



AIA

THE ASSOCIATION
OF INTERNATIONAL
ACCOUNTANTS

GUIDE TO SANCTIONS

AIA SANCTIONS POLICY FOR MEMBERS

WELCOME

This guide explains the key decisions in the sanctioning process and sets out the approach the disciplinary committees should take when considering disciplinary actions against members. It aims to be as open and transparent as possible to members and stakeholders.

The AIA Sanctions Policy for Members was written in conjunction with members of the following committees:

- Practice Compliance Committee
- Practice Compliance Appeal Committee
- Investigations Committee
- Disciplinary Committee
- Appeal Committee

This guidance provides a structured approach for committee members who make the decisions on sentencing and to provide members, who may be the subject of complaints or disciplinary referrals, with a transparent range of penalties and orders likely to be imposed.

The guide is an evolving document that uses recent cases to define its future direction whilst maintaining a consistent approach to disciplinary sentencing.

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INTRODUCTION TO SANCTIONS

1.0 THE PURPOSE OF SANCTIONS

AIA operates a range of sanctions that can be imposed on Members depending on the seriousness of the situation, the level and past history of the Member's non-compliance and the risk posed to the interests of the public and the integrity of AIA's reputation.

The purpose of imposing sanctions is to:

- uphold the proper standards of conduct in the profession
- correct and deter misconduct by Members
- protect the public interest
- maintain the reputation of the profession in general and AIA more specifically

2.0 APPROACH TO SANCTIONS

The imposition of sanctions is a last resort. AIA actively supports Members to prevent situations arising that would warrant a sanction being imposed. When sanctions are required, the level and duration of the sanction will directly relate to the seriousness of the incident.

DISCIPLINARY FRAMEWORK

AIA members are expected at all times to act in line with the requirements set out in the AIA Constitutional Documents and Code of Ethics. Members who act outside of these requirements or bring the Association into disrepute are liable for disciplinary action under the Constitutional Documents.

AIA's Disciplinary Process is made up of a system of committees which receive and investigate complaints, take disciplinary action and issue sanctions where appropriate.

3.0 AIA ARTICLES

AIA Disciplinary Proceedings are detailed in AIA Articles 74 to 86. The proceedings set out the following:

- Liability to disciplinary action – Article 74
- Disciplinary Procedures – Article 75
- Investigations Committee – Article 76
- Disciplinary Committee – Article 79
- Appeal Committee – Article 80
- Disciplinary Costs – Article 84
- Publication of decisions and orders – Article 86

The above articles should be referred to as the primary document when reviewing complaints and referrals, and when establishing if a defined category or type of behaviour (refer to section 6) warrants disciplinary action.

4.0 AIA BYE-LAWS

The powers and duties of the following committees are detailed in AIA Bye-Law 30:

- Practice Compliance Committee – Bye-Law 30(F)
- Practice Compliance Appeal Committee – Bye-Law 30(G)

The above bye-laws should be referred to as the primary document when reviewing complaints and referrals, and when establishing if a defined category or type of behaviour (refer to section 6) warrants disciplinary action.

5.0 AIA CODE OF ETHICS

AIA has adopted the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants; all AIA members are bound by the AIA constitution to observe this code.

Specifically the code relates to the following:

General Application – part A

- Fundamental Principles
- Integrity
- Objectivity
- Professional Competence and Due Care
- Confidentiality
- Professional Behaviour

Professional Accountant in Public Practice – part B

- Professional Appointment
- Conflicts of Interest
- Second Opinion
- Fees and Other Remuneration
- Marketing Professional Services

- Gifts and Hospitality
- Custody of Client Assets
- Objectivity
- Independence

Professional Accountants in Business

- Conflicts of Interest
- Preparation and Reporting of Information
- Acting with Sufficient Expertise
- Financial Interests
- Inducements

6.0 PROFESSIONAL CONDUCT IN RELATION TO TAXATION

AIA has adopted the Professional Conduct in Relation to Taxation (PCRT). This guidance, written by professional bodies for members working in tax, sets out the hallmarks of a good tax adviser, and in particular the fundamental principles of behaviour that members are expected to follow. The guidance has been recognised in the courts as 'setting the standard' for use by all tax advisers in the UK and, where appropriate, will be used as guidance by the disciplinary committees.

This guidance aims to make clear any tax adviser's obligation to advise their clients or businesses accurately and thoroughly of the implications of their actions, including reputational and practical aspects. It also addresses common, as well as more complex and difficult, situations with expert commentary in an ever-changing environment.

