

AML Whistleblowing Policy

Anti-Money Laundering Whistleblowing Policy

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Associated legislation and guidance

<i>Public Interest Disclosure Act 1998</i>
National Crime Agency's Suspicious Activity Reporting guidance

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1. Introduction

- 1.1. This policy sets out AAT's approach to whistleblowing in relation to money laundering and the procedures which should be followed when raising a concern about an AAT supervised accountancy firm.

2. Scope and applicability

- 2.1. This guidance sets out instructions on what steps AAT members, and the wider public, should take when considering making a report of non-compliance with anti-money laundering obligations, and should be read in conjunction with the Money Laundering Regulations in force.
- 2.2. No process guidance can foresee or address every issue which may arise. It is a living document and we will develop new guidance in the light of experience. Please be on the lookout for ways in which we can add to the process guidance, make it clearer, or improve it in any way.

3. Purpose and objectives

- 3.1. This policy supports AAT's aim of encouraging our members and members of the public to report suspected wrongdoing and breaches of the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017* (Money Laundering Regulations 2017), as soon as possible in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected. The purpose of this policy is to provide AAT staff, our members and members of the public with guidance as to how to raise those concerns and to advise them of the protection offered by the *Public Interest Disclosure Act 1998* (PIDA).
- 3.2. A distinction should be drawn between a concern of non-compliance with the Money Laundering Regulations and a suspicion of actual money laundering or terrorist financing activity taking place. Where there is knowledge or suspicion of a supervised member participating in or being involved in money laundering (either complicitly or unwittingly) AAT encourages whistleblowers to make an authorised disclosure, either through their firm's internal SAR process or directly to the National Crime Agency (NCA), if appropriate.

4. Policy detail

- 4.1. Whistleblowing is 'speaking up' or raising a concern. It ultimately is the disclosure of information which relates to suspected wrongdoing (generally a breach of a legal, statutory or regulatory requirement or unethical, immoral behaviour) of the law which compromises the Money Laundering Regulations 2017.
- 4.2. This policy covers situations where you want to raise a concern about a situation where, in your reasonable belief, a person or practice who is subject to the Anti-Money Laundering (AML) regime has failed, or is failing, to comply with the regulations and you want to report it confidentially.

Reporting requirements & procedures

- 4.3. If you identify an accountancy firm which appears to be failing to adhere to the Money Laundering Regulations 2017, you can report it to AAT confidentially. If information is provided to us on a confidential basis, we will take the appropriate steps to protect your identity.

Definition of reportable matters

- 4.4. AAT strongly encourages both our members and members of the public to report any current or historic failings in relation to the Money Laundering Regulations 2017 and other laws, rules and regulations applicable to AAT which comprises the UK AML regime such as:
- 4.4.1. potential breach of the requirements in, or made under the *Financial Services and Markets Act 2000* (including FCA rules)
 - 4.4.2. *Proceeds of Crime Act 2002* (POCA) as amended by the *Serious Organised Crime and Police Act 2005* (SOCPA)
 - 4.4.3. *Terrorism Act 2000* (TA 2000) as amended by the *Anti-terrorism Crime and Security Act 2001* (ATCSA) and the *Terrorism Act 2006* (TA 2006)
 - 4.4.4. the *Money Laundering, Terrorist Financing and Transfer of Funds, (Information on the Payer) Regulations 2017* (Money Laundering Regulations 2017)
 - 4.4.5. *Terrorist Asset-Freezing etc. Act 2010*
 - 4.4.6. *Criminal Finances Act 2017*
- 4.5. The possible violation or suspected wrongdoing should be based on reasonable grounds. It should be noted that this policy is separate from our normal member complaints procedure. Whistleblowing does not apply to contractual service issues, payment disputes or personal grievances, including employment issues, which should be dealt with through internal organisational policies.
- 4.6. If you have a genuine concern related to the UK AML regime, you should report it under this policy.

How to report a possible violation or suspected wrongdoing

- 4.7. If you suspect wrongdoing by an accountancy firm, in relation to the UK AML regime, you must raise this to us or to a regulator promptly if appropriate. Reports can be made anonymously but should provide enough information to allow AAT to investigate the matter properly.

