

# Disciplinary Regulations 2024



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<i>Code of Professional Ethics</i>	<i>Civil Sanctions Policy</i>
<i>Complaints Investigation Policy</i>	<i>Disciplinary Sanctions Policy</i>
<i>AAT Regulations</i>	<i>Insolvency Policy</i>
<i>Licensing Regulations</i>	<i>Continuity of Practice Policy</i>
<i>CPD Policy</i>	<i>Clients' Money Policy</i>
<i>Appeals Regulations</i>	<i>Professional Indemnity Insurance Policy</i>
<i>Health and Disability Policy</i>	<i>Client Care Policy</i>
<i>Protected Characteristics Policy</i>	<i>Publication Policy</i>
<i>Indicative Sanctions Guidance</i>	<i>Delegated Powers Policy</i>
<i>Criminal Convictions Policy</i>	<i>Disciplinary Hearings Policy</i>

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# 1. Introduction

- 1.1. The *Disciplinary Regulations* (the “Regulations”) set out the Association’s disciplinary procedures, explaining the process of investigation and adjudication.

# 2. Citation and commencement

- 2.1 These Regulations were made by the Council on 1 February 2024 under Article 21 of the Articles of Association and may be cited as AAT’s *Disciplinary Regulations 2024*.
- 2.2 These *Regulations* came into force on 05 February 2024 superseding all previous *Disciplinary Regulations*.

# 3. Purpose and applicability

- 3.1. These *Regulations* apply to *members* as defined in the Association’s *Articles* and these *Regulations*. Any disciplinary investigation shall be dealt with in accordance with these *Regulations* and the *Association's byelaws* on such matters published from time to time.
- 3.2. The purpose of these *Regulations* is to promote and maintain the public interest and protect the reputation of AAT, its *members*, and the accountancy profession.
- 3.3. In the event of any unexpected crisis, a member of the *Discipline and Conduct Panel* may agree to apply a prompt departure from these *Regulations* to ensure any proceedings continue in a fair, reasonable, and safe way for all those involved.

# 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 from time to time in force.

Word	Meaning
<i>Articles of Association</i>	The Association’s Articles of Association
<i>appealable decision</i>	Any decision to refuse a licence or to impose a specific condition or to terminate a licence under the <i>Licensing Regulations</i> ; or any decision to refuse an application under the <i>AAT Regulations</i> ; or any finding of misconduct or sanction imposed under the <i>Disciplinary Regulations</i> .
<i>Association</i>	The Association of Accounting Technicians, a company registered in England and Wales (No. 1518983) or its employees or delegees (and in this document is also referred to as ‘AAT’).
<i>case management hearing</i>	A hearing convened at which directions may be given for the management of a case to hearing.

<i>chair</i>	The member of the <i>Disciplinary and Conduct Panel</i> appointed to chair the <i>Disciplinary Tribunal</i> .
<i>complaint</i>	A complaint about a member to the effect that they have conducted themselves in a way that poses a risk to the public or is likely to undermine confidence in AAT or its members.
<i>consent</i>	AAT's <i>Disciplinary Regulations</i> make provision for disposal of complaints by way of a consent order where it is in the public interest to do so. Consent is where a member accepts their behaviour amounts to <i>misconduct</i> and agrees to a sanction by way of consent without the need for a referral to the <i>Disciplinary Tribunal</i> .
<i>costs</i>	A monetary charge ordered against a member in respect of costs incurred by <i>Professional Standards</i> in bringing a case before a <i>Disciplinary Tribunal</i> .
<i>Council</i>	The Council of the Association responsible for establishing and overseeing AAT's strategic direction. It delivers on this in accordance with AAT's Articles of Association.
<i>Discipline and Conduct Panel</i>	The pool of suitably qualified persons appointed by AAT to act as panellists at hearings of the <i>Disciplinary Tribunal</i> and Appeals Committee.
<i>Disciplinary Tribunal</i>	A panel with a quorum of three consisting of two lay and one professional panellist drawn from the pool of the Disciplinary and Conduct panel to hear cases brought under the <i>Disciplinary Regulations</i> .
<i>fine</i>	A monetary charge imposed upon a member, issued under the Disciplinary Regulations.
<i>investigation</i>	An investigation of a complaint of misconduct under the <i>Disciplinary Regulations</i> .
<i>Investigations Committee</i>	The members of the <i>Discipline and Conduct Panel</i> specifically appointed to support <i>Professional Standards</i> in the investigation of complaints.
<i>Investigations Team</i>	A team, consisting of a member of Professional Standards and an appointed member of the <i>Discipline and Conduct Panel</i> , who conduct investigations of complaints of misconduct and decide whether to refer such a complaint to a <i>Disciplinary Tribunal</i> under the <i>Disciplinary Regulations</i> .

