THE DISCIPLINARY TRIBUNAL
OF THE TAXATION DISCIPLINARY BOARD

TDB/2025/12

THE TAXATION DISCIPLINARY BOARD

TDB

– and –

[redacted]

(ATT Student Number [redacted])

Defendant

Date of Hearing	16 and 27 June 2025
Review on the papers	30 October 2025
Venue	Virtual using Microsoft Teams
Tribunal Members	
Legally Qualified Chair	Jacqueline Findlay
Professional Member	Martin Brown
Lay Member	Michael McCulley
Taxation Disciplinary Board ("TDB")	
Case Presenter	Guy Micklewright, Counsel
Witness	Vicky Purtill, Director of Education
Tribunal Clerk	Nigel Bremner
Member	In attendance

DECISION AND REASONS

Introduction

1. The Disciplinary Tribunal ("the Tribunal") of the TDB sat remotely on 16 and 27 June 2025 to hear charges brought by the TDB against the Defendant a student

member of the Association of Taxation Technicians ("ATT"). The Tribunal reconvened on 30 October 2025 to determine the Defendant's application in relation to publicity.

2. The following abbreviations are used in this Decision:

The "CIOT" means the Chartered Institute of Taxation;
The "ATT" means the Association of Taxation Technicians;
The "Regulations" means the Taxation Disciplinary Scheme Regulations 2014 (as amended November 2016 and January 2024);
"PRPG 2018" means the Professional Rules and Practice Guidelines effective from 9 November 2018 (updated 2021);
The "ISG" means the Indicative Sanctions Guidance as revised.

3. The Tribunal had regard to a main bundle of 86 pages ("MB"), a supplementary bundle of 13 pages ("SB"), On-table papers (5 pages), a witness statement from Ms Purtill, ATT's Director of Education, dated 19 June 2025, a transcript of Ms Purtill's evidence, email correspondence between the Defendant and the Clerk to the TDB, and four Case Management Directions.

4. The case became the Tribunal on 16 June 2025 but due to lack of time was adjourned and re-listed on 27 June 2025 when the Tribunal heard a submission from Mr Micklewright, oral evidence from Ms Purtill, Director of Education, and a submission and oral evidence from the Defendant.

5. The Tribunal made a decision on the Charges on 27 June 2025 which was given orally. A decision relating to publication of the Decision was reserved on receipt of an oral application from the Defendant that the Tribunal should exercise its discretion and find that there were exceptional circumstances which would justify a decision not to publish its findings or to publish its findings without naming the Defendant. The Tribunal adjourned the case and directed that the Defendant, within

21 days, file a medical report from a Clinical Psychologist or Psychiatrist at consultant grade plus any other relevant evidence on which he sought to rely. The Tribunal directed that on receipt of the evidence from the Defendant the Tribunal would consider whether further oral or written submission were required and if the Defendant failed to comply with these directions the Tribunal would make a decision on the matter of publicity on the basis of the evidence then available.

6. The Defendant applied for an extension of time to comply with the directions and Case Management Directions ("CMD") were issued dated 22 July 2025 extending time to 15 August 2025 to comply.

7. The Defendant in an email dated 18 August asked for a further extension of time to comply with the directions and the Tribunal refused the request on 20 August 2025 and by CMD a direction was made to re-list the case on the first available date.

8. The Defendant applied on 1 September 2025 for a further extension of time to comply. CMD dated 15 September 2025 refused a further extension and directed the Defendant to lodge, by 8 October 2025, all the evidence on which he sought to rely to support his application. The directions stated that if the Defendant was unable to file a report from a Clinical Psychologist or Psychiatrist he should file any other evidence which would support his application. A further extension was granted to the Defendant, and he was given notice that the case would be listed for consideration on the first available date after 17 October 2025. The Defendant did not comply with the directions and has filed no evidence in support of his application.

9. The Tribunal made a decision on the matter of publicity on the basis of the evidence available on 30 October 2025.

Preliminary Matters

10. The Tribunal considered the provisions of Regulation 14 had been complied with. The Tribunal was satisfied that the Defendant had been notified of the dates of the hearings and the documents as required under Regulation 14.1. The Tribunal was satisfied that the Defendant had been given reasonable notice of the hearings and a reasonable opportunity to prepare his case.

11. At the hearing on 27 June 2025 Mr Micklewright applied to amend Charges 1.2 and 1.3 by replacing the reference to the ATT Code of Conduct with the correct reference of the ATT Online Examination Regulations. 2024

12. The Defendant had no objection to these amendments and given that they were of a minor nature the application was allowed.

