

**TAXATION
DISCIPLINARY
BOARD**

ANNUAL REPORT

and

ACCOUNTS

2012

THE TAXATION DISCIPLINARY BOARD 2012

Board Directors

Desmond Hudson LI B (Chairman) (2009)

F Larry Darby CTA (Fellow) ATT (appointed 7 July 2012)

John Dewhurst LI B, BCL, CTA (Fellow) (2011)

Peter Gravestock CTA (Fellow), FCA, ATT (retired 6 July 2012)

(Year of appointment shown in brackets)

Executive Officers

Executive Director and Company Secretary

Neville Nagler OBE, MA

Secretary to Disciplinary Committee

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CHAIRMAN'S REPORT

Overview

This has been another busy year for the TDB. Many of the themes which I mentioned in last year's Annual Report have continued to influence our work and priorities in 2012.

We received a record number of complaints (45 new complaints), and the early signs are that this accelerating trend has continued in the first quarter of 2013. The Board is particularly pleased that notwithstanding the increase in cases, we have with the hard work and expertise of our Executive Director and his staff, the support of our external legal advisers, our panels and the robustness of our procedures, absorbed that increase without additional cost, and with no increase in case handling times and no significant increase in the number of cases carried forward at the year end.

The trend I first reported last year has continued in relation to the issues raised by complainants and those cases brought before our Disciplinary Panel increasingly proving more problematic and procedurally more complex than previously. Inevitably that complexity and the attempts during the year to bring legal challenges to our procedures (all of which to date have been dismissed) adds to the TDB workload.

We continue to do our best to balance the public interest in ensuring that our processes and responses to the concerns of complainants are both accessible and effective whilst satisfying the reasonable expectation of members that our processes deliver fair and proportionate responses to complaints.

We have maintained our focus on delivering value for money in the working of the Board, minimising meeting time and administration costs wherever possible.

Interim orders

Against this background, I would particularly wish to highlight the introduction of new powers to impose interim orders. At the request of our two participants, we introduced after extensive consultation new Regulations which came into effect on 1 January 2013. Whilst most of the complaints that we receive are dealt with expeditiously, we have recognised that, particularly where a case alleges improper behaviour, dishonesty or incompetence but its complexity requires a full and lengthy investigation of all the issues, the public may be at risk. Many disciplinary bodies have therefore developed a recognised procedure for imposing an interim order, which operates at the stage between the finding that there is a case to answer and the final determination of the disciplinary hearing. Whilst the use of such powers is likely to be rare, there have been a few cases in recent years where the public would have been better protected had such powers been available to the TDB. The Board, with the unfailing support of our participants, remains anxious to ensure that the TDB's powers and procedures serve the public interest and the profession in a proportionate and efficient way that compares favourably to best regulatory practice.

Under our new Regulations, once the Investigation Committee has found that there is a prima facie case which it has decided to refer to a Disciplinary Tribunal, it may then consider whether it appears to be in the public interest or necessary for the protection of the public for the member to be referred to an independent Interim Orders Panel. If so, the panel will be convened as quickly as possible in order to decide whether to impose an interim order. Such an order will normally entail the suspension of the member pending the Disciplinary Tribunal hearing. The interim

order will last for up to a year, but may be renewed in the unlikely event that the Tribunal is delayed by more than a year. Interim orders are unlikely to be made very often, but they will enable the TDB to better protect the public in those cases where a member poses a risk and his continuing full membership might well damage the reputation of the CIOT, the ATT or the profession.

Discussions with other regulatory bodies

When the Board was originally set up, it was always envisaged that additional bodies might join it. Until it merged with the CIOT last August, the Institute of Indirect Taxation (IIT) was for eighteen months a third participant in the work of the Board.

The Board remains alert to the possibility of expanding the range of bodies served by the TDB and welcomes the various discussions that have commenced with a number of interested parties. We can see from our experience with the IIT that it is relatively straightforward for the TDB to take on additional member bodies, subject always to the agreement of our existing sponsors. In any such arrangements it would be our firm intention to ensure the consistent application of the principles of independence, autonomy and rigour of a proportionate process and enforcement which we have established in the TDB and which serves both the public and the profession's interest.

Recovery and enforcement

When the new Taxation Disciplinary Scheme was introduced five years ago, the Board adopted the principle that "the polluter pays". So Tribunals are invited, subject to their discretion, to make a costs order against the member in all cases where a charge is found proven; the relevant costs are the full costs of investigating the case and those of the

Tribunal. In most cases these are likely to be in the region of £2-3,000. Where such orders are made many members pay immediately or ask to pay by instalments, which we are ready to administer. But some members, particularly those who are expelled by the Tribunal, ignore all requests to pay. In such cases we make a money claim online, and the courts have invariably given judgment in our favour. We then face the task of enforcing the court order. There are ex-members who ignore the court order, and we may then have to seek a warrant of execution or a charging order on property they own. This has proved to be a serious and growing problem over the last couple of years.

At the start of the year we reviewed our policy and the effectiveness of our collection processes. We concluded that the appropriate policy tone should be of determined and effective enforcement without either "throwing good money after bad" or ignoring the justice of the individual case. We have also further improved our management processes to monitor cases regularly, enforce and collect efficiently and manage prudently any irrecoverable sums.

We have reviewed the level of costs awarded against defendants by our Tribunals. Whilst these are not out of line with the sums awarded by other comparable disciplinary bodies which seek full cost recovery, we recognise that they can appear particularly onerous where the member has admitted the charge at the earliest opportunity. Following a discussion at our annual consultation meeting with our panel members, we are considering whether there may be some scope to introduce a simplified procedure in such cases. Such a change could help to reduce the overall cost and duration of the disciplinary process. It would require further amendments to our Regulations, and we are seeking legal advice as to its practicability and reasonableness.

Budgetary performance

Our efforts in chasing up recalcitrant parties to TDB hearings over the past two years have delivered substantial sums in fines and cost recoveries (£47,800 in 2011 and £24,700 in 2012). These recoveries, albeit unpredictable, have contributed to large budgetary surpluses which enabled the Board to reduce the contributions paid by our participants' members. In 2011, we made a net surplus of £53,000 and in 2012 a surplus of £20,000. As a result, the Board decided to repay £50,000 of the accumulated balances of the CIOT, and to draw £16,500 less from the CIOT than budgeted for 2012.

In setting our annual budget, our aim is to break even, after assuming a modest and prudent level of cost recoveries. But much of our expenditure is unpredictable. We do not know how many meetings or Tribunals will be required to deal with cases or how long these will last. We have to lay out the necessary costs, even if they are eventually due to be repaid by members against whom a charge is proven. . Thus one complex case which lasts several days longer than anticipated can increase our expenditure considerably. Unless we can recover any costs ordered to be paid in-year, we risk an unplanned deficit. We seek to manage this potential volatility through our experience of case estimates and the timely and regular review of case load, individual cases and budgets. The work of our executive team in this regard is crucial.

Relations with stakeholders

As I indicated last year, I and my fellow Board Directors remain satisfied that no significant problems are likely to arise from our constitutional structure or operating arrangements or recent legal developments. We currently see no need for any material or substantial changes to our current procedures, rule books or practices. The Board is confident that all the necessary support, communication and

working relationships that allow the TDB to operate in accordance with its key objectives, particularly maintaining its independence, are effective.

