

**IN THE DISCIPLINARY TRIBUNAL OF THE  
TAXATION DISCIPLINARY BOARD**

**Ref. TDB/2023/54**

**THE TAXATION DISCIPLINARY  
BOARD**

**TDB**

**-and-**

**Mr. DANIEL AUSTIN  
(CIOT No. 225357)**

**Defendant**

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**DECISION AND REASONS**

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<b>Date of Hearing</b>	02 July 2024
<b>Venue</b>	Virtual using Microsoft Teams
<b>Tribunal Members</b>	
Legally Qualified Chair	Brett Wilson
Professional Member	Martin Brown
Lay Member	Michael McCulley
<b>Tribunal Clerk</b>	Nigel Bremner
<b>Taxation Disciplinary Board (‘TBD’)</b>	Represented by Ms Sophia Kerridge of counsel
<b>Mr Austin</b>	Not in attendance

## **Background**

1. The TDB's case is that in November 2022, Mr Austin was reminded by CIOT that he needed to renew his membership and complete his annual return by 31 January 2023. A letter was sent to Mr Austin on 13 April 2023 reminding him that his membership fee and annual return were overdue.
2. On 2 May 2023 an email was sent to Mr Austin requesting that he complete the anti-money laundering ('AML') return and pay the AML administration fee by 31 May 2023. Further reminders were sent on 23 May 2023 and 26 May 2023 and yet Mr Austin did not comply.
3. On 23 June 2023, the CIOT wrote to Mr Austin and informed him that he would be referred to the TDB for overdue 2023/24 AML renewal and his 2022 annual return.
4. On 18 September 2023, the TDB wrote to Mr Austin. The TDB informed him that the complaint was being dealt with under Reg. 3.11 of the Taxation Disciplinary Scheme Regulations 2014 (as amended 2016 and 2024) (the Regulations) by way of financial penalty of £500. Mr Austin was required to pay the financial penalty and file the overdue AML registration and annual return within 14 days.
5. Mr Austin was sent a reminder on 31 October 2023. Mr Austin failed to respond. On 20 December 2023, Mr Austin was informed that the matter was being referred to the Disciplinary Tribunal.
6. On 21 December 2023 and 22 January 2024, the CIOT informed the TDB that Mr Austin had not completed or paid for his AML registration or completed his annual return.
7. In summary, the TDB's case arises from Mr Austin's failure (i) to file his annual return on time, (ii) to file and pay for his AML registration and (iii) respond to the TDB and pay the financial penalty.

## **Preliminary Issues**

### **Proceeding in the absence of the defendant**

8. Mr Austin did not attend the hearing and the TDB applied for the Tribunal to proceed in Mr Austin's absence. The Tribunal had regard to Regs. 17.3 and 17.4 of The Taxation

Disciplinary Scheme Regulations 2014 (as amended November 2016 and January 2024) (the ‘Regulations’) which allowed the Tribunal to proceed in the absence of a defendant. The Tribunal was satisfied that that the aforementioned version of the Regulations applied as the Regulations state that they take effect from 1 January 2024 and that the version to be used is that which is effective on the date of the decision to refer the Charge to the Disciplinary Tribunal. The Tribunal noted that the Investigation Committee decision which referred the matter to the Disciplinary Tribunal was made on 12 April 2024 and Mr Austin was notified of the decision by way of a letter dated 16 April 2024.

9. In deciding whether to proceed in the absence of a defendant, the Tribunal had to be satisfied that Mr Austin had been served with the bundle pursuant to Reg. 14.1 of the Regulations and that he had been given reasonable notice of the hearing and a reasonable opportunity to prepare his case.
10. The Tribunal also had to act reasonably and, in making its decision, the Tribunal had regard to the guidance provided in the criminal courts when deciding whether to proceed in the absence of an accused. The Tribunal therefore considered decided cases such as *Hayward* [2001] EWCA Crim 168 and *Jones (Anthony William)* [2002] UKHL 5. In particular, the Tribunal considered the following matters:
  - a. the likelihood of Mr Austin attending a future hearing if the Tribunal decided to adjourn;
  - b. the prejudice that could be caused to the TDB if the hearing was adjourned;
  - c. the impact that an adjournment could have on the ability of the TDB to protect the public;
  - d. Mr Austin had not responded to the TDB’s letters and so had not provided any explanation for not attending nor had he requested an adjournment;
11. On the issue of service, the Tribunal was of the view that there may have been a possibility that correspondence was not being received by Mr Austin. Prior to the TDB establishing the email address ending ‘@my.bristol.ac.uk’, emails had been sent to an email address ending ‘@dannishgroup.omniscroft.com’. Whilst there was no document

which showed that emails sent to that email address had failed to be delivered, the Tribunal noted that there had not been a response.

