a fellow professional who had taken over the client's accountancy needs.

123. The Committee notes the requirement for practising accountants to behave with courtesy and consideration. Not providing a timely professional response

is discourteous even if he did not have the relevant information. There was nothing to prevent Mr Blackburn from politely indicating that he did not have the relevant information despite asking the client for this if that was the position.

124. Given the burden and standard of proof, the Committee find that Allegation 4b)i is proved.

Allegation 4b)ii

125. The Committee did not consider this Allegation which was provided in the alternative to Allegation 4b)i.

Allegation 5

126. The Committee considered whether contrary to Regulation 3(1)(a) of the Complaints and Disciplinary Regulations 2014 (as applicable from 2019 to 2020), Mr Blackburn failed to co-operate fully with the investigation of a complaint in that he failed to respond fully or at all to ACCA's correspondence on:

- (a) 14 October 2019
- (b) 05 November 2019
- (c) 11 December 2019
- (d) 10 January 2020
- (e) 27 January 2020
- (f) 03 February 2020
- (g) 18 February 2020
- (h) 04 March 2020

127. The Committee was aware that Regulation 3(1)(a) of the CDRs imposed a duty upon Mr Blackburn to co-operate with the investigation of a complaint. Regulation 3(1)(b) of the CDRs elaborates on the nature of this duty by stating that it includes "...providing promptly such information...as the investigating officer...may...require."

128. The Committee was also clear that Regulation 3(1)(c) of the CDRs is clear that a partial failure to co-operate fully shall constitute a breach of the CDRs.

129. The Committee noted that while there was some contact from Mr Blackburn he failed to provide a substantive response to ACCA's correspondence and answer the questions posed by the dates required.
130. The Committee determined that this non-engagement represents a breach of the duty contained in Regulation 3(1)(a) of the CDRs.
131. Given the burden and standard of proof and the documentation which is uncontested before the Committee, it finds Allegation 5 proved.

Allegation 6a)

132. The Committee considered whether Mr Blackburn is guilty of misconduct, given the facts found proved. It determined that Mr Blackburn's actions and omissions do fall short of what was proper and include multiple serious shortcomings over an extended period over time. The Committee found that both individually and collectively these acts and omissions amount to serious professional misconduct. Clients who retain accountants need to be able to rely upon them to behave competently and follow their codes of ethics in relation to behaving diligently. This has not occurred in this case.
133. Given the burden and standard of proof, the Committee finds Allegation 6a) proved.

Allegation 6b)

134. The Committee did not need to consider Allegation 6b) which was pleaded in the alternative to Allegation 6a).

Case UF6346316

135. Case UF6346316 concerns Mr Blackburn failing to provide information required to Client A and B's accountant, when they appointed a new firm of accountants to take over from Mr Blackburn. Despite multiple requests to Mr Blackburn, no information was provided by him, which gave rise to a complaint to ACCA. The Allegation is that:

“Mr Brian Edward Blackburn (a member):

1. Between 10 December 2019 and 07 October 2020 failed to provide all transfer information to Client A and Client B's new accountant (Firm A) as requested contrary to section 320.14 of ACCA's Code of Ethics and Conduct (2020).
2. Contrary to Regulation 3(1)(a) of the Complaints and Disciplinary Regulations 2014 (2020), Mr Blackburn failed to cooperate with the investigation of a complaint in that he failed to respond to ACCA's correspondence of:
  - a. 31 July 2020;
  - b. 17 August 2020; and
  - c. 24 August 2020.
3. By reason of his conduct, Mr Blackburn is:
  - a. Guilty of misconduct in respect of any or all the matters set out at allegations 1 and 2, pursuant to bye-law 8(a)(i); or, in the alternative
  - b. Liable to disciplinary action pursuant to bye-law 8(a)(iii).”

## **CASE HISTORY**

136. ACCA received a referral from Firm A referred to in the allegations being Firm A (UF6346316), an accountancy firm. Client A and Client B instructed Firm A (Firm A (UF6346316)) to replace Mr Blackburn and his firm. They, Firm A (UF6346316), requested transfer information from Mr Blackburn and his firm (Firm B) in relation to Clients A and B, to enable the firm to take over and start work as new accountants. Mr Blackburn and his firm did not respond or provide information to them as they requested. Investigations were carried out before disciplinary proceedings were issued.