Panel members

No new panel members were appointed in 2012, although Will Silsby and Robert Prigg were both appointed to positions which required them to step down from the TDB. We have greatly valued their contributions to the work of the TDB, and wish them well for the future.

In February 2012 we held our annual consultation meeting with our panel members: details are reported elsewhere in this Annual Report. We held another such consultation early in 2013, giving us further helpful suggestions for improvement.

Whilst the Board maintains an operational division between the work of the members of the Disciplinary and Investigation Panels and the work of the Board itself, we greatly value the input and feedback we receive from these consultations regarding the effectiveness of TDB procedures, rules, individual cases and/or wider developments.

The Board is satisfied with our current arrangements for the recruitment and training of appointees to our two Panels.

In the period in question and looking forward for the current year, the Board remains satisfied that TDB has provided a satisfactory and independent process to deal with disciplinary matters and that our procedures and operating arrangements reflect best practice and meet the needs of the wider profession and the public interest in a proportionate manner.

Conclusion

The TDB still has an important agenda to carry out, and many of our more complex cases raise fresh policy issues for the Board to decide. I once more would wish

to pay tribute to our dedicated Executive Director, Neville Nagler, who offers both wise counsel to me and the Board, ensures the smooth running of the organisation and provides an invaluable contribution in policy development issues as well as the efficient processing of our case- load. I add my thanks to our hard-working secretary to the Disciplinary Tribunal, Peter Douglas. I also value my close working relationships with the professional heads of our participants, namely Peter Fanning at the CIOT and Andy Pickering at the ATT.

Finally, it is a privilege and pleasure to work with my fellow Directors, John Dewhurst and Larry Darby. I am grateful to them both for their wise advice and consistent support. Larry Darby took over from Peter Gravestock, who retired in July after serving for six years as the ATT's nominated Director. Throughout his time Peter was an invaluable source of advice

and help to the TDB, not only on tax matters but for his vast practical experience. He is greatly missed, but Larry is already helping us to benefit from his wide-ranging experience in the tax world.

I and the entire Board are grateful to our Panel members (all of whose names are listed elsewhere), who through their hard work, expertise and dedication perform a difficult task wisely and fairly.

Together all of us at the TDB work to ensure that the TDB remains at the forefront of best regulatory practice and serves the public and the profession's interest without fear or favour.

DESMOND HUDSON

Chairman

AIMS AND OBJECTIVES OF THE TDB

The **aims** of the Taxation Disciplinary Board are to investigate complaints and take action against CIOT, ATT and IIT members who have breached professional standards; provided inadequate professional service; or behaved in an unbecoming manner, in order to:

- Protect the public, especially those who use the services of members of the CIOT, ATT and IIT;
- Maintain high standards of behaviour and performance among members of the CIOT, ATT and IIT;
- Ensure that confidence is maintained in the CIOT, ATT and IIT.

The **objectives** of the Taxation Disciplinary Board are to:

- Deal with complaints expeditiously, thoroughly and fairly;
- Be open, fair, transparent and cost efficient in handling complaints;
- Ensure appropriate disciplinary action is taken against those who breach the applicable professional standards, provide inadequate professional service or display unprofessional conduct;
- Provide some redress for those who receive poor service from members of the CIOT, ATT and IIT (although the Scheme is no replacement for Court action in serious cases);
- Where a complaint is found proven, recover the costs of handling that complaint from the member of the CIOT, ATT or IIT.

CASES HANDLED IN 2012

Complaints received by TDB

The TDB received a record number of new complaints during 2012. 45 new complaints were received during the year, compared with 26 the previous year. The table below sets out the annual total of complaints received and cases disposed of by both the Investigation Committee and the Disciplinary Tribunal (formerly the Disciplinary Committee). It demonstrates the fluctuations in the volume of complaints received and handled by the TDB since it was set up.

<u>Year</u>	<u>Complaints received</u>	<u>Cases disposed of</u>
2001 (May—Dec)	4	3
2002	35	23
2003	22	29
2004	26	15
2005	17	25
2006	22	20
2007	35	35
2008	38	38
2009	33	25
2010	33	40
2011	26	22
2012	45	55

The table below sets out in more detail the handling of cases by the TDB in 2011 and 2012.

	Number of Cases	
	2012	2011
Complaints received by Reviewer		
Brought forward from previous year	12	10
New cases in year	<u>45</u>	<u>26</u>
	<u>57</u>	<u>36</u>
Cases withdrawn or not pursued by complainant	10	8
Cases rejected by Reviewer (trivial, vexatious or outside TDB jurisdiction)	9	0
Cases where fixed penalty imposed	15	4
Cases referred to Investigation Committee	11	13
Cases referred directly by Reviewer for presentation to Disciplinary Tribunal	0	0
Cases carried forward to next year	<u>12</u>	<u>11</u>
	<u>57</u>	<u>36</u>
Investigation Committee		
No prima facie case	1	4
Prima facie case but no action taken	1	0

Case ordered to rest on file	2	0
Referred for presentation to the Disciplinary Tribunal	8	9
Cases adjourned pending receipt of more information	<u>0</u>	<u>1</u>
	<u>12</u>	<u>14</u>

Disciplinary Tribunal

Cases awaiting hearing at end of previous year	5	2
New cases referred by the Investigation Committee	8	9
New cases referred directly by the Reviewer	<u>0</u>	<u>0</u>
	<u>13</u>	<u>11</u>

Case dismissed	0	1
Sanction imposed	8	5
Cases awaiting hearing at end of year	<u>5</u>	<u>5</u>
	<u>13</u>	<u>11</u>

Appeal Tribunal

Cases appealed	<u>1</u>	<u>0</u>
Appeals upheld	<u>1</u>	<u>0</u>

In 2012, the 45 new complaints were made against 43 professional members, of whom 13 belonged to the ATT, 29 to the CIOT and 1 had dual membership. Two members had two separate complaints made against them. In addition, twelve cases were brought forward from the previous year, giving a total of 57 cases to process. Twelve cases were carried forward to 2013; most of which were received late in the year.

Source of complaint

The new complainants in 2012 fell into the following categories:

- 4 were current clients
- 7 were former clients
- 2 were former employers
- 1 was a former employee
- 6 were former business partners or contractors
- 3 were previous or successor advisers
- 13 were referred by the TDB for having been subject to criminal conviction or to disciplinary action taken by another regulatory body (including the Institute of Chartered Accountants in England and Wales and the Association of Chartered Certified Accountants)
- 3 were self-reports (ie members who reported a criminal conviction or disciplinary action by another body)
- 6 were referred by the CIOT or ATT for failure to provide AML returns or after criminal or other litigation.

Grounds for complaint

The 45 new complaints received in 2012 raised in total 76 separate grounds for complaint. These fell into the following categories:

Failure to report disciplinary action taken by another professional body	12
Failure to respond to correspondence in a timely manner	10
Discreditable conduct	6
Failing in duty of care	5
Fraud or fraudulent trading	4
False accounting	4
Inadequate professional service	4
Failure to register for AML purposes	4
Incompetence	3
Criminal convictions	3
Maladministration	3
Dishonesty	3
Deception	2
Poaching clients	2
Publishing defamatory material	2
Lack of integrity	1
Theft	1
Lack of objectivity	1
Professional misconduct	1
Conflict of interests	1
Criminal allegations	1
Practising without Professional Indemnity Insurance	1
Practising without an ICAEW practising certificate	<u>1</u>
Total number of grounds for complaint	<u>76</u>

Handling of complaints by the Reviewer

A number of cases were withdrawn before they reached the Investigation Committee. 8 cases were rejected by the Reviewer on the grounds that they fell outside the jurisdiction of the Board: 2 of these were trivial or vexatious, 2 provided no usable evidence whilst a further 4 did not disclose any grounds of misconduct. In three of those cases the complainant appealed against the Reviewer's decision: these cases were reviewed by an Investigatory Assessor, who upheld the Reviewer's decision in each case. In 15 cases the Reviewer imposed a fixed penalty charge: all involved a failure to notify the CIOT of a disciplinary order made by another regulatory body in cases which raised no tax issues.