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<i>Legal assessor</i>	An appropriately experienced, regulated legal professional, appointed by AAT to provide independent legal advice to the Disciplinary Tribunal or Appeals Committee at hearings
<i>member</i>	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.
<i>misconduct</i>	A <i>member</i> 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 <i>Code of Professional Ethics</i> , which brings, or is likely to bring, discredit to the member, the accountancy profession, or AAT.
<i>Passive consent</i>	Passive consent is where the member is assumed to have consented with an undertaking or sanction offered by the <i>Professional Standards or Investigations Team</i> , unless they explicitly state otherwise within the timescale provided.
<i>Professional Standards</i>	The Investigation and Disciplinary department of AAT responsible for investigating misconduct and bringing cases under these <i>Disciplinary Regulations</i> .

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## 5. Investigation of complaint

- 5.1 *Professional Standards* shall consider and, where appropriate, investigate any *complaint* received by the *Association* in accordance with the Professional Standards Handbook. The Association can itself initiate a complaint where it becomes aware of any fact or matter concerning the conduct of a member which in its opinion warrants enquiry under these *Regulations*.
- 5.2 Upon deciding to act under these Regulations, *Professional Standards*, or an *Investigations Team*, may agree with a member to conclude an investigation on condition that the *member* agrees to an undertaking or consents to any sanction available under Regulation 6.36 below.
- 5.3 If a *member* agrees to an undertaking or submits to any sanction available under Regulation 6.36 below by *consent*, either actively or by way of *passive consent*, then the recommendation of *Professional Standards*, or an *Investigations Team*, shall stand as an Order of the Association.
- 5.4 If, within the period permitted, the *member* refuses to give consent to the recommendation of *Professional Standards*, or an *Investigations Team*, the *complaint* shall be referred to a *Disciplinary Tribunal* for a hearing.
- 5.5 At any point before service of a *Disciplinary Tribunal* hearing notice under Regulation 6.23 below, *Professional Standards* or an *Investigations Team* may, where it considers it appropriate to do so, conclude an investigation.
- 5.6 Unless otherwise determined by the *Association*, a *member* who is the subject of an investigation under these *Regulations* shall not be permitted to resign from membership until such time as the matter has been fully disposed of and, where applicable, the amount of any fine and/or costs awarded has been paid in full.

## 6. Proceedings before a Disciplinary Tribunal

### Notice of allegation

- 6.1 On referral to a *Disciplinary Tribunal* under Regulation 5.4 above, at least 42 days prior to a hearing, *Professional Standards* shall serve the *member* a written Notice of allegation comprising of:
- 6.1.1 a statement confirming that the case will be referred for consideration before the *Disciplinary Tribunal*
  - 6.1.2 full particulars of the allegation(s) against the *member*
  - 6.1.3 a summary of the facts and material relied upon by *Professional Standards*
  - 6.1.4 copies of any other relevant material in the *Association's* possession which might reasonably be considered capable of undermining the case against the *member*, or of assisting the case for the *member*, and which has not previously been disclosed
  - 6.1.5 copies of any other relevant material in the Association's possession which has not been previously disclosed
  - 6.1.6 the names of any witnesses that *Professional Standards* intends to call in person to give evidence

