

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

TDB/2025/2014

THE TAXATION DISCIPLINARY BOARD

– and –

[illegible]

(ATT Student Number ■■■■■■)

Date of Hearing

11 June 2025

Venue

Virtual using Microsoft Teams

Tribunal Members

Legally Qualified Chair

Jacqueline Findlay

Professional Member

Abdul Nabi

Lay Member

Mac McCulley

Taxation Disciplinary Board (“TDB”)

Case Presenter

Guy Micklewright, Counsel

Tribunal Clerk

Nigel Bremner

Member

In attendance

DECISION AND REASONS

Introduction

1. The Disciplinary Tribunal (“the Tribunal”) of the TDB sat remotely on 11 June 2024 to hear charges brought by the TDB against the Defendant, a student member of the Association of Taxation Technicians.

2. The following abbreviations are used in this Decision:

The “CIOT” means the Chartered Institute of Taxation;

The “ATT” means the Association of Taxation Technicians;

The “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 (updated 2021);

“PCRT” means the Professional Conduct in Relation to Taxation 2017 (republished 2023);

The “ISG” means the Indicative Sanctions Guidance as revised.

Procedure

3. The Tribunal had regard to a main bundle of 184 pages (“MB”), a supplementary bundle of 17 pages (“SB”), on-table papers (7 pages), additional documents relating to the application for costs and post-hearing a witness statement from Ms Vicky Purtill, ATT’s Director of Education, dated 19 June 2025.
4. The Tribunal considered the provisions of Regulation 14 had been complied with. The Defendant confirmed she was content to proceed with the hearing without representation and by MS Teams. The Tribunal found no injustice in so doing.
5. The Tribunal heard a submission from Mr Micklewright and oral evidence from the Defendant.
6. The hearing was determined on 11 June 2025, and the decision of the Tribunal was given orally. Post-hearing the TDB filed a witness statement made by Ms Purtill, ATT’s Director of Education, dated 19 June 2025 which was issued to the Defendant. The Defendant was sent a copy of the witness statement and given the opportunity to make comments.

7. The Tribunal was of the view that the witness statement of Ms Purtil would have made no difference to its decision had it been available at the hearing. The Defendant confirmed she did not wish her case to be revisited.

Preliminary Matters

8. Mr Micklewright applied to amend Charge 1 and Charge 2 by replacing the reference to the ATT Code of Conduct with the correct reference of the ATT Online Examination Regulations in Charges 1.2, 1.3, 2.2 and 2.3.
9. The Defendant did not object to this amendment and given that it was of a minor nature the application was allowed.
10. The Defendant applied for the hearing to be held in private on the basis that a public hearing would seriously affect her health. The Tribunal had regard to the provisions of Regulations 29.1 that all hearings shall be held in public, but the press and public can be excluded from all or any part of the proceedings if it appears desirable to do so in the interests of justice or for any other reasons.
11. Mr Micklewright submitted that the TDB had no objection to those parts of the hearing relating to personal or health matters being in private but that the public interest in the hearing being in public and the general principle of open justice required openness and transparency. It was important for the reputation of the profession to be protected by openness and the public interest in transparency outweighed any personal embarrassment to the Defendant. The Hearing Chair was satisfied that the reasons advanced by the Defendant amounted to sufficient reasons for departing from the normal principle and that it was in the interests of justice that the hearing should be in private.

Background

12. The complaint relates to the Defendant who is a student member of the ATT. It is alleged that she made direct use of AI during the ATT examinations in November 2024.

13. The use of AI was identified through post-examination work, which included checks on website which can be seen as being open through the taking of screenshots through the live examination.
14. The Defendant was referred to the ATT Examinations Steering Group (“ExSG”) who reviewed the evidence and disqualified the Defendant and requested she be referred to the TDB.
15. The allegations appear to involve potential breaches the PRPG 2018.
16. The Charges are as follows:

Charge 1

1.1 When sitting the ATT Paper 1 – Personal Taxation Examination on 5 November 2024, the Defendant used a Generative Artificial Intelligence product (“GENAI”).

1.2 The Defendant was dishonest, in that she knew at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations.

1.3 Alternatively, the Defendant ought to have known at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations.

1.4 If charges 1.1 and 1.2 and/or 1.3 are proved, The Defendant is in breach of:

- (a) Rules 2.1 and 2.2.1 in that she acted in breach of the fundamental principle of integrity;
- (b) Rules 2.1 and 2.6.2 and/or 2.6.3 in that she did an act which discredits the profession, in breach of the fundamental principle of professional behaviour in that she failed to:
 - (i) uphold the professional standards of the ATT as set out in the Laws of the CIOT and ATT; and/or
 - (ii) take due care in her professional conduct and professional dealings; and/or

- (iii) performed her professional work improperly or negligently to such an extent as to be likely to bring discredit to herself, to the ATT or to the tax profession; and/or
- (iv) conducted herself in an unbefitting or unlawful manner, which tends to bring discredit upon a member and/or may harm the standing of the profession and/or the ATT.

