



## **DEALING WITH FRAUDULENT BEHAVIOUR**

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## **FURTHER INFORMATION**

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## 0. PREAMBLE

### 0.1 Purpose

This document provides information on dealing with fraudulent behaviour.

### 0.2 Scope

0.2.1 This document is based upon the IAF (International Accreditation Forum) document IAF ID 15:2023 *Dealing with Fraudulent Behaviour*. On the transfer of the role of IAF to the Global Accreditation Cooperation Incorporated (Global ACI), the text has been reformatted to be a Global ACI document without any substantive change to the text.

0.2.2 This document reflects the consensus of Global ACI members that provide accreditation in the fields of certification of management systems, persons, products, processes and services, and validation and verification on this subject and is intended to support the consistent application of requirements. However, being a document for information purposes only, Global ACI Accreditation Body (AB) Members, and the Conformity Assessment Bodies (CABs) they accredit, are not under any obligation to use or comply with anything in this document.

## 1. INTRODUCTION

Accredited certification depends on establishing a relationship of trust between a certification body (CB) and its clients, supported by objective evidence that relevant requirements have been met. The same relationship of trust is required in connection with the accreditation of CBs by ABs and the participation of ABs in regional and international MRAs. If that trust is broken, as a result of fraudulent behaviour by the client, the CB, or the AB, then this cannot be dealt with as a routine “nonconformity”.

*Note: For simplicity, this document focuses only on accredited certification. A similar approach can, however, be applied in the context of accredited verification and validation (V&V) or other conformity assessment activities, with appropriate modifications.*

How individual entities deal with fraudulent behaviour can vary significantly depending on the context in which the behaviour occurred. Responses to fraudulent behaviour will be strongly influenced by the framework of laws that operate in the jurisdiction where each AB or CB operates and where the fraudulent behaviour occurred. These factors make it very difficult, if not impossible, to provide a workable mandatory approach that all accreditation systems could implement.

The approach taken in Global ACI-TECH-3-025 has been to state the outcomes to be achieved, which are mandatory. This informative document is intended to provide a framework within which Global ACI, regional cooperation bodies, ABs and CBs can respond to cases of fraudulent behaviour, in order to achieve the mandatory outcomes.

It provides for different levels of response depending upon the proximity of different elements of the accreditation network to fraudulent behaviour. The primary responsibilities are with ABs and CBs. Global ACI and regional cooperation bodies also have important oversight and information coordination roles.

Annex A provides a case study of how the expected outcomes from this document have been implemented by one AB, and other ABs are encouraged to share their experiences by providing additional case studies and/or real examples of actions taken to address fraudulent behaviour for future versions of this document.

The expected result of the application of this document is that the accreditation network will operate under a common commitment to investigate, exchange information, and act on fraudulent behaviour.

## 2. UNDERSTANDING FRAUDULENT BEHAVIOUR

Fraudulent behaviour is mentioned several times in ISO/IEC 17011:2017 but is not defined. For the purposes of this informative document, it is considered as “any intentional misrepresentation, concealment of information or provision of false information to a relevant interested party, resulting in the deliberate violation of accreditation or certification rules”.

*Note: The focus of this document is on fraudulent behaviour that is relevant to the scope of accredited certification and has the potential to bring an accreditation body, accreditation or accredited certification into disrepute.*

Within the structure of accredited certification, fraudulent behaviour could be perpetrated by various parties including, for example:

- Accreditation body
- Certification body
- Certified client

*Note: In the context of this document, the “certified client” includes the certified organisation (in the case of product or management system certification) and the certified individual (in the case of person certification)*

Fraudulent behaviour by organisations or persons holding accredited certificates is a threat to the credibility of accredited certification and the standards on which it is based. Over recent years a number of high-profile examples from different geographical regions have been widely disseminated by the global media. These cases demonstrate where certified clients have acted in ways that call into question how the accredited certification can be allowed to stand.

Dealing with situations like these can be complex because ABs will not generally have a direct relationship with certified clients. Nonetheless, if fraudulent behaviour is confirmed as being under the scope of accredited certification, an AB must consider its position, because of the effect that fraudulent behaviour can have an impact on the reputation of its accredited system.

