

# Indicative Sanctions Guidance

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## Associated regulations and policies

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*Code of Professional Ethics*

*AAT Regulations*

*Disciplinary Regulations*

*Licensing Regulations*

*Insolvency policy*

*Criminal Convictions policy*

*Civil Sanctions policy*

*Disciplinary Sanctions policy*

*Professional Standards Investigations policy*

*Disclosure policy*

*Health and Disability policy*

*Appeals Regulations*

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## Introduction

1. 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

2. 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.
3. 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.

## Purpose and objectives

4. 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
5. 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*
  - c) *Disciplinary Regulations*
  - d) *Licensing Regulations*
6. 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) *Civil Sanctions policy*
  - d) *Disciplinary Sanctions policy*
  - e) *Professional Standards Investigations policy*
  - f) *Disclosure policy*
  - g) *Health and Disability policy*
  - h) *Appeals Regulations*
7. 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. The website is the definitive guide to all policies currently in force.

## Terms and definitions

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. This guidance has been developed by AAT to promote consistency in the making of decisions on the action and sanctions that should apply in cases of *misconduct* in accordance with the procedures set out in the *Disciplinary Regulations*. The guidance is not intended to fetter judgment on any individual case but provides a platform for the most suitable action to be taken, including the right level of sanction when this is considered appropriate.
10. The *Investigations Team* must have due regard to this document when exercising its power to discontinue a case on the basis that a *member* agrees to submit to a sanction.
11. The *Disciplinary Tribunal*, or *Investigations Team*, as the relevant decision-maker for the proceedings of the case, may at their discretion impose one or more of the sanctions available to them.
12. The purpose of sanctions is to protect the public from malpractice, maintain confidence in the profession and secure high standards of professional conduct from *members* of AAT. They are not intended to be punitive although may have a punitive effect.
13. There are a variety of sanctions available. The *Disciplinary Tribunal* and *Investigations Team* must consider all lower sanctions and their appropriateness to hold a *member* to account for the seriousness of the *misconduct* found before moving up the scale. To this end, sanctions are referred to and should be considered in ascending order of severity.
14. Schedule 1 – Table of Suggested Sanctions sets out the level of sanction which may be imposed as a proportionate starting point but is not an exhaustive list. The *Disciplinary Tribunal* or *Investigations Team* should use its own judgement to set a sanction appropriate to the circumstance of the individual case, depending on the seriousness of the breach and the aggravating and mitigating factors.

## Sanctions

### No further action

15. Where there is a finding of *misconduct*, only in rare cases would it be appropriate to impose no sanction. This might be so if it were clear, for example, that the *member* was significantly incapacitated at the time of the offence, or the impact on third parties or the reputation of AAT was minimal.
16. Where the *Disciplinary Tribunal* or *Investigations Team* decide not to impose a sanction, despite there being grounds to do so, it must give cogent reasons for its decision.

### Seek advice over future conduct

17. The *Disciplinary Tribunal* or *Investigations Team* may require a *member* to seek advice as to their future conduct from such a source as may be recommended or prescribed. This will vary depending on the nature of the case, and therefore this guidance does not seek to limit the sources available to the *Disciplinary Tribunal* or *Investigations Team*. Where the advice will incur cost to the *member*, the *member* must meet such cost in order to comply with the disciplinary order.
18. It would not be appropriate to monitor compliance with the advice, and the *Disciplinary Tribunal* or *Investigations Team* must be mindful of this when imposing this sanction. However, compliance with such a requirement will be considered, if subsequently further issues on conduct are raised or become evident.

### Reprimand and/or warning

19. A *reprimand* is the lowest 'formal' sanction that can be applied, and it may be appropriate where conduct is considered less serious, but the *Disciplinary Tribunal* or *Investigations Team* wishes to make clear that the behaviour of the *member* was unacceptable. It is a sanction which focuses on the conduct of the *member* which resulted in the disciplinary action.
20. A *reprimand* might be appropriate in cases where the *Disciplinary Tribunal* or *Investigations Team* can be satisfied that there is no significant risk or damage to the public, the professional reputation of the individual *member* or AAT.
21. In contrast, a *warning* focuses on the future conduct of the *member* and seeks to modify behaviour in a way that promotes the public interest. It will often be appropriate for a *reprimand* and *warning* to be issued together as a *disciplinary sanction*.

### Severe Reprimand

22. A *severe reprimand* may be appropriate where the misconduct is of a serious nature but there are circumstances or mitigation which satisfy the *Disciplinary Tribunal* or *Investigations Team* that expulsion is not justifiable and there is no evidence of any further risk to the public, the professional reputation of the individual *member* or AAT. It is a final warning, and the member will be advised as such.

