

# Civil Sanctions Policy

# Civil Sanctions Policy

## Document properties

---

Version	V3.1
Owner / author	Professional Standards and Policy
Supersedes when issued	1 August 2021
Date of issue	1 October 2021
Circulation	<a href="http://www.aat.org.uk">www.aat.org.uk</a>
Format for circulation	Electronic (PDF); print as required.
Classification	<b>UNRESTRICTED</b>

---

## Change control

---

Version No.	Page	Changes made	Review Date
V2.0	5	Clarity provided on what does or does not need to be disclosed under this policy (paragraph 13)	09/06/2021
V2.0	6	Removal of mandatory character reference requirement	09/06/2021
V2.0	9	Insertion of circumstances existing whereby AAT can determine whether an applicant can be admitted as a member and subsequent delegated powers table	09/06/2021
V3.0	4	Update of AAT Regulations 2021 in compliance framework	01/10/2021

---

## Associated regulations and polices

---

*Code of Professional Ethics*

*AAT Regulations 2021*

*Disciplinary Regulations*

*Licensing Regulations*

*Insolvency Policy*

*Criminal Convictions Policy*

*Disciplinary Sanctions Policy*

*Professional Standards Investigations Policy*

*Disclosure Policy*

*Health and Disability Policy*

*Indicative Sanctions Guidance*

*Appeals Regulations*

---

# Contents

Introduction .....	4
Scope and applicability .....	4
Purpose and objectives .....	4
Terms and definitions .....	5
Policy detail .....	5
Civil sanctions on application .....	6
Civil sanctions on reinstatement.....	7
Civil sanctions whilst a member .....	7
Civil sanctions for those applying for, or holding, a licence .....	7
Civil sanctions from other jurisdictions .....	8
Right of appeal .....	8

## 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.

## Scope and applicability

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*. Depending on the circumstances, AAT may resolve these *complaints* informally or take disciplinary action.

## Purpose and objectives

3. AAT endeavours to ensure that all *applicants* and *members* are treated fairly and consistently in accordance with the compliance framework agreed by *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 2021*
  - 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) *Disciplinary Sanctions Policy*
  - d) *Professional Standards Investigations Policy*
  - e) *Disclosure Policy*
  - f) *Health and Disability Policy*
  - g) *Indicative Sanctions Guidance*
  - 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](http://aat.org.uk) including the purpose of each publication and how they relate to each other.

## Terms and definitions

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. AAT expect its *members* to act with the highest standards of integrity, both in and outside their professional lives. Clients and employers rely on AAT to take steps to consider whether an *applicant* is a *fit and proper* person to be a *member*, whether applying to be an *associate member*, *full member* or *fellow member*.
10. As a supervisory body under the *Money Laundering Regulations*, AAT takes its responsibilities seriously, particularly to ensure that professional *accountancy services* are not exploited by those involved in serious organised crime to launder their criminal proceeds. This responsibility extends as far as preventing criminals and their associates from holding an interest in a *firm* providing *self-employed accountancy services*.
11. A civil sanction is 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 from time to time in force. Sanctions of this nature may not always result in criminal sentencing and may include fines, disqualification and formal warnings.
12. Civil sanctions are a risk indicator, raising a question whether an individual is a *fit and proper* person to enter the profession. AAT has a robust approach to assessment of the *fit and proper* status of *applicants* who disclose a civil sanction.

13. The term “civil sanction” covers a broad range of offences, where action is taken against an individual, but falls short of a *criminal conviction*. This policy is intended to cover circumstances such as an individual subject to:

- 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.

Applicants do not need to disclose any of the following:

- a) driving offences dealt with by way of fixed penalty notice
- b) traffic enforcement penalty charge notices (parking, congestion)
- c) personal civil disputes (personal injury, divorce and family, property, contract)

The above lists are not exhaustive and if in doubt *applicants* are recommended to contact AAT for further advice.

#### **Civil sanctions on *application***

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

15. AAT will consider the following criteria in determining whether an *applicant* is a *fit and proper* person to be admitted to membership:

- a) the nature of the sanction and the date it was imposed
- b) aggravating and mitigating factors
- c) whether the sanction is current, or has expired
- d) any remedial action taken by the *applicant* since the imposition of the sanction
- e) the *applicant's* present circumstances
- f) the level of membership being applied for
- g) representations from the body imposing the sanction (where relevant)
- h) any other representations put forward by the *applicant*.