Any fraudulent behaviour that directly contravenes accreditation rules will be a matter of direct concern to accreditation bodies and likely to be dealt with under existing sanctions.

## 3. DEALING WITH FRAUDULENT BEHAVIOUR

All members of the Global ACI network (ABs, Regional Cooperation Bodies, Global ACI Members, CBs and users of accreditation) have an obligation to take steps to disengage from any party involved in fraudulent behaviour.

Obligations are not evenly distributed and can be broadly represented as:

|                                             |                                                                                                                                                                                                                                                                                         |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regional Cooperation Body and/or Global ACI | <ul style="list-style-type: none"><li>• Report instances of fraudulent behaviour</li><li>• Investigate any allegations against an AB</li><li>• Verify the effective implementation of measures by ABs</li><li>• Coordinate information distribution on actions by ABs and CBs</li></ul> |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                      |                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Accreditation bodies | <ul style="list-style-type: none"> <li>• Report instances of fraudulent behaviour to the AB under whose accreditation system the allegations are made</li> <li>• Investigate any allegations made against their accredited CBs and take timely actions to suspend or withdraw accreditation if necessary</li> <li>• Verify the implementation of measures taken by their accredited CBs</li> </ul> |
| Certification bodies | <ul style="list-style-type: none"> <li>• Report instances of fraudulent behaviour</li> <li>• Investigate any allegations made against their certified clients and take timely actions to suspend or withdraw certification if necessary</li> <li>• Verify the implementation of measures taken by their certified clients</li> </ul>                                                               |

These are illustrative only. For instance, depending on the extent to which an AB has a direct relationship with certified clients it may act independently in response to allegations of fraudulent behaviour.

## 4. ESSENTIAL CONDITIONS

The following are the essential conditions that ABs should establish under their accreditation system to manage fraudulent behaviour:

- i) Develop a publicly available statement on what it considers to be fraudulent behaviour (taking into consideration any relevant national laws)
- ii) Establish a sound legal basis for dealing with fraudulent behaviour
- iii) Establish the necessary information management capability
- iv) Implement a process for investigating and decision-making on allegations of fraudulent behaviour
- v) Respond effectively to valid allegations
- vi) Coordinate with relevant interested parties

Depending on how ABs have established their conditions of accreditation 'fraudulent behaviour' may not require any changes or very few changes to the arrangements for managing other forms of sanctionable behaviour.

## 5. POSSIBLE APPROACHES

The following are examples of approaches and additional information that an AB may consider in order to meet the requirements of Global ACI-TECH-3-025, Annex A.

### 5.1 Develop a Statement

#### **Required Outcome (see Global ACI-TECH-3-025 Annex A1)**

*Each AB will develop and publish a statement about how the AB proposes to deal with fraudulent behaviour by accredited CABs and/or their clients.*

#### 5.1.1 Comment

An AB should have a statement on what it considers to be fraudulent behaviour (consistent with Clause 2 of this document) and what action it will take to deal with any incidence of such behaviour under its accreditation system.

This is important for two reasons:

- i) Fraudulent behaviour is not always well defined. A statement about what the AB considers to be fraudulent behaviour is necessary to provide a basis for action.
- ii) Managing fraudulent behaviour can involve multiple parties and an AB should be clear about its relation to those other parties.

The statement and its publication in accreditation procedures will notify potentially affected parties of the likely consequences they may face should they act in a fraudulent manner. This is important to ensure that any action that an AB undertakes is not frustrated by claims that it is arbitrary or outside the terms of the accreditation relationship.

#### 5.1.2 Approach

A statement on fraudulent behaviour should have the following features:

- i) A description of what is meant by fraudulent behaviour
- ii) The range of actions the AB will take in responses to instances of fraudulent behaviour from:
  - a. Accredited CBs
  - b. Organisations or persons operating under its accredited certification
- iii) A statement of the expectations that the AB has of CBs under its accreditation in dealing with fraudulent behaviour

#### 5.1.3 Application

Individual ABs are free to apply this model where the implementation matches their context; alternatively, an AB can vary the approach to suit its context, provided it documents and discloses the process that it applies to ensure that it meets the expected outcome.

