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Civil Sanctions Policy

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Associated regulations and policies

Code of Professional Ethics	*Disciplinary Sanctions Policy*
Disciplinary Regulations	*Criminal Convictions Policy*
AAT Regulations	*Insolvency Policy*
Licensing Regulations	*Publication Policy*
Delegated Powers Policy	*Reasonable Adjustments Policy*
Appeals Regulations	

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1. Introduction

1.1. A civil sanction is a risk indicator, raising a question 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 *civil sanction* to AAT.

2.2 The term "*civil sanction*" covers a broad range of offences, where action is taken against an individual, but falls short of a criminal conviction. The scope of this policy is intended to cover circumstances such as:

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 (ASBOs).

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
applicant	An individual applying for entry to the Register under AAT's Regulations or for a licence under the *Licensing Regulations*.
civil sanction	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. Sanctions of this nature may not always result in criminal sentencing and may include fines, disqualification, and formal warnings.
criminal conviction	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.

fit and proper	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.
licence	A licence to provide *accountancy and/or bookkeeping services* to the public under the *Licensing Regulations*.
member	A person admitted to the membership of AAT in accordance with the provisions of the *AAT Regulations* (where the context so permits), this term includes *associate members*, *full members,* and *fellow members,* whether past or present.
misconduct	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 *Code of Professional Ethics*, which brings, or is likely to bring, discredit to the member, the accountancy profession, or AAT.
self-employed accountancy services	An associate member, full member or fellow member engaged in public practice by offering or providing *accountancy services* or *bookkeeping services* to the public, or holding themselves out to provide *accountancy services* and/or *bookkeeping services* 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. ** Shares belonging to anyone in the member's household or family are treated as belonging to the member*
specific condition	A condition or conditions on a licence imposed under the *Licensing Regulations.*

5. Policy detail

Civil sanctions on application

5.1 When required to do so, *applicants* must declare any *civil sanction* to which they have been subject.

5.2 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 sanction and the date it was imposed
ii. aggravating and mitigating factors
iii. whether the sanction is current or has expired
iv. any remedial action taken by the applicant since the imposition of the sanction
v. the applicant's present circumstances.
vi. the level of membership being applied for
vii. representations from the body imposing the sanction (where relevant)
viii. any information available in the public domain
ix. any other representations put forward by the applicant.

5.3 The test to be applied to determine whether an *applicant* meets the *fit and proper* requirements is whether the *applicant*, based on 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*.

5.4 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.*

5.5 If AAT becomes aware that an *applicant* failed to disclose a *civil sanction* as required, the matter may be investigated under AAT's *Disciplinary Regulations.*

5.6 AAT will not approve an application for fellow membership from an applicant with an active civil sanction. If the applicant's civil sanction has expired or the applicant has satisfied the requirements of the civil sanction, AAT will consider the application in accordance with this policy.

Civil sanctions on reinstatement

5.7 AAT will consider applications for reinstatement of membership in accordance with the provisions detailed in paragraphs 5.1 to 5.6 above.

5.8 If AAT becomes aware that an applicant chose to resign or allow their membership to lapse without notifying AAT of *civil sanction* as required in accordance with paragraph 5.9, their application for reinstatement will be rejected and they will be barred from making another application for a period of five years.

Civil sanctions whilst a member

5.9 A *member* must notify AAT of *civil sanction* 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*.

5.10 If a *member* discloses 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*:

5.11 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*.

5.12 Even if AAT determines that an *applicant* is *fit and proper* for the purposes of holding AAT *membership*, this does not necessarily mean the *applicant* will be considered *fit and proper* to hold an AAT *licence*.

5.13 In addition to the criteria outlined in paragraph 5.2, AAT will consider the following criteria in determining whether to grant a *licence*:

5.13.1 harm caused to the public as a result of the conduct which led to the civil sanction.

5.13.2 whether it was a corporate offence.

5.13.3 the nature of the services an applicant intends to deliver, or a member delivers.

5.14 AAT determines an applicant's suitability to hold a *licence* using the test in paragraph 5.3 in the context of the provision of *self-employed accountancy services*.

5.15 In determining that an *applicant* is a *fit and proper* person to hold a *licence*, AAT may impose a *specific condition* on their *licence* as considered appropriate and necessary to meet the test.

5.16 If a *member* becomes subject to a *civil sanction*, AAT will consider the matter under the *Disciplinary Regulations.* Following conclusion of the *investigation*, the member will then be subject to an assessment of whether they remain a *fit and proper* person to hold a *licence.*

5.17 Termination of a *licence* will normally result in removal of all membership unless written confirmation and evidence, as required, is provided to AAT demonstrating the *member* is no longer providing *self-employed accountancy services*.

Civil sanctions in other jurisdictions

5.18 If 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 decide whether the offence leading to the sanction has any equivalence in UK law.

Right of appeal

5.19 *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*.

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