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- 6.1.7 a copy of these *Regulations*; and
  - 6.1.8 where applicable, notice of intention to make any application(s) at a *case management hearing* in accordance with Regulation 6.9.
- 6.2 Within 28 days of the date of the Notice of allegation under Regulation 6.1, the *member* shall serve *Professional Standards* a written response which sets out the following:
- 6.2.1 which allegations are admitted
  - 6.2.2 which allegations are denied and the reasons for the denial
  - 6.2.3 copies of any evidence (including witness statements) the *member* intends to rely upon
  - 6.2.4 the names of any witnesses the *member* intends to call in person to give evidence
  - 6.2.5 notice of whether the *member* intends to appear or be represented at the hearing, and if so, the name and address of any representative
  - 6.2.6 where applicable, notice of intention to make any application(s) at a *case management hearing* in accordance with Regulation 6.9; and
  - 6.2.7 where applicable, any representations in response to any proposed application(s) intended to be made to Professional Standards at a *case management hearing*.

### **Joinder of cases**

- 6.3 A Disciplinary Tribunal may hear:
- 6.3.1 two more cases against one member at the same time; or
  - 6.3.2 case(s) against two or more members at the same time where it would be fair to do so.

### **Conduct of hearings**

- 6.4 All hearings shall be open to the public, save where the *chair* considers that the circumstances of the case outweigh the public interest in holding the hearing or any part of the hearing in public.
- 6.5 The conduct of all hearings will be in accordance with the law of England and Wales and based upon the principles of fairness and natural justice.

### **Representation**

- 6.6 A *Disciplinary Tribunal*, or *Discipline and Conduct Panel* member chairing a *case management hearing* under Regulation 6.9 below, shall give the *member*, the presenting officer, respective witnesses, and at its discretion, any other person, the opportunity of being heard.
- 6.7 The *member* and *Professional Standards* may instruct a legally qualified representative to present their respective cases.
- 6.8 Another *member* of the *Association* may also represent a *member*, or at the discretion of the *Disciplinary Tribunal*, or a *Discipline and Conduct Panel* member chairing a *case management hearing*, any other person.



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## Case management hearing

- 6.9 The *Association* shall, on application by the *member* or of its own volition, convene a *case management hearing* where it considers it will save time or costs or where it is in the interest of fairness to do so.
- 6.10 A member of the *Discipline and Conduct Panel* shall *chair* the *case management hearing*, assisted by a *Legal Assessor* who may issue directions to the parties for the purpose of facilitating the hearing.
- 6.11 A record of the directions issued, any admissions and decisions taken at the hearing shall be maintained by the Secretary to the Tribunal.
- 6.12 Where the member wishes to admit any allegation(s), the *Legal Assessor* shall direct the parties to prepare an agreed statement of facts.
- 6.13 The *case management hearing* may be conducted by telephone or video conferencing or by such method as is agreed between the parties and the *chair*.
- 6.14 The *member* may attend in person or be represented by a nominated representative as identified in Regulation 6.2.5 above.