### 5.2 Basis for Managing Fraudulent Behaviour

#### Required Outcome (see Global ACI-TECH-3-025 Annex A2)

*Each AB will have the policies, procedures and legally enforceable arrangements in place that will enable it to respond to fraudulent behaviour.*

#### 5.2.1 Comment

Dealing with fraudulent behaviour presents varying levels of risk and each AB should establish a sound basis on which it will manage its responsibilities.

The legally enforceable arrangements that an AB has with the CBs it accredits can be an efficient way to manage risk. An arrangement can include all the necessary conditions required to manage cases where either a CB and/or a client of the CB have engaged in fraudulent behaviour.

*Note: ABs need to take great care not to act as law enforcement authorities, performing investigations of CBs and their clients and punishing supposed fraudulent behaviour to an extent that goes beyond criteria defined by ISO/IEC 17011 and any other relevant accreditation rules. This could cause serious damage not only to CBs and their clients, but also to ABs and the accreditation system if the AB's conclusion of fraudulent behaviour is proven wrong by an actual court of law or law enforcement authorities.*

- **Managing fraudulent behaviour at CB level**

An effective arrangement will include undertakings which an accredited body accepts as conditions of accreditation. Failure to follow undertakings can be taken as cause for findings against a CB or the suspension / withdrawal of its accreditation.

To reduce the risk to the AB arising from exercising its responsibilities, legally enforceable arrangements can include prior acknowledgement that the AB is entitled to undertake certain actions in response to allegations of fraudulent behaviour.

- **Managing fraudulent behaviour at certified client level**

An AB does not generally have a direct contractual relationship with certified clients. Each CB is assumed to manage the relationship between itself and the organisations or persons it certifies. However, users expect the AB to bear responsibility for the performance of entities operating under its accreditation and for the impact of their performance on the reputation of accreditation and certification. Where an accredited CB has not appropriately responded to allegations of fraudulent behaviour by one of its clients, the AB is therefore expected to take action with its CB to preserve the integrity of the accreditation and certification.

ABs are largely reliant on their accredited CBs to monitor the performance of the CB's certified clients and take action to withdraw or limit certifications where appropriate. An AB should also be able to ensure that CBs operating under its accreditation have in place the processes and policies that will enable the CB to manage fraudulent behaviour by its clients. Such requirements are typically covered by the standard being used as a basis for accreditation.

- **Utilising scheme rules**

The conditions in an accreditation agreement can be reinforced by establishing within scheme rules conditions for CBs to monitor, review and appropriately respond to any conditions of certification. These can readily include provisions that define fraudulent behaviour and trigger appropriate responses.

This has the advantage of being a context-driven approach to dealing with the withdrawal of certification.

### 5.2.2 Approach

To establish a sound basis for managing fraudulent behaviour an AB can make use of the provisions in ISO/IEC 17011: 2017 to introduce terms into the accreditation agreement [ISO/IEC 17011: 2017 Clause 4.2].

- i) Consideration should be given to including in the agreement terms which would obligate a CB to undertake at least the following:
  - a. Give notice to the AB of any formal allegations of fraudulent behaviour against the CB (or persons acting on the CB's behalf) or any client of the CB.
  - b. Cooperate with the AB to investigate credible allegations of fraudulent behaviour against the CB or its clients.
  - c. Respond to any formal written communication by its AB requesting information about allegations of fraudulent behaviour.
- ii) To ensure that the AB can perform its responsibilities the agreement should also include acknowledgments by the CB that:
  - a. The AB will notify the Global ACI Secretariat of any suspension or withdrawal of accreditation and the reasons for them (in accordance with Global ACI-TECH-3-025).
  - b. The AB may provide details to relevant regulators of the sanctions that have been imposed, where those regulators rely upon the accredited activities performed by the CB to perform their regulatory duties (subject to confidentiality).
  - c. The AB may undertake any special assessment of the CB it considers necessary.
  - d. That an exclusion period can be applied to any person or organisation that has had an application rejected or its certification withdrawn before it can re-apply for certification.
- iii) Depending on its specific national context, an AB can minimise its risk in dealing with fraudulent behaviour by including adequate indemnification clauses in its agreement with CBs, after receiving appropriate legal advice.