12. However, the Tribunal also had regard to the receipts for documents sent by tracked mail which showed that the package had been signed by someone with the signature which appeared to be 'SMO'. The Tribunal noted that under the signature of one package which was signed for on 23 March 2024, is the name AUSTIN. The Tribunal concluded that, on the balance of probabilities, post sent by mail to the address at Bodmin, was delivered to Mr Austin.
13. Further the Tribunal noted that after enquiries were made, it was established that an email address ending '@my.bristol.ac.uk' could be a valid one. This was found on a website where Mr Austin was listed as a 'VAT and indirect Tax Consultant'. The Tribunal also noted that on 29 May 2024, the CIOT also confirmed that the email address ending '@my.bristol.ac.uk' was the one that they had on record for Mr Austin. The postal address that they had for him was at the one at Bodmin which the TDB and the CIOT had sent letters and documents to.
14. Further, the Tribunal also had regard to the Egress receipt which showed that emails sent to the '@my.bristol.ac.uk' email address were received.
15. The Tribunal therefore concluded that the '@my.bristol.ac.uk' email address and the Bodmin postal address were valid addresses for service of papers pursuant to Regs. 31.1 and 31.3 of the Regulations.
16. The Tribunal noted that the bundle and other papers were emailed to the '@my.bristol.ac.uk' address on 29 May 2024. This provided Mr Austin with at least 35 days (as required by Reg. 14.1 of the Regulations) notice of the hearing and provided him with the items listed in sub-paragraphs (a) to (f) of Reg. 14.1 of the Regulations.
17. Further, the Tribunal noted that, on 9 July 2024, the clerk to the Tribunal sent Mr Austin an email which contained a link to the hearing, it reminded him of the start time, that he had yet to provide a Response Form and warned him of the possibility of the Tribunal proceeding in his absence.

18. The Tribunal was satisfied that Mr Austin had been validly served in accordance with the timescale required and therefore he had been given a reasonable opportunity to prepare his case. The Tribunal was satisfied that there was nothing to suggest that Mr Austin would attend a future hearing and an adjournment could undermine the ability of the TDB to carry out its functions of protecting the public. The Tribunal therefore decided to proceed in the absence of Mr Austin.

## **Recusal**

19. The Tribunal reminded itself that the Chair and the Professional Member had dealt with this matter in the Investigation Committee which first considered it on 2 Feb 2024. The Tribunal considered Reg. 13.2 of the Regulations which states that, ‘No person who has had any previous involvement with the Complaint may sit upon the Disciplinary Tribunal’.
20. The Tribunal was mindful of its duty to ensure that Mr Austin received a fair hearing in accordance with Article 6 of the European Convention on Human Rights and the Human Rights Act 1998. The Tribunal had to act in accordance with the principles of natural justice.
21. The Tribunal considered the guidance set out in the case of *Porter v Magill* [2002] 2 AC 357 where there is an allegation of apparent bias. This provides:  
  

*“The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased”*
22. The Tribunal noted that the involvement of the Chair and the Professional Member was fleeting in that at the Investigation Committee on 2 February 2024, the decision of the Committee was to adjourn the matter due to the short notice that the Committee felt had been given to Mr Austin. In adjourning, the Committee suggested that the TDB consider making further enquiries to ensure that Mr Austin was receiving correspondence.
23. The Tribunal concluded that the very limited involvement would not cause a fair-minded and observed individual to conclude that there was real possibility of bias. The Tribunal noted that the test from *Porter v Magill* requires a ‘real’ possibility of bias not just ‘a’

possibility. Accordingly, the Tribunal did not recuse itself and proceeded deal with the matter by way of submissions and consideration of the documentary evidence before it.

## **Evidence**

24. The Tribunal did not hear oral evidence. It was provided with a bundle of documentary evidence. The Tribunal was entitled to consider hearsay evidence and attach such weight to that evidence as it considered appropriate. The Tribunal reminded itself that the burden of proof rested with the TDB and that the standard of proof was the civil standard, that is, the balance of probabilities. The Tribunal could draw reasonable inferences from the evidence before it but it should not speculate.

