

Delegated Powers Policy

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Associated regulations and policies

<i>Code of Professional Ethics</i>	<i>Civil Sanctions Policy</i>
<i>Disciplinary Regulations</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>Criminal Convictions Policy</i>	

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1. Introduction

- 1.1. Council is satisfied that on the basis of risk there are a number of circumstances where it is appropriate for *Professional Standards* to make decisions on behalf of the relevant decision-making authority. The use of delegated powers provides for greater efficiency, ensuring that cases are not unnecessarily delayed and are progressed on a consistent, fair, and equitable basis.

2. Scope and applicability

- 2.1. The policy shall apply to any *applicant* or *member* who is subject to an open investigation with Professional Standards.

3. Purpose and Objectives

AAT endeavours to ensure that all *applicants* and *members* are treated fairly and that decisions made are consistent with AAT governance. In developing its policies AAT has had regard to the following principles of good regulation:

- a) Proportionate.
- b) Accountable.
- c) Consistent.
- d) Transparent.
- e) Targeted.

- 3.1. This policy sets out the terms upon which *Professional Standards* may use the powers of authority afforded to them to make decisions in certain circumstances. It is important that any *applicant* or *member* is aware of the outcome or sanctions likely to be imposed and understand that the same approach will be used in all cases.
- 3.2. Decisions are administrative in nature and rest with *Professional Standards*; however, the use of these powers do not preclude the referral of a matter to the *Investigations Team* or *Membership Assessor* where proportionate to do so. *Professional Standards* do have the right to request further information if reasonable and necessary to reach a decision.

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.

Words	Meaning
<i>applicant</i>	An individual applying for entry to the Register under AAT's Regulations or for a licence under the Licensing Regulations.
<i>appealable decision</i>	Any decision to refuse a licence or to impose a specific condition or to terminate a licence under the Licensing Regulations; or any decision to refuse an application under the AAT Regulations; or any finding of misconduct or sanction imposed under the Disciplinary Regulations.

<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. <i>Consent</i> is where a member accepts their behaviour amounts to misconduct and agrees to a sanction by way of <i>consent</i> without the need for a referral to the <i>Disciplinary Tribunal</i> .
<i>Council</i>	The <i>Council</i> 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>disciplinary sanction</i>	A sanction imposed under the <i>Disciplinary Regulations</i> ; or equivalent finding concerning an individual by another professional body, AML supervisory authority or regulator in the British Islands or elsewhere.
<i>fit and proper</i>	A person considered to be suitable for entry into the accountancy profession by virtue of their conduct, who has not acted or is not likely to act in a way that poses a risk to the public or is likely to undermine confidence in AAT or its members
<i>insolvency</i>	Bankruptcy, Debt Relief Orders, Individual Voluntary Arrangements and Corporate Insolvency matters under the Insolvency Act 1986 and other insolvency matters, such as County Court Judgments (CCJ) or debt management plans, as defined within AAT's <i>Insolvency policy</i>
<i>investigation</i>	An investigation of a complaint of <i>misconduct</i> under the <i>Disciplinary Regulations</i> .
<i>Investigations Committee</i>	The members of the <i>Discipline and Conduct panel</i> specifically appointed to support Professional Standards in the investigation of complaints and decisions around suitability for membership.
<i>Investigations Team</i>	A team, consisting of a member of <i>Professional Standards</i> and an appointed member of the Discipline and Conduct Panel, who conduct <i>investigations</i> of complaints of <i>misconduct</i> and decide whether to refer the matter to a <i>Disciplinary Tribunal</i> under the <i>Disciplinary Regulations</i> .
<i>licence</i>	A practising <i>licence</i> to provide <i>accountancy and/or bookkeeping services</i> to the public under the <i>Licensing Regulations</i> .
<i>licensing decision</i>	Any decision to grant, refuse or terminate a <i>licence</i> under the <i>Licensing Regulations</i> .
<i>member</i>	A person admitted to the membership of AAT in accordance with the provisions of the <i>AAT Regulations</i> (where the context so permits), this term includes <i>associate members, full members, and fellow members</i> , whether past or present.
<i>Membership Assessor</i>	A member of the <i>Discipline and Conduct panel</i> specifically appointed to support <i>Professional Standards</i> in the process

	for assessing whether an individual is considered <i>fit and proper</i> in respect of suitability to hold AAT professional membership and/or a practising licence.
<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 <i>member</i> , the accountancy profession or AAT.
<i>Professional Standards</i>	The department of AAT responsible for undertaking suitability assessments and <i>investigating misconduct</i> under the <i>Disciplinary Regulations</i> .

