

Policy document

aat

Disclosure

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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.

The Association of Accounting Technicians

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

The compliance framework and procedures of AAT

3. AAT endeavours to ensure that all *applicants* and *members* are treated fairly and consistently in accordance with the compliance framework agreed by the *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 2016*
 - 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) *Investigation of Complaints and Referrals* policy
 - b) *Health* policy
 - c) *Indicative Sanctions Guidance*
 - d) *Appeals Regulations*
 - e) *Witness Care and Expenses Policy*
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 including the purpose of each publication and how they relate to each other.
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

Disclosure during disciplinary proceedings

9. This policy is intended to assist the *Investigations Team*, *Professional Standards* and the *Disciplinary Tribunal* or *Regulatory Committee* acting under the *Disciplinary Regulations* to deal with the disclosure of documents in proceedings, particularly the disclosure of “unused material”.
10. 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 within 84 days of the *complaint* being referred to the *Disciplinary Tribunal*.
11. 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”.
12. “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”.
13. 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).

14. 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:
- a) 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
 - b) 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
 - c) the *Disciplinary Tribunal* or *Regulatory Committee* 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
 - d) *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
 - e) 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.

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