## **FACTS OF THE CASE**

137. ACCA received a referral concerning Mr Blackburn from Firm A (UF6346316). It was alleged by them/ Firm A (UF6346316) that they chased Mr Blackburn and his firm for at least five months to obtain professional clearance and handover documentation to enable them to act for Client A and Client B (collectively the two directors of Client A).
138. Firm A (UF6346316) supplied ACCA with copies of the following correspondence to Mr Blackburn and his firm:
- a. 10 December 2019, Firm A (UF6346316) initial request to Mr Blackburn (e-mail);
  - b. 07 January 2020, Firm A (UF6346316) first chaser to Mr Blackburn (e-mail);
  - c. 11 February 2020, Firm A (UF6346316) second chaser to Mr Blackburn following phone call chaser of 03 February 2020 (e-mail);
  - d. 28 February 2020, Mr Blackburn's response to Firm A (UF6346316)
  - e. 03 March 2020, Firm A (UF6346316) third chaser to Mr Blackburn (e-mail);
  - f. 11 March 2020, Firm A (UF6346316) fourth chaser to Mr Blackburn (e-mail);
  - g. 18 March 2020, Firm A (UF6346316) fifth chaser to Mr Blackburn (post);  
and
  - h. 08 April 2020, Firm A (UF6346316) sixth chaser to Mr Blackburn.
139. ACCA contacted Mr Blackburn and notified him of the complaint on 31 July 2020 and invited him to provide his comments and observations. This correspondence was sent to Mr Blackburn's registered e-mail address as it appears in ACCA's database on 31 July 2020.

140. At the same time ACCA contacted Firm A (UF6346316) for an update.
141. Firm A (UF6346316) responded on 05 August 2020 and confirmed that they received some information from a colleague of Mr Blackburn but not all the information they required, pointing out that the failure to provide all the information requested had delayed completion of their client A's final accounts. In their letter to Mr Blackburn of the same date, they set out the outstanding information which had still not been provided.
142. As Mr Blackburn did not respond to ACCA's initial correspondence, a chaser was sent to him on 17 August 2020. This correspondence was once again sent to Mr Blackburn's registered e-mail address as it appears in ACCA's database on 17 August 2020.
143. On 24 August 2020, Firm A (UF6346316) provided a further update, when they confirmed that Mr Blackburn had not supplied all the information they had requested.
144. ACCA sent a final chaser to Mr Blackburn on 24 August 2020. This correspondence was once again sent to Mr Blackburn's registered e-mail address as it appears in ACCA's database on 24 August 2020.
145. Mr Blackburn did not respond to this email or any of ACCA's previous email correspondence.
146. On 07 October 2020, Firm A (UF6346316) provided a further update, when they confirmed that Mr Blackburn has still not responded to them and had not supplied the information they requested which was holding up the completion of client B's personal tax returns.

## **SUBMISSIONS**

147. Submissions were made on behalf of ACCA.

### Allegation 1

148. ACCA relies on the correspondence sent by Firm A (UF6346316) to Mr Blackburn and his lack of response. This evidences a breach of 320.14 of ACCA's Code of Ethics and Conduct.

### Allegation 2

149. It is contended that in failing to respond to the requests of the Investigations Officer, Mr Blackburn has also breached Regulation 3(1) of the Complaints & Disciplinary Regulations.
150. As a member, Mr Blackburn is under a duty to co-operate and respond to the Investigations Officer's correspondence in which he was asked for an explanation of the allegations raised against him. Not only is Mr Blackburn in breach of Regulation 3 (1) but it is submitted that his complete failure to engage with ACCA's investigation amounts to misconduct.

