

AUDIT MONITORING - THE NEED FOR A REGULATORY COMMITTEE

Dealing with the results of audit monitoring

Practice monitoring is only one part of regulatory landscape. For monitoring to be fully effective, there needs to be a mechanism within a professional body for reports from monitoring visits to be considered to identify:

- action to be taken in respect of deficiencies found at individual firms, and
- the general trends emerging, allowing the professional body to identify future CPD provision and to plan technical/written output to address issues among firms.

The latter function can, workload permitting, be performed by a professional body's governing council, particularly where monitoring reports are produced in a suitably anonymous form or where the results are aggregated. Having said this, however, there are some dangers in respect of confidentiality and there is also much to be said for having a specialist committee looking at all monitoring matters.

ACCA advocates an educational and advisory approach to monitoring, whereby deficiencies found at initial monitoring visits result in practitioners being given guidance on how to improve and then scheduled for re-visits at a suitable point in the future, when rectification progress can be assessed. However, a stage will be reached when it will become necessary to take more decisive action in respect of persistently deficient practitioners and such decisions are unlikely to sit comfortably with a governing council's wider representative role.

Issues likely to face governing councils

Dealing with individual practitioners and their deficiencies is likely to prove problematic for a body's governing council for the following reasons:

- confidentiality
- commercial rivalry and other conflicts of interest
- lack of time for matters to properly considered

- ‘natural justice’ issues, including the widely accepted principle that rule-makers should not also be rule-enforcers.

This points to having a separate regulatory committee in place, which is not only a specialist group - dealing only in monitoring and regulation matters - but which is also independent of the governing council.

Regulatory committee model

There are various models for such a committee but, arguably, best practice suggests that:

- it should have an independent, non-accountant, chairman
- the chairman should probably be a lawyer, enabling the committee to quickly become familiar with natural justice and other process considerations
- a majority of members should also be non-accountants
- it remains critical that there should still be appropriate accountancy/audit technical input, meaning that there may need to be some current or former practising accountants on the committee.

Public interest

Having a majority of non-accountants primarily demonstrates that the committee is independent and able to put the public interest above other considerations. It avoids accusations that the profession is simply regulating itself and “looking after its own”. However, an independent committee may also help assure practitioners that matters arising from monitoring visits are being handled with appropriate impartiality and without competing commercial interests coming into play.

Recruitment of regulatory committee members and other operational matters

Independent members are probably best recruited from other professions, ensuring committee members are aware of what it means to be a professional and what standards are expected. This is not a hard and fast rule and members of the wider business community may be equally suitable candidates. Having said this, however, it will need to be made clear that no committee member is there to represent sectional interests - and this will include accountant members

- but that they are there to discharge regulatory duties in an impartial and fair-minded manner.

As with other committees, there is no fixed size to a regulatory committee. A regulatory committee could conceivably operate with as few as three members (chairman, independent member, accountant) in circumstances where appointments are likely to be difficult to make but a slightly larger committee of 5 or 7 members (i.e. two or three independent members, two or three accountant members, plus chairman) is probably around the optimum size.

Committees performing regulatory tasks carry a variety of names such as Practice Review Committee, Licensing Committee or Audit Registration Committee. These all amount to much the same thing and, providing the purpose of the committee is clear from its name to both members of the profession and the public/business community, the precise name is not important.

Regional or international option

A regulatory committee could, where all relevant practitioners are subject to international standards, operate on an international level on behalf of a number of professional bodies within a region. This would provide further safeguards with regard to confidentiality, particularly for smaller jurisdictions. However, professional bodies collaborating in this way will need to be sure, from a legal standpoint, that they are able to delegate their regulatory powers.

Regulatory action

Regulatory action following persistently unsatisfactory audit monitoring visit outcomes can take a number of forms, including:

- instructing practitioners to undertake additional training or CPD
- seeking undertakings from practitioners to adopt new systems or to employ appropriately qualified staff
- carrying out early follow-up visits to check progress, which may be at the practitioner's own cost (to prevent the costs of early re-visits falling on practitioners as a whole)
- imposing 'hot review' by a training company or another firm prior to audit reports being signed

- stopping practitioners taking on further audit clients until deficiencies are rectified
- restricting the types of audits practitioners can take on (e.g. preventing practitioners from taking on high risk public interest audits), and
- ultimately, stopping practitioners from auditing altogether (without necessarily affecting their ability to continue in business dealing with other types of clients).

This is not an exhaustive list. There may well be other measures which can be taken but it is important that all regulatory action should be based around the principles of:

- seeking to correct deficiencies going forward, and
- protecting clients/the wider public interest.

Definitions of regulatory action and disciplinary action

Regulatory action is not about punishing practitioners. Fines are not appropriate, although, as indicated above, it is entirely reasonable to expect that deficient practitioners will contribute to the costs incurred by a professional body in seeking to put matters right. Fines are more commonly associated with disciplinary action and it is important that practitioners should understand that regulatory action and disciplinary action are different activities, as outlined in the following definitions:

- regulatory action is forward looking. It is about having mechanisms in place for helping to ensure practitioners apply appropriate standards *going forward*, thus protecting clients and the wider public interest
- disciplinary action looks back. It is about past breaches of rules and results in sanctions such as fines, reprimands or expulsions. Such sanctions are for punishment and deterrent purposes.

It is, of course, possible that monitoring may reveal matters which are so serious that they should result in an immediate referral to the disciplinary process but, overall, the relationship between monitoring/regulatory action and disciplinary action is likely to be confined to cases where practitioners have given undertakings to put in place corrective measures but have then reneged on their promises (calling into question their integrity).

Conclusion

ACCA believes that the regulatory committee model set out above represents current best practice and that it can simultaneously achieve a number of key objectives. A regulatory committee using this model:

- is a practical arrangement, which both allows a governing council to avoid the pitfalls of dealing with regulatory matters directly and to concentrate on its core representative role
- can inspire public trust and confidence in the regulation of auditors
- can dedicate appropriate time to dealing with issues and can put in place appropriate 'due process' procedures
- gives practitioners confidence that their monitoring visit outcomes will be handled impartially and fairly.

ACCA will be pleased to provide further advice and assistance to professional bodies seeking to implement the model.

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