*Note: Indemnifications and releases should be considered carefully by each AB and should be covered by a general condition that they are in addition to and not exclusive of any other right or remedy that the AB may have under law.*

### 5.2.3 Application

Individual ABs are free to apply this model where the implementation matches their context. Alternatively, an AB can vary the approach to suit its circumstances, provided it documents and discloses the process that it applies to ensure that it meets the expected outcome.

## 5.3 Information Management

### Required Outcome (see Global ACI-TECH-3-025 Annex A3)

*Each AB will have in place the necessary arrangements to receive, validate, act on, and transmit information on allegations of fraudulent behaviour (including the outcome of any actions it takes to manage fraudulent behaviour) to relevant interested parties (including, but not limited to relevant Global ACI member ABs).*

### 5.3.1 Comment

The flow of information between the accreditation system and relevant interested parties (including, for example regulators and scheme owners) and between accreditation system members on technical, ethical, and lawful performance problems is essential for the effective operation of accredited conformity assessment. Exchanging information about other parties has some degree of risk that will need to be managed by the AB within its specific jurisdiction and context.

Each AB member of Global ACI should have the necessary policies and procedures that will allow it to provide notice to any relevant Global ACI member AB (or ABs) of fraudulent behaviour or practices by a CB operating within its jurisdiction or under its accreditation. This should be done as and when an AB becomes aware of such behaviour or practices.

### 5.3.2 Approach

- i) Provide a public mechanism for receiving information on fraudulent behaviour through a complaint handling process [see ISO 10002 for guidance] and/or a whistle blower protection program [see ISO 37002 for guidance].
- ii) Ensure existing policies and arrangements are sufficient to provide the AB with reasonable safeguards under which the AB can notify other parties of fraudulent behaviour.
- iii) Verify that CBs' contracts with clients have reasonable safeguards under which the CB can notify other parties of fraudulent behaviour.

### 5.3.3 Application

Individual accreditation bodies are free to apply this model where the implementation matches their context; alternatively, an AB can vary the approach to suit its context, provided it documents and discloses the process that it applies to ensure that it meets the expected outcome.

## 5.4 Investigation and Decision-Making

### Required Outcome (see Global ACI-TECH-3-025 Annex A4)

*Each AB will have processes necessary to establish the validity of any allegations of fraudulent behaviour against an applicant or accredited CB and failure by the CB to adequately deal with allegations of fraudulent behaviour by its clients.*

### 5.4.1 Comment

Any information on alleged fraudulent behaviour that is received through complaints, whistle-blower arrangements or other means should be assessed to establish its validity before the AB under whose accreditation system the behaviour has occurred distributes that information further or otherwise acts on the information.

- **Initial Investigation**

An investigation of alleged fraudulent behaviour should be carried out under conditions that are fair and reasonable. This should include providing an opportunity for reply.

Often an administrative process will be effective as an initial investigation. This can be as simple as documenting the alleged facts and seeking an explanation from the CB of the facts. This approach is likely to be equally valid where the behaviour is alleged against the CB or its client.

- **Special Assessment**

A more formal assessment can be undertaken by the method best matched to the alleged behaviour and circumstances in which it occurred. A special assessment will be supported by a reasonable belief of fraudulent behaviour based on the initial investigation.

- Market surveillance visits may be used where the certified system is at issue (For further guidance, see Global ACI-TECH-3-022)
- Investigation techniques (e.g. probity tests, forensic audits) may be used when the integrity of a certification body is at issue or when a certification decision is in doubt

It is open to an AB to consider the results of regulatory decisions, court hearings or administrative decisions as part of its investigation and decision-making in any case of alleged fraudulent behaviour.

- **Prejudice to other investigations**

Any investigation into alleged fraudulent behaviour should not prejudice the investigation of any law enforcement or regulatory authority. It is reasonable for an AB or CB to delay its investigation while an investigation by a law enforcement or regulatory agency is underway.

