

Disciplinary Hearings Policy

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- Disciplinary Regulations*
 - Indicative Sanctions Guidance*
 - Health and Disability Policy*
 - Protected Characteristics Policy*
 - AAT Regulations*
 - Appeals Regulations*
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1. Introduction

- 1.1 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 behave professionally and ethically, comply with AAT Regulations and relevant legislation, and keep their skills and competence up to date. This policy is designed to help provide clear procedures when dealing with cases that have been referred for a disciplinary hearing.

2. Scope and applicability

- 2.1. This policy applies to all parties and witnesses involved in *complaint* that has been referred for a hearing under both the *Disciplinary Regulations* and *Appeals Regulations*. It is designed to ensure that all witnesses are fully supported throughout the process and that we make the most cost-efficient use of members' fees.

3. Purpose and objectives

- 3.1 This policy is designed to ensure that all witnesses are fully supported throughout the disciplinary hearing process and that we make the most cost-efficient use of members fees. It is also intended to assist AAT and its representatives, *Professional Standards*, and the *Discipline and Conduct Panel* acting under the *Disciplinary Regulations* to deal with disclosure of documents in disciplinary hearings, particularly the disclosure of "unused material".

4. Terms and definitions

- 4.1 The website is the definitive guide to all policies currently in force. The words and phrases set out in the following table only have the meanings set opposite them for the purpose of our regulations and policies as published by AAT from time to time in force.

Words	Meaning
<i>Appeals committee</i>	A committee with a quorum of three consisting of two lay and one professional panellist convening to hear appeals under the Appeals Regulations.
<i>Chair</i>	The member of the Disciplinary and Conduct panel appointed to chair the Disciplinary Tribunal.
<i>complaint</i>	A complaint about a member to the effect that they have conducted themselves in a way that poses a risk to the public or is likely to undermine confidence in AAT or its members.
<i>Disciplinary Tribunal</i>	A panel with a quorum of three consisting of two lay and one professional panellist drawn from the pool of the Disciplinary and Conduct panel to hear cases brought under the Disciplinary Regulations.

<i>Discipline and Conduct Panel</i>	The pool of suitably qualified persons appointed by AAT to act as panellists at hearings of the Disciplinary Tribunal and Appeals Committee.
<i>member</i>	A person admitted to the membership of AAT in accordance with the provisions of the <i>AAT Regulations</i> (where the context so permits), this term includes <i>associate members</i> , <i>full members</i> , and <i>fellow members</i> , whether past or present.
<i>misconduct</i>	A <i>member</i> committing any act or omission that falls short of the standards reasonably expected of them, including but not limited to those matters listed in the <i>Code of Professional Ethics</i> , which brings, or is likely to bring, discredit to the member, the accountancy profession, or AAT.
<i>Unused material</i>	Unused material under the common law is described in paragraph 1 of the Attorney General's Guidelines issued in December 1981 (the applicable common law guidelines) as "all witness statements and documents which are not included in the evidence served on the defence and the unedited version(s) of any edited statements served as evidence".

5. Policy detail

Disclosure

- 5.1 The *Disciplinary Regulations* require that copies of any evidence (including witness statements) that *Professional Standards* intends to rely upon in presenting a case must be disclosed to the member with the written notice of allegations at least 42 days prior to the complaint being referred to the *Disciplinary Tribunal*.
- 5.2 However, in addition to material used as evidence, the *Disciplinary Regulations* also require that any other material in AAT's possession which might reasonably be considered capable of undermining the case against a member, or of assisting the case for the member, which has not previously been disclosed shall also be disclosed. It is this material which is referred to in this guidance as "*unused material*".
- 5.3 AAT and any tribunal will apply the common law rules of disclosure in relation to any material which has not been relied on as evidence. These rules form the basis for the test for disclosure in criminal cases (set out in the Criminal Procedure and Investigations Act 1996). They are conveniently summarised in the House of Lords decision of *R v Brown (Winston)* [1998] A.C. 367 (and an example of the common law duties in disciplinary proceedings is *Rajan v General Medical Council* [2000] Lloyd's Rep. Med. 153).
- 5.4 In summary, as well as complying with the duty under the *Disciplinary Regulations* to disclose any material which might reasonably be considered capable of undermining the case against a member, or of assisting the case for the member, AAT and any tribunal will also consider these factors:
- 5.4.1 the duty of disclosure is a continuing one and therefore, AAT will keep under review until the conclusion of the complaint whether there is in AAT's possession, or under its control, further unused material which meets the test for disclosure
 - 5.4.2 in particular, when the member serves their response under the *Disciplinary Regulations*, AAT will re-review any unused material that has not already been disclosed in the light of the contents of that response, and should make further disclosure to the member of any material which meets the test for disclosure
 - 5.4.3 the *Disciplinary Tribunal* will apply the same test for disclosure when considering any application for the disclosure of documents, for example when deciding whether to make a pre-hearing direction
 - 5.4.4 members are required to disclose the evidence on which they rely in defending any complaint and nothing in this guidance should be read as preventing AAT from applying for disclosure of documents by the member where it is appropriate to do so, and
 - 5.4.5 any application of this guidance is subject to the *Disciplinary Regulations*, the overriding requirement of fairness and the need to do justice between the parties.