5. Use of powers for suitability assessments

- 5.1 In respect of *applications* for *membership*, Article 11(1) of the *Articles of Association* states that no person shall be admitted to *membership* unless and until they meet the relevant requirements in respect of professional standards, amongst other criteria, as determined by Council. Those professional standards requirements are detailed within AAT's *Insolvency Policy*, *Criminal Conviction Policy*, *Disciplinary Policy*, and *Civil Sanctions Policy* ["the fit and proper policy framework"].
- 5.2 Membership assessors have the authority to make decisions in respect of admission. However, Council allows for decision making in some circumstances to be undertaken by *Professional Standards* as if it were the Membership Assessor.
- 5.3 The powers delegated to *Professional Standards* in respect of *fit and proper* assessments are detailed in **Schedule 1** of this document.
- 5.4 *Professional Standards* may refer the *application* to a Membership Assessor for a decision if it is considered that the circumstances of the *application* may not be proportionately addressed by the powers delegated in accordance with this policy. For example, aggravating factors exist where a departure from policy starting point is required.
- 5.5 Where *Professional Standards* decline an *application* this is an *appealable decision* in accordance with the provisions of the *Appeals Regulations*.

6. Use of powers for disciplinary investigations

- 6.1 AAT's *Disciplinary Regulations* permit *Professional Standards* to undertake investigations and make recommendations as if it were the *Investigations Team* in accordance with paragraph 5.2.
- 6.2 Each case will be considered and determined on its facts and merits, including the consideration of individual circumstances. If recommending an investigation be discontinued by accepting the fixed sanction available is not deemed suitable – for example, repeated contravention, multiple complaints, or other mitigating or aggravating factors considered relevant – the case will be considered by the *Investigations Team*.
- 6.3 The powers delegated to *Professional Standards* in respect of disciplinary cases are detailed in **Schedule 2** of this document.
- 6.4 When the *member consents* to the recommended order in accordance with paragraph 5.3 of the *Disciplinary Regulations*, the matter shall stand as an *Order of the Association* and be published in accordance with AAT's *Publication Policy*.
- 6.5 Where *Professional Standards* have made a recommendation in accordance with the provisions of the delegated powers available, the *member* may refuse to *consent* to that recommendation and have their case considered by a *Disciplinary Tribunal* in accordance with paragraph 5.4 of the *Disciplinary Regulations*.

7. Exceptional mitigating circumstances

Disciplinary cases

7.1 Where a member cites exceptional mitigating circumstances the case shall be referred to the *Investigations Team* in accordance with the *Disciplinary Regulations*, as the existence (or not) of exceptional mitigating circumstances may have an impact on whether a finding of misconduct is sustainable; and/or the appropriate level of sanction to be imposed. It will be for the member to prove the existence of these circumstances.

Fit and proper cases

7.2 Exceptional mitigating circumstances may not be considered for the purposes of using delegated powers. If exceptional mitigating circumstances are cited by an *applicant* in cases where an *applicant* may not be admitted to membership or permitted to hold a *licence*, *Professional Standards* may refer the *application* for consideration of a Membership Assessor.

8. Review of delegated powers

8.1 Any decisions made in accordance with this policy shall be reasoned and recorded in proportionate way.

8.2 To ensure that *Professional Standards* are appropriately exercising their delegated powers, the Discipline and Conduct Panel will sample 5% of cases concluded under delegated powers on at least an annual basis and report the outcome of that review to the relevant governance body, the Professional Regulation and Standards Compliance board (PRSC).

8.3 A periodic review of the use of this *Delegated Powers Policy* will be carried out by the PRSC board for quality assurance purposes.

Schedule 1 - Delegated powers for fit and proper cases

Criminal convictions

Category	Recommended outcome
Applications for membership	
Any unspent conviction (excluding offences meeting the criteria set out in paragraph 5.4 of the <i>Criminal Convictions Policy</i>) taking into consideration what the <i>applicant</i> declared and the circumstances surrounding the declaration.	Admit to <i>membership</i> on a case-by-case basis.
Any unspent conviction which meets the criteria set out in paragraph 5.4 of the <i>Criminal Convictions Policy</i> .	Refuse <i>membership</i> .
Reinstatement (in addition to <i>application</i> permissions)	
Any unspent conviction 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 <i>membership</i> and bar from reapplying for a period of five years.
Licence status	
<i>Application</i> – any unspent <i>criminal conviction</i> (excluding motoring offences).	Refuse <i>licence</i> .
<i>Application</i> – unspent motoring offence.	Approve <i>licence</i> unless harm or death is caused to a third party.
Whilst holding a <i>licence</i> – a <i>member</i> convicted of an offence meeting the criteria set out in paragraph 5.4 of the <i>Criminal Convictions Policy</i> .	Automatic termination of <i>licence</i> .