### Charge 1

25. The Tribunal noted that Charge 1 set out the alleged factual matrix upon which various breaches of the Professional Rules and Practice Guidelines 2018 (the 'PRPG') arise as pleaded in Charge 2.
26. The Tribunal also noted that Charge 1 is composed of 6 particulars in paragraphs 1.1 to 1.6. The Tribunal considered each paragraph of Charge 1 before proceeding to consider whether its findings then amounted to the breaches of the PRPG pleaded in Charge 2.

### Paragraph 1.1

27. The Tribunal noted that CIOT had confirmed on 21 December 23 that Mr Austin had not renewed his 2022 membership, submitted his annual return or paid his membership fees. The Tribunal considered the correspondence from the CIOT to Mr Austin which confirmed that these requirements should have been completed by 31 January 2023. The Tribunal noted that the factual averment in 1.1 of Charge 1 is strict in that it is simply alleged as a fact that Mr Austin did not complete the actions by 31 January 2023. There is no reference to not having a reasonable excuse. Therefore, on the balance of probabilities, the Tribunal found paragraph 1.1 of Charge 1 proved.

### Paragraph 1.2

28. The Tribunal considered the correspondence sent to Mr Austin on 31 April 2023, 31 August 2023 and 31 October 2023. The Tribunal noted that the item of correspondence set on 31 April 2023 was a letter addressed from the CIOT to Mr Austin's Bodmin address. Given the Tribunal's findings when considering the issue of service, the Tribunal inferred that it was more likely than not that Mr Austin received that letter. The letter reminded Mr Austin of his outstanding membership fee and annual return. The letter provided information on how Mr Austin could renew and submit his annual return. It also reminded him of the fees and how those could be paid.
29. The Tribunal considered the document annotated with the phrases, 'example template for reminder email sent 31.08.23' and 'As this was sent via Click Dimensions on 31.10.23, we only have the template copy below'. The Tribunal was not provided a copy of the actual emails sent, but the Tribunal was of the view that it was more likely than not that those emails were sent. Again, the Tribunal noted that the factual allegation in paragraph 1.2 is a strict one in that it is alleged that Mr Austin did not respond. There was no requirement for the Tribunal to consider whether the failure was reasonable. The Tribunal could not see any response from Mr Austin to any of the three items of correspondence. Therefore, the Panel concluded that it was more likely than not that Mr Austin did not reply to the three items of correspondence listed in paragraph 1.2 and it found paragraph 1.2 proved.

#### Paragraphs 1.3 and 1.4

30. As to paragraphs 1.3 and 1.4 of Charge 1, the Tribunal considered the document annotated 'Newsletter sent via Click to all members 23 May 2023', which reminded CIOT members, including Mr Austin, of the need to complete AML compliance by 31 May 2023. The Tribunal noted that a further reminder regarding AML was emailed to Mr Austin but that was sent to the '@dannishgroup.omniscroft.com' email address so it could be possible, but not certain, that the email was not received. However, a letter was sent by the CIOT to Mr Austin's Bodmin address on 23 June 2023 reminding him of the outstanding matters. As aforesaid, the Tribunal was of the view that correspondence sent to that address could reasonably be inferred to have been received by Mr Austin.
31. The Tribunal saw no evidence from which it could see or infer that Mr Austin had responded to the correspondence, in particular the CIOT email of 23 May 2023 and the

CIOT letter of 23 June 2023, and therefore it found, on the balance of probabilities, paragraphs 1.3 and 1.4 proved. For the avoidance of doubt, as with the other paragraphs of Charge 1, the formulation of the factual allegation was strict and there was no requirement for the Tribunal to consider whether there was a reasonable excuse for the failures to reply.

