

**TAXATION  
DISCIPLINARY  
BOARD**

**ANNUAL REPORT**

**and**

**ACCOUNTS**

**2013**

# **THE TAXATION DISCIPLINARY BOARD 2013**

## **Board Directors**

**Desmond Hudson** LI B (Chairman) (2009 - 2017)

**F Larry Darby** CTA (Fellow) ATT (2012 – 2015, renewable to 2018)

**John Dewhurst** LI B, BCL, CTA (Fellow) (2011 - 2017)

(Term of appointment shown in brackets)

## **Executive Officers**

### **Executive Director and Company Secretary**

Neville Nagler OBE, MA

### **Secretary to Disciplinary Committee**

Peter Douglas FCA

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## **CHAIRMAN'S REPORT**

### **Overview**

Last year the TDB received 47 new complaints, a record number and dealt with a further 12 complaints outstanding from 2012. In addition, 13 cases were heard by Disciplinary Tribunals, whilst a further 3 cases were outstanding at the end of the year. Findings were made against all the defendants, none of whom sought to appeal.

So we are very busy. I am, however, pleased to report that despite this further growth in the number of cases we are processing, we have once again managed to absorb this increase without longer case-handling times, and with no increase in the number of cases outstanding at the end of the year. These achievements reflect the hard work of our two part-time staff members, the support of our legal advisers and our panel members. It is also noteworthy that our procedures and the fairness of our decisions have been upheld against challenges in the courts (up to and including the Court of Appeal) brought by former members looking for excuses to evade paying the costs awarded against them.

Overall the number of complaints we receive is low, when set against the size of the membership (including students) of our two sponsoring bodies. This may partly reflect the fact that many members also belong to other professional bodies, and the complainant may choose in the first instance to complain to one of those, but we are able to identify cases where a member of the CIOT or ATT has been dealt with by another accountancy body, and we follow up accordingly. So the tax profession should be pleased that the

overall percentage of members whose conduct results in a complaint is so low.

We continue to do our best to balance the public interest in ensuring that our processes and responses to the concerns of complainants are fair and proportionate, whilst remaining effective in dealing with misconduct. We are, however, finding that complainants are submitting more complex complaints, with much more paperwork and many more allegations to consider. Such complexity adds to the TDB workload. So too does the time spent in attempting to enforce the decisions of Disciplinary Tribunals, particularly awards of costs, against uncooperative members.

### **Interim orders**

Last year I reported that during 2012 the Councils of our sponsor bodies approved amendments to the Taxation Disciplinary Scheme in order to permit the introduction of interim orders. Whilst the use of such powers is likely to be rare, there have been a few cases in recent years where the public, and the reputations of our sponsor bodies, might have been better protected had such powers been available to the TDB.

Our new Regulations took effect from January 2013. These provide that whenever the Investigation Committee decides to refer a case to a Disciplinary Tribunal it must also assess whether one of the criteria for imposing an interim order have been met. In that event, it may decide to refer the case to an Interim Orders Panel, who will determine whether, in advance of the Disciplinary Tribunal hearing, it is in the public interest or necessary for the protection of the public for an order to be imposed, usually to

suspend the member. Early in 2014 the Board introduced amendments to the Regulations to enable an Interim Orders Panel to require the defendant to pay some costs at that stage in a case where the overall costs are thought likely to be substantial: these will of course be repaid if the defendant is acquitted.

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. So far no cases have been referred for an interim order.

### **Publication of Tribunal decisions**

Since the new Scheme came into effect in 2008, it has been our practice to publish on our website and in Tax Adviser brief details of the decisions made by our Disciplinary and Appeal Tribunals. Over the past year, there have been a number of requests for us to publish the full written decisions of our Tribunals, including the reasons for those decisions. Most other disciplinary bodies do so, including the ICAEW, the Solicitors Disciplinary Tribunal and most healthcare bodies. Following a recent high profile case, a number of calls were made for us to publish the full written report, not least because in this case the defendant issued press statements misrepresenting the actual findings of the Tribunal.

Following consultation with our participants, we have decided to publish the full written decisions of Tribunals. We are doing this by means of a hyperlink on the website, so we still publish a summary on the website and in Tax Adviser, but those who are interested are able to read the full Tribunal decision. This version is redacted to remove the names of complainants and other third parties. As hitherto, publication only takes place once all appeal processes are completed.

### **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 in August 2012, the Institute of Indirect Taxation (IIT) was for eighteen months a third participant in the work of the Board. Since then, two other organisations have been engaged in confidential discussions with the CIOT, the ATT and the TDB. We have held some exploratory discussions with these bodies, which have shown some interest in the possibility of working with the TDB. We have stressed to them the benefit of having an independent body like TDB to enable them to respond to the challenge that the in-house handling of complaints can sometimes appear biased. We can also 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.

### **Recovery and enforcement**

When the new Taxation Disciplinary Scheme was introduced in 2008, the Board adopted the principle that “the polluter pays”. Tribunals are expected to make a cost 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 holding the Tribunal hearing, including the fees for the barrister presenting the case. In most cases overall costs are of the order of £2-3,000. Where such orders are made many members pay immediately. We are prepared to give a sympathetic hearing to members who ask to pay by instalments, which we are ready to consider where circumstances warrant. 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 court has

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. As I have highlighted in previous Annual Reports, this has become a serious problem over the last few years. We are anxious to set the policy tone of determined enforcement, without throwing good money after bad. We have also further improved our management processes to monitor cases where there is genuine hardship and either suspend the collection of payments or write off irrecoverable sums.

One of the changes we have introduced is a new simplified procedure in cases where the defendant accepts the charges and confirms that he will not contest them during the Tribunal hearing. In such a case it will be possible to dispense with the appointment of a presenter; instead, the case will be presented by our Executive Director. The member will still have the opportunity to submit pleas in mitigation, but this new procedure should lead to shorter hearings and reduce the level of costs which the defendant is ordered to pay.