DISCIPLINARY PROCESS

7.0 DISCIPLINARY SEQUENCE

The following summarises the sequence of events leading up to and through the various committees:

- Non-compliant issues relating to members engaged in public practice are initially referred to the AIA Director of Professional Standards to review and work with members to resolve any outstanding issues prior to referral to the Practice Compliance Committee.
- Non-compliant issues relating to members engaged in public practice are then reviewed by the Practice Compliance Committee. The Practice Compliance Committee has the power to issue fines and suspend practising certificates pending the outcome of a referral to the Investigations Committee.
- Members receiving a fine or suspension from the Practice Compliance Committee have the right to appeal against the decision. Appeals are reviewed by the Practice Compliance Appeal Committee.
- Complaints and referrals (from the Practice Compliance and Practice Compliance Appeal Committee) are reviewed by the Investigations Committee and where appropriate referred to the Disciplinary Committee.
- The Investigations Committee nominates a representative to present cases in accordance with AIA Article 79(5) (a) to the Disciplinary Committee which outlines the facts and time lines relating to alleged misconduct.

- The member has the right to be present in person and/or represented by another appointed person during the course of a Disciplinary Committee meeting.
- The member or their representative provides details of any mitigating or personal issues relating to the facts of the complaint or referral.
- The Disciplinary Committee considers any request that the defendant's name is not included in any publicity and considers its decision in private.
- The Disciplinary Committee announces its decision during the course of the Committee meeting and any Disciplinary Order is issued by the Secretary to the Disciplinary Process.
- A member receiving a Disciplinary Order from the Disciplinary Committee has the right to appeal against the decision. Appeals are reviewed by the Appeal Committee.

8.0 DETERMINING SANCTIONS

When a committee considers whether to impose sanctions and what sanction(s) to impose it should consider the following principles:

- Maintaining the reputation of the profession
- Correcting and deterring misconduct
- Upholding standards of professional conduct
- Protecting the public

9.0 TYPES OF COMPLAINT OR REFERRAL

A committee will consider the following questions to help it make a decision in relation to issuing a disciplinary order:

- Does the behaviour fit any of the listed categories?
- How serious is the behaviour?
- What penalties are available?
- Are there any aggravating or mitigating factors?

The following categories set out the starting point for determining an appropriate penalty.

The suggested starting point each category should be used as an indicator taking into account the following:

- The nature and seriousness of the conduct
- The range of penalties available
- AIA's obligation to protect the public
- Proportionality
- Mitigating factors
- Aggravating factors
- Previous disciplinary record and whether or not this is relevant (Disciplinary Committee only)
- Any other personal mitigating factors

9.1 PRACTISING CERTIFICATE ISSUES

<u>COMPLAINT</u>	<u>STARTING POINT</u>
Engaged in Practice without a licence <ul style="list-style-type: none"> - Deliberate or reckless - Accidentally - Insufficient renewal documents supplied 	Exclusion Severe reprimand & fine of one years renewal fee £200 fine
Insufficient or invalid PII <ul style="list-style-type: none"> - Deliberate or reckless - Accidentally 	£200 fine Reprimand
CPD requirements not fulfilled	£200 fine
Breach of AML Regulations <ul style="list-style-type: none"> - Failure to Register - Inadequate procedures/records - Failing to report 	50% of AIA PC fee Reprimand & £200 fine Severe reprimand & £500 fine

COMPLAINT

STARTING POINT

Quality Assurance

- | | |
|--|--|
| <ul style="list-style-type: none"> - Failure to cooperate with AIA | <p>Severe reprimand & £500 fine</p> |
|--|--|

Possible Aggravating factors to consider:

- Is this repeated behaviour – consider previous compliance?
- How responsive was the member in rectifying the issue once he/she became aware of it?
- Is the offence due to wilful failure?

Possible Mitigating factors to consider:

- Minimal work carried out with little or no fees charged
- Engaged for short time period
- Relied on a third party
- Steps taken soon after he/she became aware of the issue

9.2 CLIENTS' MONEY OFFENCES

<u>COMPLAINT</u>	<u>STARTING POINT</u>
Client money not held in a designated client account	
<ul style="list-style-type: none">- Up to £20,000 for up to one month- Up to £20,000 for longer than one month- Repeated occurrence	Severe reprimand & £250 fine
Client money not held in a designated client account	
<ul style="list-style-type: none">- More than £20,000 for up to one month- More than £20,000 for longer than one month- Repeated occurrence	Severe reprimand & £500 fine

Possible Aggravating factors to consider:

- Large number of clients involved?
- How responsive was the member in rectifying the issue once he/she became aware of it?
- Did the member benefit from this action?

Possible Mitigating factors to consider:

- Steps taken soon after he/she became aware of the issue
- Procedures amended or put in place to avoid recurrence
- Loss of potential interest reimbursed to clients.

