

## **TDB Policy - Public Comment on the making of a Complaint**

### **Introduction**

The Board of the Taxation Disciplinary Board (TDB) has considered whether there are any circumstances when it should make a public comment as to the making of or the receipt by it of a complaint.

Under the TDB's current procedures and rules any formal complaint is assessed by a Reviewer to confirm whether the matter is within the terms of reference of the Taxation Disciplinary Scheme (TDS).

Any qualifying complaint is referred to the member(s) for a response. The matter is then considered by the Reviewer and referred to the Investigation committee who, if they consider a prima facie case of a breach of the rules exists, may refer the case to a disciplinary hearing.

Hearings are held in public and at the point when the case is listed for a hearing the existence of a complaint and the instigation of proceedings against the member by TDB are in the public domain. Moreover, if asked, TDB would confirm those facts at this time.

### **Statement of Policy**

The TDB's focus is:

- to act in the public interest,
- to assess complaints efficiently and promptly and
- to maintain public confidence in the profession whilst acting in a transparent and fair manner.

The TDB does not consider that the public interest, the efficient assessment of possible misconduct by members subject to the TDS, or the fairness to all participants of the TDS and its procedures, would be served:

- by a public confirmation by TDB of the existence of a complaint; or
- the issuing by TDB of a statement announcing that a complaint has been made; or
- that investigations are underway.

Once TDB has concluded that a prima facie case exists and has instituted proceedings against a member by a referral to the Disciplinary Tribunal that is a matter properly in the public domain.

Where the existence of the complaint is public, for example because the respondent member has confirmed the complaint, TDB will not initiate any statement but will not maintain a futile "no statement" position.

It is, however, possible that complaints involving significant public interest issues could be made to the TDB and that the complainant or other circumstances could alert public awareness and press enquiries.

It is also possible, although likely to be exceptional, that the public interest and/or fairness to the parties might justify the confirmation by TDB of the existence of a complaint or the making of such a statement - if for example there was likely to be a substantial delay before the completion of TDB enquiries.

Paramount in any consideration of whether an exception to the general policy of the TDB exists will be the public interest and the fairness of process to the parties. The convenience of TDB or its sponsors will not be factors to be considered.

The Taxation Disciplinary Board  
December 2022