In ten cases the complainant decided not to pursue the complaint: two of these cases involved litigation, whilst a further two failed to supply evidence to support their complaint.

Eleven cases were submitted to the Investigation Committee in 2012, and at the end of the year twelve cases were still being processed by the Reviewer, most of which were received during the last quarter of the year..

The processes for the handling of cases prior to their consideration by the Investigation Committee and the planned timescales are described on Pages 18-19 of this Report. Of the eleven cases which went to the Investigation Committee during the year, the time taken between receipt of the complaint form and the Committee's first consideration of the case broke down as follows:

<u>Time taken</u>	<u>Number of cases</u>	
	<u>2011</u>	<u>2012</u>
1 month	0	1
2 months	3	1
3 months	1	0
4 months	3	2

5 months	4	0
6 months	1	3
<u>More than 6 months</u>	<u>1</u>	<u>4</u>
Total	<u>13</u>	<u>11</u>

The above figures show the total time taken between receipt of the complaint form and its consideration at a meeting of the Investigation Committee. No allowance is made for delays caused by members or complainants in responding to correspondence. The planned timescale shown at Page 18 indicates that in a case where two rounds of correspondence take place with both the member and the complainant, it is likely to take around four months before a case will be considered by the Investigation Committee. The cases which take less time are those which are more straightforward, particularly those where the member has been convicted in a criminal court or has failed to report disciplinary proceedings taken by another professional body, as less correspondence is required in order to establish the facts.

Of the four cases which took more than six months to reach the Investigation Committee, in two cases the investigation was suspended pending the outcome of court proceedings which related to the subject matter of the complaints. In another case the member pleaded that the illness of her dying husband made her unable to respond to the complaint. In the fourth case the complaint was associated with a separate complaint against the member and her own separate complaints against one of the complainants; the TDB considered it advisable to submit all three complaints to the Investigation Committee at the same time.

In 2012 the Investigation Committee met on four occasions, so some cases will have had to wait several weeks for the Committee's next meeting. As a rule, the Committee does not meet unless there are at least three cases to consider. Delays may also occur in cases where the member fails

to cooperate with the TDB. If this becomes apparent early in the process, the Reviewer may well decide to submit the complaint to the Investigation Committee without allowing the member an excessive amount of time to procrastinate.

Investigation Committee

The Investigation Committee held four meetings during the year. By way of innovation, two of these were held by conference calls as the agenda was light. Altogether the Committee considered four cases started in 2011 and seven cases started in 2012. It also resolved one case which had been adjourned at the end of 2011 pending the receipt of additional information.

Of the twelve cases completed in 2012, the Investigation Committee rejected only one case on the grounds that no Prima Facie case had been established. The complainant thereupon appealed to an Investigatory Assessor, who dismissed the appeal, despite the submission of substantial additional evidence which the member ought to have provided for the Investigation Committee. Eight of the remaining cases considered by the Investigation Committee were regarded as sufficiently serious to be referred to a Disciplinary Tribunal. In the remaining three cases the Committee found that although there was a prima facie case, the complaint was not sufficiently serious to warrant referral to a Tribunal. One case alleged that the member had failed to correct misleading information on his office stationery every time it was used. In two other cases the Committee ordered that the case should rest on file for three years, so that if there is another complaint against the member during that period the original complaint can be reviewed. One of these cases involved the alleged provision of Inadequate Professional Service, the other the peremptory termination of services at a critical moment for the client.

Disciplinary Tribunal

Four Disciplinary Tribunals were held during 2012. Meeting in panels of three, the Tribunals dealt with five cases brought forward from 2011 and three cases referred in 2012. At the end of the year five cases were awaiting a hearing.

In all of the cases heard by the Disciplinary Tribunal in 2012 one or more of the charges was found proved. Brief details of each case are set out below.

- A member of the CIOT was charged with failing to take due care in his professional dealings by expressing to the police the opinion that the two complainants had acted illegally when he was not professionally competent to make such an accusation, and by the use of language to describe their behaviour which was excessive and thus demonstrated a lack of due care. The member admitted the charge, which the Tribunal thus found proved. The Tribunal concluded that the appropriate sanction was that the member be censured and ordered to write a letter of apology to each of the complainants. He was also ordered to pay part of the costs involved in bringing this case, in the sum of £4,332.
- A member of the CIOT was charged with failing to have proper regard for the technical and professional standards expected of her, in that she prepared a tax return in which she sought to set off income against a previous year's capital loss, when this was unlikely to be accepted by HMRC, and had failed to warn the client clearly enough so that she understood the risk of such action. The member claimed that she warned the client of the risk of making such a claim, but the latter had specifically requested her to submit it, on the understanding that any tax repaid would be returned if the claim failed. The Tribunal found that there was no reliable evidence that the defendant had warned the client of the likelihood that the claim would be disallowed; even if she had done so verbally, any such warning should have been set out in writing and repeated in subsequent correspondence with the client. The Tribunal regarded it as incumbent on a professional adviser who is instructed to make a claim that she knows is not allowable as a matter of law to give the strongest possible warning to the client and to consider whether she can continue to act for the client. The Tribunal found the charge against the member proved and considered that even if this was an isolated lapse it was sufficiently serious to warrant a censure. The Tribunal ordered the member to pay costs of £5,568.
- Two members of the CIOT (one of whom also belonged to the ATT) were charged with failing to take due care in their professional conduct and dealings; failing to uphold the professional standards of the CIOT and ATT; and conducting themselves improperly such that they were likely to bring discredit to themselves, the CIOT, the ATT and the tax profession. It was alleged that they had improperly accessed the email accounts of three directors of the company for which they had previously worked and / or had improperly taken advantage of knowledge of the passwords of those email accounts in order to access them. Both defendants had admitted the charges, which had been the subject of High Court

proceedings, and apologised to the three complainants and to the TDB. The Tribunal took account of the mitigation advanced by the defendants and accepted that they had acted out of character and were unlikely to be a risk to the public in the future. The Tribunal also took account of the monetary settlement paid as part of mediation of the High Court proceedings, and the fact that the TDB had accepted the plea on the basis that confidential information was not misused or passed on. The Tribunal concluded that the appropriate sanction was that the two members be censured and each ordered to pay costs of £1,685.50.

- A student member of the CIOT was found to have:
 - (i) Dishonestly stated on his student registration form for the CIOT that he had never been the subject of any disciplinary action by another professional body whereas he had been removed from the student register of the Association of Chartered Certified Accountants (ACCA) ten years earlier for dishonesty;
 - (ii) Failed to inform the CIOT that disciplinary action had been commenced against him by the ACCA, which resulted in his expulsion in September 2011;
 - (iii) Failed to inform the CIOT that a bankruptcy order was made against him in September 2011;
 - (iv) Failed to inform the CIOT that he had been the subject of criminal charges for fraud to which he had pleaded guilty and for which he had been

sentenced to six years' imprisonment in 2011; and

- (v) Conducted his practice improperly to such an extent as to be likely to bring discredit to himself, the CIOT, its membership and to the tax profession.