### Allegation 3: Misconduct:

151. Misconduct is a matter of judgment for the Committee.
152. It is ACCA's submission, that if either or both allegations are found proved, Mr Blackburn has acted in a manner which brings discredit to himself, ACCA and to the accountancy profession and his conduct therefore amounts to misconduct pursuant to bye-law 8(a)(i).
153. If it is accepted that Complaints & Disciplinary Regulation 3(1) has been breached by virtue of the facts and submissions stated above, then bye-law 8(a)(iii) is automatically engaged.

### **MR BLACKBURN'S POSITION**

154. There has been no substantive response from Mr Blackburn concerning the allegations, so all matters are treated as being in dispute.

## DETERMINATION ON ALLEGATIONS WITH REASONS

155. The Committee did not hear any oral evidence but had regard to documentary evidence. Mr Blackburn did not ask for the production of any witnesses for cross-examination. The Committee accepted the advice of the Legal Assessor.

### Allegation 1

156. The Committee had regard to the requests for transfer information in respect of Client A and B that occurred between 10 December 2019 and 07 October 2020. It had sight of the relevant emails and no dispute as to their receipt had been raised by Mr Blackburn. Further, they recognised that Mr Blackburn had engaged by responding to at least one email and promising that information would be forthcoming. The Committee noted that it was told that a colleague of Mr Blackburn had dealt with some correspondence suggesting that receipt of requests was not an issue. It recognised that section 320.14 of ACCA's Code of Ethics and Conduct (2020) deals with transfer of information and has the following requirement:

*320.14- In order to ensure continuity of treatment of a client's affairs, the former accountant shall promptly provide the new accountant with all reasonable transfer information that the new accountant requests, free of charge.*

157. "Reasonable transfer information" is defined as:

- (a) A copy of the last set of accounts formally approved by the client; and*
- (b) A detailed trial balance that is in agreement with the accounts referred to in (a) above.*

158. Without any response from Mr Blackburn to suggest that the transfer information was provided or could not be reasonably provided, the Committee has nothing to contradict the evidence before it that the information was requested but not produced.

159. Given the burden and standard of proof, the Committee finds that Allegation 1 is proved.

## Allegation 2

160. The Committee was aware that there is a duty upon members of ACCA to comply with investigations, further to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended). The Committee concluded that Mr Blackburn had failed to co-operate with the investigation, given the evidence before the Committee. There was no response to the Investigator's correspondence sent via email to his registered address on: *31 July 2020; 17 August 2020; and 24 August 2020*. There were no electronically generated notifications of any problems with delivery.
161. Multiple attempts were made to contact Mr Blackburn. There is an obligation for members to keep their registered details up to date. There was no indication that Mr Blackburn's contact details had changed.
162. The information sought by the Investigation was simply an explanation for why information had not been provided. The Committee considered that this was a reasonable request and that there is no information from Mr Blackburn to indicate why he has not provided the same, save to indicate that he [PRIVATE].
163. The Committee found, on the balance of probabilities, that, on the basis and in the manner outlined above, whereby Mr Blackburn had not provided any explanation when required to do so during the investigation of why he had not provided requested information, is a breach of the Regulation 3(1) of the Regulations.
164. On this basis, the Committee found the facts of Allegation 2 proved.

## Allegation 3

165. The Committee having found Allegations 1 and 2 proved went onto consider if by reason of his conduct, Mr Blackburn is guilty of misconduct in respect of any or all the matters set out at allegations 1 and 2, pursuant to bye-law 8(a)(i).
166. It had regard to the case of *Roylance v General Medical Council* [2001] 1 AC 311 where it was said that:

“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.”

167. Mr Blackburn had failed to provide the transfer information he was required to, and co-operate with ACCA's investigations. Such conduct fell far below the standards expected of a member of ACCA and called into question ACCA's reputation as an effective regulator in investigating alleged breaches of its Code outlining required ethics and standards of propriety. In the Committee's judgement, it brought discredit to Mr Blackburn, the Association and the accountancy profession.
168. The Committee had found that, despite ACCA providing a number of reminders of his obligation to cooperate and warnings of potential consequences of his failure to do so, Mr Blackburn failed to cooperate with ACCA and to respond to correspondence substantively. Multiple emails were designed to encourage him to provide the information requested to enable ACCA to complete its investigation.
169. The need for members to engage and cooperate with their regulator was fundamental. A failure by members to do so meant that ACCA's ability to regulate its members in order to: ensure proper standards of conduct; protect the public, and maintain its reputation, was seriously compromised.
170. The Committee found that the failure of Mr Blackburn to cooperate with his regulator also amounted to misconduct in that such failure brought discredit to himself, ACCA and the accountancy profession.
171. The Committee found Allegation 3a) proved.