### **Budgetary performance**

Our efforts in chasing up recalcitrant parties to TDB hearings over the past three years have delivered substantial sums in fines and cost recoveries (almost £100,000 during the years 2011--2013). These recoveries, albeit unpredictable, have contributed to large budgetary surpluses in previous years and enabled us to reduce the contributions paid by our participants.

In setting our annual budget, our aim is to break even, after assuming a modest and we believe 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 all the necessary costs, even if they are eventually due to be repaid by members. The trouble is that it only needs one complex case which lasts several days before a Tribunal to increase our expenditure considerably. Last year saw one particular Tribunal case involving a member practising outside the UK, which lasted a record six days and resulted in a cost order of £62,375. None of this has been repaid, which has caused us to incur a substantial deficit last year (around £32,000), partly financed by previous years' surpluses. We seek to manage this volatility by timely and regular review of case load and budgets. The work of our executive team in this regard is and has been invaluable.

### **Help for members with personal problems**

A number of the complaints which we receive relate to members who are experiencing personal difficulties. They may be suffering from ill-health or other personal problems which help to explain the unsatisfactory conduct which has led to the complaint. In fairness to the complainant, the TDB has to confine its attention to the issue of conduct. On informing the member of a complaint, we routinely draw attention to the CIOT/ ATT confidential helpline which is advertised in Tax Adviser. But we understand that very few members call the helpline (only one or two a year). We have invited the participants to consider whether more might be done. But in the absence of any system for regular inspections or visits to members, it may be difficult to pick up when a member is out of his depth or too chaotic or unwell to provide a satisfactory level of service to clients. The Professional Standards Committee has discussed whether the ATT and CIOT might do more to identify members with such problems

and provide some advice or support. It is clearly undesirable that the first time such members come to notice is only once the disciplinary process has started.

### **Panel members**

Towards the end of 2013 we undertook a process to recruit six new lay panel members (ie those who are not tax practitioners). The response was almost overwhelming, with 83 applications. The standard of the applicants was very high, and the Board spent a good deal of time sifting the applications and interviewing the most promising applicants. In the end we could not avoid disappointing some very able candidates, but we were satisfied that our new appointments will maintain the high quality of the work undertaken by our panel members. In March 2014 we said goodbye to Angus Nicol and Brian Cleave, both of whom have made an outstanding contribution to the work of the TDB. Both have served as chairmen of many of our Disciplinary Tribunals since the new Scheme took effect in 2008, and we owe them a great debt for the care, fairness and efficiency with which they have chaired Tribunals and written up their decisions. The new members took up their appointments in April 2014 and after a day's induction training later that month, became eligible to sit on our Committees and Tribunals.

In February 2013 we held our annual consultation meeting with our panel members: details are reported elsewhere in this Annual Report. We held another such event in May 2014, thereby enabling our new members to take part in our discussions. As always, we greatly value the input and feedback we receive from these consultations. As the Board Directors are careful to maintain an operational separation from the work of our panel members, such consultations enable us to

form a better sense of the issues that are raised in the course of their meetings and hearings.

### **The outlook for 2014**

The Board Directors remain satisfied that no significant issues are likely to arise from our governance structure, procedural arrangements or legal developments. We do not, therefore, anticipate making further changes to our Regulations in 2014, unless some are required to enable us to cooperate with some other body that wishes to work with us. The Board is satisfied that all the necessary support and working relationships are in place to enable the TDB to operate efficiently in accordance with its key objectives, particularly maintaining its independence.

Once again I would wish to express the Board's appreciation to our dedicated Executive Director, Neville Nagler, who offers invaluable advice to my fellow Directors and me, ensures the smooth running of the organisation and provides a major 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. We in turn are all grateful to our panel members (all of whose names are listed elsewhere), who through their hard work, expertise and dedication perform a difficult task fairly and effectively.

The Board remains satisfied that the 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. Together we

shall all continue to work towards ensuring 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 and ATT 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 and ATT;
- Maintain high standards of behaviour and performance among members of the CIOT and ATT;
- Ensure that confidence is maintained in the CIOT and ATT.

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 and ATT (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 and ATT.



## CASES HANDLED IN 2013

### Complaints received by TDB

The TDB received a record number of new complaints during 2013. 47 new complaints were received during the year, compared with the previous high of 45 in 2012. 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	47
2013	<u>47</u>	<u>49</u>
Total	<u>383</u>	<u>371</u>

The table below sets out in more detail the handling of cases by the TDB in 2012 and 2013.

	Number of Cases	
	<b>2013</b>	<b>2012</b>
<b>Complaints received by Reviewer</b>		
Brought forward from previous year	12	12
New cases in year, involving allegation of:		
(i) Conduct unbecoming a member	3	3
(ii) Inadequate professional service	3	4
(iii) Breach of professional rules	22	19
(iv) Breach of administrative rules	<u>19</u>	<u>19</u>
	<u>59</u>	<u>57</u>
Cases withdrawn or not pursued by complainant	22	10
Cases rejected by Reviewer (trivial, vexatious or outside TDB jurisdiction)	3	9
Cases where fixed penalty imposed	7	15
Cases referred to Investigation Committee	15	11
Cases referred directly by Reviewer for presentation to Disciplinary Tribunal	0	0
Cases carried forward to next year	<u>12</u>	<u>12</u>
	<u>59</u>	<u>57</u>

**Investigation Committee**

No prima facie case	3	1
Prima facie case but no action taken	0	1
Case ordered to rest on file	1	2
Referred for presentation to the Disciplinary Tribunal	11	8
Cases adjourned pending receipt of more information	<u>0</u>	<u>0</u>
	<u>15</u>	<u>12</u>

**Disciplinary Tribunal**

Cases awaiting hearing at end of previous year	5	5
New cases referred by the Investigation Committee	11	8
New cases referred directly by the Reviewer	<u>0</u>	<u>0</u>
	<u>16</u>	<u>13</u>

Case dismissed	0	0
Sanction imposed	13	8
Cases awaiting hearing at end of year	<u>3</u>	<u>5</u>
	<u>16</u>	<u>13</u>

**Sanctions imposed by Disciplinary Tribunals**

Censure	2	4
Censure & fine	2	0
Order to pay compensation	1	0
Suspension	1	0
Expulsion	<u>7</u>	<u>4</u>
	<u>13</u>	<u>8</u>

**Appeal Tribunal**

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

In 2013, the 47 new complaints were made against 63 professional members, of whom 30 belonged to the ATT (including one complaint made against a group of 17 members), 31 to the CIOT and 2 had dual membership. In addition, 12 cases were brought forward from the previous year, giving a total of 59 cases to process. 12 cases were carried forward to 2014; most of which were received late in the year.