The member had been convicted of fraud by abuse of position and dishonestly making a false representation to make gain for himself or to cause loss to another or expose another to risk. In one scheme he diverted cheques from clients made out to HMRC into his company account. In another scheme he raised significant sums from investors who were told they were investing in currency trading, whereas he was not authorised by the Financial Services Authority to conduct such investments and appeared to have made a considerable loss on his trading. The Tribunal decided that in view of his serious dishonest conduct, the member should be expelled from the CIOT for charges (i) and (v). For the remaining three charges he should be censured. He was also ordered to pay costs of £2,461.

- A member of the CIOT was charged with failing to act with integrity, having 2011 been convicted of theft, and with failing to notify the CIOT of his conviction without delay. The background to his conviction arose from his position as treasurer of the friends of a primary school in Cumbria. Examination of the accounts for the charity disclosed discrepancies with statements of balances held with a building society. When the matter was referred to the police, the defendant admitted taking almost £5,000

from the friends' funds and then falsifying the building society statements. He was charged with theft, and sentenced to six months imprisonment. The Disciplinary Tribunal considered that the case was very serious and that, whilst there were some mitigating factors, the only reasonable and proper sanction was expulsion from the CIOT on each charge. He was ordered to pay costs of £2,053.

- A member of the ATT was charged with failing to act with integrity, having been convicted on his own admission of theft and dishonestly making false representations for gain, and with performing his professional work or business relationship improperly so as to bring discredit to himself, the ATT or its members. The member was the treasurer of the friends of a local primary school. Between August 2008 and October 2011 he stole over £26,000 from the friends' accounts. He also forged the signature of the head teacher on two cheques. Before the matter was reported to the police, the member admitted his guilt and repaid the money with a loan from his parents. He was convicted on three charges and sentenced to 12 months imprisonment suspended for two years and to 200 hours of unpaid work. The defendant informed the ATT of his conviction. Although there were mitigating circumstances, the Disciplinary Tribunal considered that these were outweighed by the aggravating factors. It concluded that the only appropriate sanction was expulsion from the ATT on each charge. The member was ordered to pay costs of £1,966.
- A member of the CIOT was charged with failing to show

courtesy and consideration towards a former client's successor adviser; failing to inform the CIOT that disciplinary action had been taken against her by the Institute of Chartered Accountants in England and Wales (ICAEW); and failing to respond to correspondence from the TDB without delay. The charges arose out of disciplinary action taken against the member following a complaint to the ICAEW. In April 2011, the Disciplinary Committee of the ICAEW determined that she was to be severely reprimanded, fined £3,000 and ordered to pay costs. Following her failure to pay the fine or costs, she was excluded from membership of the ICAEW. The member failed to report to the CIOT the disciplinary action taken by the ICAEW, as she was obliged to do. The Tribunal also found that she had failed to respond to several letters sent to her by the TDB and to provide any explanation regarding the conduct which had resulted in disciplinary action by the ICAEW. The Disciplinary Tribunal found the three charges proved and ordered that the member be censured in respect of each charge and pay costs of £2,481.

- A member of the CIOT was charged with failing to act with integrity, having been convicted at Blackfriars Crown Court in January 2012 of cheating the public revenue. The defendant had been found guilty of a criminal charge which alleged that he had dishonestly inflated the value of shares in a number of Channel Island companies with the intention of cheating the public revenue. He was sentenced to 18 months' imprisonment. The Disciplinary Tribunal found that there was

conclusive evidence of his failure to act with integrity. In the light of its finding, the Tribunal ordered that the defendant should be expelled from the CIOT and pay costs of £3,856.

Appeal Tribunal

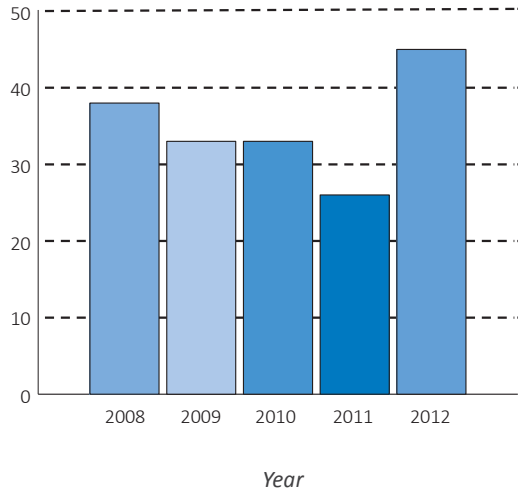
One Appeal Tribunal took place in 2012 in order to hear an appeal from a member of the ATT against an order of the Disciplinary Tribunal to suspend him for five years. The Disciplinary Tribunal had found that the member had committed ten breaches of the Professional Rules and Practice Guidelines, involving two separate clients. In respect of each client, the Tribunal found that the member had failed to ensure that the client was aware of the basis on which fees would be charged; failed to ensure that those charges were fair in relation to the services performed and the benefit of those services to the client; improperly exercised a lien on the client's documents; failed to take due care in his conduct towards his client; and failed to provide information

requested by the TDB or to respond without unreasonable delay to correspondence from the TDB. The Disciplinary Tribunal considered that the matters found proven were sufficiently serious as to warrant the member's suspension from membership of the ATT for a period of five years. The Tribunal also awarded costs of £13,000.

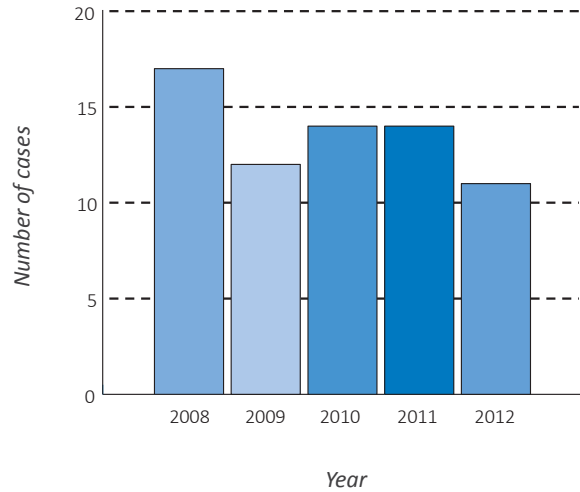
The member sought to appeal against the findings of the Disciplinary Tribunal in respect of seven of the charges; against the sanction; and against the order for costs. The grounds of appeal were considered by a Disciplinary Assessor, who allowed the appeal to go forward but solely in respect of the sanction imposed by the Disciplinary Tribunal. The Appeal Tribunal sat in March 2012 to hear the appeal against the sanction. The Tribunal accepted that, under the Taxation Disciplinary Scheme 2008, the maximum term for a sentence of suspension was two years. The Appeal Tribunal therefore decided to substitute a term of eighteen months' suspension, and confirmed the order for costs.

