

# Complaint Guidelines

How AIA Deals with Complaints made Against Members

Version August 2019

# AIA Complaint Guidelines

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## 1.0 Introduction

All members<sup>1</sup> of the AIA are required to adhere to appropriate standards of professional conduct; the AIA Articles of Association, Bye-Laws and Code of Ethics; and operate within the legal framework of their jurisdiction. In the unfortunate event that you feel it necessary to make a complaint about an AIA member, these guidelines will provide a description of the context and procedures for making a complaint, and the procedures for investigating and dealing with such a complaint.

AIA's Complaint Guidelines aim to assist complainants and members to understand how AIA deals with complaints and the rules surrounding the disciplinary process.

Where these Guidelines and the AIA Constitution provide different information the AIA Constitution takes precedence. The AIA Constitution can be found on AIA's website [www.aiaworldwide.com](http://www.aiaworldwide.com).

**IMPORTANT:** Reporting a concern does not negate an obligation to disclose information. If you have concerns that your complaint relates to breaches of legislation or criminal activity you should report your concerns to the appropriate law enforcement agency in addition to reporting your concern to AIA.

## 2.0 Making a Complaint

Members regulated by AIA are required to observe proper standards of professional conduct and in those instances where they do not AIA will investigate and take disciplinary action where appropriate.

Not all complaints will be the result of the member's failure to meet proper standards and may simply be the result of an error in judgement or a misunderstanding between the parties.

In all appropriate complaints your first step should be to lodge a formal complaint with the member.

In those instances where a resolution between the member and complainant has initially failed but AIA considers that the parties could benefit from its intervention and a more conciliatory approach, we may offer mediation.

Before making your complaint, you should read this guide which explains which matters AIA may investigate and those which are not able to be taken forward.

### 2.1 Scope of Complaints

A complaint may arise against a member on matters of conduct, professional ethics, standards, breach of the AIA Articles, Bye-Laws, rules and regulations and Code of Ethics; or any act or default likely to bring discredit to the member, AIA or the accountancy profession.

AIA's policy in relation to referrals from regulatory or statutory bodies provides that the default position is that such referrals will be treated as complaints and will be processed in accordance with the AIA Constitution.

AIA cannot normally be involved with complaints relating to the level of fees charged, legal disputes, or business decisions of a member unless misconduct is involved.

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<sup>1</sup> Any reference to 'members' should be read to include all members, students, and firms, unless the contrary is indicated.

### 2.1.1 Complaints AIA will Investigate

Set out below is an inexhaustive list of complaints which are within our jurisdiction to investigate.

If you are unsure whether your complaint is one which we will investigate, please refer to the following section, 'Complaints AIA will not investigate', or contact the Secretary to the Disciplinary Process for advice.

*Conduct connected with the provision of accountancy or related services:*

- poor quality of service
- poor quality of work
- conduct which is dishonest or misleading
- lack of objectivity
- failure to maintain professional competence
- failure to adequately train or supervise employees
- breach of confidentiality
- attempting to entice clients away from a former employer with the use of confidential information
- making exaggerated claims or disparaging references to others during marketing activity
- carrying on public practice while unauthorized to do so
- failure to hold professional indemnity insurance
- other breaches of AIA Public Practice Regulations

*Conduct in any circumstances:*

- criminal convictions
- findings of dishonesty by a Court or Tribunal
- disqualification as a director
- disciplinary action taken by another body
- failure to pay money owing under a Court order

### 2.1.2 Complaints AIA will not Investigate

Set out below is a list of complaints which are not within our jurisdiction to investigate.

- complaints which have not been raised with the member before being raised with AIA
- fee disputes
- complaints made more than twelve months after the grounds for complaint arose
- complaints lodged in stages or multiple (vexatious) complaints
- complaints which are the subject of proceedings in another forum
- complaints that a member has committed a criminal offence, where there is no conviction

- complaint that a member has lied or attempted to mislead in the course of Court or Tribunal proceedings
- complaints about members of other accountancy bodies
- complaints made about an accountant who is no longer a member of AIA
- complaints that a member is taking or is threatening to take legal action
- other complaints which are out of scope of AIA's Constitution and Code of Ethics

### 2.1.3 Legal Claims

AIA acts in the public interest and as such we act for the benefit of the public, rather than for individual complainants or members.

