

**TAXATION DISCIPLINARY BOARD**

**- and -**

**Ms JODIE HART**  
**(Membership Number ATT 224182)**

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**DECISION**  
**(4.4.24)**

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**INTRODUCTION:**

1. The Disciplinary Tribunal ('the Tribunal') sat on 4 April 2024 to hear charges brought by the Taxation Disciplinary Board ('TDB') against Ms Jodie Hart. The hearing was conducted remotely by video conferencing. The Tribunal was chaired by Mr Andrew Granville Stafford (legally qualified) who was sitting with Ms Victoria Hulse (professional member) and Ms Isobel Leaviss (lay member)
2. The case presenter for the TDB was Ms Manning-Rees. Ms Hart was present and was accompanied by Mr Neil Denniss who also spoke on her behalf. The Clerk to the Tribunal was Mr Nigel Bremner.
3. The Tribunal had read and considered the case papers (38 pages) and was provided during the hearing with additional documents relating to the application for costs.
4. The following abbreviations are used in this determination.

The ATT means the Association of Taxation Technicians;

The Disciplinary Regulations means the Taxation Disciplinary Scheme Regulations 2014 (as amended November 2016 and January 2024);

PRPG 2018 means the Professional Rules and Practice Guidelines effective from 9 November 2018.

**CHARGES:**

5. The charges against Ms Hart were as follows.

Charge 1

1.1- On 06 October 2022, the Defendant was convicted at Cheltenham Magistrates' Court for the offence of driving a motor vehicle with alcohol concentration above the prescribed limit on 21 September 2022. The Defendant gave a breathalyser reading of 84 microgrammes of alcohol in 100 millilitres of breath which exceeded the prescribed legal limit contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Act 1988.

1.2- As a result of the conviction set out at 1.1 the Defendant received a sentence of disqualification from holding or obtaining a driving licence for 36 months and a fine of £162. The Defendant was ordered to pay £85 prosecution costs and £20 victim surcharge.

Charge 2

2.1- The Defendant did not inform the ATT within the required notification period of two months, as set out in Rule 2.14.1 of the PRPG.

Charge 3

3. Consequent upon the facts and matters set out in Charges 1 and 2 above the Defendant has:

3.1 engaged in or been party to illegal behaviour, contrary to rule 2.2.2 of the PRPG; and/or

3.2 conducted herself in an unbecoming, unlawful or illegal manner which tends to bring discredit upon herself and/or may harm the standing of the profession and/or the ATT, contrary to rule 2.6.3 of the PRPG.

6. Rule 2.2.2 of PRPG 2018 prohibits a member from engaging in any illegal activity.

7. Rule 2.6.3 of the PRPG 2018 requires a member not to perform his professional work or conduct his practice in such a way as to be likely to bring discredit on himself, the profession or the ATT. Rule 2.6.3 of the PRPG 2018 also prohibits members from conducting themselves in an unbecoming, unlawful or illegal manner, which tends to bring discredit on themselves, or which may harm the standing of the profession or the ATT.

## **RESPONSE TO CHARGES**

8. Ms Hart admitted all the charges and the Tribunal found them proved based on her admissions.

## **BACKGROUND:**

9. Ms Hart is a member of the ATT. On her 2022 Annual Return, submitted to ATT on 9 January 2023, she was asked whether she had ever been arrested, charged or convicted of a criminal offence in any court in the UK or elsewhere. She stated in response to that question that she had been convicted of a drink drive offence.
10. By email dated 13 February 2023, Ms Hart provided ATT with details of that offence. She said that she was convicted on 6 October 2022 of an offence of drink driving, the offence having occurred the previous month. This being her second such offence, she was given a minimum driving ban of 3 years with a reduction of 9 months on the condition that she completed a drink drive rehabilitation course. She said she had now done so. She also received a fine of £162 along with a standard victim surcharge of £20 and court costs of £80.
11. She said that the offence had happened whilst she was on maternity leave. This had been a particularly difficult time for her, [REDACTED]  
[REDACTED]  
[REDACTED], although she said in her email to the ATT that she was not providing that as an excuse for her actions. She said was sincerely remorseful for her mistake and gave an assurance that it would not happen again.
12. Ms Hart also said that her employer had been supportive, and that she had returned to work full-time in November 2022.

13. In an email to the TDB on 1 December 2023, Ms Hart said that her failure to notify ATT of the conviction within two months, as required by PRPG 2.14.1, was purely an oversight on her behalf. It was due, she said, [REDACTED]  
[REDACTED].

#### **SUBMISSIONS:**

14. The Tribunal heard submissions from Ms Manning-Rees on behalf of the TDB and from Ms Hart on her own behalf. The Tribunal also heard from Mr Denniss, who spoke on Ms Hart's behalf. He told the Tribunal that he was Ms Hart's former employer and, though retired, is still connected with the firm she works for.
15. Mr Denniss told the Tribunal Ms Hart had promptly made her employer aware of her conviction and that she had not intentionally tried to hide it from anyone. He explained that he had not been aware of the regulatory requirement to report the conviction within two months and neither had another senior colleague nor had Ms Hart. He continues to have a role in her pastoral supervision at work and emphasised that she took these matters very seriously. He further said that this conduct was not representative of her as an individual and that she was well respected within the office.

