

Policy document

aat

Civil Sanctions

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Contents

Introduction	3
Policy detail	4
Civil sanctions	4
Civil sanctions on application	5
Civil sanctions on reinstatement.....	6
Civil sanctions whilst a member	6
Civil sanctions for those applying for, or holding, a licence	6
Civil sanctions from other jurisdictions	7
Right of appeal	7
Schedule 1 - Requirements for character references	8

Civil Sanctions

Introduction

AAT expects its *members* to act with the highest levels of professionalism, both in and outside of their professional lives. Clients and employers rely on AAT to take ongoing steps to consider whether a *member* is, and continues to be, a *fit and proper* person to be a *member*. This policy and guidance is intended to support the AAT in meeting that obligation.

The Association of Accounting Technicians

1. The Association of Accounting Technicians (AAT) upholds high standards of competence and professional conduct. Accountancy is a trusted and respected profession and AAT aims to ensure that *members*:
 - a) behave professionally and ethically
 - b) comply with AAT *Regulations* and relevant legislation
 - c) keep their skills and competence up to date.
2. In pursuit of that aim, AAT investigates *complaints* and *misconduct* allegations against AAT *members* and approved training providers. Depending on the circumstances, AAT may resolve these *complaints* informally or take disciplinary action.

The compliance framework and procedures of AAT

3. AAT endeavours to ensure that all *applicants* and *members* are treated fairly and consistently in accordance with the compliance framework agreed by *Council* so that users of *members'* services are protected and that the reputation of the profession is maintained. In developing its policies AAT has had regard to the principles of good regulation:
 - a) Proportionality
 - b) Accountability
 - c) Consistency
 - d) Transparency
 - e) Targeting.
4. The compliance framework of AAT is governed by the AAT *Articles of Association* and sets out the following *Regulations* and guidance with which all *members* must comply:
 - a) *Code of Professional Ethics*
 - b) *AAT Regulations*
 - c) *Disciplinary Regulations*
 - d) *Licensing Regulations*.

5. The *Regulations* and guidance are underpinned by publications covering specific areas of compliance policy and related procedures which include (as well as this policy):
 - a) *Insolvency policy*
 - b) *Criminal Convictions policy*
 - c) *Disciplinary Sanctions policy*
 - d) *Investigation of Complaints and Referrals policy*
 - e) *Disclosure policy*
 - f) *Health policy*
 - g) *Indicative Sanctions Guidance*
 - h) *Appeals Regulations*.
6. These publications explain the processes by which our compliance policy is put into practice. All *members* and *applicants* for membership must be aware of and follow this guidance. Further information on the compliance framework is available at aat.org.uk including the purpose of each publication and how they relate to each other.
7. The website is the definitive guide to all policies currently in force.
8. In this policy all words and phrases in italics, save titles of publications, shall have the meaning set out in the *AAT Glossary*.

Policy detail

Civil sanctions

9. AAT expect its *members* to act with the highest standards of integrity, both in and outside their professional lives. Clients and employers rely on AAT to take steps to consider whether an *applicant* is a *fit and proper* person to be a *member*, whether applying to be an *associate member*, *full member* or *fellow member*.
10. As a supervisory body under the *Money Laundering Regulations*, AAT takes its responsibilities seriously, particularly to ensure that professional *accountancy services* are not exploited by those involved in serious organised crime to launder their criminal proceeds. This responsibility extends as far as preventing criminals and their associates from holding an interest in a *firm* providing *self-employed accountancy services*.
11. A civil sanction is a sanction for an offence created under specific statutes imposed by a competent court, tribunal or any other administrative body in the UK (or equivalent jurisdiction). Examples are sanctions under the *Money Laundering Regulations*, Companies Act or Health and Safety legislation from time to time in force. Sanctions of this nature may not always result in criminal sentencing and may include fines, disqualification and formal warnings.
12. Civil sanctions are a risk indicator, raising a question whether an individual is a *fit and proper* person to enter the profession. AAT has a robust approach to assessment of the *fit and proper* status of *applicants* who disclose a civil sanction.

13. The term “civil sanction” covers a broad range of offences, where action is taken against an individual, but falls short of a *criminal conviction*. This policy is intended to cover circumstances such as an individual subject to:
- a) disqualification as a company director
 - b) a disqualification undertaking
 - c) a Bankruptcy Restrictions Order
 - d) enforcement action taken by the Health and Safety Executive
 - e) Anti-Social Behaviour Orders.

This list is not exhaustive.