Suspicious activity report (SAR)

- 4.8. Where money laundering is disclosed, known or suspected, it is an offence to ignore it. AAT will advise the whistleblower to make an authorised disclosure directly to the National Crime Agency (NCA). If the whistleblower suspecting the money laundering is not an appointed Money Laundering Reporting Officer (MLRO) then the MLRO will need to be notified (where relevant / appropriate) so they are able to make the disclosure to the NCA on behalf of the whistleblower. In cases where a whistleblower is making a disclosure about their MLRO, the SAR should be directly made to the NCA.
- 4.9. AAT advises all licensed members to consider registering with the NCA at www.nationalcrimeagency.gov.uk to obtain their unique registration number to be used when making SARs.

Information you can disclose

- 4.10. The following things are useful:
- 4.10.1. the names of any individuals and/or firms involved
 - 4.10.2. details of the alleged violation of a law, rule or regulation
 - 4.10.3. any key dates
 - 4.10.4. details of any internal procedures followed and outcome
 - 4.10.5. a summary of the supporting evidence you have provided – is it known and substantiated?
- 4.11. Reports that are not sufficiently substantiated due to a lack of information will not be investigated. Reports can be done orally or in writing.
- 4.12. The possible violation may be reported in one or more of the following ways:

AML whistleblowing confidential mailbox

- 4.12.1. Reports of a possible violation or suspected wrongdoing can be made by e-mail to the strictly confidential whistleblowing mailbox at aml.whistleblowing@aat.org.uk

AML whistleblowing helpline

- 4.12.2. AAT members can call the AML whistleblowing helpline on **+44 (0) 207 397 3182** where you can discuss your concerns in confidence. The general procedure is to ask for your name and membership number but you are welcome to remain anonymous.

- 4.13. On receipt, your disclosure will be allocated to an appropriate investigating officer in the Professional Standards team, who will then carry out an assessment to determine whether there are grounds for any action to be taken.

How we will investigate your concern

- 4.14. After you have raised your concern AAT will decide how to respond in a responsible and appropriate manner.
- 4.15. The investigation will be carried out by someone independent of the concern raised. The scope of the investigation, and who acts as investigating officer, will depend on the nature of the concern raised. The person you raised your concern with may carry out the investigation or they may ask someone else to do so. Usually this will involve making enquiries first, but it may be necessary to carry out an investigation at a later stage which may be formal or informal depending on the nature of the concern raised.

How will we keep you informed?

- 4.16. If you have raised a concern we will, as far as possible, keep you updated if we are considering further action or not and if there is any public reported action. We may contact you again if we require anything further from you, unless you specifically ask us not to. However, we will not be able to inform you of any matters which would infringe our duty of confidentiality to others and infringe our policy and various UK and European Law restrictions.

How will we use the disclosure?

- 4.17. Depending on the information that has been provided we may take different types of action, including:
- 4.17.1. deciding on whether a practice assurance review should take place
 - 4.17.2. making a confidential report to law enforcement agencies
 - 4.17.3. sharing the information confidentially with another professional body
 - 4.17.4. using the information as part of a formal investigation into a firm. Where the information is useful but might not lead to any further activity at the time, we will store it securely where it can be retrieved and used if things change.

Timescales

- 4.18. The person receiving your concern will aim to contact you within five working days of receiving your concern to let you know it has been received and what will happen next.
- 4.19. The investigating officer will aim to contact you as soon as possible after being briefed on your concern. They will agree with you how to keep you updated during the investigation.
- 4.20. The investigating officer will tell you as much as they can about the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent them giving you specific details of the investigation or any disciplinary action taken as a result.

Public information

- 4.21. Where cases result in fines, prosecutions or bans, these will be made public.

Confidentiality

- 4.22. We hope that our members and members of the public will feel able to voice concerns openly under this policy. We will protect all information we receive and will not reveal your existence or identity unless we are legally required to do so.
- 4.23. AAT has an obligation to handle reports confidentially if the reporter so requests. Reports will be treated in a confidential manner, to the extent possible. AAT may, if appropriate, be required by law to disclose a possible violation and any information relating to third parties, including regulatory, governmental, law enforcement or self-regulatory agencies. Following reporting to the appropriate parties, the reporter is expected to maintain confidentiality regarding any report and investigation as well as the resulting findings, in accordance with this policy.

