

## TDB Code of Conduct for Panel members and Assessors.

The Taxation Disciplinary Board (TDB) requires that each Disciplinary Panel member, Appeal Panel member, Interim Orders Panel member, Investigation Panel member, Disciplinary Assessor, and Investigatory Assessor (Panel members and Assessors) shall be bound by this Code of Conduct (referred to as 'the Code'). This document has been approved by the TDB Board.

### 1. INTERPRETATION

1.1 In this Code, unless the context otherwise requires:

- (a) *Board* means the TDB board appointed by the members of the TDB, with responsibility, inter alia, for appointing Panel members and Assessors;
- (b) *Code* means this TDB Code of Conduct for Panel members and Assessors;
- (c) *connected party* means a spouse or partner, child or parent of the member, or any other individual or body with which the member's interests are closely aligned;
- (d) *Panel* means the panel of committee members servicing TDB's Disciplinary and Appeal Tribunals, Interim Orders Panel and Investigation Committee;
- (e) *Assessor* means a member carrying out the functions of Disciplinary Assessor and/or Investigatory Assessor;
- (f) *member* means a Panel member, or assessor, as appropriate.

1.2 Words importing the masculine gender include the feminine and words in the singular include the plural and vice versa. References to 'he' or 'his' shall include 'it' or 'its' where the context requires.

1.3 Reference to a member's private interests includes (without limitation) his interest in connection with any individual, body or organisation other than TDB.

### 2. CONDUCT REQUIREMENTS: OVERRIDING PRINCIPLES

A member shall comply with the principles of ethical conduct set out within this section of the Code ('the principles'). Furthermore, where a member identifies threats to his compliance with one or more of the principles, he shall evaluate those threats, and take any steps necessary to safeguard the principles.

## **2.1 Integrity**

2.1.1 A member shall be straightforward and honest in respect of all activities and relationships arising out of his duties as a Panel member or assessor.

## **2.2 Confidentiality**

2.2.1 A member shall respect the confidentiality of information acquired in the course of his duties as a Panel member or assessor, and, therefore not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information to further the private interests of the member or third parties.

2.2.2 In this context, third parties include all parties other than those engaged in the disciplinary or regulatory proceedings giving rise to the exchange of information.

2.2.3 The duty to comply with the principle of confidentiality, and to take appropriate measures to safeguard confidentiality, continues after the termination or expiry of a member's term of appointment as Panel member or assessor.

## **2.3 Objectivity**

2.3.1 A member shall not allow bias, conflict of interest or undue influence of others to override professional judgements.

## **2.4 Conflicts of interest**

2.4.1 A member shall not participate in any situation in which there is a conflict between his duties as a member and his private interests.

2.4.2 In the case of such a conflict arising, a member shall take reasonable steps to dissociate himself from the situation and to avoid any perception by others that he remains associated with the situation.

## **2.5 Competence and due care**

2.5.1 A member shall maintain professional knowledge and skill at the level required to ensure that the member is able to provide a competent, professional and ethical service, based on current developments in regulation, legislation and techniques, and shall act diligently and in accordance with applicable technical and professional standards.

2.5.2 A member who recognises or suspects that he requires more information, knowledge or training in order to comply with paragraph 2.5.1 shall take reasonable steps to resolve the deficiency.

## **2.6 Professional behaviour**

- 2.6.1 A member shall comply with relevant laws and regulations, and shall avoid any conduct that could bring discredit to himself, TDB or the taxation profession.

## **3. SPECIFIC REQUIREMENTS AND GUIDANCE**

At all times, a member shall uphold the principles of ethical conduct. This will usually entail the following specific requirements. This section also suggests some measures that may be taken in circumstances where a threat to one or more of the principles of ethical conduct is identified. (See section 4.)