Civil sanctions on *application*

14. When required to do so, *applicants* must declare any civil sanction to which they have been subject.
15. AAT will consider the following criteria in determining whether an *applicant* is a *fit and proper* person to be admitted to membership:
- a) the nature of the sanction and the date it was imposed
 - b) aggravating and mitigating factors
 - c) whether the sanction is current, or has expired
 - d) any remedial action taken by the *applicant* since the imposition of the sanction
 - e) the *applicant's* present circumstances
 - f) the level of membership being applied for
 - g) representations from the body imposing the sanction (where relevant)
 - h) at least two-character references
 - i) any other representations put forward by the *applicant*.
16. AAT's requirements for character references are detailed in Schedule 1 to this policy. Even if a character reference meets these criteria, AAT may still reject an *application*, if it does not consider that one or more reference demonstrates an *applicant's fit and proper* status.
17. AAT may refer to information available in the public domain in making a determination as to an *applicant's fit and proper* status.
18. The test to be applied to the final determination whether an *applicant* meets the *fit and proper* requirements is whether the *applicant*, on the basis of the civil sanction they have declared and the circumstances surrounding it, would pose a risk to the public or is likely, by virtue of holding membership, to undermine public confidence in AAT or its *members*.
19. If, on *application*, an *applicant* fails to disclose a civil sanction which would, in AAT's opinion, be material to determination of their *fit and proper* status, and the matter subsequently comes to light, AAT must investigate in accordance with the *Disciplinary Regulations*.

20. AAT will reject an *application* for fellow membership if an *applicant* has a civil sanction until such time as it has expired, or been complied with, at which point their *application* will be considered in accordance with paragraphs 9 to 19 above.

Civil sanctions on reinstatement

21. AAT will consider *applications* for reinstatement of membership in accordance with the provisions detailed in paragraphs 9 to 20 above.
22. AAT will additionally pay due regard to the timing of the civil sanction in the context of the *applicant's* membership history with AAT.
23. Where the information available demonstrates that the *applicant* had an obligation to disclose a civil sanction to AAT in accordance with paragraph 24 below, but resigned or allowed their membership to lapse without notifying AAT, then their *application* for reinstatement will be rejected, and they will be debarred from making another *application* for a period of five years.

Civil sanctions whilst a *member*

24. An associate, full or fellow *member* must notify AAT of any civil sanction received within 30 days of the date it is imposed. If a *member* does not do this, then the failure to notify will normally amount to *misconduct*, in accordance with Regulation 37 of the *AAT Regulations 2016*.
25. When a *member* discloses that they have been subject to a civil sanction, this will be investigated in accordance with the *Disciplinary Regulations*.

Civil sanctions for those applying for, or holding, a *licence*

26. The *Licensing Regulations* are silent on the matter of civil sanctions. Therefore, it is for AAT to determine whether a civil sanction has any bearing on an *applicant's* suitability to hold a *licence* to provide *self-employed accountancy services*.
27. Notwithstanding AAT's determination on whether an *applicant* is *fit and proper* for the purposes of admission to membership, AAT may determine that they are not *fit and proper* to hold a *licence*.
28. In addition to the criteria outlined in paragraph 15, AAT will give consideration to the following criteria in determining whether to grant a *licence*:
- a) harm caused to the public as a result of the conduct predicated the civil sanction
 - b) whether it was a corporate offence
 - c) the nature of the services an *applicant* intends to deliver, or a *member* delivers.
29. The test to be applied to the determination of an *applicant's* suitability to hold a *licence* is the test in paragraph 18, to be considered in the context of the provision of *self-employed accountancy services*.
30. In determining that an *applicant* is a *fit and proper* person to hold a *licence*, AAT may impose *specific conditions* on their *licence* as considered appropriate and necessary to meet the test.
31. If a *member* holding a *licence* is subject to a civil sanction, AAT will consider this under the *Disciplinary Regulations* in the first instance, and upon conclusion of the *investigation*, determine on whether a *member* is a *fit and proper* person to keep their *licence*.
32. When a *member* holding a *licence* is subject to a civil sanction, AAT may impose such *specific conditions* on a *member's licence* as it sees fit if the decision is taken not to terminate the *licence*.

Civil sanctions from other jurisdictions

33. Where an *applicant* has received a civil sanction in a jurisdiction other than the UK the sanction must be declared. AAT, in deciding the applicant's suitability for membership, will make a decision on whether the offence leading to the sanction has any equivalence in UK law. As stated in paragraph 3 above, AAT seeks to treat all *applicants* fairly and consistently.

Right of appeal

34. *Applicants* have the right to appeal any decisions made under this policy. Appeals will be dealt with in accordance with the *Appeals Regulations*.

Attachment:

Schedule 1 – Requirements for character references

Schedule 1 - Requirements for character references

1. AAT will accept character references from the following, in order to support an *application* for membership:
 - a teacher or tutor who has taught the *applicant* for a minimum of six months
 - the *applicant's* employer, if they have known the *applicant* for a minimum of 12 months
 - a parole officer
 - a solicitor or barrister
 - someone who has supervised the *applicant's* work experience for a minimum of six months
 - a member of parliament.
2. AAT will not accept character references from:
 - a relative of the *applicant*
 - a friend of the *applicant*, unless they also meet one of the criteria outlined in point 1 above
 - any person known by the *applicant* solely on a social basis
 - anyone who has known the *applicant* for less than six months.
3. AAT requires the following criteria to be met in a character reference for it to be accepted:
 - it must be on letter-headed paper
 - it must make clear the capacity in which the referee knows the *applicant*, and the length of time they have known each other
 - it must explain why they consider themselves qualified to give the professional character reference
 - it must demonstrate awareness of the *applicant's* civil sanctions
 - it must provide an explanation as to why the referee considers the *applicant* suitable to join AAT.

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