

Policy document

aat

Criminal Convictions

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Criminal Convictions

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 the *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 2016*
 - 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) *Civil Sanctions* 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

Criminal convictions on application

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 a *student*, *affiliate*, *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. *Criminal convictions* 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 an unspent *criminal conviction*.
12. *Applicants* do not need to declare spent *criminal convictions*, or any road traffic offence which was dealt with by way of fixed penalty notice.

13. AAT will not normally approve an *application* for membership from an *applicant* with an unspent *criminal conviction* in which any of the following factors exist:
 - a) serious organised crime, including drug offences, human trafficking and immigration offences, and/or offences under the *Terrorism Act 2000*
 - b) financial crime, including money laundering offences (or an indication thereof in the context of another conviction), fraud and theft
 - c) dishonesty
 - d) abuse of position.
14. In all other circumstances, 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 conviction(s), and the sentence(s) imposed
 - b) whether the conviction was tried on indictment, or summary only
 - c) the length of time since the conviction
 - d) evidence of rehabilitation
 - e) whether there is a history of offending
 - f) the circumstances surrounding the offending, including aggravating factors and mitigation
 - g) any sentencing remarks by a judge
 - h) at least two character references
 - i) any other representations put forward by the *applicant*.
15. 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.
16. AAT may refer to information available in the public domain in making a determination as to an *applicant's fit and proper* status.
17. 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 *criminal conviction(s)* 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*.
18. A number of circumstances exist whereby AAT can determine whether an *applicant* can be admitted as a *member*. These are detailed in Schedule 2 to this policy.
19. If, on application, an *applicant* fails to disclose a *criminal conviction* which would, in AAT's opinion, be material to determination of their *fit and proper* status, and the matter subsequently comes to light, AAT may investigate in accordance with the *Disciplinary Regulations*.
20. AAT will normally reject an *application* for fellow membership if an *applicant* has a *criminal conviction*, other than any road traffic offence which was dealt with by way of fixed penalty notice, until such time as that conviction is spent, at which point the *application* may be considered in accordance with paragraphs 9 to 19 above.

Criminal convictions 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 a *criminal conviction* in the context of an *applicant's* membership history with AAT.
23. Where the information available demonstrates that the *applicant* had an obligation to disclose a *criminal conviction* 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.

Criminal convictions whilst a member

24. A *member* must notify AAT of any *criminal conviction* received within 30 days of the date of the conviction. 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 convicted of a criminal offence, this will be investigated in accordance with the *Disciplinary Regulations*.
26. The *Disciplinary Regulations* make clear that a *criminal conviction* handed down in the UK will be conclusive proof of the facts so found. This does not necessarily apply to *criminal convictions* received in other jurisdictions. These are referred to in more detail in paragraphs 33 and 34 below.

Criminal convictions for those applying for, or holding, a licence

27. It is a general *condition* of holding a *licence* under the *Licensing Regulations* that a *member* is not subject to an unspent *criminal conviction*.
28. AAT will normally reject an *application* for a *licence* from any *member* who has been convicted of a criminal offence, until such time as that *criminal conviction* has become spent, unless that conviction relates to a road traffic offence, in which case AAT may at its discretion grant a *licence*. Road traffic offences dealt with by a fixed penalty are exempted from this policy.
29. If a *member* holding a *licence* is convicted of a criminal offence, and that *criminal conviction* meets the criteria set out in paragraph 13 above, their *licence* will normally be terminated with immediate effect. Upon termination of their *licence*, a *member* must not provide *self-employed accountancy services*.
30. In all other circumstances AAT will consider a *criminal conviction* under the *Disciplinary Regulations* in the first instance and, upon conclusion of the *investigation*, make a determination on whether the *member* is a *fit and proper* person to keep their *licence*.
31. For the purposes of paragraph 30 above, this determination will be made in accordance with the test applied to *applicants* for membership as detailed in paragraph 17 above.
32. When a *member* holding a *licence* is convicted of a criminal offence, 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*.

Criminal convictions from other jurisdictions

33. AAT recognises that some jurisdictions criminalise conduct which in the UK would not constitute a criminal offence. As stated in paragraph 3 above, AAT seeks to treat all *applicants* fairly and consistently.

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

Right of appeal

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

Attachments:

Schedule 1 – Requirements for character references

Schedule 2 – Delegated powers

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 have been written within the preceding six months of the date of application
 - 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* criminal convictions
 - it must provide an explanation as to why the referee considers the *applicant* suitable to join AAT

Schedule 2 - Delegated powers

Professional Standards may make the following decisions on suitability for membership, without remitting the *application* to a membership assessor, unless they consider there is good reason not to do so.

Category	Recommended outcome
Applications for membership	
A single summary conviction not meeting the criteria set out in paragraph 13 of the policy	Admit to membership
Any conviction which meets the criteria set out in paragraph 13 of the policy	Refuse membership
Reinstatement (in addition to <i>application</i> permissions)	
Any conviction which arose whilst the <i>applicant</i> was a <i>member</i> , which was not disclosed in accordance with the <i>AAT Regulations 2016</i>	Refuse membership and debar from reapplying for a period of five years
Licences	
<i>Application</i> – any unspent <i>criminal conviction</i> (excluding motoring offences)	Refuse <i>licence</i>
<i>Application</i> – unspent motoring offence dealt with by way of fixed penalty	Approve <i>licence</i> unless harm or death is caused to a third party
Whilst holding a <i>licence</i> , convicted of an offence meeting the criteria set out in paragraph 13 of the policy	Automatic termination of <i>licence</i>

The Association of Accounting Technicians

140 Aldersgate Street

London

EC1A 4HY

t: +44 (0)20 7397 3000

f: +44 (0)20 7397 3009

e: aat@aat.org.uk

aat.org.uk