**Source of complaint**

The new complainants in 2013 fell into the following categories:

- 5 were current clients
- 10 were former clients
- 3 were former employers
- 1 was a former employee of a client
- 3 were successor advisers
- 1 was a will beneficiary
- 1 was a member of the ATT

9 were referred by the TDB for having been subject to criminal conviction or to disciplinary action taken by another regulatory body (ie the Institute of Chartered Accountants in England and Wales)

14 were referred by the CIOT or ATT for failure to provide AML returns or after a criminal conviction.

### **Grounds for complaint**

The 47 new complaints received in 2013 raised in total 71 separate grounds for complaint. These fell into the following categories:

Failure to respond to correspondence in a timely manner	17
Failure to register for AML purposes	13
Failure to report disciplinary action taken by another professional body	8
Inflating fees or charging for work not done	6
Incompetence	5
Discreditable conduct	4
Fraud or fraudulent trading	4
Criminal convictions	4
Inadequate professional service	3
Failing in duty of care	3
Poaching clients	2
Dishonesty	1
Professional misconduct	<u>1</u>
Total number of grounds for complaint	<u>71</u>

### **Handling of complaints by the Reviewer**

A number of cases were withdrawn before they reached the Investigation Committee. Three cases were rejected by the Reviewer on the grounds that they fell outside the jurisdiction of the Board: two related to former members, whilst the third case did not disclose any grounds of misconduct. In one further case which the Reviewer rejected on the grounds that it fell outside the scope of the Professional Rules and Practice Guidelines and thus outside the jurisdiction of the TDB, the complainant appealed to an Investigatory Assessor, who determined that the matter came within the jurisdiction of the TDB and must be considered by the Investigation Committee.

In seven 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 22 cases the complainant decided not to pursue the complaint. Most of these cases were brought by the ATT and CIOT for members' failure to respond to repeated reminders about their AML registration: TDB intervention usually led to a quick resolution. A further three cases were suspended pending litigation, whilst eight complainants either withdrew their complaints or failed to supply evidence to support them.

Fifteen cases were submitted to the Investigation Committee in 2013, 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 fifteen 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>2012</u>	<u>2013</u>
1 month	1	0
2 months	1	0
3 months	0	1
4 months	2	3
5 months	0	7
6 months	3	2
<u>More than 6 months</u>	<u>4</u>	<u>2</u>
Total	<u>11</u>	<u>15</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.

In both of the cases which took more than six months to reach the Investigation Committee, the members were ill and unable to provide responses to the complaints.

In 2013 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. One of these was held by conference call as the agenda was light. Altogether the Committee considered seven cases started in 2012 and eight cases started in 2013.

Of the fifteen cases dealt with in 2013, the Investigation Committee rejected four cases on the grounds that no prima facie case had been established. Two of the complainants thereupon appealed to an Investigatory Assessor. One of the appeals was dismissed, on the basis that there was no evidence to suggest that the Committee's decision was wrong. In the other case the Assessor ruled in favour of the complainant and ordered that the case be considered afresh by a Second investigation Committee. The latter concluded that there was some prima facie evidence to support one of the allegations made by the complainant, but the matter was not so serious as to warrant referral to a Disciplinary Tribunal. It therefore ordered the matter to rest on file, which means that the case can be reviewed if there is another complaint against that member within the ensuing three years.

The remaining eleven cases considered by the Investigation Committee were regarded

as sufficiently serious to be referred to a Disciplinary Tribunal.

### **Disciplinary Tribunal**

Six Disciplinary Tribunals were held during 2013. Meeting in panels of three, the Tribunals dealt with five cases brought forward from 2012 and eight cases referred in 2013. At the end of the year three cases were awaiting a hearing.

In all of the cases heard by the Disciplinary Tribunal in 2013 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 obtaining professional work in an unprofessional manner by canvassing, soliciting and endeavouring to entice away clients of the complainant, his former employers, in breach of the share sale agreement which he had entered into with them. Two other charges against the member were dropped at the outset of the proceedings. The defendant admitted the remaining charge, which reflected a finding made in a previous High Court judgment following a claim made by the complainant against the member. The Tribunal found that the charge was proved, but determined that it found no lack of integrity in the defendant's admitted conduct. The Tribunal ordered that the member should be censured and that, as two charges had been dropped, he should pay only 90 per cent of the costs of the case, amounting to £2,752.
- A member of the ATT was charged with failing to take due care in his professional dealings with the complainant, a group of companies, in particular by preparing two different versions of the accounts of one of the

companies, one of which was sent to Companies House and the other was sent at a later date to the complainant. He was also charged with failing to ensure that the complainant, as a new client, was aware of the basis on which fees would be charged, prior to undertaking work for them. The defendant admitted the first charge, which was found to be proved. Although the defendant maintained that there was a verbal agreement regarding the fees payable by the complainant, the Tribunal was concerned that there was no letter of engagement or other written communication stating what his fees would be. The Tribunal therefore found the charge proved. The Tribunal ordered that the member should be censured for each of the breaches of the PRPG which it had found, and should pay costs in the sum of £3,773.