### **A fine not exceeding a maximum figure as the Council might set from time to time**

23. A *fine* may be imposed as a standalone sanction or be combined with another sanction, but the *Disciplinary Tribunal* and *Investigations Team* should bear in mind that in cases where the matter is insolvency related, a *fine* will not normally be appropriate.
24. The maximum *fine* is set by *council*.
25. In all cases, the level of *fine* must be proportionate, but also reflect the gravity of the *misconduct* in question.
26. *The member* may be given a reasonable time to pay, normally limited to a maximum of one year, if necessary, by instalments. However, this is a matter for agreement between AAT and the *member* not for the *Disciplinary Tribunal* and *Investigations Team*.
27. The starting points for financial sanctions are set out in Schedule 1 – Table of Suggested Sanctions

### **Impose specific conditions on a licence (those holding a licence only)**

28. Where a *member* holds a *licence* and *misconduct* has been established, the *Disciplinary Tribunal* or *Investigations Team* should normally consider whether the *member* continues to be suitable to hold that practising *licence*. AAT's *Disciplinary Regulations* do not permit the withdrawal of a practising *licence*. Where suitability to hold a *licence* at all is called into question, the more serious sanctions of suspension or expulsion should be considered.
29. Upon conclusion of disciplinary proceedings, AAT will consider the implications of the outcome in accordance with the provisions detailed within the *Licensing Regulations*.
30. The *Disciplinary Tribunal* or *Investigations Team* may, however, consider imposing *specific conditions* on a *member's licence*. Such *conditions* may include (but are not limited to):
  - a) removal of a *licence* area
  - b) mandating *CPD* requirements
  - c) restrictions on holding *clients' money*
  - d) requirement for third party monitoring at the expense of the *member*
  - e) submission to a practice assurance review at the expense of the *member*.

### **Removal of fellow member status**

31. AAT's fellow membership is a status to aspire to. Where *misconduct* is found against a *fellow member*, this sanction must always be considered in the interests of protecting the status of fellow membership. *Fellow members* are senior and experienced *members* of AAT, often holding senior positions, and AAT can reasonably expect exemplary conduct from them at all times in both a private and professional capacity.
32. In cases of *misconduct* by a *fellow member* the *Disciplinary Tribunal* or *Investigations Team* might consider that due to the weight of expectation even a relatively minor breach should be managed with consideration of the likely impact on the public perception of AAT and the profession.



### **Suspension of membership**

33. This equates in seriousness to expulsion. Where significant mitigation exists, it may be appropriate to use suspension instead of expulsion. It is unlikely that suspension would be appropriate in isolation due to the fact that the passage of time will be insufficient itself to remedy any breach of professional standards.
34. On this basis, where suspension would be an appropriate sanction, it may be appropriate to require a *member* to seek advice as to future conduct during the period of the suspension. If this is the case, the onus will be on the *member* to prove that they have sought and acted on such advice prior to their suspension being lifted.

### **Be declared unfit to hold associate and/or full membership**

35. This is the most severe sanction available to the *Disciplinary Tribunal* or *Investigations Team* for students and affiliates. This sanction demonstrates that the *individual's* actions contradict the fundamental principles of accounting ethics and that AAT is unlikely ever to be satisfied of their suitability to practise either in business or in private practice.
36. If minded to impose this sanction, this should be considered in conjunction with expulsion. This is because the AAT Accounting Qualification is a conduit to professional membership of AAT and can elicit exemptions for other accountancy qualifications with other accountancy bodies. Therefore, it may be illogical to declare an individual unfit to become an *associate and/or a full member* following a significant deviation from the fundamental principles, but allow them to continue with *student* membership and thus potentially allow them to practise with other professional bodies, or worse still, in the absence of scrutiny from any accountancy body.

### **Declared ineligible to hold fellow membership status**

37. AAT's fellow membership is a status to aspire to. Where *misconduct* is found against an individual *member*, this sanction must always be considered in the interests of protecting the status of fellow membership. *Fellow members* are senior and experienced *members* of AAT, often holding senior positions, and AAT can reasonably expect exemplary conduct from them at all times in both a private and professional capacity.
38. If the *Disciplinary Tribunal* or *Investigations Team* were minded to impose this sanction, it should consider it in conjunction with any other disciplinary sanctions imposed and the length of time it shall remain live on a *member's* record.

### **Expulsion**

39. This is the most severe sanction available. It would be appropriate where it is paramount to protect the public and/or confidence in AAT, the wider membership, or the accountancy profession. The issues under consideration will include:
  - a) serious departure from professional standards
  - b) abuse of position and/or trust
  - c) dishonesty
  - d) fraud
  - e) a clear pattern of breaches of professional standards as set out in AAT's policies, *Regulations* and *Code of Professional Ethics*.

