

**TAXATION DISCIPLINARY BOARD**

**- and -**

**MR IAN WADHAMS**  
**(Membership Number CIOT 124323)**

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**DECISION**  
**(23.4.2021)**

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**INTRODUCTION:**

1. The Disciplinary Tribunal ('the Tribunal') sat on 23 April 2021 to hear charges brought by the Taxation Disciplinary Board ('TDB') against Mr Ian Wadhams. The hearing was conducted remotely by video conferencing. The Tribunal was chaired by Mr Andrew Granville Stafford (barrister) who was sitting with Mrs Janet Wilkins CTA (CIOT member) and Ms Gill Hawken (lay member). The Clerk to the Tribunal was Mr Nigel Bremner.
2. Neither Mr Wadhams nor the Presenter were present at the hearing. As Mr Wadhams had admitted the charges against him, the matter was heard pursuant to the simplified procedure in regulation 15 of the Taxation Disciplinary Scheme Regulations 2014 ('the Disciplinary Regulations').
3. The Tribunal was provided with the following documents:
  - (a) Case summary, document index and schedule prepared for the Investigation Committee;
  - (b) Chronology 1 (pre-referral to TDB) and Chronology 2 (post-referral to TDB);

(c) Schedule of charges;

(d) Mr Wadhams' Response Form;

(e) Copies of emails between the Clerk and Mr Wadhams from 2 February 2021 to 22 April 2021;

(f) Copies of seven emails between passing between the CIOT, Mr Wadhams and/or the TDB between October 2019 and December 2020.

**PROCEEDING IN ABSENCE:**

4. Regulation 17.3 of the Disciplinary Regulations permits a hearing to proceed in the absence of the respondent if the Tribunal is satisfied that notice of the hearing has been served on him in accordance with the regulations.
5. Regulation 14.1 of the Disciplinary Regulations requires the Clerk to send to the Defendant a notice setting out the charge against him and notifying him of the date, time and place of hearing. The notice must be accompanied by the documents specified in regulation 14.1(b) to (e) and must be sent at least 28 days before the hearing unless the member agrees to a shorter period.
6. Notice of the charges and accompanying documents were sent to Mr Wadhams on 2 February 2021. Mr Wadhams sent a Response Form dated 10 February 2021 to the TDB in which he accepted the charges and requested the matter be dealt with without an oral hearing.
7. On 15 April 2021 Mr Wadhams emailed the TDB confirming that he was willing to waive the normal notice period of 28 days and stating he did not wish to make any further representations to the Tribunal. In response to an email from the TDB on 20 April 2021, Mr Wadhams confirmed he was happy for the hearing to proceed in his absence.
8. The Committee noted that the copies of the emails referred to in 3(e) above had only been served on Mr Wadhams the day before the hearing. However, these were emails that were referred to in the case papers previously served and, save for one email from the CIOT to the TDB, were emails which had either been sent by or to Mr Wadhams.

They therefore did not constitute any new material which was detrimental to Mr Wadhams. In one respect they were helpful to him as they confirmed that he had now supplied his 2018 CPD records. Furthermore, Mr Wadhams confirmed in an email sent the evening before the hearing to the TDB that he did not feel disadvantaged by the late service of this information and that he still wished for the case to be heard today.

9. The Tribunal was satisfied that service had been effected in accordance with the Disciplinary Regulations. The charges had been notified to Mr Wadhams over two months ago and although he was notified of the hearing date on 15 April 2021 he had agreed to short notice.
10. The Tribunal was also satisfied it was appropriate to exercise its discretion to proceed in the absence of Mr Wadhams. He had clearly indicated his preference for the matter to be considered on the papers and had confirmed on 20 April 2021 that he was content for the matter to go ahead in his absence.
11. The Tribunal was satisfied that Mr Wadhams had consciously waived his right to attend. The Tribunal could see no useful purpose in adjourning the hearing. The Tribunal was satisfied there was a clear public interest in hearing this matter and determined to proceed in Mr Wadhams' absence.

#### **PRELIMINARY MATTERS:**

12. In his response to the notice of charges, Mr Wadhams requested the matter be dealt with in private. Hearings before this Tribunal are normally held in public although the Tribunal has a discretion to hold all or part of the hearing in private if it is in the interest of justice to do so. As neither party was present or represented at the hearing and no oral submissions were going to be made, the Tribunal could not identify any good reason for hearing this matter in private.