- A Fellow of the ATT was charged with failing to provide the complainant with an adequate professional service in that she failed to submit his tax return on time and failed to respond to communications (including telephone calls) during 2011. The Tribunal found that the defendant knew well in advance of the 31 January 2011 tax deadline that there was a complex calculation required and that she should have sought to collate further information from the client at an earlier stage. Her failure to specifically request and highlight the missing information resulted in her failing to submit the tax return on time. A second charge of carrying out her professional work without a proper regard for the technical and professional standards expected was not found proven. The Tribunal determined that the proportionate sanction in this case was to order the member to pay

compensation of £2,226.16 to the client, reflecting the interest charges and penalty cost which he had paid to HMRC due to the late filing of his tax return. The Tribunal also ordered the payment of costs of £5,976.

- Following a six-day hearing, a Fellow of the CIOT working in Hong Kong was found to have committed six separate breaches of the fundamental principle of integrity. These breaches arose from complaints made by one client, one former colleague and a former joint venture partner in Singapore. Upon allegations of dishonesty being proved, two further charges were not pursued. The member submitted detailed written submissions in her defence but did not attend the hearing and was not represented for most of the hearing. She denied any charges of dishonesty. However, the Tribunal found that:
  - (1) She had dishonestly used trust funds, entrusted to the care of one of her companies, to make payments that were not for the benefit of any of the beneficiaries of the trust, although no trust moneys were ultimately lost;
  - (2) She had failed to separate and maintain bank accounts belonging to the group of companies which she controlled from client funds held by or on behalf of the group;
  - (3) She sought to deceive a solicitor acting for one of the trusts managed by one of her companies by relying on a bank statement which she knew or ought to have known was forged;
  - (4) She dishonestly withdrew funds from a Singapore company which was part of her group and put it into an account operated by one of her Hong Kong companies;

(5) and (6) She dishonestly submitted two applications to add one of her companies as a bank signatory to a client company's bank account without the knowledge of their owners.

The Tribunal recorded that the defendant had continually denied all the charges, except charge (2) which was broadly admitted, and had never acknowledged that she had been guilty of any kind of wrongdoing nor given any indication that she had any insight into the seriousness of the charges found against her. Against this background, the Tribunal determined that the only possible sanction was to order the defendant's expulsion from membership of the CIOT. The Tribunal also ordered that she should pay costs of the hearing in the sum of £62,375.

- A member of the CIOT was found to have breached the fundamental principles of integrity and professional behaviour by engaging in and/ or being party to illegal activity in November 2007 and May 2008 and by acting improperly to such an extent as to be likely to bring discredit to himself, to the CIOT, to its membership and to the profession. The defendant had been convicted on two counts of insider dealing at Southwark Crown Court in July 2012, for which he was sentenced to 18 months imprisonment. Although his conduct was not directly related to his practice, the Tribunal considered that dishonesty outside professional practice had an equally damaging effect on the reputation of the individual and of any professional body to which he belonged. The Tribunal determined that the only appropriate sanction was expulsion from membership of the CIOT. He was also ordered to pay costs of £1,950.

- Two members, one from the ATT and the other from the CIOT, both failed to comply with the relevant money laundering legislation by failing to renew their annual registration or to notify the ATT or CIOT of their new supervisory authority. Both ignored all correspondence on the subject from the ATT, the CIOT and the TDB. By virtue of these failings, both were also found to have failed to uphold the requisite professional standards or to act with due courtesy towards the ATT/CIOT and the TDB.

Although the ATT defendant stated that he had experienced ill-health, the Tribunal considered that his failings were serious. It therefore ordered that he be censured on each of the four charges and pay a fine of £115 to reflect the saving he had made from his failure to re-register under the anti-money laundering scheme. He was also ordered to pay costs of £2,252. In the case of the CIOT member, the Tribunal considered that her failure to engage in any way with the CIOT or the TDB was serious, and considered expelling her from membership of the CIOT. However, she had already been excluded from membership in March 2013 for non-payment of her subscription. The Tribunal therefore decided that she should be censured on each of the four charges and pay a fine of £1,000. She was also ordered to pay costs of £2,245.

- A member of the ATT and CIOT was found to have breached the fundamental principles of integrity and professional behaviour by being party to illegal activity between January 2006 and April 2010 and by acting improperly to such an extent as to be likely to bring discredit to himself, to the ATT and to the CIOT. The defendant was convicted of conspiracy to cheat

the public revenue at Birmingham Crown Court in March 2013, for which he was sentenced to 8.5 years imprisonment and 6 years disqualification as a director. Although he did not contest the charges before the Tribunal, several aggravating features of the member's conduct were noted, namely that his conviction involved defrauding the taxpayer of substantial sums of money; that the fraudulent scheme, if undetected, was intended to continue for a further number of years; and that he had pleaded "not guilty" at his trial. In these circumstances, the Tribunal determined that the only appropriate sanction was expulsion from membership of the ATT and CIOT. The member was also ordered to pay costs of £1,908.

- An ATT student was found to have breached the fundamental principle of integrity by being party to illegal activity before Spring 2010, for which he had been convicted at Manchester Crown Court on 29 September 2011; that he had failed to notify the ATT that he had been charged with a financial crime or that he had subsequently been convicted; and that he had failed to notify the ATT that he had been disqualified as a director. The defendant had been convicted of conspiracy to cheat the public revenue, for which he was sentenced to 2 years imprisonment and 5 years disqualification as a director. The conviction arose from his participation in a group of four men who claimed VAT repayments for a non-existent trade in chainsaws. The Tribunal took account of a number of letters of testimony to his good behaviour, his efforts to reform his life and his charitable activities. However, it noted that he had continued to participate in the fraudulent scheme even after

being told that it was illegal. It concluded that for such serious misconduct, public confidence would be undermined by a sanction other than removal from the ATT student register. It thus ordered his removal from the register in respect of the principal charge and censured him on the other three charges. He was also ordered to pay costs of £2,025.