If an AB delays or defers its own investigation into fraudulent behaviour that is already in the public domain, then this fact should be reported to Global ACI.

#### 5.4.2 Approach

- i) Document a procedure for initial investigation of allegations of fraudulent behaviour
- ii) Document a procedure for special assessments into allegations of fraudulent behaviour

*(Note: ABs should already have procedures for extraordinary assessments (ISO/IEC 17011:2017 Clause 7.9.5), which may suffice)*

- iii) Document a policy for managing allegations of fraudulent behaviour when other investigations may be in progress

*(Note: This will depend on the specific jurisdiction and the legal context in which the AB is operating)*

#### 5.4.3 Application

Individual ABs are free to apply this model where the implementation matches their context; alternatively, an AB can vary the approach to suit its context, provided it documents and discloses the process that it applies to ensure that it meets the expected outcome.

## 5.5 Respond to Valid Allegations

### Required Outcome (see Global ACI-TECH-3-025 Annex A5)

*Each AB will have in place measures to respond effectively and proportionately to fraudulent behaviour.*

#### 5.5.1 Comment

There are many complicated issues in framing a response to fraudulent behaviour:

- i) the impact of parallel regulatory or legal action
- ii) whether the behaviour is isolated within an organisation or is systemic/endemic
- iii) the consequential outcomes for other parties

Where fraudulent behaviour is isolated to specific persons or functions within an organisation and action is taken to remediate it then withdrawing accreditation or certification may not be necessary. In contrast it is difficult to understand how any accreditation or certification could be maintained when fraudulent behaviour is sustained and systemic.

The impact of a single or isolated instance of fraudulent behaviour may be more damaging than a case that is systemic. Taking account of these factors, it is reasonable for the response to any instance of fraudulent behaviour to be conditioned by the relevant facts.

#### 5.5.2 Approach

**Fraudulent behaviour by an applicant CB** - an AB should include in its application documentation provisions for acknowledgment by an applicant that its application for accreditation shall be rejected and that a new application may not be submitted within a given timeframe (e.g. 12 months), based upon the circumstances of the fraudulent behaviour.

*Note: The note to ISO/IEC 17011:2017 clause 4.4.10 states that it is not considered discriminatory for an AB to refuse services to a CAB because of “proven evidence of fraudulent behaviour, falsification of information or deliberate violation of accreditation requirements”.*

**Fraudulent behaviour by an accredited CB** - an AB should be able to establish a proportionate response to any instances of fraudulent behaviour by an accredited CB. This should take account of all relevant factors. Proportionality suggests a range of responses to fraudulent behaviour:

- Withdrawal of accreditation
- Suspension of accreditation
- Scope reduction
- Corrective actions

**Fraudulent behaviour by a certified client** - generally, an AB will not have a direct relationship with a certified client. The most effective way for an AB to deal with certified clients is likely to be via the certified client's CB. Nonetheless, it is possible that a CB may not act adequately to address fraudulent behaviour by a client. In such cases, the AB should request the CB to explain (“show cause”) as to why its failure to act should not result in its accreditation being suspended or withdrawn.

### 5.5.3 Application

Individual accreditation bodies are free to apply this model where the implementation matches their context; alternatively, an AB can vary the approach to suit its context, provided it documents and discloses the process that it applies to ensure that it meets the expected outcome.

## 5.6 Coordination

### Required Outcome (see Global ACI-TECH-3-025 Annex A6)

*Each AB will respect and support the legitimate actions taken by another Global ACI Member AB to manage fraudulent behaviour.*

#### 5.6.1 Comment

Problems will arise for accreditation when valid actions by an AB in response to fraudulent behaviour can be circumvented because:

- a CB can obtain accreditation from another AB after its accreditation has been withdrawn; or
- a certified client can obtain certification from another accredited certification body after its certification has been withdrawn.

Where these options exist then the credibility of accreditation and certification will be severely compromised.

#### 5.6.2 Approach

- **NOTIFICATIONS**

Each AB should notify its accredited CBs about allegations that have been brought to the AB's attention regarding fraudulent behaviour by clients under their certification.