#### **CHARGES:**

The charges set out below refer to the following rules of the Professional Rules and Practice Guidelines 2018 of the Chartered Institute of Taxation (the "CIOT") and the Association of Taxation Technicians (the "ATT") (the "PRPG 2018"), in force from 9 November 2018:

- 2.12 Provision of information to the CIOT and ATT

2.12.1 A member must provide such information as is reasonably requested by the CIOT and ATT without unreasonable delay. A member must reply to correspondence from the CIOT and ATT which requires a response and again must do so without an unreasonable delay.

2.13 Compliance with the disciplinary process and orders from the TDB

2.13.2 A member must respond to correspondence from the TDB without unreasonable delay. Without unreasonable delay will normally mean, in the absence of special circumstances, within 30 days.

2.13.3 Failure to respond to correspondence or to comply with an order from the TDB without unreasonable delay will in itself constitute a disciplinary matter.

Charge 1 - Provision of information to CIOT

In breach of Rule 2.12.1 of the PRPG 2018, the Defendant has:

- (a) failed to provide information reasonably requested by the CIOT without unreasonable delay.
- (b) failed to reply to correspondence from the CIOT which requires a response without unreasonable delay.

The TDB's case is as follows:

- (1) On 30 July 2019, the CIOT requested that the Defendant provide it with copies of his CPD records for the year to 31 December 2018 which were requested as part of the review of Member CPD records for that year.
- (2) On 2 September 2019 the Defendant told CIOT he would provide these as soon as possible.
- (3) Around 15 October 2019 CIOT issued a reminder and provided a deadline of 31 October for the provision of the CPD records.
- (4) On 4 December a further reminder was issued and a deadline of 31 January 2020 was given.

- (5) On 12 February 2020 a new deadline of 19 February was given.
- (6) The Defendant responded on 20 February 2020 stating that he'd provide his CPD record "in the next few days". CIOT gave a new deadline of 24 February 2020.
- (7) As the CPD records first requested on 30 July 2019 had not been received by 2 March 2020, the Defendant was referred to the TDB.

### Charge 2 – Responding to correspondence from the TDB

In breach of Rule 2.13.2 of the PRPG 2018, the Defendant has failed to respond to correspondence from the TDB without unreasonable delay.

The TDB's case is as follows:

- (1) On 2 March 2020, the TDB received a referral from CIOT in relation to the Defendant's failure to respond to correspondence, specifically a failure to provide his CPD records for the year to 31 December 2018.
- (2) On 2 March 2020 the TDB wrote to the Defendant outlining the complaint against him and requesting a response by 31 March 2020.
- (3) The Defendant did not respond, but on 9 March 2020 it received an email from the Defendant's business partner advising it that the Defendant had been unwell and was unlikely to return to the office for at least two weeks and asking if the matter could be put in hold. She gave an undertaking that she would provide an update on the Defendant's health by 31 March. The TDB responded, agreeing to leave matters until 31 March but stating that if the period of illness was likely to be protracted then a progress report, the date of an estimated return to work, and a medical certificate would be required.
- (4) The TDB continued to communicate with the Defendant's business partner about his medical position and on 9 July 2020 again requested a medical certificate. His business partner stated that this request had been passed on to the Defendant on a number of occasions.

- (5) On 30 October 2020 the Defendant corresponded with the TDB for the first time since contacted by the TDB on 2 March 2020. He explained that he'd been recovering from a long illness and stated that he would provide his CPD records "as soon as possible".
- (6) On 3 November 2020 the TDB emailed the Defendant asking him to submit his CPD records without delay.
- (7) On 30 November 2020 the TDB emailed the Defendant issuing a deadline of close of business that day for confirmation that his CPD records had been provided to CIOT or the provision of a sick note saying that he was too ill to complete the outstanding information. Failure to do so would result in referral to the Investigating Committee on 7 December.
- (8) On 7 December 2020 the IC referred the Defendant to the Disciplinary Tribunal.
- (9) On 9 December 2020, the Defendant provided his CPD for 2018.

## **RESPONSE TO CHARGES**

13. In his Response Form signed and dated 10 February 2021, Mr Wadhams accepted both charge 1 and charge 2. In an email sent to the TDB on 9 February 2021 Mr Wadhams said 'I admit the charge made against me, namely that I did not submit my 2018 CDP [sic] records to the CIOT in the time requested.'