CASES HANDLED IN 2012

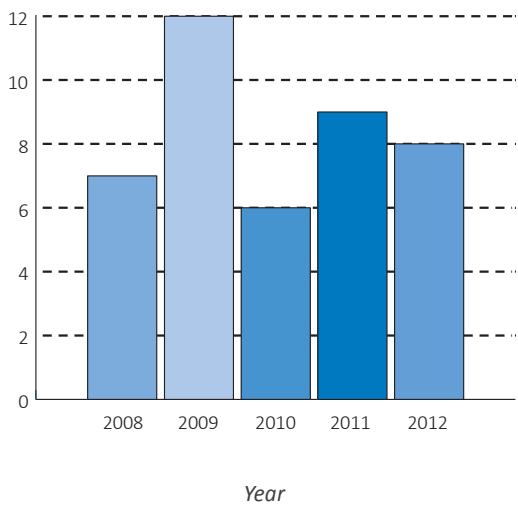
Total number of new complaints received



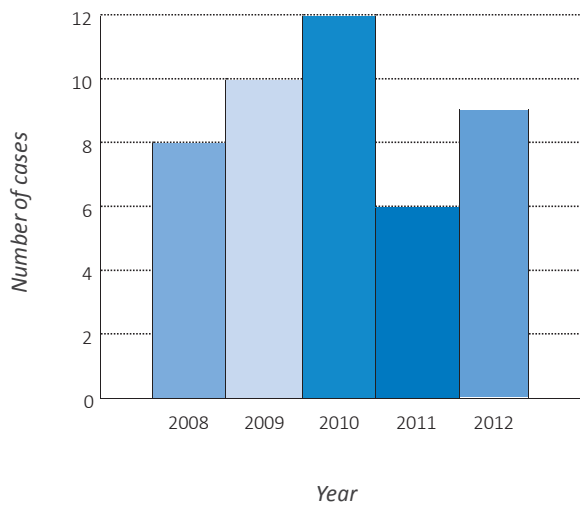
Cases referred to the Investigation Committee



Cases referred to a Disciplinary Tribunal



Disciplinary and Appeal Hearings



TIMESCALES FOR HANDLING COMPLAINTS

The Board has adopted timescales for handling each stage of the complaints and disciplinary process. These are designed to ensure that the administrative processes are handled efficiently and expeditiously.

As soon as a letter of complaint is received, the complainant is sent the Board's standard complaint form. Once this is returned, the Reviewer has to consider whether the complaint falls outside the jurisdiction of the Board; whether it falls outside the prescribed time limits; whether the complaint is trivial or vexatious; or whether the complaint might be amenable to conciliation between the parties. If the complaint concerns a breach of the administrative requirements of one of the participant bodies, the Reviewer may impose a Fixed Penalty order.

Provided the complaint does not fall into one of the above categories, it will then be investigated. In that event, there will normally be two rounds of correspondence involving both the complainant and the member. The case is then prepared for a meeting of the Investigation Committee. The Board anticipates that on average it takes around 3—4 months between receipt of the complaint form and the Investigation Committee hearing. In some cases, not every stage of the process will be required, for example where the complaint is made by one of the participant bodies and the issue is clear-cut. Delays may, however, be caused by either the member or the complainant in submitting correspondence. There may also be cases involving large quantities of paper which may arrive at a time when other work has to take priority. Investigation Committee meetings are now scheduled every three months, but it may sometimes be necessary to postpone a meeting if there is insufficient business to warrant convening a meeting. This

occurred once in 2012, resulting in a gap of four months between meetings.

Once a case is referred to the Disciplinary Tribunal, the various stages of the process are less easy to timetable than the earlier processes. The overall timescale depends largely on the member and the presenting barrister, who are responsible for producing most of the documentation required for the Tribunal. There are also timed procedures laid down in the Regulations. On average, however, the TDB aims to ensure that a Disciplinary Tribunal will take place within 5 or 6 months of the Investigation Committee decision. If a Disciplinary Assessor decides that there are valid grounds for an appeal, the aim is for an Appeal Tribunal to meet within a month or so of that decision.

The Board has approved several Key Performance Indicators (KPI's), which provide a basis for monitoring performance. Four KPI's have been agreed, as set out below.

1. The percentage of cases in which the Reviewer determines within 2 months of receipt of the Complaint Form whether the case will proceed to the Investigation Committee.
2. The percentage of cases in which the Reviewer is unable to determine a referral to the Investigation Committee within 2 months, owing to delays by either the member or the complainant in responding to correspondence from the TDB by the due dates.
3. The percentage of cases which are ready for consideration by an Investigation Committee within 2.5 months of receiving all the requested correspondence from

both the complainant and the member.

4. The percentage of cases which are ready to be heard by a Disciplinary Tribunal within 5 months of their being referred by the Investigation Committee or by the Reviewer.

The statistics contained in the previous section of this Report demonstrate the extent to which the above targets were achieved in 2012.

1. In 38 of the new cases (84 per cent, compared with 81 per cent in 2011) the Reviewer determined within two months of receipt of the Complaint Form whether the case would proceed to the Investigation Committee.
2. In 7 cases (16 per cent, compared with 19 per cent in 2011) the Reviewer was unable to determine a referral to the Investigation Committee within two months. In one case, a criminal prosecution was pending, whilst another complaint was under investigation by the ICAEW. In two cases, the complainant refused to accept that the TDB had no jurisdiction, and the cases were referred to Investigatory Assessors, who upheld the Reviewer's decisions. In one case the member was ill and unable to respond to the complaint, but as she had returned the documents which the complainant was seeking, the matter was held in abeyance. In one case, despite reminders the complainant failed to comment on the member's detailed response to the complaint, and the case was eventually closed. In the

final case, the complaint was associated with a parallel complaint against another member, and it proved impossible to obtain adequate evidence against the first member, with the result that the complaint had to be dropped.

3. 10 of the 11 cases (91 per cent, compared with 100 per cent in 2011) were ready for consideration by an Investigation Committee within 2.5 months of receiving all the requested correspondence from both the complainant and the member. The only exception was a case where, despite repeated requests, the member failed to respond to the comments made by the complainant regarding her initial response.
4. 5 of the 8 cases (63 per cent, compared with 50 per cent in 2011) heard by a Disciplinary Tribunal were ready well within five months of their being referred by the Investigation Committee or by the Reviewer. Of the three remaining cases, one required a preliminary hearing, which was held within four months of referral, although the Disciplinary Tribunal did not begin until three months later. In another case, which arose out of disciplinary action taken by the ICAEW, the member claimed to be appealing against the ICAEW finding, and the TDB deferred the Disciplinary Tribunal accordingly. The remaining case took six months between referral and hearing, having necessitated some prior discussions between the complainant's legal advisers and the Board's presenter.

PANEL MEMBERSHIP

Investigation Panel

The Investigation Panel had thirteen members throughout the year. Five members are selected on a rotating basis to sit as an Investigation Committee, with lay members in the majority. Four meetings of the Committee took place during 2012, of which two were held by conference call. Four members reviewed cases as Investigatory Assessors in the course of the year.

As a rule, members are now appointed to the Panel for an initial term of four years. They will usually be reappointed for a further such term, serving for a maximum of eight years.