Making a complaint against a member is not a substitute for seeking compensation or other remedies through the courts. AIA's jurisdiction over its members is regulatory and disciplinary in nature. We cannot provide legal advice nor provide recompense for any monetary loss suffered.

Therefore, if you feel you have a claim against an AIA member, we recommend that you seek independent legal advice.

Members in practice are required to hold appropriate levels of professional indemnity insurance. They ought to acknowledge any letter sent to them setting out a legal claim, but neither they nor AIA are obliged to provide their insurance details to you.

### 2.1.4 Fee Disputes

Fee disputes are legal claims and therefore the courts are the proper forum for deciding such matters. AIA cannot advise on what is a reasonable sum for work completed but are able to assess whether members have complied with AIA's regulations relating to fees.

## 2.2 How do I make a Complaint?

Before raising a complaint with AIA, you must give a member sufficient opportunity and time to resolve the matter through his or her firm's internal complaints procedures where appropriate.

Your complaint will not be considered unless this route has been taken.

If after four weeks the firm has not resolved your complaint you should lodge a complaint using AIA's online complaint form. Failing to use the complaint form may result in your complaint being delayed or rejected.

To avoid unnecessary delays please ensure you answer all questions on the form and attach a copy of all your correspondence with the member and copies of all other documents which support your complaint. If you are unable to lodge the complaint online, you may send a hard copy to:

#### **Secretary to the Disciplinary Process**

Association of International Accountants  
Staithes 3  
The Watermark  
Metro Riverside  
Newcastle upon Tyne  
NE11 9SN  
United Kingdom

Please note that we may be unable to proceed with your complaint if you fail to provide supporting documentation or if you do not confirm that you will be willing to give evidence at any future disciplinary hearing if asked to do so.

### 2.3 After the Complaint is Made

Once your complaint is received, we will write to confirm that we have received it; your complaint will usually be acknowledged within three working days.

The complaint will then be assessed by the Secretary to the Disciplinary Process who will decide if the complaint is appropriate for mediation or investigation. You may be contacted during this time to discuss the complaint in more detail. If appropriate, attempts will be made to resolve the matter by mediation, for example where the complaint has arisen because of misunderstanding or lack of communication. If mediation is not appropriate, or if after mediation there are potentially serious matters which require further investigation, the case will be referred for Investigation.

If the complaint is not appropriate for AIA to investigate or is outside AIA's jurisdiction, it will be rejected, and the member will be notified.

Whilst AIA will seek to progress a complaint as quickly as possible, the time taken will be dependent on the complexity of the circumstances surrounding the complaint and the amount of documentation involved.

If you make a complaint but later decide to withdraw it, AIA may nevertheless proceed with an investigation if it is in the public interest to do so.

You can find further information regarding the process AIA takes to investigate your complaint in section 'The Complaint Process'.

### 2.4 Dealing with your Complaint

#### 2.4.1 Anonymous Complaints

AIA recognises the provisions of current UK employment legislation and allows for the anonymous disclosure to AIA of any information which an individual believes constitutes malpractice, maladministration or impropriety.

AIA members are generally entitled to know the identity of the person making the complaint against them and given an opportunity to respond to any allegation. However, sometimes this is not appropriate, and therefore complainants may ask that identity is not shared with the member.

Occasionally the identity of the complainant may be apparent to a member from the context of the complaint, so complainants should raise any concerns relating to information they provide.

Anonymous reporting has the potential to limit the scope of any subsequent investigation as it may not be possible to substantiate claims; all anonymous disclosures will be investigated thoroughly with due consideration given to the seriousness and credibility of the disclosure and the likelihood of confirming the allegation from a reliable and objective source.

AIA works to maintain the anonymity of whistle blowers by ensuring anonymised complaints are forwarded to the relevant respondent. AIA is not obliged to offer any follow up information on the progress of its investigation to anonymous callers.