#### Paragraph 1.5

32. As to paragraph 1.5 of Charge 1, the Tribunal considered the letter of the TDB dated 18 September 23 and the invoice of the same date. These documents confirmed that a £500 financial penalty was imposed by the TDB. The letter was clear in setting out the steps that Mr Austin was required to take. These were (i) the payment of the £500, (ii) the completion and submission of the 2023/24 AML return, (iii) the payment of the AML 2023/24 renewal fee of £330 and (iv) the completion and submission of the 2022 annual return. The letter expressly referred to the time period of 14 days and provided the bank details for the payment of the financial penalty.
33. The Tribunal noted that the letter and invoice were addressed to Mr Austin's Bodmin address. The Tribunal noted that one of the receipts that was signed for is dated 19 September 2023 and it therefore concluded that it could reasonably be inferred that the letter was sent via registered post to the Bomin address and that Mr Austin received it as it was signed for by either him or someone using the name AUSTIN (as was printed on the receipt under the signature 'SMO'). There was no evidence before the Tribunal to conclude that Mr Austin had paid the financial penalty or the membership fee or completed the required renewals, returns or registrations. The Tribunal, again, noted that it was not required to consider whether Mr Austin had a reasonable excuse for non-compliance. The Tribunal therefore concluded, on the balance of probabilities, that Mr Austin had not so complied and paragraph 1.5 of Charge 1 was proved.

#### Paragraph 1.6

34. The Tribunal considered the TDB's letter as set out above and as stated, it found it more likely than not that the letter was received by Mr Austin. The Tribunal also considered the TDB's letter to Mr Austin dated 20 December 2023. The Tribunal considered all the correspondence before it and found no evidence to show that Mr Austin had replied to



that letter or the TDB's letter dated 18 September 2023. The Tribunal again noted that it was not required to consider whether Mr Austin had a reasonable excuse for non-compliance. The Tribunal therefore concluded, on the balance of probabilities, that Mr Austin had not so complied and paragraph 1.6 of Charge 1 was proved.

35. Having found Charge 1 proved in its entirety, the Tribunal considered Charge 2.

## Charge 2

### Paragraph 2.1(a)

36. As to paragraph 2.1(a) of Charge 2, the Tribunal noted that rule 2.8.1 of the PRPG states:

“A member must complete and submit their Annual Return to the CIOT/ATT within the advised time limits.”

37. Whilst the Tribunal was of the view that there was a possibility that some emails sent to the '@dannishgroup.omniscraft.com' address may not have been received by Mr Austin, as already stated, it was also of the view that there were letters sent to his Bodmin address also advising him of the deadline for completing and submitting his annual return. An example of one such letter is that sent by the CIOT dated 13 April 2023. For the reasons outlined above, the Tribunal inferred that it was more likely than not that a letter sent to the Bodmin address was received by Mr Austin. That letter advised Mr Austin that the 2022 annual return and membership fees were due by 31 January 2023 and advised him to deal with it with instructions on how to do so.

38. Further, the Tribunal noted that rule 2.8.1 is drafted so that the obligation is strict. Having found that Mr Austin was advised of the time limit, there is no need for the Tribunal to consider whether Mr Austin had a reasonable excuse for not complying. The Tribunal considered the entire bundle of documents before it, reminded itself of the findings it had made in relation to paragraphs 1.1 and 1.2 of Charge 2 and noted no evidence to suggest that Mr Austin had filed his annual return and paid the required fees and therefore, on the balance of probabilities, it found paragraph 2.1(a) of the Charge 2 proved.

### Paragraph 2.1(b)

39. As to paragraph 2.1(b) of Charge 2, the Tribunal noted that rule 2.10.2 of the PRPG states:
- ‘A member in practice must either be registered with the CIOT or ATT for AML supervision or, if requested, advise the CIOT and ATT of their Supervisory Authority under The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. See the CIOT and ATT websites for further information including completion and submission of the registration form’.
40. The Tribunal had found as a fact (in relation to paragraph 1.3 of Charge 1) that Mr Austin had not completed the AML return or paid the necessary fee by 31 May 2023. The reasonable inference to draw from that is that Mr Austin was not registered with the CIOT for AML supervision. The Tribunal noted the research by the TDB yielded a website (a printout of which was before the Tribunal) showing that Mr Austin was a member providing taxation services as a consultant of several organisations and therefore it could reasonably infer that he was a ‘member in practice’ at all material times.
41. Given that there had been no response whatsoever from Mr Austin to the TDB or CIOT to suggest that he had registered with another Supervisory Authority, on the balance of probabilities, the Tribunal found paragraph 2.1(b) of Charge 2 proved.

#### Paragraph 2.1(c)

42. As to paragraph 2.1(c) of Charge 2, the Tribunal noted that rule 2.12.1 of the PRPG states:
- ‘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’
43. As stated above in relation to Charge 1, the Tribunal found as a fact that the CIOT had requested information from Mr Austin on a number of occasions and did so by way of email and letters. Whilst the Tribunal had expressed some concerns about whether emails sent to the ‘@dannishgroup.omniscroft.com’ address may not have been received by Mr Austin, as already stated, it was also of the view that the letters sent to his Bodmin address were more likely than not to have been received by him. The Tribunal was of view that the information in the form of registration information and AML information was reasonably requested as it was required by the CIOT, presumably to ensure that it could

contact members, including Mr Austin, and in compliance with its legal duties including the anti-money laundering laws.