The members of the Panel, their category of membership, the dates of their original appointment, and the number of meetings they attended are as follows:

<u>Name</u>	<u>Category</u>	<u>Date of first appointment</u>	<u>Meetings attended 2012</u>
Amanda Dean	CIOT	1 July 2009	2
Ged Fisher	Lay	1 September 2010	1
Elizabeth Hinds	Lay	1 April 2007	1
Binka Layton	CIOT	1 July 2009	2
Bill Nelson	Lay	1 April 2009	2
Marilyn Palmer	ATT	1 April 2007	1
Paul Pharaoh	Lay	1 April 2009	2
Robert Prigg	Lay	1 January 2011	1
Peter Reid	Lay	1 September 2010	2
Rachel Skells	CIOT	1 July 2009	1
Linda Stone	Lay	1 April 2007	0
Robin Thomas	CIOT	1 July 2009	2
Judy Worthington	Lay	1 September 2008	2

Robert Prigg resigned from the Panel at the end of the year, following his appointment as a District Judge.

Disciplinary Panel

The Disciplinary Panel had twelve members for most of the year. Four Disciplinary Tribunals were held during the year and one Appeal Tribunal. Tribunals are composed of a legally-qualified chairman, a member of the ATT or CIOT and a lay member. One case required a preliminary hearing before a legally-qualified member.

As with the Investigation Panel, most members are now appointed for an initial term of four years, and will usually be reappointed for a further such term, serving for a maximum of eight years.

The members of the Panel, their category of membership, the dates of their original appointment and the number of Tribunals they attended are as follows:

<u>Name</u>	<u>Category</u>	<u>Date of first appointment</u>	<u>Tribunals attended 2012</u>
Richard Barlow	Lawyer	1 September 2008	0
Nigel Bremner	Lawyer	1 January 2011	1
Sarah Brown	Lay	1 September 2010	3
Valerie Charbit	Lawyer	1 April 2009	2
Brian Cleave	Lawyer	1 January 2006	1
Julie Dingwall	ATT	1 October 2007	1
David Frost	CIOT	1 July 2009	1
Marjorie Kostick	CIOT	1 July 2009	1
Roger Lucking	Lay	1 September 2010	2
Angus Nicol	Lawyer	1 January 2006	1
William Silsby	CIOT	11 March 2008	2
Andrew Young	Lawyer	1 September 2008	0

William Silsby resigned from the Panel in October, following his appointment as a consultant to the CIOT.

CONSULTATION WITH PANEL MEMBERS

Since the introduction of the new Scheme at the beginning of 2008, the TDB has held an annual consultation meeting for Board Directors and Panel members. This gives members the opportunity to raise any issues arising from their experience of particular cases or any other topics relevant to the work of the TDB. A consultation meeting took place in February 2012, when a number of issues were raised.

Interim orders

In 2011 the participants had requested the TDB to introduce a procedure for interim orders. It was thought important for the TDB to be able to act quickly to suspend a member when this seemed necessary in order to protect the public or safeguard the reputation of the profession. Such cases were likely to be infrequent. The change would require amendments to the Regulations, which were being drafted by Counsel. Although it might seem desirable to act quickly in a case where a member was accused of a serious criminal offence, it was necessary to have regard to the rights of the member and to exercise the power only where there was a clear public interest. It was pointed out that the health professions had a great deal of experience in applying interim orders and that a recent court case had prompted the Bar Standards Board to consider introducing such orders. It was thought unlikely that the TDB could be held liable if members of the public were harmed by a member in a case where no interim order was made.

Preparation of written tribunal decisions

Tribunal members were reminded of the importance of preparing their written decisions promptly: some recent cases had taken two months or more. It was pointed out that in a complex case the decision can take a considerable time to prepare. In one recent case the parties were given a draft of the main part of the decision whilst representations on costs were awaited. It was suggested that it might be possible to set a time limit for such representations, as it was important to be able to publish and implement Tribunal orders at the earliest opportunity.

Introduction of PRPG 2011

When the new Professional Rules and Practice Guidelines (PRPG) were introduced in March 2011, the TDB had advised panel members that they took immediate effect. This had resulted in the framing of charges based on the new rules, even though the alleged misconduct had taken place before the new PRPG were introduced. In one recent case the charges had to be amended when the Tribunal determined that the relevant rules were those applying at the time of the alleged misconduct. The TDB had subsequently clarified that this was the correct procedure, although some members might then be charged under both sets of rules.

Publication of defendants' names

Some surprise was expressed over a decision in one of the previous year's cases not to publish the name of the defendant against whom an adverse finding was made. This appeared to be contrary to the TDB guidance, especially as no reasons were set out in the decision. The meeting noted that in the courts even acquitted defendants were named, and agreed that it was important that members should be named when an adverse finding had been made against them. The only exceptions might be where there were clear exceptional circumstances and the public interest required the name to be withheld.

Publication of Tribunal decisions

A suggestion was made that the decisions of Tribunals should be compiled and made available to Tribunal members as an authoritative handbook of TDB case law. These might then be published, eg on the TDB website. It was noted that some disciplinary bodies published their full decisions, whilst others did not. The TDB's practice had been to publish a summary of the complaint, with the findings and orders made by the Tribunal, but the detailed decision was not published. A number of those present favoured full publication of decisions on the website, although in cases where the member was acquitted he could be invited to decide whether he wished his name to appear. It would also be helpful if Tribunals were to flag up issues that could be of wider interest or importance.

Adequacy of prima facie evidence

A recent case was raised in which the presenter had referred the complaint back

to the Investigation Committee because of inadequate evidence, suggesting that the Committee needed more evidence before it could be satisfied there was a prima facie case. This raised the question of how good the evidence had to be before an Investigation Committee could decide there was a prima facie case, and how this could be ascertained when the presenter was the first professional lawyer to examine the complaint. Whilst the Committee was permitted to seek additional evidence before deciding there was a prima facie case, it could not assume that more evidence would be available. In discussion it was suggested that it was open to the Investigation Committee to determine that a case met the prima facie threshold but did not have a realistic prospect of succeeding before a Disciplinary Tribunal. On the other hand panel members were also told in their training that even if there was some doubt a case should be forwarded so that the evidence could be tested in the proper forum of a Tribunal hearing.

Awards of costs

Concern was expressed as to whether defendants had much idea of the level of costs that might be ordered by a Disciplinary Tribunal. Costs could sometimes be a greater penalty than a fine or reprimand and cause greater stress for defendants. It might be desirable to introduce a less costly procedure in cases where the member accepted the charges. Defendants were told to be ready to produce any mitigation regarding costs, but it was difficult to provide an estimate of costs without appearing to prejudge the issue and forecasting the length of time the Tribunal would spend on the case. It might

be possible to inform defendants of the average cost of a day's hearing, but most of the costs were incurred before the start of the Tribunal. Members facing a Disciplinary Tribunal might be advised to look at the TDB website to see the level of costs imposed in recent cases.

It was noted that some disciplinary bodies limit the costs to those incurred up to the time the member accepts the charge. It might then be possible to have a paper hearing, thereby avoiding the need for the presenter to attend the hearing, provided that the member was not able to change his plea. Ideally, in such cases there might be some means of expediting the case from the Investigation Committee to the Disciplinary Tribunal without the extensive preparation carried out by the presenter.

An alternative approach might be to reintroduce consent orders which would be agreed between the member and the IC. . The TDB used to have consent orders until the new Scheme was introduced in 2008. Consent orders had the advantages of speed and efficiency, but could be criticised in that they required the Investigation Committee to be both judge and jury in its own cause and could give the appearance of constituting deals done behind closed doors. The Board Directors said that they would examine these points further and consider whether changes could usefully be introduced.