16. AAT may refer to information available in the public domain in making a determination as to an *applicant's fit and proper* status.

17. The test to be applied to the final determination whether an *applicant* meets the *fit and proper* requirements is whether the *applicant*, on the basis of 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*.

18. A number of circumstances exist whereby AAT can determine whether an applicant can be admitted as a member. These are detailed in Schedule 1 to this policy.
19. If, on *application*, an *applicant* fails to disclose a civil sanction which would, in AAT's opinion, be material to determination of their *fit and proper* status, and the matter subsequently comes to light, AAT must investigate in accordance with the *Disciplinary Regulations*.
20. AAT will reject an *application* for fellow membership if an *applicant* has a civil sanction until such time as it has expired, or been complied with, at which point their *application* will be considered in accordance with paragraphs 9 to 19 above.

#### **Civil sanctions on reinstatement**

21. AAT will consider *applications* for reinstatement of membership in accordance with the provisions detailed in paragraphs 9 to 20 above.
22. AAT will additionally pay due regard to the timing of the civil sanction in the context of the *applicant's* membership history with AAT.
23. Where the information available demonstrates that the *applicant* had an obligation to disclose a civil sanction to AAT in accordance with paragraph 24 below, but resigned or allowed their membership to lapse without notifying AAT, then their *application* for reinstatement will be rejected, and they will be debarred from making another *application* for a period of five years.

#### **Civil sanctions whilst a *member***

24. An associate, full or fellow *member* must notify AAT of any civil sanction received 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*, in accordance with the *AAT Regulations* in force.
25. When a *member* discloses that 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***

26. 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*.
27. Notwithstanding AAT's determination on whether an *applicant* is *fit and proper* for the purposes of admission to membership, AAT may determine that they are not *fit and proper* to hold a *licence*.
28. In addition to the criteria outlined in paragraph 15, AAT will give consideration to the following criteria in determining whether to grant a *licence*:
  - a) harm caused to the public as a result of the conduct predicated the civil sanction
  - b) whether it was a corporate offence
  - c) the nature of the services an *applicant* intends to deliver, or a *member* delivers.
29. The test to be applied to the determination of an *applicant's* suitability to hold a *licence* is the test in paragraph 17, to be considered in the context of the provision of *self-employed accountancy services*.

30. In determining that an *applicant* is a *fit and proper* person to hold a *licence*, AAT may impose *specific conditions* on their *licence* as considered appropriate and necessary to meet the test.
31. If a *member* holding a *licence* is subject to a civil sanction, AAT will consider this under the *Disciplinary Regulations* in the first instance, and upon conclusion of the *investigation*, determine on whether a *member* is a *fit and proper* person to keep their *licence*.
32. When a *member* holding a *licence* is subject to a civil sanction, 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*.

#### **Civil sanctions from other jurisdictions**

33. Where 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 make a decision on whether the offence leading to the sanction has any equivalence in UK law. As stated in paragraph 3 above, AAT seeks to treat all *applicants* fairly and consistently.

#### **Right of appeal**

34. *Applicants* have the right to appeal any decisions made under this policy. Appeals will be dealt with in accordance with the *Appeals Regulations*.



# Schedule 1 - Delegated powers

AAT's *Professional Standards* may make the following decisions on suitability for membership, without remitting the *application* to a membership assessor, unless they consider there is good reason not to do so.

Category	Recommended outcome
<b>Applications for membership</b>	
Any civil sanction that meets the <i>fit and proper</i> requirements taking into consideration what they have declared and the circumstances surrounding it	Admit to membership on a case by case basis
<b>Reinstatement (in addition to <i>application</i> permissions)</b>	
Any civil sanction which arose whilst the <i>applicant</i> was a <i>member</i> , which was not disclosed in accordance with the <i>AAT Regulations</i>	Refuse membership and debar from reapplying for a period of five years

**The Association of Accounting Technicians**

30 Churchill Place

London

E14 5RE

t: +44 (0)20 7397 3000

f: +44 (0)20 7397 3009

e: [aat@aat.org.uk](mailto:aat@aat.org.uk)

[aat.org.uk](http://aat.org.uk)