## **BACKGROUND:**

14. Charge 1 relates to a failure by Mr Wadhams to provide the CIOT with CPD records for the year to 31 December 2018. The CIOT contacted selected members, including Mr Wadhams, and wrote to them in July 2019 requesting them to provide their CPD records for 2018. No response was received from Mr Wadhams.
15. A reminder was sent by email to Mr Wadhams on or about 15 October 2019. A further chasing email was sent on 4 December 2020 asking Mr Wadhams to ensure his records were sent by 6 January 2020. He was warned that if no response was received the matter would be referred to the TDB.

16. On 12 February 2020 the CIOT sent a letter by both email and post to Mr Wadhams giving him until 19 February 2020 to provide his CPD records.
17. Mr Wadhams replied by email on 20 February 2020. He said he had only just received the letter as his firm had moved addresses. He said he would supply his 2018 CPD records 'in the next few days.' He apologised for the delay, which he said had been in part due to pressure of work. He accepted he had no excuse for failing to provide them.
18. The CIOT replied the same day pointing out that its previous correspondence had been sent by email as well as post. The CIOT gave Mr Wadhams a final deadline of 24 February 2020 to submit the records. No response was received from Mr Wadhams.
19. The TDB's case on charge 1 was that Mr Wadhams' failure to provide his CPD records for 2018, despite a number of requests to do so, amounted to a failure to provide information requested by, and a failure to reply to correspondence from, the CIOT without unreasonable delay. That therefore constituted a breach of rule 2.12.1 of the PRPG.
20. On 2 March 2020 Mr Wadhams was informed that the matter had been referred to the TDB. Charge 2 relates to Mr Wadhams' failure to respond to correspondence sent by the TDB as part of its investigation, in breach of Rule 2.13.2 of the PRPG.
21. TDB wrote to Mr Wadhams on 2 March 2020 outlining the complaint. A reply was received from Mr Wadhams' business partner, Ms 'B', requesting an extension of time to respond on the grounds of Mr Wadhams' health. An extension until 31 March 2020 was granted.
22. Further correspondence ensued between the TDB and Ms 'B' which is referred to in the TDB's case in relation to charge 2. It suffices to say that Ms 'B' indicated that Mr Wadhams was off work and was unable to deal with the TDB's enquiries on health grounds. On 9 July 2020 the TDB requested medical evidence be supplied but none was forthcoming. Ms 'B' was also asked to provide a signed form of authority from Mr Wadhams confirming he was happy for her to deal with this matter, which she did on 14 July 2020. The TDB expressed concern as to how Mr Wadhams was fit to provide such an authority but not able to deal with the matter himself.

23. On 21 July 2020 Ms 'B' emailed the TDB saying she was not acting for Mr Wadhams but merely keeping the TDB up to date. She said Mr Wadhams had been signed off work since 3 March 2020 but was hoping to return.
24. On 29 July 2020 Ms 'B' emailed the TDB saying that Mr Wadhams had 'the matter of the medical certificate in hand' and 'you will hear from us further next week'.
25. On 25 August 2020, in the absence of any medical evidence having been supplied to the TDB, Mr Wadhams was informed by email that the matter was being referred to the Investigation Committee.
26. The first communication the TDB received from Mr Wadhams was an email on 30 October 2020. He stated that he had sent a letter from his GP confirming his phased return to work. He also said the outstanding CPD records would be submitted as soon as possible.
27. On 3 November 2020 the TDB emailed Mr Wadhams acknowledging his email and asked him to submit his CPD records without delay. No reply was received and the TDB emailed Mr Wadhams again on 30 November 2020 saying unless the matter was dealt with by close of business that day, the complaint would be referred to the Investigation Committee. No reply was received.
28. The Investigation Committee referred the case to the Disciplinary Tribunal on 7 December 2020. As at that date the TDB had not received any medical evidence from Mr Wadhams nor any evidence of his CPD records being submitted to the CIOT.
29. On 9 December 2020 Mr Wadhams sent his CPD records for 2018 to the TDB by email. CIOT confirmed that it was satisfied they were sufficient to comply with Mr Wadhams's CPD requirements for the year 2018.
30. Mr Wadhams said in an email to the TDB sent on 9 February 2021 that he was signed off work in February 2020. He had no access to his work computer whilst he was signed off. On 21 September 2020 his GP suggested he start a phased return to work and he was now back full time.