## Aggravating factors

40. The *Disciplinary Tribunal* or *Investigations Team* will additionally pay due regard to any aggravating factors which are present in determining the appropriate sanction(s) to impose.
41. Aggravating factors will normally warrant a more severe sanction and usually demonstrate that the *member's* behaviour is incompatible with the fundamental principles of professional ethics with which all *members* of AAT must comply.
42. Aggravating factors might include but are not limited to:
  - a) dishonesty, fraud, or intent to mislead
  - b) harm (financial or otherwise) caused to a third party
  - c) period of time involved
  - d) breach not corrected or slow to correct the breach
  - e) multiple contraventions
  - f) relevant disciplinary history
  - g) lack of professional insight
  - h) lack of remorse
  - i) high level of public awareness
  - j) the *member's* conduct through the investigation and the proceedings

## Mitigation

43. The *Disciplinary Tribunal* or *Investigations Team* must have due regard to any mitigation which is present in determining the appropriate sanction(s) to impose.
44. Mitigation might include but is not limited to:
- a) remorse
  - b) remedial action taken to address the *misconduct* such as correcting the work or mitigating any loss to third parties or the public generally
  - c) client uncooperative or provided insufficient or misleading information
  - d) isolated incident
  - e) sought professional advice
  - f) personal factors
  - g) ill health
  - h) experience (or inexperience)
  - i) previous good character
  - j) early admission.
45. A *member* may also seek to introduce character references or call witnesses to attest to their good character. This is permissible. Should this be the case, these will need to be weighed appropriately against the nature of the incident.
46. Where a *member* chooses not to attend a hearing, they will be invited to make representations in respect of mitigation at the point when they advise they do not intend to attend. If they choose to put in representations, these will be retained by the Secretary to the *Disciplinary Tribunal* and presented only upon a finding of *misconduct*.
47. Any mitigation put forward by a *member* should, where possible, be supported by evidence. Evidence to support mitigation may take many forms and it is not feasible to list them all.
48. The *Disciplinary Tribunal* or *Investigations Team* should always give due weight to mitigation advanced by a *member*. Less weight should be given to mitigation which is not supported by evidence, where the *Disciplinary Tribunal* or *Investigations Team* is of the view that evidence is necessary.

## Time limits

49. The *Disciplinary Tribunal* or *Investigations Team* must give due consideration to the length of time a disciplinary sanction shall remain live on a *member's* record, or in the case of expulsion, a period of time which must elapse before a *member* may apply for re-admission.
50. Where the expulsion of a *member* is ordered, the tribunal must consider whether the sanction applies indefinitely, or whether a timescale should be proposed for when AAT might consider an *application* for re-admission.
51. As a guideline, the starting point for such a recommendation is:
- a) For *students* and *affiliates* – two years, although this may be increased or decreased depending on aggravating factors and mitigation within a suggested range of one and three years.
  - b) For *associate members*, *full members*, or *fellow members* – three years, although this may be increased or decreased depending on the circumstances within a suggested range of two to ten years.
  - c) No timescale imposed by the *Disciplinary Tribunal* or *Investigations Team* compels AAT to readmit a member. Any such *application* would be considered in accordance with AAT's *Regulations* and supporting policy framework in force at that time.
52. In the case of all other sanctions, the *Disciplinary Tribunal* or *Investigations Team* must determine the appropriate timescale for any order to remain in force and live on the *member's* record. This will be solely at their discretion, based on the evidence before them and any factors relevant to the decision to take action. The more serious the finding, the longer the time period that should be considered.

## Costs

53. AAT's *Disciplinary Regulations* gives the *Disciplinary Tribunal* the power to award costs against a member in respect of the costs incurred by the Association in bringing the case. These costs may include:
- a) legal expenses
  - b) witness expenses
  - c) the costs of undertaking the investigation
  - d) the costs of the Tribunal.
54. In determining the award for costs, the *Disciplinary Tribunal* must be mindful of the maximum amount set by Council (currently £15,000) and have due regard to the member's means. The member must be given the opportunity to make representations in respect of a costs application put forward by the Association.

## Schedule 1 – Table of suggested sanctions

It is important that all members who are the subject of complaints can see the range of sanctions and penalties likely to be imposed and know that the same approach, taking into account any aggravating or mitigating circumstances, will be used in each case. The table below gives an indication of the level of sanction which may be imposed but should not be regarded as being inflexible. Each case will be considered and determined on its facts and merits.

It should be noted that when dealing with more than one breach, there should always be regard to the cumulative impact of any such breaches and whether such breaches when taken together should increase the sanction to higher end of the scale.