- A member of both the ATT and CIOT had failed to carry out his professional work with a proper regard for the technical and professional standards expected; had performed his professional work improperly, inefficiently, negligently or incompletely to such an extent as to bring discredit to himself, the CIOT and the ATT; was discourteous and inconsiderate in the manner in which he terminated his engagement with the complainant; and knowingly or recklessly supplied information to the complainant which was false or misleading. The charges arose from his failure to ensure that the complainant company's annual return for 2012 was submitted to Companies House by the due date. In the face of several reminders from Companies House, he repeatedly assured the complainants that he had correctly submitted the return, had spoken with staff at Companies House and that the matter had been resolved. Eventually he submitted the form online three months late, by which time Companies House had announced its intention to remove the company from its register. Once the complainant sought an explanation for the defendant's behaviour, he immediately terminated the engagement in an abrupt email. Taking account of medical evidence submitted on his behalf, the Tribunal suspended him from membership of the ATT and CIOT for two years,

censured him, and ordered that he pay costs of £4,109. The defendant subsequently resigned from the ATT and CIOT.

- A member of the ATT was found to have breached the fundamental principles of integrity and professional behaviour by his conviction for a criminal offence in March 2013 and by acting improperly to such an extent as to be likely to bring discredit to himself and to the ATT. He had also failed to inform the ATT of his being charged with a financial crime and his subsequent conviction. The defendant had pleaded guilty to two offences of conspiracy to cheat the public revenue at Newcastle Crown Court in March 2013, for which he was sentenced to three years' imprisonment. The offences involved falsifying documents and manipulating the Construction Industry Scheme returns of his clients. The Tribunal determined that the only appropriate sanction was expulsion from membership of the ATT. The defendant was also ordered to pay costs of £2,539.
- An ATT student was found to have engaged in conduct unbecoming and to have failed to inform the ATT of his criminal conviction for kidnapping. He had been convicted in February 2013 on his own admission on a charge of kidnapping and was sentenced to imprisonment for 29 weeks and a restraining order for ten years. The offence appeared to arise from a family dispute. The defendant admitted the charge before the Tribunal, and accepted that he had failed properly to inform the ATT of his conviction. A charge of failing to inform the ATT of his dismissal from his accountancy firm for gross misconduct was dismissed by the Tribunal. The Tribunal considered that the only



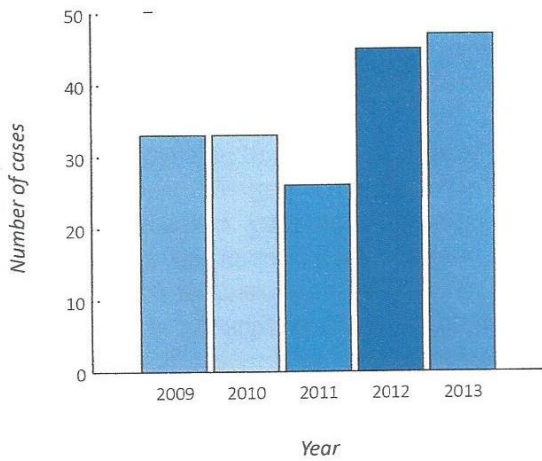
appropriate sanction in the light of the conviction was to order his removal from the ATT student register in respect of the principal charge. He was ordered to be censured on the other charge and to pay costs of £2,500.

**Appeal Tribunal**

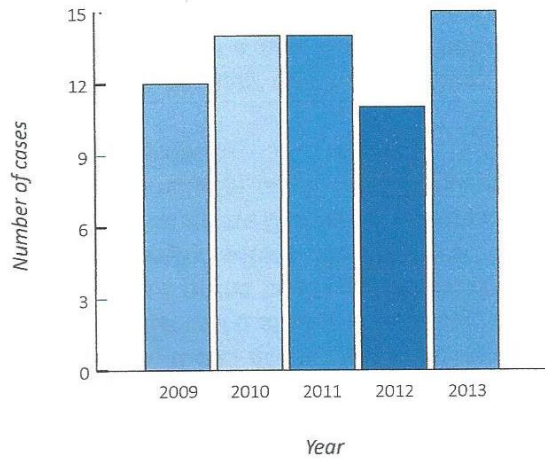
No cases were appealed during 2013, and no Appeal Tribunal hearings took place.

**CASES HANDLED IN 2013**

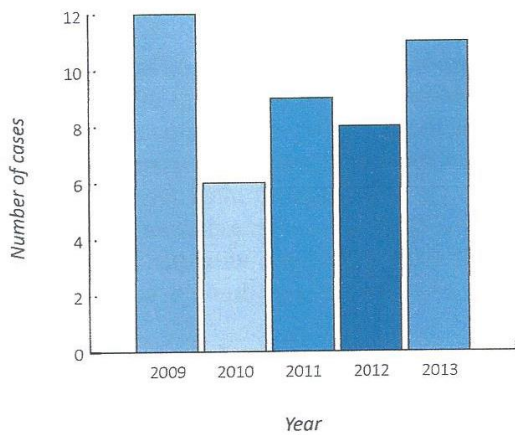
**Number of complaints received**



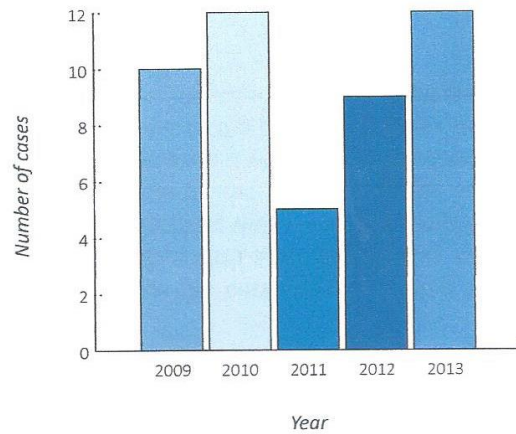
**Cases referred to the Investigation Committee**



**Cases referred to a Disciplinary Tribunal**



**Disciplinary and Appeal Tribunal 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 4-5 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.