44. The Tribunal had made findings of fact in relation to paragraphs 1.2, 1.4 and 1.6 of Charge 1 which amounted to Mr Austin making no reply whatsoever to correspondence from the CIOT. The Tribunal repeats its comments as to whether correspondence was received by Mr Austin and concluded that it follows that on the balance of probabilities paragraph 2.1(c) is proved.

#### Paragraph 2.1(d)

45. As to paragraph 2.1(d) of Charge 2, the Tribunal noted that rule 2.13.1 of the PRPG states:

‘A member is subject to the disciplinary processes of the TDB and must comply with any order from the TDB including orders in respect of costs and fines’

46. The Tribunal had made findings of fact in relation to paragraph 1.5 of Charge 1. The Tribunal concluded that this meant that Mr Austin had not complied with the order from the TDB even if one distinguished a ‘financial penalty’ from an order in respect of costs and fines, because the rule is broadly drafted to include other orders. The Tribunal therefore found, on the balance of probabilities, that paragraph 2.1(d) of Charge 2 is proved.

#### Paragraph 2.1(e)

47. As to paragraph 2.1(e) of Charge 2, the Tribunal noted that rule 2.13.2 of the PRPG states:

‘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’

48. The Tribunal had made findings of fact in relation to paragraph 1.6 of Charge 1 and had explained why it was of the view that it was more likely than not that the TDB’s letters dated 31 October 2023 and 20 December 2023 had been received by Mr Austin. Given that the Tribunal had found that Mr Austin had not responded to that correspondence or provided an explanation for not responding, the Tribunal concluded that there were no special circumstances that could have prevented him from replying within the required

30 days. Therefore, the Tribunal found, on the balance of probabilities, that paragraph 2.1(e) of Charge 2 is proved.

#### Paragraph 2.1(f)

49. As to paragraph 2.1(f) of Charge 2, the Tribunal noted that rule 2.13.3 of the PRPG states

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

50. The Tribunal had made findings of fact in relation to paragraph 1.5 and paragraph 1.6 of Charge 1. The Tribunal concluded that it followed, by virtue of the clear and unambiguous wording of rule 2.13.3 of the PRPG, that this amounted to a disciplinary matter and therefore, on the balance of probabilities, paragraph 2.1(f) Charge 2 is proved.

51. The Tribunal therefore found Charge 2 proved in its entirety.

#### **Sanction**

52. In considering sanction, the Tribunal had regard to the TDB’s Indicative Sanctions Guidance. The Tribunal reminded itself that the sanctions are not intended to be punitive. The purpose of sanction is protection of the public. The Tribunal had to impose a sanction which was proportionate and it had to adopt an approach whereby it considered the most lenient sanction first, and only if it was of the view that it did not reflect the seriousness of the misconduct should the Tribunal consider a more severe sanction.

53. The Tribunal was informed that Mr Austin has not been subject of previous disciplinary proceedings.

54. The Tribunal considered the relevant sections of the indicative sanctions guidance to be ‘(4) – Failure to Take Due Care’ and ‘(8) – Other Breaches of Byelaws or Regulations’.

55. In relation to matters regarding correspondence with the CIOT, the Tribunal was of the view that the misconduct fell into section 4 as the list of matters which that section covers includes:

‘Failing to respond expeditiously or adequately or at all to professional correspondence, including correspondence from a successor adviser, from the CIOT or ATT or from the TDB’.