13. In the Response Form the Defendant applied for the hearing to be held in private. The Tribunal had regard to the provisions of Regulations 29.1 that all hearings shall be held in public, but the press and public can be excluded from all or any part of the proceedings if it appears desirable to do so in the interests of justice or for any other reasons.

14. The Tribunal acknowledges that there is public interest in the hearing being in public and the general principle of open justice required openness and transparency which was important for the reputation of the profession. However, the Hearing Chair was satisfied that there were compelling reasons relating to the impact on the Defendant to depart from the normal principle and that the hearing should be in private.

15. The complaint relates to the Defendant who is a student member of the ATT. It is alleged that he made direct use of AI, namely ChatGPT, during the ATT examination on 6 November 2024.

16. The use of GENAI was identified through post-examination work. This included use of the ChatGPT website which can be seen as being open through the taking of screenshots through the live examination.

17. The Defendant was referred to the ATT Examinations Steering Group who reviewed the evidence and disqualified the Defendant and requested he be referred to the TDB.

18. The allegations appear to involve potential breaches the PRPG 2018.

19. The Charges are as follows:

Charge 1

1.1 When sitting the ATT Paper 2 – Business Taxation Examination on 6 November 2024, the Defendant used a Generative Artificial Intelligence product ("GENAI").

1.2 The Defendant was dishonest, in that he knew at the time of the examination that the use of GENAI was in breach of the ATT Online Examination Regulations November 2024.

1.3 Alternatively, the Defendant ought to have known at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations November 2024.

1.4 If charges 1.1 and 1.2 and/or 1.3 are proved, the Defendant is in breach of:

(a) Rules 2.1 and 2.2.1 in that he acted in breach of the fundamental principle of integrity;
(b) Rules 2.1 and 2.6.2 and/or 2.6.3 in that he did an act which discredits the profession, in breach of the fundamental principle of professional behaviour in that he failed to:

(i) uphold the professional standards of the ATT as set out in the Laws of the CIOT and ATT; and/or

(ii) take due care in his professional conduct and professional dealings; and/or

(iii) performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the ATT or to the tax profession; and/or

(iv) conducted himself in an unbefitting or unlawful manner, which tends to bring discredit upon a member and/or may harm the standing of the profession and/or the ATT.

Response to Charges

1. In the Response Form (pages 2 to 6 SB) the Defendant admitted Charges 1.1, 1.2, 1.3 and 1.4.

2. The Charges were put to the Defendant at the hearing by the Clerk and he confirmed that he admitted Charges 1.1, 1.2, 1.3 and 1.4.

3. The Defendant stated in the attachment to the Response Form dated 23 May 2025 that he fully understood the Charges presented and accepted them. He stated that although the exam was open book it was clear that the use of Generative AI was not permitted and it was clear he was in breach of the rules. Through ignorance and sheer panic, he believed that the use of Generative AI would fall under the use of open book and he did not wish to contest this further. The breach had arisen through his own failings.

4. Mr Micklewright submitted that the Tribunal should proceed on the basis that the Defendant denied Charge 1.2 because his admission was set out above was equivocal.

5. The Defendant's written evidence and oral evidence was inconsistent and contradictory. For example, in the application of Consent Order Procedure form

(pages 76 to 85 MB) the Defendant admitted the alleged breaches but stated, also, that he was not aware that the use of GENAI was not permitted. In oral evidence he stated that the use of GENAI was in sheer desperation because of how unwell he was on the day and in panic. He stated that he had sat an examination on 5 November 2025 and had not used GENAI as did not need to as he was not unwell and did not feel he needed the additional assistance. He stated in oral evidence that he understood that the answers to the examination questions had to be his own work but as he was short of time he used ChatGPT because it would speed things up for him. He stated that he knew the answers had to be his own work but typed complete questions into ChatGPT and asked ChatGPT to undertake calculations to obtain answers. He stated that he read the email dated 16 October 2024 and that the ATT Online Regulations 2024 were clear. He stated that he did not think that using answers generated by ChatGPT to specific questions was producing work that was not his own.

6. In the Response Form the Defendant stated that he had never had to deal with an investigation and the case had taken a physical and mental toll on him. The breach was as a consequence of his own failings and something that he must now live with.

Findings

7. In making its findings, the Tribunal has borne in mind that the burden of proof rests on the TDB. The standard of proof is of the civil standard, which is the balance of probabilities.

8. When considering the question of dishonesty, the Tribunal has borne in mind the test for dishonesty in the case of *Ivey v Genting Casinos* [2017] 3 WLR 1212 that the Tribunal must first ascertain subjectively the state of the Defendant's knowledge or belief as to the facts. The reasonableness or otherwise of the Defendant's belief is a matter of evidence but it is not an additional requirement that the belief must be reasonable, the question is whether it is genuinely held. The question of whether the conduct was honest or dishonest is to be determined by applying the objective

standards of ordinary decent people. There is no requirement for the Defendant to appreciate what he has done by those standards to be dishonest.

