

Policy document

aat

Indicative Sanctions Guidance

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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) *Criminal Convictions* policy
 - c) *Civil Sanctions* policy
 - d) *Disciplinary Sanctions* policy
 - e) *Investigation of Complaints and Referrals* policy
 - f) *Disclosure* policy
 - g) *Health* policy
 - 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

9. This guidance has been developed by AAT to promote consistency in the making of decisions on the action and sanctions that should apply in cases of *misconduct*. It will be used by the *Disciplinary Tribunal* in its determination on sanction(s) after a *member* has been found to be guilty of misconduct in accordance with the procedures set out in the *Disciplinary Regulations*. The guidance is not intended to fetter the *Disciplinary Tribunal's* judgment on any individual case but provides a platform for the most suitable action to be taken, including the right level of sanction when this is considered appropriate.
10. The *Investigations Team* must have due regard to this document when exercising its power to discontinue a case on the basis that a *member* agrees to submit to sanction.
11. The *Disciplinary Tribunal*, or *Investigations Team*, as the relevant decision-maker for the proceedings of the case, may at their discretion impose one or more of the sanctions available to them.
12. The purpose of sanctions is to protect the public from malpractice, maintain confidence in the profession and secure high standards of professional conduct from *members* of AAT.
13. There are a variety of sanctions available. The *Disciplinary Tribunal* and *Investigations Team* must consider all lower sanctions and their appropriateness to hold a *member* to account for the seriousness of the *misconduct* found before moving up the scale. To this end, sanctions are referred to and should be considered in ascending order of severity.

Sanctions

No further action

14. Where there is a finding of *misconduct*, only in rare cases would it be appropriate to impose no sanction. This might be so if it were clear, for example, that the *member* was significantly incapacitated at the time of the offence, or the impact on third parties or the reputation of AAT was minimal.
15. Where the *Disciplinary Tribunal* decides not to impose a sanction, despite there being grounds to do so, it must give cogent reasons for its decision.

Seek advice over future conduct

16. The *Disciplinary Tribunal* or *Investigations Team* may require a *member* to seek advice as to their future conduct from such a source as may be recommended or prescribed. This will vary depending on the nature of the case, and therefore this guidance does not seek to limit the sources available to the *Disciplinary Tribunal* or *Investigations Team*. Where the advice will incur cost to the *member*, the *member* must meet such cost in order to comply with the disciplinary order.
17. It would not be appropriate to monitor compliance with the advice, and the *Disciplinary Tribunal* must be mindful of this when imposing this sanction. However, compliance with such a requirement will be taken into account, if subsequently further issues on conduct are raised or become evident.

Reprimand and/or warning

18. A *reprimand* is the lowest 'formal' sanction that can be applied and it may be appropriate where conduct is considered less serious, but the *Disciplinary Tribunal* wishes to make clear that the behaviour of the *member* was unacceptable. It is a sanction which focuses on the conduct of the *member* which resulted in the disciplinary action.
19. A *reprimand* might be appropriate in cases where the *Disciplinary Tribunal* can be satisfied that there is no significant risk or damage to the public, the professional reputation of the individual *member* or AAT.
20. In contrast, a *warning* focuses on the future conduct of the *member*, and seeks to modify behaviour in a way that promotes the public interest. It will often be appropriate for a *reprimand* and *warning* to be issued together as a *disciplinary sanction*.

A fine not exceeding a maximum figure as the Council might set from time to time

21. The maximum *fine* is set by *Council*.
22. A *fine* may be imposed as a standalone sanction or be combined with another sanction, but the *Disciplinary Tribunal* and *Investigations Team* should bear in mind that in cases where the matter is insolvency related, a *fine* will not normally be appropriate.
23. In all cases, the level of *fine* must be proportionate, but also reflect the gravity of the *misconduct* in question.

Impose specific conditions on a licence (those holding a licence only)

24. Where a *member* holds a *licence* and *misconduct* has been established, the *Disciplinary Tribunal* or *Investigations Team* should normally consider whether the *member* continues to be suitable to hold that practising *licence*. AAT's *Disciplinary Regulations* do not permit the withdrawal of a practising *licence*. Where suitability to hold a *licence* at all is called into question, the more serious sanctions of suspension or expulsion should be considered.
25. Upon conclusion of disciplinary proceedings, AAT will consider the implications of the outcome in accordance with the provisions detailed within the *Licensing Regulations*.

26. The *Disciplinary Tribunal* or *Investigations Team* may, however, consider imposing *specific conditions* on a *member's licence*. Such *conditions* may include (but are not limited to):
- a) removal of a *licence area*
 - b) mandating *CPD* requirements
 - c) restrictions on holding *clients' money*
 - d) requirement for third party monitoring at the expense of the *member*
 - e) submission to a practice assurance review at the expense of the *member*.

Be debarred from sitting AAT's assessments for a period as shall be determined (*students only*)

27. This sanction may be used where the *Disciplinary Tribunal* or *Investigations Team* considers that formal removal from *student* membership would be disproportionate, perhaps on the basis of any mitigation put forward; however, the *student* should not be permitted to undertake assessments for a set period of time. This makes the sanction equivalent to suspension for *student members* and will lead to delay in completing their qualification.
28. This sanction may typically be appropriate where a *student member* has been declared bankrupt. Given the reputational impact to AAT, the *Disciplinary Tribunal* considers that those circumstances (particularly in relation to undischarged bankruptcy) are incompatible with *student* membership until discharge.