56. The Tribunal was of the view that the failure to correspond with CIOT and comply with the AML requirements also could fall into the lower category under section 8 of the indicative sanctions guidance. This is because at that stage, there was no disciplinary investigation and there is no suggestion that Mr Austin’s failure to comply with the AML registration requirements was due to any criminal activity or dishonesty.
57. The Tribunal noted that in both aspects the starting point is censure. However, the Tribunal had also to consider the period of time over which the misconduct continued and the amount of correspondence which Mr Austin had ignored (even if the benefit of the doubt is afforded to him in relation to emails sent to the ‘@dannishgroup.omniscroft.com’ address’. Given that Mr Austin has not replied to the Charges there is limited, if any, mitigation to be considered on his behalf.
58. The Tribunal considered whether censure would be appropriate in relation to paragraphs 2.1 (a), (b) and (c) of Charge 2. The Tribunal considered the general guidance on where a censure may be appropriate which provides:

‘A censure is appropriate where the misconduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Tribunal that there is no risk to the public and similar relevant factors to those under ‘Warning’ are present:

- a) evidence of no loss to the client
- b) evidence of member’s understanding and appreciation of failings
- c) misconduct was an isolated incident, not deliberate
- d) evidence of insight, including genuine expression of regret
- e) previous good history
- f) no repetition of such misconduct since the incident

The Tribunal should also be satisfied that the misconduct is unlikely to be repeated in the future’

59. The Tribunal was of the view that taken overall, the period of ignoring the CIOT correspondence and the AML registration requirements was such that it could not be said that there is no risk to the public. Particular concern was had to the AML requirements as this is designed to prevent criminal activity. The Tribunal was of the view that the amount of correspondence which was unanswered could not be described as an isolated incident. Given the findings of the Tribunal about which correspondence was likely to have been received by Mr Austin and the absence of a response from him, the Tribunal concluded that it could not be said that his actions were not deliberate. Therefore, the Tribunal concluded that a sanction of censure was not appropriate.
60. The Tribunal was of the view that a suspension was also not appropriate given those circumstances and the facts of the case. This is because the Tribunal could not be satisfied that there was no risk of recurrence.
61. The Tribunal concluded that the appropriate sanction when considering the totality of the misconduct in relation to paragraphs 2.1 (a), (b) and (c) of Charge 2 was expulsion. The reasons for this are that the public should have trust and confidence in the professional regulatory framework and that those members who hold out as CIOT members are compliant with their professional obligations. Given Mr Austin’s blatant disregard for the CIOT in its repeated efforts to engage with him, the Tribunal concluded that expulsion is the safest way of protecting the public.
62. As to paragraphs 2.1(d), (e) and (f) of Charge 2, the Tribunal was of the view that these are addressed also by section 8 of the Indicative Sanctions Guidance. This provides:

‘The types of failure likely to fall under this heading include:

  - Failure to comply with an order made by a previous TDB Tribunal
  - Failure to co-operate with a disciplinary investigation
  - Failure to comply with a court order or satisfy a judgment debt without reasonable excuse
  - Failure to hold adequate or any PII

***Guideline: Expulsion’***

63. Whilst the Tribunal was of the view that there was a failure by Mr Austin to reply to the TDB correspondence or to comply with the order, it did not accept that the order was made by a TDB Tribunal. However, the referral to the TDB meant that a disciplinary investigation was ongoing and Mr Austin's failure to reply to numerous attempts to engage with him was a serious failure to co-operate.
64. Given, the length of time over which this took place, the efforts of the TDB to engage and the findings made by the Tribunal on Mr Austin's misconduct regarding the CIOT correspondence, the Tribunal concluded that the safest way of protecting the public is by way of expulsion. The Tribunal was of the view that this is an appropriate sanction as Mr Austin's conduct would undermine the efficacy of the TDB as a professional regulator and there was nothing before the Tribunal from Mr Austin that could have allowed it to consider whether this was unlikely to be repeated.

#### Costs and Publication

65. The Tribunal proceeded to consider the issues of costs and publication. The Tribunal saw no exceptional reasons as to why Mr Austin should not pay the TDB's costs save for the £500 which was a financial penalty, not a cost.
66. As to the other items on the TDB's cost schedule. The Tribunal was of the view that the amount of costs claimed was confined only to the various stages of the disciplinary process and the personnel involved (such as the Presenter and Clerk). The Tribunal also noted that Mr Austin had not responded to the TDB throughout the investigative process despite being offered the opportunity to resolve the matter by a consent order. The Tribunal found in the circumstances that the costs claimed by the TDB were reasonable and proportionate and ordered that Mr Austin do pay the TDB costs assessed at £3,100 including VAT. Reg. 27 of the Regulations applies.
67. Because Mr Austin had not responded to the TDB, there were no submissions from him to cause the Tribunal to disapply the general rule against publication and therefore the Tribunal ordered publication pursuant to Reg. 28 of the Regulations.

**Brett Wilson**  
**Chair**  
**29.07.2024**