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, which are to achieve an acceptable percentage of cases:

1. In which the Reviewer determines within 2 months of receipt of the Complaint Form whether the case will proceed to the Investigation Committee.
2. 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. 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. 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 this Report demonstrate the extent to which the above targets were achieved in 2013.

1. In 43 of the new cases (91 per cent, compared with 84 per cent in 2012) the Reviewer determined within two months of receipt of the Complaint Form whether the case would proceed to the Investigation Committee.
2. In 4 cases (9 per cent, compared with 16 per cent in 2012) the Reviewer was unable to determine a referral to the Investigation Committee within two months. In one case, civil litigation was pending and the TDB was asked to defer its investigation, whilst another complaint was under investigation by the ICAEW. One case was submitted by solicitors who sought to reopen matters already dealt with by the Investigation Committee; when this was explained, the solicitors said that they would seek instructions from their client, but nothing more was heard. In the fourth case the complainant failed to explain what misconduct was alleged against the member, and a request to clarify the grounds for complaint received no response as the complainant was in prison.

3. 10 of the 15 cases (67 per cent, compared with 91 per cent in 2012) 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. Four of the cases that fell short of the target involved members who, despite repeated requests, failed to provide any response to the complaint. In the fifth case the member was said to be ill, and it was necessary to conduct a third round of correspondence via the member's wife.
4. 10 of the 13 cases (77 per cent, compared with 63 per cent in 2012) 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, two involving the same member required a preliminary hearing, which was held within five months of referral. These cases also entailed considerable logistical difficulties owing to the need to fly in one witness and set up video conference arrangements in the Far East; the member also claimed that she would expect the Tribunal to last for three weeks if she were to defend herself properly, so accommodation and Tribunal participants were required to be free for that duration. In the third case, delays were caused by the illness and death of the member's husband and her subsequent sale of their practice.

## **PANEL MEMBERSHIP**

### **Investigation Panel**

The Investigation Panel had twelve 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 2013, one of which was held by conference call. Three 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 2013</u>
Amanda Dean	CIOT	1 July 2009	1
Ged Fisher	Lay	1 September 2010	3
Elizabeth Hinds	Lay	1 April 2007	2
Binka Layton	CIOT	1 July 2009	1
Bill Nelson	Lay	1 April 2009	2
Marilyn Palmer	ATT	1 April 2007	2
Paul Pharaoh	Lay	1 April 2009	2
Peter Reid	Lay	1 September 2010	2
Rachel Skells	CIOT	1 July 2009	2
Linda Stone	Lay	1 April 2007	1
Robin Thomas	CIOT	1 July 2009	2
Judy Worthington	Lay	1 September 2008	0

The appointments of two lay and one ATT member are due to terminate in March 2015, and three new lay members have been appointed from April 2014 so that a further round of recruitment for lay members will not be required next year. An additional ATT member will be appointed to the Panel from April 2015.

### **Disciplinary Panel**

The Disciplinary Panel had eleven members throughout the year. Six Disciplinary Tribunals were held during the year but no Appeal Tribunals. Tribunals are composed of a legally-qualified chairman, a member of the ATT or CIOT and a lay 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 2013</u>
Richard Barlow	Lawyer	1 September 2008	0
Nigel Bremner	Lawyer	1 January 2011	2
Sarah Brown	Lay	1 September 2010	3
Valerie Charbit	Lawyer	1 April 2009	1
Brian Cleave	Lawyer	1 January 2006	2
Julie Dingwall	ATT	1 October 2007	2
David Frost	CIOT	1 July 2009	1
Marjorie Kostick	CIOT	1 July 2009	3
Roger Lucking	Lay	1 September 2010	2
Angus Nicol	Lawyer	1 January 2006	1
Andrew Young	Lawyer	1 September 2008	1

The appointments of Brian Cleave and Angus Nicol terminated at the end of March 2014, and the opportunity was taken to appoint three new members to the Disciplinary Panel. The appointment of the ATT member on the Panel will terminate in March 2015, and a new ATT member will be recruited to replace her.

## 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 2013, when a number of issues were raised.

### Interim orders

New powers had been introduced in January 2013, and Panel members had been provided with guidance on the new procedures. The TDB published an article in the March edition of "Tax Adviser", so that members of the participant bodies could see how the powers would work. The meeting noted that members sitting on an Interim Orders Panel would not be eligible to sit on the subsequent Disciplinary Tribunal, and that the Tribunal would not be made aware of the reasons for a decision to impose an interim order until after the Tribunal had made its finding. Interim orders would be reported (without reasons given) on the TDB website and in "Tax Adviser". Although interim orders were more likely to impose suspension, the possibility of imposing conditions should also be considered (for example, a condition that the member must not hold clients' money). Although it was not always possible to monitor compliance with conditions, the same was true of some other sanctions: any failure by the member to comply with interim conditions could constitute a specific disciplinary offence. The TDB would consider preparing guidance on conditions, once there was some experience of how these might work. Where the member was suffering from a medical condition, the TDB would expect to

receive information from the member, supported by medical statements from his doctors.

### Proposed new Regulations

Following the previous year's discussion about costs, the Board had considered whether it might be possible to reduce its costs in cases where the member accepted the charge. The Board had in mind a simplified process for such cases, whereby the case would be presented to the Disciplinary Tribunal by the Reviewer rather than by a presenter (as in cases where the member refused to accept a financial penalty). It would be important to ensure that a member did not plead guilty purely as a means to reduce the level of costs, rather than because he was guilty; otherwise the Tribunal might not accept his guilty plea. It would also be important that a member who accepted the charge at an early stage did not subsequently change his plea.

The TDB also proposed to examine the scope for introducing an interim costs order once an interim order had been made. The TDB would invite Counsel to consider both these proposals and draft new Regulations. These came into effect in February 2014.