In certain circumstances (for example where a complaint reveals a potential criminal matter), you may need to be involved even if you have requested not to be identified, in which case we will attempt to discuss this with you. Your personal details may be stored within our own records and these may be shared with other parties during the investigation as appropriate.

Should you wish to raise a concern anonymously you may telephone the Secretary to the Disciplinary process on +44 (0)191 493 0275. The Secretary will ask for as much information as possible on the complaint and provide you with a confidential telephone number within AIA which you may use.

If you are considering whistleblowing please review the appropriate section on Whistleblowing.

### 2.4.2 Confidentiality

AIA's complaints procedures are private and confidential. Complaints and investigations are sensitive matters and it could cause detriment to one or more parties if information is shared or disclosed without proper authority.

Information which you or your representative exchanges with AIA about the complaint will be kept securely and not disclosed or discussed with parties not directly involved with the complaint.

### 2.4.3 Information you Provide to us

During an investigation we will seek to obtain information and evidence from both sides

Please aim to provide us with all relevant information requested to enable us to assess the matter.

You should not provide us with unnecessary information about individuals unrelated to the complaint. If, for example, you extract records from your business systems and databases, please send us relevant extracts only. This is to ensure that all parties comply with applicable data protection requirements.

You may suggest other people we should contact to discuss the complaint. If so, please make such other people aware that you are sharing their contact details with us. If the evidence you send to us includes significant information relating to another person, we may need to discuss with you whether to involve such other person in the matter.

### 2.4.4 Sources of Information

In order to investigate a complaint effectively, we may obtain and use information from a variety of sources. These include the parties to the complaint and any witnesses, AIA's existing records (including current or former membership records and complaints files), public sources and other third parties (such as company information databases, websites, other regulators and legal authorities).

### 2.4.5 How we use your Information

AIA will use information about you or which you provide to us in order to assess and manage the complaint and, as appropriate, undergo mediation, investigate the complaint and take disciplinary action. These procedures are described in more detail later in these guidelines.

AIA will continue to maintain records of complaints and disciplinary proceedings following closure of the matter in accordance with its data protection and records retention policy.

### 2.4.6 Disclosure of Information to other Parties

Information about you or which you provide to us may be disclosed to other parties during the complaints and disciplinary process. These may include the other party to the complaint, independent assessors, Disciplinary Committee members, legal advisers, professional bodies of dual members, law enforcement agencies and third parties undertaking investigations on our behalf.

The other party to a complaint may also make a subject access request to us, which may require us by law to disclose additional information relating to them. This right of access is subject to exceptions, so inform AIA of any concerns in disclosing information you have provided. If you are a complainant, we will seek to maintain the confidentiality of your identity where you have asked us to do so.



AIA may notify professional bodies of dual members, its oversight bodies and other relevant regulators (within and outside of the UK) of disciplinary action taken against a member and the outcome of hearings.

The scheduling and outcome of hearings may also be published on AIA's website and in the press, and hearings are usually open to the public.

From time to time AIA receives requests for information from third parties carrying out public functions, for example law enforcement agencies or other professional bodies in respect of dual members. Disclosures may be made in appropriate circumstances in order to carry out our regulatory functions, protect or defend legal rights, investigate or prevent crime or to comply with legal obligations.

Further information relating to how AIA uses personal data is available in our data protection notice on our website at:

[http://www.aiaworldwide.com/sites/default/files/General\\_Data\\_Protection\\_Regulation\\_Policy.pdf](http://www.aiaworldwide.com/sites/default/files/General_Data_Protection_Regulation_Policy.pdf)

### 2.4.7 Conduct towards AIA Staff

AIA understands that it can be stressful to make or receive a complaint. However, acknowledges that this does not excuse rude, abusive or bullying communication or behaviour.

AIA does not tolerate such abusive behaviour towards its staff and will act against any party who, after a warning, continues to communicate in this manner.

## 3.0 Whistleblowing

### 3.1 What is Whistleblowing?

Whistleblowing is a term used when an individual raises a genuine concern about suspected malpractice or wrongdoing and/or the covering up of malpractice or wrongdoing that they become aware of through their work.