9. The Tribunal made the following findings of fact:

a) The Education Team of ATT sent an email to the Defendant dated 16 October 2024 (pages 8 and 9 SB) which included instructions about the online exam regulations. The emails stated: *"Remember to read the <u>Online exam regulations</u>. If you do not behave according to the exam regulations it can lead to disqualification."* The "Online exam regulations" was a hyperlink to the 2024 examination regulations which are reproduced at pages 21 and 22 of the MB.

b) Paragraphs 1 and 12 of the ATT Online exam regulations 2024 stated:
   1. *The direct use of GenAI is not permitted. Your answers must be your own work.*
   12. *The Online exams will again be Open book, this means you may refer to any books, study manuals, pre-prepared notes and online resources during the exams.*

c) The Defendant signed a registration declaration when making his application to ATT to comply with and be bound by the Articles of Association, the ATT Regulations and the PRPG 2018 (pages 14 and 15 MB).

d) When undertaking ATT Paper 2 – Business Taxation Examination on 6 November 2024, the Defendant used the AI tool ChatGPT to answer specific questions related to the exam questions and asked ChatGPT to perform calculations.

e) The Defendant read the email dated 16 October 2024 and read and understood the ATT Online Examination Regulations 2024.

f) The Defendant knew he had to produce his own work in answer to the questions and in using ChatGPT to answer specific questions and do calculations to answer questions he was not producing his own work. He used ChatGPT to gain an advantage.

Decision on the Charges

10. The Tribunal found Charge 1.1 proved on the basis of the evidence and the Defendant's admissions.

11. The Tribunal found Charge 1.2 proven on the basis of the above findings. The Tribunal found that the Defendant was dishonest in that he knew at the time of the examination that such conduct was in breach of the exam regulations that the work must be his own.

12. Having found that Charge 1.2 proved the Defendant was in breach of Rules 2.1, 2.2.1, 2.6.2 and 2.6.3. He acted in breach of the fundamental principle of integrity and did acts which discredit the profession, in breach of the fundamental principle of professional behaviour. He failed to uphold the professional standards of the ATT, he failed to take due care of his professional conduct and professional dealings and performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the ATT or to the tax profession and conducted himself in an unbefitting or unlawful manner, which tends to bring discredit upon a member and may harm the standing of the profession and the ATT.

Sanction

13. In determining what, if any, sanction to impose the Tribunal had regard to the ISG as revised and applying to all cases on or after 1 January 2025.

14. The Tribunal has borne in mind in approaching the task that it should start by considering the least severe sanction and only consider more serious sanctions if satisfied that the lesser sanction is not appropriate.

15. The Tribunal noted that the purpose of imposing a sanction upon a member, '*is not simply to discipline the individual or firm for any wrongdoing of which he or it may be culpable, but to protect the public and maintain the reputation of the profession by sending a signal as to how serious the Tribunal judges the conduct to be.*'

16. Any sanction imposed must be appropriate and proportionate, taking into account the member's own interests and should be the least onerous measure that adequately meets the facts of the charges found proved.

17. The Clerk informed the Tribunal that there were no previous disciplinary findings against the Defendant.

18. The Tribunal considered the mitigating factors which are summarised as follows:

a) There has been no previous regulatory history.
b) The Defendant acted deliberately but his actions were not premeditated.
c) The Defendant has fully and frankly acknowledged his misconduct.
d) He has expressed deep regret and stated he is committed to not repeating the mistake.
e) The Defendant did not try to cover up his errors.
f) The Defendant has co-operated with the investigation and the proceedings.

g) There has been no repetition of any misconduct.

19. The Tribunal considered that the fact the Defendant had used GENAI on a number of occasions in the one examination, was an aggravating factor.

20. The Tribunal has assessed the different sanctions in ascending order of seriousness. The Tribunal was of the view that taking no further action or allowing the matter to rest on the file was disproportionate to the seriousness of the Charges. An apology was clearly not appropriate in the circumstances. The Tribunal was of the view that a warning was not appropriate because the misconduct was more than minor and the imposition of a fine was not appropriate. The Tribunal was of the view that a censure was not appropriate because the misconduct was of a serious nature and although there was no risk to the public the Defendant had used GENAI on a number of occasions during the exam. A fine was not appropriate taking into account the Defendant's financial situation.

21. Taking account of all the circumstances, the Tribunal determined that there should be a recommendation that the Defendant should be removed from the Register. In reaching this decision the Tribunal has borne in mind that the misconduct was so serious as to undermine confidence in the profession if a lesser sanction were to be imposed.