### Preparation of written Tribunal Decisions

One of the TDB Directors commented that, having read through a number of recent Tribunal decisions, he had been struck by the care and attention to detail contained in those decisions. As these constituted documents of record, it was essential that they be accurate and complete in every way, and that minor typos or mis-spellings be avoided. It was noted that TDB Tribunal Decisions were drafted by the Chairman and then circulated to the other members,

whereas in some other bodies Decisions were agreed at a meeting, thereby making it easier to identify and correct minor errors.

#### Different versions of the PRPG

One of the members of the Investigation Panel said that she had occasionally been concerned when a case spanned two editions of the PRPG. Most current cases were now based on the 2011 edition, which came into effect on 31 March 2011. But there were still some cases where the conduct in question occurred prior to that date and thus fell under the provisions of the 2006 edition. It was suggested that the relevant PRPG could only be determined on a pragmatic basis, but the Reviewer would try to identify for the IC which set of PRPG was relevant. However, it would be the presenter who made the final decision when drafting the charges for the DT. In some cases presenters might refer to the 2006 edition and/or the 2011 edition.

#### Sanctions for Tribunal cases

A member of the Disciplinary Panel referred to a recent case in which the Tribunal had found difficulty in ordering a suitable sanction as the case appeared to merit a fine but the Tribunal believed the member lacked the means to pay. The Tribunal had reconvened at a later date to determine the sanction, but at that stage the member was not present. Some of those present thought that it ought to be rare for a Tribunal to adjourn without determining the sanction on the day of the hearing. The Board thought it important to try to achieve consistency, while recognising that the individual circumstances of a case were seldom the same. The Indicative Sanctions Guidance, which had recently been updated, should help, but any suggestions for amendments or additions were encouraged, based on case experiences.

#### Cases involving a criminal conviction

A member of the Disciplinary Panel raised the issue of charges laid against a member who had received a criminal conviction. The charge relating to the conviction was usually straightforward to prove, as Regulation 25.5 provided that a certificate of conviction would constitute conclusive proof of the offence in question. However, in many cases the presenter added a further charge relating to the conduct underlying the conviction. In two recent cases charges had been based on the underlying offence, about which the Disciplinary Tribunal had very little evidence. In one case the additional charge had to be dropped, which did not matter as the other charge related to the conviction itself and was unanswerable, so there was no obvious need for the extra charge which had been added. In the second case the additional charge was found proved but might not have been if the member had chosen to attend and sought to contest it. Another member referred to another recent TDB case which arose out of civil proceedings in which a High Court judge had made character criticisms. The Tribunal was concerned that there was no evidence before it to substantiate the remarks made by the judge.

It was recognised that in cases which arose out of a criminal conviction, there might be little evidence available to the TDB. The member might want to explain that he did not accept the verdict and would have appealed if it had seemed worthwhile. This could make it difficult to prove a charge based on the underlying conduct, although some members of the Investigation Panel thought it important not to lose sight of the underlying conduct of which the member had been convicted. The meeting agreed that there would have to be good reason, and evidence, to justify a charge based on the underlying conduct.

### Amendment of charges

It was suggested that difficulties could sometimes arise for the member if charges were amended on the day of the hearing. Whilst the member may not be disadvantaged by a minor correction to the charge, where a substantive part of the charge was dropped the defendant may have wasted time preparing his defence on a matter that was no longer relevant. This suggested that it might be advisable for the IC to put forward fewer allegations against a member so that the presenter could focus on the essentials when drafting charges. Members of the Investigation Panel thought it important that the IC should convey the fullest possible account of the apparent misconduct. This was sometimes necessary in order to reinforce the severity of what the member appeared to have done and demonstrate a pattern of behaviour, so that any eventual sanction reflected these aspects. Before referring a case to the Disciplinary Tribunal the IC had to consider its seriousness and decide if some lesser disposal was appropriate. In a case where there appeared to be multiple counts of misconduct, it might be difficult for the IC to judge which would constitute the strongest charges or which charges would be most straightforward to prove: it was safer to forward every allegation where a prima facie case was found and then allow the presenter to decide on the charges. In a case where some public information about the member came to light after the case had been referred to a DT, it was possible for the TDB to lay additional charges prior to the hearing.

### Members running a practice inefficiently

There was some concern over a couple of recent cases where the member had been confused, disorganised and probably unable to run his/ her practice efficiently.

While the individual complaint against the member might not be serious, the effect on the member's clientele and the damage to the reputation of the profession could be significant. The TDB had worked with the CIOT and ATT to look at the provision of their support services. As a result the two bodies have drawn increased attention to their members' support services, whilst the TDB also mentions their availability when first contacting members against whom there is a complaint.

### Guidance for presenters

A Disciplinary Panel member asked whether the Board had given any guidance to presenters about the matters that should be disclosed to members of a Disciplinary Tribunal before the hearing. He said that in his recent experience there had been no consistency in approach between presenters. In one recent case, for example, no copy of the charges laid by the Board was supplied, whilst in another case charges were laid under PRPG 2006 and no copy of the relevant provisions was supplied. He invited the TDB to consider whether there was need for such guidance and, if so, the presenters should be consulted. However, he suggested that, as a minimum, members of a Disciplinary Tribunal should be provided in advance of the hearing with the following:

- 1) A note of the charge or charges laid against the defendant;
- 2) Copies of any provisions of the relevant PRPG referred to in the charge(s);
- 3) A brief note of the facts relied on in relation to each charge, together with the evidence that would be led in support;
- 4) An explanation of the way in which that evidence amounted to a breach of the PRPG provision(s) in question;



- 5) A list of any documents which the presenter proposed to rely on at the hearing together with copies of those documents.

#### 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 May 2014, details of which will be included in next year's Annual Report.

# 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. They are appointed by agreement between the participating bodies, following a process of advertising and open competition.

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. The Board is now engaged in the preparation of a more systematic process of identifying and formulating risk.

## **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 the 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 audit information that they know of and that they know the auditors are unaware of.

## **Reappointment of Auditors**

In accordance with section 485 of the Companies Act 2006, a resolution for the reappointment 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 24 April 2014 and signed on its behalf by . . .