## Adjournment

- 6.15 In all instances a hearing date(s) is fixed by AAT in consultation with relevant parties; therefore, an adjournment will not be granted as a matter of course. Where a party applies for an adjournment, this must be supported by full reasons as well as evidence to support any fact or matter relied upon.
- 6.16 An application to adjourn a *case management hearing* or a *Disciplinary Tribunal* must be received by *Professional Standards* no later than 15:00 hours two clear working days before the date of the hearing. For the avoidance of doubt, where a hearing is scheduled on, for example, a Monday, the application must be received by 15:00 hours on the previous Wednesday.
- 6.17 Any application received later than the end of the period stated in Regulation 6.16 above must be made at the hearing and will, save in exceptional circumstances, require the attendance of the party or the representative of the party seeking the adjournment.
- 6.18 Parties must not assume that an application will be granted even if made in accordance with Regulation 6.16 above.
- 6.19 The adjournment application must be made in writing and sent to all parties to the proceedings via *Professional Standards* who in turn will liaise with the *chair* of the *case management hearing* or *Disciplinary Tribunal*.
- 6.20 The *chair* may, after consultation with the *Legal Assessor*, adjourn the hearing if satisfied that it is in the interest of fairness so to do. Where an adjournment application is granted, a new date for the hearing will be set in consultation with relevant parties.
- 6.21 If an adjournment is not granted the hearing will proceed on the date scheduled. If the party to the adjournment application fails to attend the hearing the *chair* may, after consulting the *Legal Assessor*, proceed with the hearing in that party's absence.

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## Procedure before the *Disciplinary Tribunal*

- 6.22 The *Disciplinary Tribunal* shall determine its own procedure in accordance with these *Regulations* and the overriding requirement of fairness.
- 6.23 The *Association* shall serve upon the *member* at least 28 days written notice of the date, time, and place of the *Disciplinary Tribunal* hearing and, as soon as it is practicable before the hearing, inform the *member* of the names of the persons who will consider the case.

## Absence of the *member*

- 6.24 If, at the hearing, the *member* is not present or represented, the *Disciplinary Tribunal* may proceed to hear the matter in the *member's* absence if:
- 6.24.1 it is satisfied that notice has been served upon the *member* in accordance with Regulation 6.23 above, or that reasonable steps have been taken to notify the *member* of the hearing; and
  - 6.24.2 it considers that it is in the interests of the public and/or the accountancy profession to proceed with the hearing.

## Burden and standard of proof

- 6.25 The burden of proving the facts of the alleged *misconduct* is on *Professional Standards*.
- 6.26 The standard of proof shall be the balance of probabilities.

## Evidence

- 6.27 The *Disciplinary Tribunal* may admit any evidence it considers fair and relevant to the case before it.
- 6.28 A conviction by any criminal court in the UK and the findings of fact by that court or the findings of fact of any civil court in the UK (including any court or tribunal exercising a professional disciplinary jurisdiction) shall be conclusive proof of the facts or convictions so found.
- 6.29 The finding of and penalty imposed by any criminal or civil court (including any court or tribunal exercising a professional disciplinary jurisdiction) outside the UK shall be admissible as proof but not conclusive proof of the facts in question.
- 6.30 The *Disciplinary Tribunal* may admit evidence submitted by a party notwithstanding that such evidence has not been disclosed to the other side in advance of the hearing if:
- 6.30.1 the parties consent; or
  - 6.30.2 after consultation with the *Legal Assessor*, it is satisfied that:
    - 6.30.2.1 the admission of such evidence is necessary to ensure fairness of the proceedings and outweighs any prejudice to the party which has not previously seen such evidence; and
    - 6.30.2.2 there is a good reason such evidence was not previously disclosed.

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## Order of proceedings

- 6.31 The order of proceedings for the hearing before the *Disciplinary Tribunal*, unless the *chair* otherwise directs, shall be as follows:
- 6.31.1 submissions by or on behalf of *Professional Standards*
  - 6.31.2 hearing of any witnesses called by *Professional Standards* followed by questioning of such witnesses by or on behalf of the *member*
  - 6.31.3 submissions by or on behalf of the *member*
  - 6.31.4 hearing of any witnesses called by the *member* followed by questioning of such witnesses by or on behalf of *Professional Standards*
  - 6.31.5 closing submissions by or on behalf of *Professional Standards*
  - 6.31.6 closing submissions by or on behalf of the *member*.
- 6.32 Members of the *Disciplinary Tribunal* may themselves at any stage question witnesses, parties, or representatives as they think fit.
- 6.33 The witness statement(s) of any witness shall stand as evidence in chief unless the *chair* otherwise directs.