If you have concerns relating to an AIA firm within which you are employed, you should report it under this policy.

For concerns relating to money laundering please refer to the section entitled 'Anti-Money Laundering Disclosures'.

### 3.2 Disclosures

#### 3.2.1 Protected Disclosures

Current UK legislation<sup>2</sup> protects employees from any detrimental effect suffered as a result of whistleblowing providing that the disclosure is deemed to be in the public interest.

To qualify for protection the disclosure must be made to the individual's employer. Alternatively, if the nature of the complaint makes this impossible, then the disclosure must be made to a Government prescribed body.

The employee must reasonably believe that the disclosure is substantially true and must show one or more of the following:

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<sup>2</sup> Public Interest Disclosure Act 1998

- that a criminal offence has or is likely to be committed;
- that a person has failed, is failing, or is likely to fail, to comply with any legal obligation to which he/she is subject;
- that a miscarriage of justice has, or is likely to be, committed;
- the health and safety of an individual may be endangered;
- damage to the environment;
- there has been deliberate concealment of any of the above.

Employees are also protected from unfair treatment if they blow the whistle on something that happened abroad if a different country's law has been, or will be, broken.

### 3.2.2 Non-Protected Disclosures

UK employment-rights legislation does not protect workers who,

- break the law through making a disclosure;
- make a disclosure in the knowledge that it is untrue; or
- are in receipt of legally privileged information.

If there is any doubt as to the nature of the disclosure it is the responsibility of the individual making it to seek clarification of the current legislation.

Confidential information and advice on eligibility for protection and on the reporting process itself is available from the Government's webpage 'Public Concern at Work' [www.pcaw.org.uk](http://www.pcaw.org.uk)

### 3.2.3 Disclosures from External Sources

Disclosures from external sources regarding the conduct of study providers, exam venue providers or other external contractors are referred for immediate action to the appropriate team. AIA obtains as much information as possible from the person concerned and takes the appropriate action in accordance with AIA policy.

Employees or third parties are protected from unfair treatment even if they blow the whistle on something that happened abroad. This includes when a different country's law has been or will be broken.

### 3.2.4 Disclosures to Bodies other than AIA

The UK Government has produced a list of prescribed people and bodies that individuals may report malpractice to other than their employer.

Under the Small Business Enterprise and Employment Bill 2014/15 clause 135 the prescribed bodies will be required to produce annual reports on disclosures without identifying employees.

## 3.3 Raising a Whistleblowing Concern

All whistleblowing disclosures will be treated as confidential when reported to AIA.

You should make clear that you are submitting your concern in relation to AIA's whistleblowing policy and AIA will take the necessary action to investigate the disclosure and protect the whistle-blower's identity.

We will then get in touch with you to discuss your concern. We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us giving you specific details of the investigation or the disciplinary action taken as a result.

While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way.

### 3.4 Confidentiality

Anonymous concerns are taken seriously and investigated as fully as possible.

If you wish to raise your concern confidentially and remain anonymous, we will make every effort to keep your identity secret. If it is necessary for anyone investigating your concern to know your identity, we will discuss this with you first.

Complainants should be aware that it may be more difficult or impossible to investigate further if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible.

If you are concerned about possible reprisals if your identity is revealed, you should make AIA aware of this when you raise your concern and appropriate measures can be taken to preserve confidentiality.

### 3.5 Further Advice

#### Public Concern at Work

Individuals can contact the independent charity Public Concern at Work for free, independent and confidential advice.

**Whistleblowing Advice Telephone Line:** 020 7404 6609

**Email:** UK advice line: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

**Address:** CAN Mezzanine, 7 - 14 Great Dover Street, London SE1 4YR

## 4.0 Anti-Money Laundering Disclosures

AIA supports action to combat Money Laundering and Terrorist Financing and reinforces to members the importance of their role in combatting criminality.

As a condition of membership, all AIA members must adhere to the rules and regulations set out in the AIA Constitution (Articles, Bye-Laws, Regulations and Code of Ethics) and conduct themselves with the highest standards of integrity to both safeguard the profession and protect the public interest.