N A Nagler  
Company Secretary

## **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.

### **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 2013, set out on pages 29 to 34. 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 26), 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 2013 and of its loss 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: 1 May 2014

**The Taxation Disciplinary Board Ltd**  
**Profit and Loss Account for the Year Ended 31 December 2013**

	Note	2013 £	2012 £
Income		158,357	148,749
Direct costs		<u>(54,064)</u>	<u>(28,522)</u>
		104,293	120,227
Administrative expenses		<u>(136,450)</u>	<u>(100,085)</u>
		(32,157)	20,142
Other interest receivable and similar income		<u>155</u>	<u>151</u>
Surplus/(Deficit) for the year		<u>(32,002)</u>	<u>20,293</u>
Transfer due to/(from) participating bodies		<u>(32,002)</u>	<u>20,293</u>

**Balance Sheet at 31 December 2013**

	Note	2013 £	2012 £
<b>Current assets</b>			
Debtors	6	6,687	-
Cash at bank and in hand		<u>55,247</u>	<u>79,667</u>
		61,934	79,667
Creditors: Amounts falling due within one year	7	<u>(61,934)</u>	<u>(79,667)</u>
Net assets/(liabilities)		<u>-</u>	<u>-</u>
Shareholders' funds/(deficit)		<u>-</u>	<u>-</u>

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 24 April 2014 and signed on its behalf by:

D Hudson LI B  
Chairman

J Dewhurst LI B, BCL, CTA (Fellow)  
Director

F L Darby CTA (Fellow), ATT  
Director

The notes on pages 30 to 32 form an integral part of these financial statements.

**The Taxation Disciplinary Board Ltd**  
**Notes to the Financial Statements for the Year Ended 31 December 2013**

**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, fines and compensation to complainants. 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.

	2013	2012
	£	£
The Chartered Institute of Taxation (CIOT)	92,269	69,425
The Association of Taxation Technicians (ATT)	40,205	54,000
	<u>132,474</u>	<u>123,425</u>
Allocation of deficit/(surplus)	32,002	(20,293)
	<u><u>164,476</u></u>	<u><u>103,132</u></u>

**The Taxation Disciplinary Board Ltd**

**Notes to the Financial Statements for the Year Ended 31 December 2013**

..... *continued*

**4 Directors' remuneration**

The directors' remuneration for the year was as follows:

	<b>2013</b>	<b>2012</b>
	<b>£</b>	<b>£</b>
Remuneration	<u>12,992</u>	<u>11,050</u>

**5 Movements on the accounts with the participating bodies**

	<b>CIOT</b>	<b>ATT</b>
	<b>£</b>	<b>£</b>
Balance as at 1 January 2013	(56,068)	(13,795)
Contributions	(92,269)	(40,205)
	<u>(148,337)</u>	<u>(54,000)</u>
Repayment	-	-
Net cost allocations	88,323	60,687
Balance as at 31 December 2013	<u>(60,014)</u>	<u>6,687</u>

**6 Debtors**

	<b>2013</b>	<b>2012</b>
	<b>£</b>	<b>£</b>
The Association of Taxation Technicians	<u>6,687</u>	<u>-</u>

**7 Creditors: Amounts falling due within one year**

	<b>2013</b>	<b>2012</b>
	<b>£</b>	<b>£</b>
Chartered Institute of Taxation	60,014	56,068
The Association of Taxation Technicians	-	13,795
Accruals	<u>1,920</u>	<u>9,804</u>
	<u>61,934</u>	<u>79,667</u>

**The Taxation Disciplinary Board Ltd**

**Notes to the Financial Statements for the Year Ended 31 December 2013**

..... *continued*

**8 Allocation of Surplus/(Deficit) for the year**

	<b>2013</b>	<b>2012</b>
	£	£
Surplus/(Deficit) for the year	(32,002)	20,293
Allocated to the participating bodies:		
The Chartered Institute of Taxation	11,520	(6,137)
The Association of Taxation Technicians	20,482	(14,156)
	<u>32,002</u>	<u>(20,293)</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.



**The Taxation Disciplinary Board Ltd**  
**Detailed Profit and Loss Account for the Year Ended 31 December 2013**

	2013 £	2012 £
<b>Income</b>		
Contributions to expenditure from participating bodies	132,474	124,025
Fines, costs and fixed penalty awards recovered	23,656	24,724
Compensation ordered by tribunals	2,227	-
	<u>158,357</u>	<u>148,749</u>
 <b>Direct costs</b>		
Compensation ordered by tribunals	2,972	-
Legal costs	41,691	26,044
Transcripts for tribunals	4,201	1,933
Court applications	-	545
Additional tribunal expenses	5,200	-
	<u>54,064</u>	<u>28,522</u>
 <b>Employment costs</b>		
Wages and salaries	66,451	53,098
Staff NIC (Employers)	8,493	5,518
Directors NIC (Employers)	1,313	818
Directors fees and expenses	12,992	11,050
Training for panel members	4,098	4,599
Amounts payable to panel members	22,210	12,870
Recruitment	1,925	-
	<u>117,482</u>	<u>87,953</u>
 <b>Establishment costs</b>		
Light, heat and power	520	520
Insurance	1,363	1,068
	<u>1,883</u>	<u>1,588</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 2013**  
*..... continued*

	2013 £	2012 £
<b>General administrative expenses</b>		
Telephone and fax	289	655
Computer software and maintenance costs	471	952
Printing, postage and stationery	1,083	984
Sundry expenses	63	58
Auditor's remuneration - Regulatory audit fee	1,920	1,920
Review of scheme and regulations	1,650	2,040
Travel and subsistence	11,541	3,935
	<u>17,017</u>	<u>10,544</u>
 <b>Finance charges</b>		
Bank charges	<u>68</u>	<u>-</u>
 <b>Other interest receivable and similar income</b>		
Bank interest receivable	<u>155</u>	<u>151</u>
	<u>155</u>	<u>151</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. From the beginning of 2014, all Tribunal decisions are published in full. 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.



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