Removal of *fellow member* status

29. AAT's fellow membership is a status to aspire to. Where *misconduct* is found against a *fellow member*, this sanction must always be considered in the interests of protecting the status of fellow membership. *Fellow members* are senior and experienced *members* of AAT, often holding senior positions, and AAT can reasonably expect exemplary conduct from them at all times in both a private and professional capacity.
30. In cases of *misconduct* by a *fellow member* the *Disciplinary Tribunal* might consider that due to the weight of expectation even a relatively minor breach should be managed with consideration of the likely impact on the public perception of AAT and the profession.

Suspension of membership

31. This equates in seriousness to expulsion. Where significant mitigation exists it may be appropriate to use suspension instead of expulsion. It is unlikely that suspension would be appropriate in isolation due to the fact that the passage of time will be insufficient itself to remedy any breach of professional standards.
32. On this basis, where suspension would be an appropriate sanction, it may be appropriate to require a *member* to seek advice as to future conduct during the period of the suspension. If this is the case, the onus will be on the *member* to prove that they have sought and acted on such advice prior to their suspension being lifted.

Withdrawal of student membership (*students only*)

33. This sanction may be used where the *Disciplinary Tribunal* considers the nature of the *misconduct* to be sufficiently serious that formal removal of *student* membership is reasonable. This sanction will prohibit the *student* from continuing with their studies and is therefore one of the most severe sanctions the *Disciplinary Tribunal* can impose.

Be declared unfit to become a full member (*students, affiliates, associate members only*)

34. This is the most severe sanction available to the *Disciplinary Tribunal* for *student members*. This sanction demonstrates that the *student's* actions contradict the fundamental principles of accounting ethics and that AAT is unlikely ever to be satisfied of their suitability to practise either in business or in private practice.
35. If the *Disciplinary Tribunal* were minded to impose this sanction, it should consider it in conjunction with withdrawal of *student* membership. This is because the AAT Accounting Qualification is a conduit to full membership of AAT and can elicit exemptions for other accountancy qualifications with other accountancy bodies. Therefore it may be illogical to declare a *student* unfit to become a *full member* following a significant deviation from the fundamental principles, but allow them to continue with *student* membership and thus potentially allow them to practise with other professional bodies, or worse still, in the absence of scrutiny from any accountancy body.

Expulsion

36. This is the most severe sanction available to the *Disciplinary Tribunal*. It would be appropriate where it is paramount to protect the public and/or confidence in AAT, the wider membership or the accountancy profession as a whole.
37. The issues under consideration will include:
 - a) serious departure from professional standards
 - b) abuse of position and/or trust
 - c) dishonesty
 - d) fraud
 - e) a clear pattern of breaches of professional standards as set out in AAT's policies, *Regulations* and *Code of Professional Ethics*.

Aggravating factors

38. The *Disciplinary Tribunal* or *Investigations Team* will additionally pay due regard to any aggravating factors which are present in determining the appropriate sanction(s) to impose.
39. Aggravating factors will normally warrant a more severe sanction and usually demonstrate that the *member's* behaviour is incompatible with the fundamental principles of professional ethics with which all *members* of AAT must comply.
40. Aggravating factors might include but are not limited to:
 - a) dishonesty
 - b) harm (financial or otherwise) caused to a third party
 - c) relevant disciplinary history
 - d) lack of insight
 - e) lack of remorse
 - f) the *member's* conduct through the investigation and the proceedings.

Mitigation

41. The *Disciplinary Tribunal* or *Investigations Team* must have due regard to any mitigation which is present in determining the appropriate sanction(s) to impose.
42. Mitigation might include but is not limited to:
 - a) remorse
 - b) remedial action taken to address the *misconduct*
 - c) personal factors
 - d) ill health
 - e) experience (or inexperience)
 - f) previous good character
 - g) early admission.
43. A *member* may also seek to introduce character references, or call witnesses to attest to their good character. This is permissible. Should this be the case, these will need to be weighed appropriately against the nature of the incident.
44. Where a *member* chooses not to attend a hearing, they will be invited to make representations in respect of mitigation at the point when they advise they do not intend to attend. If they choose to put in representations, these will be retained by the Secretary to the *Disciplinary Tribunal* and presented only upon a finding of *misconduct*.
45. Any mitigation put forward by a *member* should, where possible, be supported by evidence. Evidence to support mitigation may take many forms and it is not feasible to list them all.
46. The *Disciplinary Tribunal* or *Investigations Team* should at all times give due weight to mitigation advanced by a *member*. Less weight should be given to mitigation which is not supported by evidence, where the *Disciplinary Tribunal* or *Investigations Team* is of the view that evidence is necessary.

Time limits

47. The *Disciplinary Tribunal* or *Investigations Team* must give due consideration to the length of time a disciplinary sanction shall remain live on a *member's* record, or in the case of expulsion or withdrawal of *student* membership, a period of time which must elapse before a *member* may apply for re-admission.
48. Where the expulsion of a *member* or withdrawal of *student* membership is ordered, the tribunal must consider whether the sanction applies indefinitely, or whether a timescale should be proposed for when AAT might consider an *application* for re-admission.
49. As a guideline, the starting point for such a recommendation is:
 - a) For *students* and *affiliates* – two years, although this may be increased or decreased depending on aggravating factors and mitigation within a suggested range of one and three years.
 - b) For *associate members*, *full members* or *fellow members* – three years, although this may be increased or decreased depending on the circumstances within a suggested range of two to ten years.
 - c) No timescale imposed by the *Disciplinary Tribunal* or *Investigations Team* compels AAT to re-admit a member. Any such *application* would be considered in accordance with AAT's *Regulations* and supporting policy framework in force at that time.

50. In the case of all other sanctions, the *Disciplinary Tribunal* or *Investigations Team* must determine the appropriate timescale for any order to remain in force and live on the *member's* record. This will be solely at their discretion, based on the evidence before them and any factors relevant to the decision to take action. The more serious the finding, the longer the time period that should be considered.

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