#### **SANCTION:**

16. In determining what, if any, sanction to impose the Tribunal had regard to the Indicative Sanctions Guidance ('ISG'), all the evidence in the case and the submissions that had been made.
17. 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.
18. Any sanction imposed by the Tribunal must be appropriate and proportionate, considering the member's own interests and should be the least onerous measure that adequately meets the facts of the charges found proved.
19. The Tribunal identified the following as mitigating factors.

(a) Ms Hart had pleaded guilty at the Magistrates' Court and complied with the orders imposed by the court.

(b) Ms Hart was experiencing difficult personal circumstances at the time of the offence.

(c) Ms Hart has no previous disciplinary record with the ATT.

(d) The Tribunal accepted that she took these matters seriously [REDACTED]  
[REDACTED]

(e) Ms Hart has apologised for her conduct.

(f) Ms Hart had disclosed her conviction promptly to her employer and, albeit she did not comply with the requirement to notify the ATT within two months as required by the PRPG, she did disclose it shortly afterwards on her annual return.

20. The Tribunal identified the following aggravating factor.

(a) The conviction was her second offence of driving with excess alcohol.

21. The ISG says that conduct which results in a conviction but arose in a member's private life, as opposed to their professional work, needs careful consideration. The role of the Tribunal is to balance the nature and gravity of the offence and its bearing, if any, on the member's fitness to practise as a tax adviser; and to weigh up the need to protect the public and confidence in the reputation of the profession against the need to impose a further penalty and its consequential impact on the ability of the member to practise their profession. Whether the conviction of the member diminishes the reputation of the profession is also a relevant factor.

22. The ISG further states that the Tribunal should consider the nature and seriousness of the offence. In relation to drink driving, the circumstances of the driving, the degree of intoxication and whether recklessness was proven could all be relevant factors. The Tribunal noted that the reading in Ms Hart's case was nearly two-and-a-half times the legal limit.

23. The ISG further states that the guideline sanction for a member who fails to notify ATT of criminal proceedings being taken against them is censure.

24. The Tribunal considered the options available to it from the bottom upwards on the scale of seriousness.
25. 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 and seriousness of Ms Hart's conduct.
26. The Tribunal considered whether a warning or a censure would be an appropriate sanction but concluded that it would not. This misconduct in this case was serious, because it included not only a second conviction for a drink-drive offence but also a failure to promptly inform her regulator of that conviction. Neither a warning or a censure would, in the Committee's view, adequately mark the gravity of the conduct or send out an appropriate message to the public as to the seriousness with which such conduct is viewed by the profession. Further, the Tribunal was not satisfied that Ms Hart had demonstrated sufficient understanding and appreciation of the effect that behaviour such as this has on the reputation of the profession to justify a sanction at the lower end of the scale.
27. The Tribunal determined that the appropriate and proportionate sanction in this case was a short suspension order. This would make it clear that such conduct is not acceptable, whilst not prohibiting Ms Hart from pursuing her career as a tax professional. There was no evidence before the Tribunal that Ms Hart's conduct or the underlying factors had affected her professional practice. Considering the mitigating factors identified above, the Tribunal felt able to limit the length of the suspension to the minimum period which is one month.
28. Therefore, pursuant to regulation 20.7(f)(vi) of the Disciplinary Regulations, Ms Hart is suspended from membership of the ATT for one month.

**COSTS:**

29. The Tribunal has the power under regulation 20.7(f)(xii) of the Disciplinary Regulations to make an award of costs in favour of the TDB. The TDB applied for costs in the sum of £2,653.

30. The Tribunal had regard to the Guidance on Awarding Costs. The presumption is that the defendant will pay the costs on the principle that the majority of members should not subsidise the minority who have brought disciplinary proceedings upon themselves.
31. The Tribunal considered the information provided by Ms Hart about her financial circumstances and the submissions of both parties. The Tribunal was satisfied that the costs claimed were properly and reasonably incurred. The Tribunal did not consider that there was any reason for reducing the award of costs below the sum that was claimed by the TDB.
32. Therefore, the Tribunal ordered Ms Hart to pay costs to the TDB in the sum of £2,653.
33. Pursuant to regulation 27.1 of the Disciplinary Regulations, costs are payable within 28 days of the service of this order unless the Tribunal orders a longer period. The Tribunal considered it would be reasonable to allow Ms Hart time to pay, provided that the full sum was paid within a twelve-month period. It therefore ordered that costs may be paid in instalments of not less than £221.08 per month, with the first payment due not later than 28 days after this order has been served and each subsequent instalment due no later than the first of each subsequent month, until the full amount is paid.

**PUBLICITY:**

34. 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.
35. In accordance with this guidance, the Tribunal made an order under regulation 28.1 of the Disciplinary Regulations for publication of these written reasons, subject only to redactions relating to matters of a particularly personal or sensitive nature.
36. 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:**

37. Pursuant to regulation 20.9 of the Disciplinary Regulations, this decision will be treated as effective from the date on which it is deemed served on Ms Hart.



**Andrew Granville Stafford**  
**(Chair)**  
**4 April 2024**