Instruction of experts

- 5.5 AAT may on occasion instruct an expert witness to provide opinion evidence on issues arising in a complaint of misconduct under the *Disciplinary Regulations*.
- 5.6 AAT does not instruct experts solely to advise it on *complaints*. In any proceedings under the *Disciplinary Regulations*, experts provide their opinion ultimately for the benefit of the *Disciplinary Tribunal* hearing the complaint. AAT expects any expert it instructs to be entirely impartial and independent in considering the facts and reporting (i.e., that the expert would express the same opinion if given the same instructions by the member concerned).
- 5.7 In choosing any expert to provide a report, AAT will select only those who appear to it suitably qualified to provide an expert opinion. AAT or its representatives will confirm that any proposed expert:
- 5.7.1 has the appropriate expertise and experience to advise on the matter
 - 5.7.2 is familiar with the general duties of an expert
 - 5.7.3 can produce a report, deal with questions, and have discussions with any other experts within a reasonable time, and at a cost proportionate to the matters in issues
 - 5.7.4 is available to attend the hearing if necessary and has no potential conflict of interest.
- 5.8 AAT will instruct any expert it retains to advise on a complaint of *misconduct* on the following terms:
- 5.8.1 the expert's overriding duty is to the *Disciplinary Tribunal*
 - 5.8.2 the expert must retain their professional impartiality throughout
 - 5.8.3 any report must consider all relevant information and if any such information is not available, that fact should be identified in the report together with the reasons for its absence
 - 5.8.4 reports should generally follow the format set out in [Practice Direction 35 of the Civil Procedure Rules](#) and should contain a summary of the expert's conclusions
 - 5.8.5 reports should contain such details of the expert's qualifications as is commensurate with the nature and complexity of the case
 - 5.8.6 reports should contain a statement confirming that the expert understands their duties as an expert and has complied, and will continue to comply, with them; and
 - 5.8.7 reports should contain a statement of truth in the following form: "I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer."
 - 5.8.8 AAT will not generally enter into correspondence with any party about the suitability of any expert it has chosen in accordance with this policy. It is ultimately for the *Disciplinary Tribunal* to decide what weight to accord to any expert evidence before it, although AAT will seek to

instruct an expert only where it believes that will help in resolving an issue or issues in the *complaint* and that it is in the interest of fairness to do so.

Witness care

- 5.9 Any witness for AAT will be allocated a dedicated contact liaison officer. That liaison officer will contact the witness as soon as practicable to introduce themselves and establish what support the witness needs in order to be able to attend the hearing. This initial contact is an opportunity for witnesses to flag any issues that may prevent them attending the hearing to give evidence, such as difficulties over childcare or transport provision, medical problems or disabilities, language difficulties, or concerns over intimidation. The liaison officer will explain to the witness what to expect when they get to the hearing stage.
- 5.10 Together with AAT's appointed legal representative, the liaison officer will coordinate the support needed to address these concerns and assist the witness in attending the hearing. They will assist in arranging travel and accommodation if necessary and will keep the witness informed of relevant developments in the case, including the outcome of any hearing. AAT may delegate witness care arrangements to its legal team in certain cases.

Witness expenses

- 5.11 AAT will reimburse witnesses for expenses incurred as a result of attending a *Disciplinary Tribunal* or *Appeals Committee* if required to attend in person at the rates specified in this policy. AAT will not normally reimburse the cost of a non-witness accompanying a witness to the hearing. Exceptions can however be made, subject to advance authorisation (e.g., in respect of someone accompanying a child witness or an elderly/disabled witness, or where the witness has to bring a young child and needs someone to help care for that child). Any exceptional requests should be discussed with the appointed liaison officer and agreed in advance.
- 5.12 The contact liaison officer must authorise in advance any bookings or other expenses so that AAT is aware of the witness' needs and agree to the level of costs which will be incurred. AAT may choose to book travel and/or accommodation on behalf of witnesses but will consult them beforehand, taking consideration of their needs. AAT reserves the right to elect to provide travel and/or accommodation through a supply chain they determine as appropriate to the needs.
- 5.13 Expenditure which conflicts with the policy on expenses will not be authorised.

Travel and subsistence costs for witnesses

- 5.14 Witnesses who live within one and a half hours' travelling distance of the hearing venue should normally travel daily. For travel to attend AAT hearings, expenses can be claimed at the following rates:
- 5.14.1 the price of the most cost-effective standard class fare on public rail transport and air travel
- 5.14.2 cost is assumed to apply to travel from the witness's principal place of residence within the UK. Where this is not the case, the expense claimable will need to be approved in advance and in writing by AAT

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- 5.14.3 for travel by private car, 45 pence per mile for the first 10,000 miles, 25 pence over 10,000 miles (in accordance with approved HMRC mileage rates), and actual parking fees and congestion charge.
 - 5.14.4 for travel by motorcycle, 24 pence per mile; or travel by bicycle, 20 pence per mile
 - 5.14.5 for travel by underground or bus including where Oyster Card travel is used, reimbursement of the actual fare where evidence of the journey is provided
 - 5.14.6 when attending an oral hearing, witnesses may claim reimbursement of subsistence costs against receipts up to the following limits per person inclusive of VAT: for lunch, up to £10 per day and for dinner, up to £25 per day; and for accommodation while attending an oral hearing, the tribunal clerk will make the booking arrangements for suitable accommodation. This must not include any extras such as alcohol or newspapers, which must be paid for separately by the witness.

Carer costs or other 'reasonable adjustments'

- 5.15 Reimbursement of carer costs to enable witnesses to attend hearings or where 'reasonable adjustments' are required to enable a witness to attend a hearing will be made upon presentation of evidence supporting the claim. AAT will agree such expenses in advance and in writing.

Loss of earnings

- 5.16 AAT does not reimburse witnesses for loss of earnings incurred. Should AAT's general policy cause a witness exceptional hardship, this should be discussed with the AAT contact liaison officer to explore alternatives.

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