## Amendment of the allegations(s)

- 6.34 At any stage before making its findings of fact in accordance with Regulation 6.35 below the *Disciplinary Tribunal* may amend the allegation(s) unless the amendment cannot be made without unfairness.

## Findings and sanction

- 6.35 At the conclusion of the hearing, the *Disciplinary Tribunal* shall proceed as follows:
- 6.35.1 it shall consider and announce its findings on the facts and whether those findings amount to misconduct
  - 6.35.2 if it finds *misconduct*, the *Disciplinary Tribunal* shall then invite further submissions from both parties as to the appropriate sanction
  - 6.35.3 in the case of a finding of *misconduct*, the *Disciplinary Tribunal* shall consider and announce the sanction to be imposed, if any, with reasons
  - 6.35.4 the *Disciplinary Tribunal* shall then invite submissions from both parties as to whether the sanction should be imposed immediately, in default of which the sanction will take effect 28 days from the date of the notification of decision under Regulation 6.39.

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- 6.36 The sanctions available to the *Disciplinary Tribunal* or which can be agreed with a *member* under Regulation 5.2 above are that they:
- 6.36.1 seek advice as to their future conduct from such a source as may be recommended or prescribed
  - 6.36.2 receive a reprimand or severe reprimand and/or warning
  - 6.36.3 receive a fine
  - 6.36.4 have *specific conditions* imposed on a *licence*
  - 6.36.5 be declared ineligible to hold fellow membership status, or in the case of a *fellow member* have their *fellow member* status removed
  - 6.36.6 be declared unfit to hold associate and/or full membership
  - 6.36.7 be suspended from the *Association*
  - 6.36.8 be expelled from the *Association*.
- 6.37 For the avoidance of doubt the available sanctions may be imposed in combination with another or on its own.

## **Costs**

- 6.38 At the conclusion of the hearing, the *Disciplinary Tribunal* may, whether in combination with another sanction or where no sanction is imposed, require that the *member* pay to the *Association* a sum in respect of *costs*.

## **Notification of decision**

- 6.39 The *Association* shall serve on the *member* written notice of the decision of the *Disciplinary Tribunal* together with any sanction ordered as promptly as is practicable after the conclusion of the hearing, and whether the *member* attended the hearing.

## **Recording**

- 6.40 The proceedings before the *Disciplinary Tribunal* shall be recorded and a transcript shall be provided upon written request by the *member* and on their payment of the costs involved.

## **Appeals**

- 6.41 The *member* may appeal against any decision of the *Disciplinary Tribunal* by sending a written notice of appeal, accompanied by the appropriate fee, to the *Appeal Secretary*, stating the matters relied upon in support of the appeal, within 14 days of the date of service of the notice under Regulation 6.39 on the *member*.
- 6.42 Any appeal against a decision of the *Disciplinary Tribunal* shall be dealt with in accordance with the *Appeals Regulations*.

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## 7. Service of notices/documents

- 7.1 Any notice or other documents required by these *Regulations* to be sent to or be served on a *member* may be delivered either personally, electronically or by post.
- 7.2 Any notice required to be served under Regulations 6.1 or 6.23, if sent by post, must be sent by special delivery or other form of recorded delivery if such service is available in the country of delivery.
- 7.3 Where any such notice or any document is served by post or special delivery, it shall be sent to the last address of the *member* (recorded by them) with the *Association* and it shall be deemed, wherever that address may be, to have been served on the second day following that on which it was sent unless at the place of receipt that latter day is a Sunday or a public holiday, in which case service shall be deemed to have occurred on the next working day.
- 7.4 Where the *Association*, the *Investigations Team*, or *Professional Standards* (as appropriate) has reason to believe that the use of post and/or special delivery is likely to be ineffective, it may serve notices or documents by any or all other means available to it including email and fax.

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**AAT**  
30 Churchill Place  
London E14 5RE  
**[aat.org.uk](http://aat.org.uk)**