Consistent with the AIA's own business values this policy supports the positive and proactive compliance culture in which all members must function, as well as respecting local laws and regulations in whichever jurisdiction they operate.

### 4.1 AML Specific Whistleblowing

AIA provides guidance on its website [www.aiaworldwide.com/make-a-complaint](http://www.aiaworldwide.com/make-a-complaint) relating to AML.

Guidance is provided for individuals reporting accountancy service providers or trust and company service providers who are suspected of not being regulated under the MLR2017 or appear to be ignoring the regulations.

AIA recommends to members of the public that if they come across an accountancy service provider (ASP) or trust and company service provider (TCSP) that does not appear to be regulated under the Money Laundering Regulations 2017 or appears to be ignoring the regulations, and they want to report it confidentially, they can do one of the following:

- contact the firm's anti-money laundering supervisor
- if the firm's supervisor is AIA, they can report this to us confidentially
- if AIA is not their AML supervisor, they should contact the [relevant supervisory body](#), or
- contact the MLR Central Intervention Team at [MLRCIT@hmrc.gov.uk](mailto:MLRCIT@hmrc.gov.uk)

AIA reports all knowledge of unregistered firms to HMRC.

## 4.2 Confidential Disclosure Submission

Whistleblowing disclosures regarding money laundering concerns should be submitted confidentially via the following methods:

- secure email mailbox: [aml@aiaworldwide.com](mailto:aml@aiaworldwide.com) (reviewed daily) or
- confidential telephone line: 0191 493 0269.

No information is mandatory; however, it does need to be enough to make an assessment regarding what the AIA response should be (See Section 6.2.15 of AMLGAS).

You do not need to provide your identity or contact details, although providing more detail may expedite the process if clarification is required.

On receipt, the whistleblowing disclosure is reviewed in line with Section 6 of the Anti-Money Laundering Guidance for the Accountancy Sector within 5 working days.

## 5.0 The Complaint Process

AIA will copy the complaint and any supporting documentation to the member. The member will be asked for their comments and for an explanation. The member will be requested to provide such comments and explanation within 14 days of the request. That time can be extended where AIA considers it appropriate.

The complainant may be asked to provide further details or more information following the response from the member. The complainant will be asked to provide those further details within 14 days of the request.

Where AIA has requested information and documentation from a complainant or member and that request is not complied with the complaint will be referred to be dealt with on the information available.

A valid complaint is dealt with through AIA's Disciplinary Proceedings under which the complaint is thoroughly investigated by the Investigations Committee and then referred to the Disciplinary Committee where appropriate for further action.

The Investigations Committee is empowered to settle a case where appropriate with the mutual agreement of the two parties in the form of a Consent Order. An opportunity is offered for a complainant to challenge a decision of the Investigations Committee that there is no case to answer. The Appeals Committee may become involved in dealing with an appeal made by the member complained about (the respondent) against the decision(s) of the Disciplinary Committee.

Disciplinary orders and sanctions are set out in AIA's [Sanctions Handbook](#), available online.

## 5.1 The Investigations Committee and Complaints Reviewer

The Investigations Committee is responsible for considering the information and documentation about the complaint presented to it by the Secretary to the Disciplinary Process and gathering further information and evidence as it considers necessary. This is done in writing with the complainant, the member complained about (the respondent) and other parties involved (e.g. in the case of complaint against a firm).

The Investigations Committee can decide that there is no prima facie case of misconduct or that there is such a case. In the case of minor matters such as would not be likely to result in the suspension or withdrawal of a members certificate or other serious sanction, the Committee has the power to settle complaints by conciliation with the mutual agreement of the respondent and the complainant by means of a Consent Order, setting out the terms of the agreed settlement and the sanction imposed.

Where it is decided that there is no prima facie case to be heard the complainant may refer his complaint to the Independent Complaints Reviewer who will review and further investigate the circumstances and evidence. Where the Complaints Reviewer is of the opinion that the decision needs to be reviewed on such grounds as fresh evidence, procedural irregularity or unreasonableness, he is required to make a report and direct that the Investigations Committee reconsider its decision. If the Investigations Committee decides to hold firm to its decision that there is no prima facie case it is required to give to the complainant and the Complaints Reviewer written reasons for its decision.