Allegation 3b)

172. On the basis that this allegation was pleaded in the alternative to Allegation 3a), the Committee made no finding in respect of it.

## SANCTIONS AND REASONS

173. In light of its findings in respect of the Allegations, the Committee went on to consider what sanction, if any, to impose. The Committee took into account ACCA's Guidance for Disciplinary Sanctions.
174. The Committee first considered whether there were any mitigating or aggravating factors.
175. Mitigating factors included the fact that Mr Blackburn had been a member of ACCA for many years with no previous findings against him.
176. Aggravating features include dishonesty which was serious in misleading clients. He was not transparent and was motivated by the desire to hide his own lack of competence. He has not engaged with ACCA and been co-operative on numerous occasions. He lacks insight and has not apologised for his wrongdoing.
177. Findings of dishonesty are always very serious, but were aggravated in this case by the following factors:
- There was no evidence of insight;
  - The misconduct was continued over a sustained period of time;
178. In view of the findings of dishonesty, the Committee was quite satisfied that a sanction was required. It went through the available sanctions in order of seriousness.
179. It was clear from the guidance that the sanctions of admonishment and reprimand were not sufficient to mark the seriousness of the misconduct in this case. The guidance for reprimand says that the '*sanction would usually be applied in situations where the conduct is of a minor nature*'. The factors listed were not present. The misconduct was in deliberate disregard of professional obligations and continued for a substantial time.
180. The Committee next considered the sanction of severe reprimand. The Guidance says that '*This sanction would usually be applied in situations where*

*the conduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public'. Apart from his previous good record, none of the factors mentioned in the guidance were present. The misconduct was intentional and continued until discovered. It was not an isolated incident. No references were submitted.*

181. Furthermore, the Committee did not consider that this sanction would be sufficient to mark the seriousness of the sustained dishonesty in this case or to ensure that the public would be protected in future. The Committee considered that Mr Blackburn's dishonest behaviour, and his disregard of the system of regulation, were fundamentally incompatible with being a member of ACCA. The Committee therefore concluded that the minimum sanction it could impose was exclusion from membership.

#### **COSTS AND REASONS**

182. Mr Mustafa applied for costs of £11,607.50.
183. The Committee was satisfied that, in principle, ACCA was entitled to an order for costs. These proceedings were properly brought. The Committee considered that the sum claimed was reasonable.
184. While in April 2024, Mr Blackburn indicated that he was not working as an accountant [PRIVATE], beyond that he did not provide any information about his means. The Committee, therefore, had no basis for reducing the amount of costs he should be ordered to contribute.
185. Mr Mustafa did suggest that the costs could be reduced on the basis that the Case Presenter and Case Officer would not be needed on Day 2 of the hearing. In deciding on an appropriate amount of costs, it took this into account. It determined that the appropriate sum was £10,500.

#### **EFFECTIVE DATE OF ORDER**

186. The Committee considered whether it should exercise its power to direct that the order for exclusion should have immediate effect. Such a power can only

be exercised in the interests of the public. In this case, Mr Blackburn had been found to be dishonest, and not acted with integrity over a prolonged period while registered with ACCA. The Committee had concluded that his actions were incompatible with continued registration. There was a risk to the public. The Committee determined that it was necessary for the order to have immediate effect.

## **ORDER**

187. The Committee ordered as follows:

- (a) Brian Edward Blackburn be excluded from membership of ACCA;
- (b) Mr Blackburn shall make a contribution to ACCA's costs of £10,500;
- (c) This order shall have immediate effect.

**Mr Andrew Gell**  
**Chair**  
**15 May 2025**