Each AB should include within its accreditation procedures conditions that oblige it to provide notifications to Global ACI of all withdrawn accreditations as and when any appeal process is exhausted (see Global ACI-TECH-3-025). It should identify:

- the CB;
- the reasons for the withdrawal; and
- that any appeal process has been exhausted.

When an AB is notified by a CB that it has withdrawn certification from a client, then the AB will notify Global ACI. It should identify:

- the client organisation;
- the CB;
- the reasons for the withdrawal; and
- that any appeal process has been exhausted.

- **COMPLIANCE WITH NOTICES**

Each AB should also include in its application procedures conditions that obligate it to comply with any notice issued by Global ACI on the eligibility for accreditation of any CB which has had:

- an accreditation application rejected;
- its scope of accreditation reduced;
- its accreditation suspended; or
- its accreditation withdrawn.

- **DUE DILIGENCE**

Each AB should also ensure that:

- its application and assessment process takes adequate account of information from any source that might be relevant to accepting or granting accreditation to a CB that has had its accreditation withdrawn by another Global ACI member AB; and
- it verifies the effectiveness of corrective actions by a CB to address fraudulent behaviour and assess the risk of repeat behaviour.

### 5.6.3 Application

Individual accreditation bodies are free to apply this model where the process aligns with their context; alternatively, where it does not, then the accreditation body can vary the general model to suit its context if it documents and discloses the process that it applies to ensure that it meets the expected outcomes of this document.

## 6. GLOBAL ACI AND REGIONAL RESPONSIBILITIES

### Expected Outcome (not covered by Global ACI-TECH-3-025)

*Global ACI and regional bodies establish a coordinating role for information exchange within the accreditation system on fraudulent behaviour.*

#### 6.1 Comment

The flow of information between stakeholders and the accreditation system and between accreditation system members on technical, ethical, and lawful performance problems is essential for dealing effectively with fraudulent behaviour.

Both the Global ACI and member bodies should provide mechanisms for receiving information from stakeholders. This would normally be through a complaint handling process [see ISO 10002] and may also be extended to a whistle blower protection [see ISO 37002].

#### 6.2 Approach

Global ACI and Regional Cooperation Bodies should undertake the following:

- **INFORMATION DISTRIBUTION**

- i) Provide a public mechanism for receiving feedback on behaviour by ABs, CBs and their certified clients.

- ii) Implement a process for distributing information provided under the following circumstances:
  - a. Where there are credible allegations of fraudulent behaviour against a CB inform the AB (or ABs) under whose accreditation the CB is operating.
  - b. Where there are credible allegations of fraudulent behaviour against a certified client inform the AB and CB.

- **COORDINATION**

- i) Alert all Global ACI member ABs to the fact that the CB in question shall not be eligible for accreditation with any other Global ACI member AB until any suspension is lifted.
- ii) Alert all Global ACI member ABs to the fact that the CB in question shall not be eligible to apply for accreditation by any Global ACI member AB for an amount of time determined by the AB based upon the circumstances of the fraudulent behaviour.

- **INVESTIGATION**

Refer any credible allegation against an AB to the Global ACI Arrangement Committee (or regional committee with MRA responsibility) for investigation.

## 7. AMENDMENT TABLE

| Section | Previous Version | Summary of Changes                   |
|---------|------------------|--------------------------------------|
| All     | -                | Initial issue of Global ACI document |

## **ANNEX A - EXAMPLE OF AN ACTUAL AB'S PROCESS ("ABX")**

*Note: Annex A is taken "verbatim" from ABX's documentation and some terms used may be slightly different from those used in the rest of this document.*

ABX's approach to implementing sanctions is strongly influenced by the fact that decisions of this kind are subject to judicial review. Accordingly, we use administrative law practice in Country "X" as the main source of direction for administration of sanctions.