In relation to decision that there is a case to be answered the Investigations Committee arranges for the case to be presented and prosecuted before the Disciplinary Committee.

## 5.2 The Disciplinary Committee

The Disciplinary Committee hears cases put forward by the Investigations Committee. A complainant is invited to attend the hearing that is arranged to hear the complaint before the Disciplinary Committee.

Where, notwithstanding a finding that a complaint has been proven, it is decided that a sanction is not appropriate, the Disciplinary Committee may make an Order that no further action be taken on the complaint.

Where the case for misconduct is found to have been proved the Disciplinary Committee is empowered to make an Order or Orders against the respondent, imposing one or more sanctions on the member ranging from reprimand to exclusion from membership and which may include a fine.

The findings and any Order made by the Disciplinary Committee against the member involved are subject to a right of appeal by the member to the Appeals Committee within a specified time period.

## 5.3 The Appeal Process

An Order by the Disciplinary Committee imposing a sanction on the respondent cannot be implemented until the period for submitting notice of appeal has expired without such notice having been received.

Where notice of appeal is received the Order takes effect as follows. Where an appeal is made, the Appeal Committee may affirm, vary and rescind any Order of the Disciplinary Committee, substitute other Order or Orders, or require that the complaint be heard afresh by the Disciplinary Committee. An Order of the Appeal Committee shall normally take effect as from the date thereof.

## 5.4 Committees

Each Committee under the Disciplinary Proceedings is appointed by the Council of the Association to include a majority of persons who are non-accountants and with a lawyer appointed to be chairman of

the Appeal Committee. The Complaints Reviewer is a person who is not a Member or Elected Member of the Association appointed by the Council to carry out a review of a 'no prima facie case' decision of the Investigations Committee when requested by the complainant.

### 5.5 Participation and Representation

The respondent is given the opportunity to make written representations to the Investigations Committee and is entitled to be heard, and be represented, at any hearing before the Disciplinary or Appeal Committees. The complainant is entitled to be present but not take part in hearings before the Disciplinary or Appeal Committees.

Hearings are conducted as a tribunal not as a court.

### 5.6 Notification

The Secretary to the Disciplinary Process is responsible for keeping the parties involved in the disciplinary procedure informed as to the progress of the case, of their rights in terms of attendance and representation at hearings, and as regards request for review by the Complaints Reviewer and/or the making of an appeal to the Appeal Committee.

Notices relating to hearings are given to any relevant regulatory body and representatives of such a body are entitled to attend a disciplinary or appeal hearing.

### 5.7 Publicity

All hearings of the Disciplinary Committee and the Appeal Committee are held in public unless the Disciplinary Committee or the Appeal Committee decides in its absolute discretion that the holding of a hearing or any part of it in public would be inappropriate.

Where the Disciplinary Committee or the Appeal Committee makes an Order other than an Order dismissing or providing for no further action to be taken in the case, the findings and the Order are published, as soon as reasonably practicable, in such newspapers and journals as the AIA Council has determined. In the case of a decision that no further action need be taken, the relevant Committee at the request of the Respondent shall publish the findings and the Order.

### 5.8 Costs

There are no costs to the complainant for the investigating and processing of a complaint under AIA's Disciplinary Proceedings.

Any Order of the Disciplinary Committee or the Appeal Committee may direct that the Respondent/Appellant pay a sum or sums by way of costs to AIA.

No appeal shall lie solely on the question of costs.

## 6.0 Contact

### SECRETARY TO THE DISCIPLINARY PROCESS

Association of International Accountants  
Staithes 3  
The Watermark  
Metro Riverside  
Newcastle upon Tyne  
NE11 9SN  
United Kingdom

T: +44 (0)191 493 0275

F: +44 (0)191 493 0278

E: [complaints@aiaworldwide.com](mailto:complaints@aiaworldwide.com)



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