<b>Criminal convictions</b>	<b>Suggested starting sanction</b>		<b>Upper limit for financial sanction</b>
Conviction involving dishonesty, breach of trust or money laundering	Expulsion	£5,000	£10,000
Indictable offence not involving dishonesty, breach of trust or money laundering where the member receives a custodial sentence	Expulsion	£2,000	£10,000
Indictable offence not involving dishonesty, breach of trust or money laundering where the member does not receive a custodial sentence	Severe Reprimand	£500	£5,000
Summary only offence	Warning and/or Reprimand		
<b>Adverse finding by another professional body or regulator</b>	<b>Suggested starting sanction</b>		<b>Upper limit for financial sanction</b>
Disqualification as a company director, trustee, or misappropriation of funds from another position of trust	Expulsion	£1,000	£5,000
Other unfit behaviour as a company director, trustee, or other position of trust	Severe Reprimand	£1,000	£5,000
Subject to corporate insolvency / compulsory liquidation / administration or receivership caused by mismanagement	Severe Reprimand	£500	£5,000
Adverse finding by another professional or regulatory body involving dishonesty	Expulsion	£1,000	£5,000
Adverse finding by another professional or regulatory body not involving dishonesty	Reprimand	£500	£5,000

<b>Breach of AAT Byelaws and/or Regulations</b>	<b>Suggested starting sanction</b>		<b>Upper limit for financial sanction</b>
Failure to hold an AAT practicing licence	Reprimand	£1,000 plus backdated fees	£5,000
Providing services outside the scope of licence approval	Reprimand	£1,000	£5,000
Providing services to the public without holding any/or the required level of professional indemnity insurance	Reprimand	£1,000	£5,000
Holding out to be in public practice and/or using the AAT's designation and/or logo when not authorised to do so	Reprimand	£1,000	£5,000
Failure to complete an annual licence declaration and/or firm AML return within prescribed timescales	Reprimand	£1,000	£5,000
Inaccurate information submitted on annual licence declaration and/or firm AML return	Reprimand	£500	£1000
Failure to comply with an order, a condition placed on licence or failure to take advice	Reprimand	£1,000	£5,000
Failure to notify change of address or any changes to firm structure, such as the appointment of a principal	Reprimand	£1,000	£5,000
<b>Practice Management Failures</b>	<b>Suggested starting Sanction</b>		<b>Upper limit for financial sanction</b>
Failure to cooperate with arranging or submitting to a practice assurance monitoring review	Reprimand	£500	£5,000
Failure to make any or adequate arrangements for continuity of practice	Reprimand	£500	£5,000
Breach of data protection legislation in force	Reprimand	£500	£5,000
Failure to receive or hold clients' money in a designated client bank account separate from other accounts of the firm and/or other breach of AAT's <i>Clients' Money policy</i>	Reprimand	£500	£5,000
Failure to maintain professional competence through CPD or provide evidence of such compliance	Reprimand	£500	£5,000
Failure to provide engagement letter or disengagement to client	Reprimand	£500	£5,000
<b>Ethics / poor professional service</b>	<b>Suggested starting sanction</b>		<b>Upper limit for financial sanction</b>
Errors in client's accounts, financial statements, payroll, assurance tax returns or other client services	Reprimand	£500	£5,000
Failure to provide services in accordance with relevant accounting standards and statutory requirements	Reprimand	£500	£5,000
Lack of due care, poor service, or delay on client's affairs	Reprimand	£500	£5,000
Poor advice given / neglect of client's affairs	Reprimand	£500	£5,000
Failure to act with integrity or objectivity in professional and business relationships	Reprimand	£500	£5,000
Breach of client confidentiality	Reprimand	£500	£5,000
Failure to respond to or respond adequately to professional enquiry or provide clearance information	Reprimand	£500	£5,000

Breaches of the Money Laundering Regulations	Suggested starting Sanction		Upper limit for financial sanction
Failure by firm to ensure appropriate AML supervision is in place or the firm is providing trust or company services when not compliant with the registration requirements relating to TCSP services (not included on HMRC TSCP register)	Severe Reprimand	£1,000	£10,000
A complete failure to comply with the Money Laundering Regulations: no customer due diligence measures, no risk-sensitive assessments and ongoing monitoring, no policies, controls and procedures, no record keeping, no firm-wide assessment, no appropriate staff training, no periodic monitoring.	Severe Reprimand	£3,000	£10,000
A partial failure to comply with the Money Laundering Regulations being partial compliance with one or several, but not all, the requirements of the Money Laundering Regulations	Severe Reprimand	£1,500	£10,000
Failure to implement sufficient Internal Controls and conduct ongoing monitoring where required	Severe Reprimand	£1,500	£10,000
Failure to obtain supervisory body approval for any BOOM within the practice	Reprimand	£1,000	£10,000
Failure to report a beneficial owner, officer, or manager of the firm with a relevant criminal conviction within 30 days of the date on which the firm became aware of the individual's conviction	Severe Reprimand	£1,000	£10,000
Failure to report money laundering or terrorist financing when obligated to do so or a Tipping Off offence	Expulsion	£1,000	£10,000

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