### **Meaning of fraudulent behaviour**

The specific term 'fraudulent behaviour' is not used in the ABX Accreditation Criteria. It is covered by specific conditions contained in the Accreditation Deed and elaborated on in the Accreditation Manual covering:

- 1) Fit and Proper Person
- 2) Ethical behaviour
- 3) Misleading statements
- 4) Collusive, coercive, or criminal practices

### **Basis for dealing with Fraudulent behaviour**

The basis for dealing with malpractice and misrepresentation is the Accreditation Deed which requires accredited CABs to acknowledge or undertake:

- ABX authority for reduction of scope, suspension, withdrawal, or cancellation of accreditation
- Obligation to meet fit and proper person requirements
- Indemnification of ABX from any liability for loss suffered by the CAB because of release of information by ABX

The Deed also sets up an obligation to comply with The Conditions of Accreditation. These are general. They include adherence to basic elements of the Accreditation Criteria (Program standards, mandatory documents, and scheme rules, including certification standards)

### **Receiving and processing information**

Information on malpractice or misrepresentation is received from many sources. If it is about the degree or quality of performance of a CAB, then it is handled as formal complaint. A Whistle-blower policy is currently being assessed to support disclosure of malpractice.

### **Investigation**

If it appears to be deliberate misrepresentation or malpractice, then one of several options can be applied to establish the facts and culpability. Methods such as additional surveillance have been used but more effective tools have been:

- Forensic audits – used to test the basis for a certification decision, especially in product certification.
- Probity tests (using experts trained in investigation techniques) – designed to test an accredited body's ethical standards. Probity tests have been used in cases where there were suspicions of certification being given under conditions of reduced audit times or no audit and to test the links between certifiers and consulting services.

## Challenge

A 'Show Cause letter' is used as the preliminary step in applying accreditation sanctions. The reasons for using this are to meet the conditions for natural justice, including the right to present explanatory information. Care is taken to ensure that a Show Cause letter never implies that a decision has already been made or refers to a 'provisional' or 'draft' decision. This is to ensure that subsequent actions are not frustrated by claims of bias or predetermined decisions. A formal structure for the 'Show Cause letter' is used and a reasonable time is allowed for a response (15 working days).

## Sanctions

The sanctions applied where CABs fail to meet the conditions of accreditation include:

- Reduction of accreditation scope
- Validation visit
- Suspension
- Withdrawal

A method of **Cancellation** is also used as a withdrawal with no right of appeal. Cancellation applies in specific situations such as:

- a valid withdrawal of accreditation has been made by another Global ACI member body
- a prosecution in a court or tribunal for criminal behaviour, corporations or companies, competition, or consumer protection, or misleading or deceptive behaviour
- a prosecution in a court of a person who has control of the management of the accredited body
- inducements to ABX personnel to influence the outcome of an assessment or a decision
- understating certification numbers or deceptive alteration of the ABX certificate register

Cancellation works because the conditions for a right to be heard have been met by the processes carried out by the other party and the accredited body has accepted this through the signing of the Accreditation Deed.

## Publication

Details of all suspensions, withdrawals and cancellation are published on the public website. Provisions in the Deed give protection against legal challenges against publication.

## Certified organisations

ABX has an interest in the behaviour of certified organisations where this is at odds with any certification that they might hold. In general, the ability to take direct action to remove or limit certifications provided to certified organisations is limited. This is because ABX does not currently have a direct relationship with the certified organisation. Nonetheless it is open to ABX to deal with certified organisations engaged in malpractice or misrepresentation through CABs.

The Deed Poll contains express provision for ABX to issue directions related to the performance of CABs and fulfilment of accreditation criteria.

This grants ABX a broad power to direct CABs to act in many cases. This would include giving ABX the ability to issue a direction requiring a CAB to audit and respond to fraudulent behaviour by a client where that client poses a risk to the perceived integrity of the accreditation system. That direction would be expressed in terms of being “necessary for the proper ordering and functioning of the accreditation system”.

In a situation where a CAB chose to ignore a direction issued by ABX and failed to take action to respond to fraudulent behaviour by a client, ABX has the option requiring the CAB to show cause why its accreditation should not be suspended or withdrawn or cancelled.

Removing a CAB’s accreditation will have the effect of revoking the Licence to use the Accreditation Symbol, which (because of the terms of the Licence) will automatically revoke the sub-licences granted by that CAB to its clients.

Revocation of the sub-licences will mean that any continued use of the Accreditation Symbol by the CAB’s clients will constitute an infringement of ABX’s intellectual property rights.