31. He further said he had been a proud member of the CIOT since 1988 and had always met his obligations as a member. He expressed the view that this matter should not have got as far as this and urged the Tribunal to be lenient.

**DECISION:**

32. The Tribunal was satisfied that Mr Wadhams' admissions to the charges were appropriate in the light of the evidence before it and were both clear and unequivocal. It therefore found charge 1 and charge 2 proved by admission.

**SANCTION:**

33. The Tribunal bore in mind the purpose of a sanction is not to punish a member, albeit it may have that effect. The purpose is to promote the public interest which includes not only protecting the public but upholding the proper standards of conduct in the profession and maintaining its reputation. Any sanction imposed by the Tribunal must be appropriate and proportionate, taking into account the member's own interests and should be the least onerous measure that adequately meets the facts of the charges found proved. In determining what, if any, sanction to impose the Tribunal had regard to the Indicative Sanctions Guidance ('ISG').
34. The Tribunal considered there was very significant mitigation in respect of Mr Wadhams' ill health which, on the material available to the Tribunal, was ongoing during almost all of the period covered by charge 2. It also took into account that there were no previous disciplinary findings against Mr Wadhams. Although Mr Wadhams' failure to respond to the CIOT extended over a significant period, and was compounded by a later failure to respond to the TDB, the Tribunal accepted it was effectively dealing with a single episode. Of significance, in the Tribunal's view, was the fact that Mr Wadhams had actually done his CPD for the year in question, as has now been confirmed.
35. The Tribunal did not consider there were any particular aggravating features going beyond the facts of the charges themselves.

36. The Tribunal noted that there is no guideline sanction in the ISG for breach of Rules 2.12 and 2.13 of the PRPG. It noted that the guideline sanction for failing to comply with CPD requirements is censure.
37. The Tribunal considered that imposing no sanction or allowing the matter to rest on file would be inappropriate as neither would not appropriately mark the nature of Mr Wadhams' conduct.
38. The Tribunal considered that issuing a warning was not an appropriate sanction. Whilst a number of the relevant factors identified in the ISG were present, on balance the Tribunal did not feel this was a minor matter. There is a clear public interest in members of a professional body co-operating with their regulator. Compliance by members with their obligation to provide information is crucial if the regulator is to carry out its function to protect the public.
39. In this case the failure to provide CPD records to the CIOT persisted for a period of seven months and, despite an assurance they would be sent, Mr Wadhams had still not provided them by March 2020 when this matter was referred to the TDB. Mr Wadhams accepted in his email to the CIOT on 20 February 2020 that he did not have any excuse for not having done so.
40. In all the circumstances the Tribunal considered the failings in this case were serious and that to find otherwise would send the wrong message to the profession.
41. The Tribunal therefore considered that a censure was the appropriate and proportionate sanction in this case.
42. The Tribunal was satisfied that any further or more severe sanction would not be appropriate.
43. Therefore the sanction imposed on Mr Wadhams is a censure.

**COSTS:**

44. The TDB applied for costs in the sum of £1,995.
45. The Tribunal had regard to the Guidance on Awarding Costs. There is a presumption that an unsuccessful defendant should pay costs, based on the principle that the majority

of professional members should not subsidise the minority who, through their own failing, have brought disciplinary proceedings upon themselves.

46. Mr Wadhams had made no representations in respect of costs and had not provided any information about his financial circumstances.
47. The Tribunal was satisfied that the costs claimed were appropriate and had been reasonably incurred and ordered Mr Wadhams to pay costs of £1,995.
48. Pursuant to regulation 27.1 of the Disciplinary Regulations, the costs are payable within 28 days of the service of this order.

**PUBLICITY:**

49. The Tribunal made an order under regulation 28.1 of the Disciplinary Regulations for publication of this order and the written reasons, naming the member.
50. The Guidance on the Publication of Disciplinary and Appeal Findings sets out the general principle that a disciplinary finding made against a member will be published and the member named in the publication. The Tribunal considered there was no reason to depart from this principle and ordered that this decision be published in accordance with the Guidance.
51. Pursuant to regulation 28.4 of the Disciplinary Regulations, publication will be made after the expiry of the appeal period, namely within 21 days of the effective date of this order, provided no valid notice of appeal is served within that period.

**EFFECTIVE DATE:**

52. Pursuant to regulation 20.9, this decision will be treated as effective from the date on which it is deemed served on Mr Wadhams.



**Andrew Granville Stafford**  
**(Chair)**  
**23.4.2021**