Insolvency

Category	Category
Applications for membership	
Undischarged Bankruptcy/Debt Relief Order	Refuse <i>membership</i> .
Discharged Bankruptcy/Debt Relief Order	Admit to <i>membership</i>
IVA, CVA, Debt Management Plan, CCJ	Admit to <i>membership</i> if the following criteria can be satisfied: <ul style="list-style-type: none"> • Arrangement/creditors satisfied in full or evidence of 12 months of payments to creditors. • No aggravating factors.
IVA, CVA, Debt Management Plan	Refuse <i>membership</i> if the following criteria is not satisfied: <ul style="list-style-type: none"> • No evidence of 12 months of payments to creditors. • No exceptional mitigation

Corporate insolvency	Consider whether to admit or refuse the application on a case-by-case basis.
Reinstatement (in addition to <i>application</i> permissions)	
<i>Insolvency</i> which arose whilst the <i>applicant</i> was a member, which was not disclosed in accordance with the <i>AAT Regulations</i> .	Refuse <i>membership</i> and bar from re-applying for a period of five years
Licence status	
<i>Insolvency</i> (any type as defined in the <i>Insolvency Policy</i>).	Termination of <i>licence</i>
<i>Application - Insolvency</i> (any type as defined in the <i>Insolvency Policy</i>).	Reject application
<i>Application - any satisfied Insolvency</i> matter that meets the <i>fit and proper</i> requirements, taking into consideration what the applicant declared and the circumstances surrounding the declaration.	Approve application on a case-by-case basis.

Civil Sanctions

Category	Category
<i>Applications for membership</i>	
Any civil sanction that meets the <i>fit and proper</i> requirements taking into consideration what the applicant declared and the circumstances surrounding the declaration.	Admit to membership on a case-by-case basis.
Reinstatement (in addition to <i>application</i> permissions)	
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 bar from reapplying for a period of five years.

Disciplinary Sanctions

Category	Category
<i>Applications for membership</i>	
Any expired disciplinary sanction that meets the <i>fit and proper</i> requirements, taking into consideration what the applicant declared and the circumstances surrounding the declaration.	Admit to membership on a case-by-case basis.
Reinstatement (in addition to <i>application</i> permissions)	
Any disciplinary 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 bar from reapplying for a period of five years.
Licence status	

Any <i>member</i> subject to a <i>disciplinary sanction</i> by another professional body or regulator which is not expired from their record.	Refuse application.
Any expired <i>disciplinary sanction</i> that meets the <i>fit and proper</i> requirements.	Approve application

Schedule 2 - Delegated powers for disciplinary cases

Category	Recommended Outcome
Trading without a practising licence and/or AML supervision for less than three years. First offence of this nature and has been remedied by licence being granted by AAT.	Reprimand to remain active for 36 months and monetary fine of £1000 per year
Failure to complete an annual licence renewal and/or firm AML return within prescribed timescales identified as first offence of this nature (and only where remedied)	Reprimand to remain active for 12 months and £500 monetary fine.
Evidence member has misrepresented themselves to the public by making exaggerated claims of professional status, qualifications possessed, experience gained or advertising services they are not authorised to undertake.	Reprimand to remain active for 36 months and £1000 monetary fine.
Member entered an IVA or CVA. First insolvency matter disclosed and no aggravating circumstances.	Unpublished reprimand to remain active for 24 months.
Member adjudged bankrupt or entered a Debt Relief Order (DRO) disclosed with 30 days.	Unpublished cessation of membership until momentum period expires.
Summary conviction not involving financial crime, dishonesty, or abuse of position.	Reprimand to remain active for 36 months and £500 monetary fine.
Adverse finding by another professional or regulatory body not involving dishonesty or abuse of position.	Reprimand to remain active for 36 months and £500 monetary fine.
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 TCSP register)	Severe reprimand to remain active for 36 months and £1,500 monetary fine.
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 to remain active for 36 months and £2,500 monetary fine.
Found guilty by relevant crime agency or authority for failing to report money laundering or terrorist financing when obligated to do so, prejudicing an investigation, or a Tipping Off offence.	Expulsion and £10,000 monetary fine.