Conclusion

Those attending commented that they found the consultation process to be worthwhile. Most of the issues raised by Panel members have been followed up by the TDB. A similar meeting was held in February 2013.

FINANCIAL INFORMATION AND ACCOUNTS

Governance

The Taxation Disciplinary Scheme is administered by the Board of Directors, which has a wide range of experience in the legal, accountancy and tax professions. Following an open selection and interview process, the Directors are appointed by agreement between the participating bodies.

The Directors meet regularly to deal with executive business in accordance with the policies and priorities of the Company. The Directors have identified the principal risk areas, and the process of risk assessment is an integral part of the management function.

Statement of Directors' Responsibilities

The directors are responsible for preparing the Directors' Report and the financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial year. Under that law the directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law). Under company law the directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing these financial statements, the directors are required to:

- select suitable accounting policies and apply them consistently;
- make judgements and accounting estimates that are reasonable and prudent; and

- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping adequate accounting records that are sufficient to show and explain the company's transactions and disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Taxation

In a letter sent to the Board in May 2010, HMRC confirmed that Panel members would not need to be covered by PAYE arrangements in respect of their fees. HMRC also confirmed that, on the basis of its current financial arrangements, the TDB would not be liable for Corporation Tax.

Disclosure of information to the auditors

Each director has taken steps that they ought to have taken as a director in order to make themselves aware of any relevant audit information and to establish that the company's auditors are aware of that information. The directors confirm that there is no relevant information that they know of and which they know the auditors are unaware of.

Reappointment of auditors

In accordance with section 485 of the Companies Act 2006, a resolution for the

re-appointment of A-spire Business Partners Ltd as auditors of the company is to be proposed at the forthcoming Annual General Meeting.

Small company provisions

This report has been prepared in accordance with the small companies regime under the Companies Act 2006.

Approved by the Board on 30 May 2013 and signed on its behalf by:

N A Nagler
Company Secretary

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE TAXATION DISCIPLINARY BOARD LTD

We have audited the financial statements of The Taxation Disciplinary Board Ltd for the year ended 31 December 2012, set out on pages 28 to 33. The financial reporting framework that has been applied in their preparation is applicable law and the Financial Reporting Standard for Smaller Entities (Effective April 2008) (United Kingdom Generally Accepted Accounting Practice applicable to Smaller Entities).

This report is made solely to the company's members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditor

As explained more fully in the Statement of Directors' Responsibilities (set out on

page 25), the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's (APB's) Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Directors' Report to identify material

inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

Opinion on the financial statements

In our opinion the financial statements:

- give a true and fair view of the state of the company's affairs as at 31 December 2012 and of its profit for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice applicable to Smaller Entities; and
- have been prepared in accordance with the requirements of the Companies Act 2006.

Opinion on other matter prescribed by the Companies Act 2006

In our opinion the information given in the Directors' Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which we are required to report by exception

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of directors' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit; or
- the directors were not entitled to prepare the financial statements and the Directors' Report in accordance with the small companies regime.

Barbara Shapiro
(Senior Statutory Auditor)

For and on behalf of A-spire Business Partners Ltd, Statutory Auditor
32 Byron Hill Road
Harrow on the Hill
Middlesex
HA2 0HY

Date 27 June 2013

The Taxation Disciplinary Board Ltd
Profit and Loss Account for the Year Ended 31 December 2012

	Note	2012 £	2011 £
Income		148,749	192,348
Direct costs		(28,522)	(39,574)
		120,227	152,774
Administrative expenses		(100,085)	(99,886)
		20,142	52,888
Other interest receivable and similar income		151	50
Surplus for the year		20,293	52,938
Transfer due to participating bodies		20,293	52,938

Balance Sheet at 31 December 2012

	Note	2012 £	2011 £
Current assets			
Debtors	6	-	361
Cash at bank and in hand		79,667	103,892
		79,667	104,253
Creditors: Amounts falling due within one year	7	(79,667)	(104,253)
Net assets/(liabilities)		-	-
Shareholders' funds/(deficit)		-	-

These accounts have been prepared in accordance with the provisions applicable to companies subject to the small companies regime and in accordance with the Financial Reporting Standard for Smaller Entities (effective 2008).

Approved by the Board on 30 May 2013 and signed on its behalf by:

D Hudson LI B	J Dewhurst LI B, BCL, CTA (Fellow)	F L Darby CTA (Fellow), ATT
Chairman	Director	Director

The notes on pages 29 to 31 form an integral part of these financial statements.

The Taxation Disciplinary Board Ltd
Notes to the Financial Statements for the Year Ended 31 December 2012

2 Accounting policies

Basis of preparation

The financial statements have been prepared under the historical cost convention and in accordance with the Financial Reporting Standard for Smaller Entities (effective April 2008).

Turnover

The Scheme is financed mainly by the Chartered Institute of Taxation and the Association of Taxation Technicians. The Investigation Committee and Disciplinary Tribunal costs are shared between the two bodies in proportion to the numbers of cases dealt with from each body. All other costs are shared equally. The Institute of Indirect Taxation was a participant in the Board during 2011 and 2012, and made a flat-rate contribution towards the Board's costs; it has since merged with the Chartered Institute of Taxation.

The Disciplinary Tribunal is empowered to make orders for the payment of costs and fines. In addition, the Board is empowered to make orders for the payment of Fixed Penalty charges for breaches of the participants' administrative requirements. Credit is taken on receipt; sums outstanding are not included in the accounts.

Expenditure

Expenditure includes fees and expenses of Board and Panel members for meetings and hearings held in the year.

3 Net contributions to expenditure from participating bodies

Contributions by the participating bodies are calculated to cover the Scheme's total expenditure less fines and costs recovered in the year, so that there is neither a surplus nor a deficit.

	2012	2011
	£	£
The Chartered Institute of Taxation (CIOT)	69,425	86,693
The Association of Taxation Technicians (ATT)	54,000	57,202
	<u>123,425</u>	<u>143,895</u>
Allocation of surplus	(20,293)	(52,938)
	<u><u>103,132</u></u>	<u><u>90,957</u></u>

The Taxation Disciplinary Board Ltd
Notes to the Financial Statements for the Year Ended 31 December 2012

..... continued

4 Directors' remuneration

The directors' remuneration for the year was as follows:

	2012 £	2011 £
Remuneration	11,050	8,400

5 Movements on the accounts with the participating bodies

	CIOT £	ATT £
Balance as at 1 January 2012	(97,603)	361
Contributions	(69,425)	(54,000)
	(167,028)	(53,639)
Repayment	50,000	-
Net cost allocations	60,960	39,844
Balance as at 31 December 2012	<u>(56,068)</u>	<u>(13,795)</u>

6 Debtors

	2012 £	2011 £
The Association of Taxation Technicians	<u>-</u>	<u>361</u>

7 Creditors: Amounts falling due within one year

	2012 £	2011 £
Chartered Institute of Taxation	56,068	97,603
The Association of Taxation Technicians	13,795	-
Accruals	9,804	6,650
	<u>79,667</u>	<u>104,253</u>

The Taxation Disciplinary Board Ltd
Notes to the Financial Statements for the Year Ended 31 December 2012
..... continued

8 Allocation of Surplus for the year

	2012	2011
	£	£
Surplus/(Deficit) for the year	20,293	52,938
Allocated to the participating bodies:		
The Chartered Institute of Taxation	(6,137)	(55,849)
The Association of Taxation Technicians	(14,156)	2,911
	<u>(20,293)</u>	<u>(52,938)</u>

9 Related Parties

The Chartered Institute of Taxation, the Association of Taxation Technicians and the Institute of Indirect Taxation are related parties by virtue of their ability to influence the conduct of the company's affairs. In August 2012 the Institute of Indirect Taxation merged with the Chartered Institute of Taxation, and ceased to be a member of the Board.

