

Criminal Convictions Policy

Criminal Convictions Policy

Document properties

Version	V1.0
Owner/author	Professional Standards
Date of issue	01 May 2024
Review date	36-month cycle
Circulation	www.aat.org.uk is the definitive guide to all policies currently in force.
Format for circulation	Electronic (PDF)
Classification	UNRESTRICTED

Change control

Version no.	Page	Changes made	Date

Associated regulations and policies

<i>Code of Professional Ethics</i>	<i>Civil Sanctions Policy</i>
<i>Disciplinary Regulations</i>	<i>Disciplinary Sanctions Policy</i>
<i>AAT Regulations</i>	<i>Insolvency Policy</i>
<i>Licensing Regulations</i>	<i>Publication Policy</i>
<i>Delegated Powers Policy</i>	
<i>Appeals Regulations</i>	
<i>Health and Disability Policy</i>	
<i>Protected Characteristics Policy</i>	
<i>Indicative Sanctions Guidance</i>	

Contents

1. Introduction	4
2. Scope and applicability	4
3. Purpose and Objectives	4
4. Terms and definitions	4
5. Policy detail	6

1. Introduction

- 1.1. As a supervisory body under the *Money Laundering Regulations*, AAT takes its responsibilities seriously and must take steps to ensure that professional accountancy services are not exploited by those involved in serious organised crime to launder their criminal proceeds. This responsibility includes preventing criminals and their associates from holding an interest in a firm providing self-employed accountancy services.
- 1.2. Criminal convictions are a risk indicator, raising questions whether an individual is a *fit and proper* person to enter the accountancy profession. AAT has a robust approach to assessing whether a member is, and continues to be, a *fit and proper* person. This policy and guidance are intended to support the AAT in meeting that obligation.

2. Scope and applicability

- 2.1. AAT endeavours to ensure that all *applicants* and *members* are treated fairly and consistently in accordance with the policy framework. This policy applies to any individual who discloses a *criminal conviction* to AAT.

3. Purpose and Objectives

- 3.1. This policy sets out the criteria used to determine whether *an applicant* or *member* is considered a *fit and proper* person to hold membership and/or a *licence*.

4. Terms and definitions

- 4.1. 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.

Words	Meaning
<i>applicant</i>	An individual applying for entry to the Register under AAT's Regulations or for a licence under the <i>Licensing Regulations</i> .
<i>civil sanction</i>	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 <i>Money Laundering Regulations</i> , <i>Companies Act</i> or Health and Safety legislation. Sanctions of this nature may not always result in criminal sentencing and may include fines, disqualification, and formal warnings.
<i>criminal conviction</i>	A conviction in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence.
<i>fit and proper</i>	A person considered to be suitable for entry into the accountancy profession by virtue of their conduct, who has not acted or is not likely to act in a way that poses a risk to the public or is likely to undermine confidence in AAT or its members.
<i>licence</i>	A licence to provide <i>accountancy and/or bookkeeping services</i> to the public under the <i>Licensing Regulations</i> .

<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, full members, and fellow members</i> , whether past or present.
<i>misconduct</i>	A member 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>self-employed accountancy services.</i>	An associate member, full member or fellow member engaged in public practice by offering or providing <i>accountancy services</i> or <i>bookkeeping services</i> to the public, or holding themselves out to provide <i>accountancy services</i> and/or <i>bookkeeping services</i> to the public as: a sole practitioner; or a director of a limited company and holds at least 5% of the shares* of the company; or a partner in any type of partnership arrangement (whether salaried or equity); or a member of a limited liability partnership (designated and non-designated members); or a principal in any other corporate entity and holds at least 5% of the shares* of the entity. * <i>Shares belonging to anyone in the member's household or family are treated as belonging to the member</i>

5. Policy detail

Criminal Convictions on application:

- 5.1 Applicants must declare any *criminal conviction* that has not become spent under the terms of the *Rehabilitation of Offenders Act (1974)*.
- 5.2 Applicants are not required to declare any of the following:
- 5.2.1 Cautions or criminal convictions spent under the terms of *Rehabilitation of Offenders Act 1974*.
 - 5.2.2 Driving offences dealt with by way of fixed penalty notice.
 - 5.2.3 Traffic enforcement matters.
- 5.3 The list at paragraph 5.2 above is not an exhaustive list and, if in doubt, *applicants* are recommended to contact AAT for further advice.
- 5.4 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:
- 5.4.1 Serious organised crime, including drug offences, human trafficking, immigration offences, and/or offences under the *Terrorism Act 2000*.
 - 5.4.2 Financial crime, including money laundering offences (or an indication thereof in the context of another conviction), fraud and theft.
 - 5.4.3 Dishonesty.
 - 5.4.4 Abuse of position.
- 5.5 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*:
- i. The nature of the conviction(s), and the sentence(s) imposed.
 - ii. Whether the conviction was tried on indictment, or summary only.
 - iii. The length of time since the conviction.
 - iv. Evidence of rehabilitation.
 - v. Whether there is a history of offending.
 - vi. The circumstances surrounding the offending, including aggravating factors and mitigation.
 - vii. Any sentencing remarks by a judge.
 - viii. Information available in the public domain
 - ix. Any other representations put forward by the *applicant*.
- 5.6 The test to be applied to determine whether an *applicant* meets the *fit and proper* requirements is whether the *applicant*, based on the *criminal conviction* 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*.

-
- 5.7 Several circumstances exist where AAT can determine whether an applicant can be admitted as a member. These are detailed in AAT's *Delegated Powers Policy*.
- 5.8 If AAT becomes aware that an *applicant* failed to disclose a *criminal conviction* as required, the matter may be investigated under AAT's *Disciplinary Regulations*.
- 5.9 AAT will not approve an application for fellow membership from an *applicant* with an unspent criminal conviction, excluding road traffic offences dealt with by way of fixed penalty notice.

Criminal convictions on reinstatement

- 5.10 AAT will consider applications for reinstatement of membership in accordance with the provisions detailed in paragraphs 5.1 to 5.7 above.
- 5.11 If AAT becomes aware that an applicant chose to resign or allow their membership to lapse without notifying AAT of *criminal conviction* as required in accordance with paragraph 5.12, their application for reinstatement will be rejected and they will be barred from making another application for a period of five years.

Criminal convictions whilst a member

- 5.12 A *member* must notify AAT of *criminal conviction* within 30 days of being convicted. If a member does not do this, then the failure to notify will normally amount to *misconduct*, in accordance with the *AAT Regulations*.
- 5.13 If a member discloses a criminal conviction, this will be investigated in accordance with the *Disciplinary Regulations*.
- 5.14 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 paragraph 5.20 below.

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

- 5.15 It is a general *condition* of holding a *licence* under the *Licensing Regulations* that a *member* is not subject to an unspent *criminal conviction*.
- 5.16 AAT will normally reject an *application* for a *licence* from a *member* with an unspent criminal conviction - 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 notice are exempted from this policy.
- 5.17 If a *member* holding a *licence* is convicted of a criminal offence that meets the criteria set out in paragraph 5.4 above, their *licence* will normally be terminated with immediate effect in accordance with AAT's *Licensing Regulations*. AAT will then consider the *criminal conviction* under the *Disciplinary Regulations*.
- 5.18 In all other circumstances AAT will consider a criminal conviction under the *Disciplinary Regulations* in the first instance and, upon conclusion of the investigation, decide on whether the *member* is a *fit and proper* person to keep their *licence*.
- 5.19 If 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 in other jurisdictions:

5.20 AAT recognises that some jurisdictions criminalise conduct which in the UK would not constitute a criminal offence. If an *applicant* or *member* has been convicted of a criminal offence in a jurisdiction other than the UK, the conviction must be declared. AAT, in undertaking its *fit and proper* assessment, will decide on whether the offence leading to the conviction has any equivalence in UK law.

Right of appeal

5.21 *Applicants* and *members* have the right to appeal any decisions made under this policy. Appeals will be dealt with in accordance with AAT's *Appeals Regulations*.

AAT
30 Churchill Place
London E14 5RE

aat.org.uk

AAT is a registered charity. No. 1050724