Firms not supervised by AAT

- 4.24. If you identify an accounting service provider or trust and company service provider that does not appear to be supervised under the Money Laundering Regulations 2017 or disregarding the requirements of the regulations, you can:
- 4.24.1. contact [the firm's relevant supervisory body](#)
 - 4.24.2. contact the MLR Central Intervention Team at MLRCIT@hmrc.gov.uk
- 4.25. These contact details are solely for the purpose of reporting matters relating to possible breaches of the Money Laundering Regulations 2017. It is not to be used in relation to general complaints or queries regarding the professional conduct of AAT members. Any matters of this nature should be reported via AAT complaints process.

Protection of whistleblowers

- 4.26. Concerns will be treated seriously, and actions taken in accordance with this policy. If you ask us to treat the matter in confidence, we will do our utmost to respect your request. However, it is not possible to guarantee confidentiality. If we are in a position where we cannot maintain confidentiality and so must make disclosures, we will discuss the matter with you first (unless we are legally prevented from doing so). We will give you feedback on any investigation and be sensitive to any concerns you may have because of any steps taken under this procedure.

Public Interest Disclosure Act 1998 (PIDA)

- 4.27. PIDA protects workers who make a protected disclosure of information, concerning certain types of matters relating to their employment, from being dismissed or penalised by their employers because of the disclosure. The legislation protects those making a disclosure either internally in the organisation or externally.
- 4.28. PIDA sets conditions about the subject matter of the disclosure, the motivation and beliefs of the worker, and the person(s) to whom the disclosure is made.
- 4.29. The scope of PIDA includes disclosure that, in the reasonable belief of the worker, are in the public interest.

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- 4.30. A protected disclosure is any disclosure of information which in the reasonable belief of the individual making the disclosure tends to show that one or more of the following:
- 4.30.1. a criminal offence has been committed, is being committed, or is likely to be committed
 - 4.30.2. a person has failed, is failing, or is likely to fail to comply with any legal obligation to which he is subject
 - 4.30.3. a miscarriage of justice has occurred, is occurring, or is likely to occur
 - 4.30.4. the health or safety of any individual has been, is being, or is likely to be endangered
 - 4.30.5. the environment has been, is being, or is likely to be damaged
 - 4.30.6. information tending to show any matter falling within any one of the preceding paragraphs has been or is likely to be deliberately concealed.
- 4.31. You may need independent legal advice to direct you in understanding this legislation.

Malicious whistleblowing

- 4.32. If AAT members are found to have made allegations maliciously and/or not in good faith, a disciplinary process may be instigated against them.
- 4.33. It is important to note that if you have raised a concern in good faith, you will not be subject to disciplinary action even if the investigation finds your allegations to be unproven.

Alternative reporting methods

- 4.34. A possible violation or suspected wrongdoing by an AAT supervised firm, should be made first directly to AAT. The purpose of this policy is to give you the opportunity and protection you need to raise your concerns internally without reporting the concern to external bodies. It is, therefore, expected that raising concerns internally will be the most appropriate action to be taken in almost all cases and so you must try to do so.
- 4.35. However, there may be circumstances where you feel you cannot raise your concern with AAT and you wish to disclose information externally. In these circumstances you could consider raising your concern with an external body or a regulator e.g. the FCA. We strongly encourage you to seek legal advice before reporting a concern to anyone external.

Independent advice

- 4.36. Protect, formerly Public Concern at Work, are leading experts in whistleblowing. They operate a free, confidential advice line.
- 4.37. For whistleblowing advice you can call **+44 (0) 203 117 2520**. The helpline can be accessed on Monday, Tuesday and Thursday from 09.30 to 13.00 and 14.00 to 17.30, and on Wednesday and Friday from 09.30 to 13.00. Members who wish to reach Protect outside of these hours can complete the [online contact form](#). Alternatively, members can visit the Protect website at <http://www.protect-advice.org.uk>

5. AML whistleblowing flowchart



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