22. The Tribunal was satisfied that a lesser sanction would undermine confidence in the profession. In reaching its decision the Tribunal considered that the actions of the Defendant were a serious departure from the relevant professional standards and there was dishonesty in his actions. The Tribunal was satisfied that the wider public interest will be preserved by the imposition of this sanction.

23. In reaching its decision the Tribunal considered Section 4(10) of ISG Student Issues. The Tribunal noted that the examples of misconduct although not strictly analogous to this case did provide some guidance in relation to obtaining improper assistance

during an examination and the guideline that if the Tribunal is satisfied that there was no intention to cheat then in the absence of other misconduct factors, a lesser sanction than removal from the Register should be considered. The Tribunal considered that considering there was dishonesty and an intention to cheat removal from the Register was appropriate.

Costs

24. The TDB, at the hearing, applied for costs in the sum of £3,265.

25. The Tribunal had regard to the ISG's Guidance on Awarding Costs in dealing with a Defendant against whom a charge has been proved. The presumption that an unsuccessful Defendant should pay costs is based on the principle that the majority of professional members should not subsidise the minority who, through their own failings, have brought upon themselves disciplinary proceedings.

26. The power to award costs is discretionary. The general principle requires exceptional circumstances for a Tribunal not to award costs against an unsuccessful Defendant. The Tribunal found no reason to depart from that presumption as it found that there were no exceptional circumstances.

27. The Defendant submitted that as a reasonably young person, significant costs would cause severe personal issues which would be potentially unmanageable. The Tribunal was not satisfied that payment of the costs would put the Defendant into financial difficulties, however, restricted the order for costs to £2,520, being the costs incurred less the additional costs incurred by the need for an adjournment on 12 June 2025 and a second hearing.

28. The Tribunal was satisfied that costs of £2,520 were proportionately and reasonably incurred.

29. The Tribunal was of the view that the costs of £2,520 were relevant to this case and would not have been incurred save for the Defendant's own failings and actions.

30. The Tribunal decided that the Defendant should pay £2,520 costs to the TDB.

Publicity

31. The Tribunal made a decision on publicity on 30 October 2025.

32. The Tribunal noted the guidance in Annex A of the ISG on the publication of disciplinary findings and Regulation 28.

33. The Tribunal noted the general principle that any disciplinary finding made against a member would be published and the member named in the publication of the finding. The purpose of publishing such a decision was not to add further punishment for the member. It was to provide reassurance that the public interest was being protected and that where a complaint was made against a member of one of the professional bodies covered by the Taxation Disciplinary Scheme, there were defined, transparent procedures for examining the complaint in a professional manner and for imposing a sanction upon a member against whom a disciplinary charge had been proved.

34. The Tribunal further noted that while regulation 28 makes a presumption in favour of publishing the findings made by a Tribunal, there is a discretion to order that there should not be publication of the name of the member, or the details or orders made against the member.

35. The Tribunal has borne in mind the guidance in the ISG in Annex A that the discretion not to publish the findings where in exceptional circumstances both the conduct was not serious, and publication might have an adverse impact on innocent third parties. This was not applicable in this case as there was no evidence that there would be an adverse impact on innocent third parties. Additionally, a Tribunal might exercise its discretion not to publish in exceptional circumstances where the conduct was not serious and where publication would be unduly harsh and have an adverse impact on a member's health.

36. The Tribunal was satisfied that the conduct was serious, publication of the Defendant's name would be unduly harsh and would have an adverse impact on the Defendant's health or safety on the basis of his oral evidence that this would be the case. Notwithstanding that the Defendant has not provided medical evidence in support of his assertion of the impact publication would have on his well-being the Tribunal found his evidence in this regard to be compelling.

37. In reaching its decision the Tribunal has borne in mind that the term 'unduly harsh' is not defined in the ISG but adopting the normal understanding of the words the Tribunal was satisfied that publication would be excessively and inappropriately severe in the Defendant's circumstances and would go beyond a level that could be considered reasonable or justifiable and not proper or suitable in the circumstances. The Tribunal was satisfied that publication of his name would have an adverse impact on his health and well-being, and this outweighed the public interest in the Defendant's name being published.

38. The Tribunal ordered that, in accordance with Regulation 28.1, this Decision and Reasons should be published as soon as practicable with the Defendant's name redacted. The Decision should remain on the TDB website for a minimum period of five years in accordance with Annex A of the ISG.

Effective date

39. Pursuant to Regulation 20.10 of the Regulations, this decision will be treated as effective from the date on which it is deemed served on the Defendant.

Jacqueline Findlay

Hearing Chair, Disciplinary Tribunal **Signed: 27 June 2025**

Reviewed: 30 October 2025