### **3.1 Integrity**

- 3.1.1 A member shall be straightforward and honest in respect of all activities and relationships arising out of his duties as a Panel member or assessor.
- 3.1.2 A member shall not place himself in a position where his integrity might reasonably be called into question.
- 3.1.3 A member shall not make use of his position as a Panel member or assessor to further his private interests. In particular, a member shall not:
- (a) use that position to obtain benefits, preferential treatment or other advantage for himself or others;
  - (b) confer benefits, preferential treatment or advantage improperly on others .
- 3.1.4 A member shall, in the performance of his duties act:
- (a) in the public interest;
  - (b) in accordance with the public trust placed in the member.
- 3.1.5 A member shall be prepared to submit himself to whatever scrutiny of his decisions or conduct is reasonable for his position as a Panel member or assessor.

### **3.2 Confidentiality**

- 3.2.1 A member shall respect the confidentiality of information acquired in respect of his duties as a Panel member or assessor.
- 3.2.2 A member shall preserve confidentiality in respect of the details of disciplinary, appeal and investigatory cases with which the member has been involved, or of which the member has been made aware.

- 3.2.3 A member shall respect the anonymity of witnesses and third parties when acting in the performance of his duty as a Panel member or assessor.
- 3.2.4 A member shall take reasonable steps to ensure that all papers and information received in the performance of his duties are kept safe and confidential, and are disposed of safely and securely after use.
- 3.2.5 A member shall not use any papers or information received in the performance of his duties for any purpose other than the performance of his duties as a member.
- 3.2.6 If a member experiences pressure, from any party, to disclose confidential information acquired in respect of his duties as a member, he shall disclose the fact to TDB as soon as practicable.

### **3.3 Objectivity**

- 3.3.1 It is fundamental to the integrity of TDB's disciplinary and regulatory procedures that a member makes decisions with regard for the public interest, and with complete impartiality. It is also important that such impartiality is apparent to others.
- 3.3.2 A member shall, when acting in the performance of his duty as a Panel member or assessor, make decisions based solely on the facts and information presented to the member.
- 3.3.3 No Panel member or assessor shall conduct his own enquiries or carry out his own research in relation to any disciplinary, appeal or investigatory proceedings. To do so would be a breach of paragraph 2.3.1 and 3.3.2.
- 3.3.4 A member shall not assume the role of advocate of any party to TDB's disciplinary, appeal or investigatory procedures, or allow himself to be perceived to act as such.

### **3.4 Conflicts of interest**

- 3.4.1 A member shall take reasonable steps to ensure that his conduct does not give rise to an actual or perceived conflict between his duties as a member and his private interests.
- 3.4.2 In relation to any disciplinary, appeal or investigatory proceedings, if a member is, or becomes, aware of a conflict, or a possible perceived conflict, between the member's duties as a Panel member or assessor and his private interests, the member shall:
- (a) disclose his interest to TDB;
  - (b) take no part, or no further part, in those proceedings.
- 3.4.3 If a conflict or perceived conflict arises before or during any other meeting involving the member in his capacity of Panel member or assessor, he shall disclose his interest, or perceived interest, and request that his

disclosure be recorded in the minutes of the meeting. He shall take no further part in the meeting.

- 3.4.4 A member shall not advise, agree to advise, act for, or agree to act for, a CIOT or ATT member, student or firm facing disciplinary, appeal or investigatory proceedings brought by TDB.
- 3.4.5 A member shall not advise, agree to advise, act as, or agree to act as, an expert or character witness in cases where a CIOT or ATT member, student or firm is facing disciplinary, appeal or investigatory proceedings brought by TDB.
- 3.4.6 A member who is approached by a CIOT or ATT member, student or firm to provide evidence in relation to a disciplinary, appeal or investigatory matter, shall agree to do so only where his evidence relates to matters of fact.
- 3.4.7 A member shall not hold himself out to the public as having expertise in dealing with cases where a CIOT or ATT member, student or firm is facing disciplinary, appeal or investigatory proceedings brought by TDB. Similarly, a member shall not hold his firm out as having expertise in such matters.