9.3 FAILURE TO COOPERATE OR COMPLY

<u>COMPLAINT</u>	<u>STARTING POINT</u>
Failure to respond to:	
- Client contact	Severe reprimand
- Client complaint in a diligent manner	Reprimand & £300 fine
- Succeeding accountant	Severe reprimand & £200 fine
- Requests to provide information without good cause	Severe reprimand & £200 fine
Failure to respond to formal notices in relation to AIA Articles 79 and 80:	
- When no response has been received	Exclusion
- When a limited response is received and requests for further response have not been acted upon	Severe reprimand & £300 fine
- When the member is obstructive	Severe reprimand & £500 fine

Possible Aggravating factors to consider:

- The information is produced at the last possible moment
- Is this repeated behaviour – consider previous compliance?
- Size of the firm

Possible Mitigating factors to consider:

- Difficulties accessing information
- Statutory deadlines
- Size of the firm

9.4 ETHICAL ISSUES

<u>COMPLAINT</u>	<u>STARTING POINT</u>
- Providing false or misleading information	Reprimand & £200 fine
- Lack of independence	Reprimand & £200 fine
- Conflict of Interest	Reprimand & £200 fine
- Breach of Fiduciary duties	Reprimand & £200 fine
- Breach of Confidentiality	Reprimand & £200 fine
- Communication issues	Reprimand & £200 fine
- Lien wrongly exercised	
- Failure to provide client information	
- Unethical promotional practices	Reprimand & £200 fine
- Unprofessional conduct including aggressive, obscene and offensive behaviour and language	Reprimand & £200 fine

Possible Aggravating factors to consider:

- Public awareness
- In a position of trust such as an employee
- Substantial amounts
- Deliberate act for personal gain
- Is this repeated behaviour – consider previous compliance?

Possible Mitigating factors to consider:

- No loss identified
- Information was provided to 3rd party accidentally rather than deliberately
- Compensation offered/paid

DISCIPLINARY ORDERS

If a committee is of the opinion that a complaint or referral has been proven in whole or in part it shall find to that effect and impose a disciplinary order on the member or firm that incorporates one or more of the following available sanctions.

A Disciplinary Order containing details of the sanction imposed will be published within 28 days from the date of conclusion of the proceedings unless there are extenuating circumstances which will be considered by the committee presiding over the case.

10.0 FINES

When a committee decides the most appropriate sanction to impose on a member or firm is a fine it must first consider the seriousness of the misconduct along with any aggravating and mitigating factors.

The Practice Compliance and Disciplinary Committees have the power to impose a fine up to a maximum of £30,000 and the Investigations Committee can impose a consent order up to a maximum of £3,000.

11.0 REPRIMAND OR SEVERE REPRIMAND

When a committee decides that the most appropriate sanction to impose on a member or firm is a reprimand or severe reprimand it must first consider the seriousness of the misconduct along with any aggravating and mitigating factors.

A Reprimand could also be described as a warning whereas a Severe Reprimand could be described as a final warning.

12.0 WITHDRAWAL OR SUSPENSION OF A PRACTISING CERTIFICATE

If a committee decides the most appropriate sanction would be to suspend or withdraw a practising certificate then it should also consider the following points:

- At what point does the suspension or withdrawal commence as this may have AML reporting implications?
- Are there other practising certificates within the firm and if so how effective will this sanction be on the member or firm?
- Is the member also a member of another professional body and if so are there any reporting implications?

13.0 SUSPENSION FROM MEMBERSHIP

If a committee decides the most appropriate sanction would be to suspend membership then it should also consider the following points:

- The length of the suspension and potential impact.
- Is the member engaged in public practice?
- Is the member also a member of another professional body and if so are there any reporting implications?

14.0 EXCLUSION

If a committee decides the most appropriate sanction would be to exclude from membership then it should also consider the following points:

- At what point does the exclusion commence as this may have AML reporting implications?
- Is the member engaged in public practice?
- Are there other practising certificates within the firm and if so how effective will this sanction be on the member or firm?
- Is the member also a member of another professional body and if so are there any reporting implications?

15.0 COSTS

The AIA can apply to a committee to recover costs from a member if a complaint or referral is proved in whole or in part.

Where possible a schedule of expenses should be provided to the committee to consider.

All costs ordered by the committee should be paid within 21 days and no appeal can be considered solely on the question of costs.

16.0 PUBLICITY

Sanctions concern both punishment and deterrence. AIA demonstrates its commitment to high standards and to maintaining those standards through the disciplinary process and by publishing details of the orders made.

When an order has been agreed by the committee, other than an order to dismiss a case or where no further action is required, the committee will instruct the AIA to publish the findings in relevant newspapers, journals and websites.

The AIA website includes notices of disciplinary meetings as well as published disciplinary orders as standard.

17.0 REPORTING RESPONSIBILITIES

A report is submitted to regulatory bodies containing details of case findings and disciplinary orders issued.

In cases of members holding practising certificates with other professional bodies AIA will share details of case findings and disciplinary orders issued if appropriate.

AIA will inform HMRC of any instances resulting in AIA no longer providing AML supervision as a result of a disciplinary order.



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