The Taxation Disciplinary Board Ltd
Detailed Profit and Loss Account for the Year Ended 31 December 2012

	2012 £	2011 £
Income		
Contributions to expenditure from participating bodies	124,025	144,494
Fines, costs and fixed penalty awards recovered	24,724	47,854
	<u>148,749</u>	<u>192,348</u>
 Direct costs		
Legal costs	26,044	36,614
Transcripts for tribunals	1,933	2,154
Court applications	545	806
	<u>28,522</u>	<u>39,574</u>
 Employment costs		
Wages and salaries	53,098	51,283
Staff NIC (Employers)	5,518	4,867
Directors NIC (Employers)	818	1,925
Directors fees and expenses	11,050	8,400
Training for panel members	4,599	4,935
Amounts payable to panel members	12,870	16,030
	<u>87,953</u>	<u>87,440</u>
 Establishment costs		
Light, heat and power	520	377
Insurance	1,068	1,024
	<u>1,588</u>	<u>1,401</u>
 General administrative expenses		
Telephone and fax	655	598
Computer software and maintenance costs	952	248
Printing, postage and stationery	984	901
Sundry expenses	58	61
Auditor's remuneration - Regulatory audit fee	1,920	1,800
Review of scheme and regulations	2,040	3,000
Travel and subsistence	3,935	4,407
	<u>10,544</u>	<u>11,015</u>

This page does not form part of the statutory financial statements

The Taxation Disciplinary Board Ltd
Detailed Profit and Loss Account for the Year Ended 31 December 2012
..... continued

	2012 £	2011 £
Finance charges		
Bank charges	<u>-</u>	<u>30</u>
Other interest receivable and similar income		
Bank interest receivable	<u>151</u>	<u>50</u>
	<u>151</u>	<u>50</u>

This page does not form part of the statutory financial statements

ANNEX

THE TAXATION DISCIPLINARY SCHEME 2008

In January 2008, a new Taxation Disciplinary Scheme came into operation, after securing the approval of the Councils of the ATT and the CIOT. This followed an in-depth review of the previous Scheme carried out by a firm of solicitors specialising in professional regulation.

The main elements of the disciplinary process are set out below.

1 The review stage

The procedures set out in the new 2008 Scheme and accompanying Regulations build upon the processes developed under the previous Scheme. The initial handling of complaints remains a function of a TDB staff member, known as the Reviewer, who processes correspondence from the complainant and ensures that the member has every opportunity to respond to the allegations made by the complainant. The Reviewer may reject complaints that appear to be trivial, vexatious, more than a year old or outside the jurisdiction of the Scheme. If the complaint appears to be minor and to raise no disciplinary issues, it may be sent for conciliation. The complainant may appeal to an independent Investigatory Assessor against any decision to reject a complaint; the Assessor will then decide whether the case should continue.

If the complaint involves a breach of the participants' administrative rules, such as failure to meet the CPD requirements, there is provision for the Reviewer to impose a Fixed Penalty. If the member objects, he may request a hearing by a Disciplinary Tribunal (although if the charges are proved, additional costs are also likely to be imposed).

This is similar to the Fixed Penalty arrangements that apply in the Magistrates Courts.

2. The Investigation Committee

As under the previous Scheme, most cases will start with an Investigation Committee consideration as to whether there is a prima facie case to answer. The Investigation Committee comprises up to five members, with a majority of lay members and at least one professional member. These members are drawn from a larger Investigation Panel appointed by the TDB: the members of the Panel are listed on Page 17.

The Investigation Committee considers all cases referred to it on the basis of a dossier of written submissions from the complainant and the member. If it decides that a prima facie case has not been made out or that the case is not serious or that there is unlikely to be evidence to substantiate it before a Disciplinary Tribunal, it may conclude that the case should go no further. The Committee must give reasons for its decision and these are sent to both the complainant and the member. The complainant has a right to appeal against such a decision to an Investigatory Assessor appointed by the TDB, who may reject the appeal or require a new Investigation Committee to reconsider the complaint.

All other prima facie cases will be referred to a Disciplinary Tribunal. The Investigation Committee no longer has the power to award minor sanctions without a hearing, but with the member's consent. Thus all significant complaints will be heard by a Disciplinary Tribunal.

3. The Interim Orders Panel

From the beginning of 2013 the Investigation Committee has been required to consider whether there may be a need to impose an interim order on a member whose case is referred to a Disciplinary Tribunal. This power is available where the member has been charged or convicted of a criminal offence, expelled by another professional body or his competence is seriously impaired through ill health or mental incapacity. In such cases the Committee must consider whether that member presents a risk of harm to the public or of damage to the reputation of the profession. In that event, the case will be referred to an Interim Orders Panel composed of three members of the Disciplinary Panel, with a legally-qualified member as chairman. The Panel will consider whether an interim order should be made. The effect of the order would be to suspend the member from the ATT or CIOT or to impose conditions on his professional activities pending the hearing at the Disciplinary Tribunal. The member may make representations to the Panel, but he does not have the right to attend its meeting.. The Panel will meet in private and set out its decision in writing, including the reasons for its conclusions. A decision to impose an interim order will be published, but the written reasons will not be published.

4. The Disciplinary Tribunal

The Disciplinary Tribunal comprises three members selected from a separate Disciplinary Panel appointed by the TDB. The majority of members of the Panel are not members of the ATT or the CIOT. (The members of the Panel are listed on Page 18.) Each Tribunal will include a legally-qualified chairman, a lay person and a member of either the ATT or the CIOT. Its function is to hear

evidence submitted by the Presenter of the case (who is appointed by the TDB to prepare the charges and present the case) and from the member (or his/her representative) and to listen to any witnesses. The member is not obliged to attend, although it is advisable for him/her to do so. But the member is required to cooperate with, and respond to correspondence from, the TDB.

At a Disciplinary Tribunal the standard of proof is the civil standard, and if the allegations are found proven the Tribunal has a wide range of sanctions, which include an order to apologise, a warning as to future conduct, a censure, a fine, suspension or expulsion from the body of which the defendant is a member. When the allegations are found proved, the Tribunal will normally award costs against a defendant and order that its finding be published in Tax Adviser and on the TDB's website. In cases of inadequate professional service there is a power to award compensation where the complainant can demonstrate a quantifiable material loss, up to a maximum of £5,000.

5. The Appeal Tribunal

Following a finding by a Disciplinary Tribunal, both the member and the TDB may seek to appeal. Appeals are permitted only on specified grounds. An independent Disciplinary Assessor will be appointed by the TDB from the Disciplinary Panel to determine whether the grounds of appeal meet the criteria. If they do, the case will go to an Appeal Tribunal, which has a similar composition to a Disciplinary Tribunal. The Appeal Tribunal may uphold, reject or vary any order made by a Disciplinary Tribunal. Its decision is the final stage in the TDB's procedures.



**TAXATION
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