### **35 Competence and due care**

- 35.1 A member who is due to attend a Tribunal or Committee hearing shall carefully and thoroughly read all the papers sent to him by TDB in advance of the hearing.
- 35.2 A member taking part in a Tribunal or Committee hearing shall attend the hearing at the designated venue at least half an hour before the scheduled commencement of the hearing. If the member is unable to attend at the required time, he shall inform TDB of the delay and the reason for it at the earliest opportunity.
- 35.3 A member who is due to take part in a Tribunal or Committee hearing but becomes unable to attend shall inform TDB at the earliest practicable opportunity. Where possible, he shall give TDB at least two weeks written notice of his inability to attend and the reason for non-attendance.
- 35.4 Before asking for additional information or evidence, a member shall have regard to whether it is relevant and necessary to the issues to be decided in the case, as well as the sensible and proportionate use of resources.
- 35.5 A member shall attend the regular training sessions arranged by TDB, as appropriate to his role. A member who recognises or suspects that he requires more information, knowledge or training in respect of TDB's disciplinary, appeal and investigatory policies and procedures shall take appropriate action to seek to resolve the deficiency.

### **3.6 Professional behaviour**

- 3.6.1 A member shall, at all times, comply with relevant laws and regulations, and uphold the administration of justice.

- 3.6.2 A member shall treat with courtesy and respect other members and TDB personnel, as well as witnesses, CIOT and ATT members and students and all others attending Tribunal and Committee hearings or with whom the member otherwise interacts in his capacity of Panel member or assessor.
- 3.6.3 A member shall not privately discuss or comment on disciplinary, appeal or investigatory matters relating to TDB, except for the purpose of meeting the member's professional responsibilities as Panel member or assessor. This prohibits inappropriate communications with fellow members, TDB staff or others.
- 3.6.4 A member shall avoid any conduct that could bring discredit to himself, TDB or the taxation profession.

#### **4. THREATS TO COMPLIANCE**

- 4.1 At all times, a member shall uphold the principles of ethical conduct. This includes evaluating any identified threats to the member's compliance with one or more of the principles. Threats may be created by a broad range of relationships and circumstances, and a circumstance or relationship may create more than one threat. Whenever the member determines that the identified threats are not at an acceptable level, he shall take any steps necessary to safeguard the principles.
- 4.2 Threats to compliance with the principles may fall into one or more of the following categories:
- (a) *self-interest threat*: the threat that a financial or other interest will inappropriately influence the member's judgement or behaviour;
  - (b) *self-review threat*: the threat that a member will not appropriately evaluate the results of a previous judgement made or opinion expressed by the member, or by a connected party, on which the member will rely when forming a judgement or expressing an opinion as part of his current function;
  - (c) *advocacy threat*: the threat that a member will promote another party's position to the point that the member's objectivity is compromised;
  - (d) *familiarity threat*: the threat that due to a long or close relationship with another party, a member will be too sympathetic to the other party's interests or too accepting of the other party's claims;
  - (e) *intimidation threat*: the threat that a member will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the member;
  - (f) *prejudice threat*: the threat that a member will be deterred from acting objectively because of personal bias or prejudice against another party.

- 4.3 In most situations in which a member has identified a threat to one or more of the principles of ethical conduct, appropriate steps to take in order to safeguard the principles will include disclosing the matter to TDB.

## **5. LEADERSHIP**

- 5.1 A member shall:
- (a) accept opportunities to support and promote the Code;
  - (b) accept opportunities to demonstrate ethical leadership and, where appropriate, recognise and acknowledge examples of good ethical conduct, including bringing the conduct to the attention of the Board.

## **6. BREACHES OF THE CODE**

- 6.1 Compliance with the principles of ethical conduct is paramount. In addition, a breach of any of the specific requirements set out under section 3 of the Code shall be a breach of the Code.
- 6.2 . A breach of the Code, or any related policy, may lead to the termination of the member's contract with TDB.
- 6.3 If a suspected breach of the Code is referred to the Board, a member shall comply with any request for information made by the Board.
- 6.4 A member shall report, in writing, to TDB, any breach, or suspected breach, of the Code of which he becomes aware, whether that breach is by himself or by another member.

If a member is in any doubt in respect of matters relating to this Code of Conduct in the first instance contact the TDB Executive Director.

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