Charge 2

2.1 When sitting the ATT Paper 5 – Inheritance Tax, Trusts and Estates on 6 November 2024, the Defendant used a GENAI product.

2.2 The Defendant was dishonest, in that she knew at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations.

2.3 Alternatively, the Defendant ought to have known at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations.

2.4 If charges 2.1 and 2.2 and/or 2.3 are proved, The Defendant is in breach of:

- (a) Rules 2.1 and 22.2.1 in that she acted in breach of the fundamental principle of integrity;
- (b) Rules 2.1 and 2.6.2 and/or 2.6.3 in that she did an act which discredits the profession, in breach of the fundamental principle of professional behaviour in that she failed to:
 - (i) uphold the professional standards of the ATT as set out in the Laws of the CIOT and ATT; and/or
 - (ii) take due care in her professional conduct and professional dealings; and/or
 - (iii) performed her professional work improperly or negligently to such an extent as to be likely to bring discredit to herself, to the ATT or to the tax profession; and/or

- (iv) conducted herself in an unbecoming or unlawful manner, which tends to bring discredit upon a member and/or may harm the standing of the profession and/or the ATT.

Response to Charges

17. In the Response Form, the Defendant admitted Charges 1.1, 1.4, 2.1 and 2.4 and denied Charges 1.2, 1.3, 2.2 and 2.3. At the hearing when the Charges were put to her, she admitted all the Charges save for Charges 1.2, 1.3, 1.4(b)(i)(ii)(iii)(iv), 2.2, 2.3 and 2.4(b)(iii). During the hearing the Defendant changed her position and admitted Charges 1.3 and 2.3.

Evidence

18. In written evidence the Defendant admitted that she used GENAI during the examinations (page 6 SB), however, she submitted that her actions were not deliberate dishonesty but as a result of negligence caused by her impaired state due to having contracted Covid. She submitted that she failed to check the regulations properly and her understanding at the time of the examinations was that all online resources, including AI were permissible. At the time of the examinations and in the surrounding time she was unwell and this significantly impacted on her ability to think clearly and make sound judgements during the examination period. She did not believe she was breaching any rules and would never have used AI had she understood that it was not allowed.
19. The Defendant, in oral evidence, admitted that she ought to have known at the time of the examinations that such conduct was in breach of the ATT's Online Examinations Regulations.
20. Once she became aware that her actions may have been in breach of the examination rules she took full responsibility and resigned from her tax role in January 2025. She served her full notice period and left the profession in February 2025. She no longer works in tax and has no intention of returning to the profession in the future. She submits she poses no risk to the public.

21. The situation has had a serious personal impact.
22. The Defendant regrets the circumstances which arose from a combination of poor health and genuine misunderstanding. She asked that consideration be given to the context in which this occurred.

Findings

23. In making its findings, the Tribunal has borne in mind that the burden of proof rests on the TDB. The standard of proof is of the civil standard, which is the balance of probabilities.
24. When considering the question of dishonesty, the Tribunal has borne in mind the test for dishonesty in the case of *Ivey v Genting Casinos* [2017] 3 WLR 1212 that the Tribunal must first ascertain subjectively the state of the Defendant's knowledge or belief as to the facts. The reasonableness or otherwise of the Defendant's belief is a matter of evidence but it is not an additional requirement that the belief must be reasonable, the question is whether it is genuinely held. The question of whether the conduct was honest or dishonest is to be determined by applying the objective standards of ordinary decent people. There is no requirement for the Defendant to appreciate what she has done by those standards to be dishonest.
25. The Tribunal made the following findings of fact:
 - a) The Education Team of ATT sent two emails to the Defendant dated 16 October 2024 (pages 10 to 13 SB) which included instructions about the online exam regulations. The emails stated: "Remember to read the Online exam regulations. If you do not behave according to the exam regulations it can lead to disqualification." The "Online exam regulations" was a hyperlink to the 2024 examination regulations which are reproduced at pages 40 and 41 of the MB and Exhibit VP1 of Ms Purtill's witness statement dated 19 June 2025.

b) Paragraphs 1 and 12 of the ATT Online exam regulations 2024 stated:

1. The direct use of GenAI is not permitted. Your answers must be your own work.

12. The Online exams will again be Open book, this means you may refer to any books, study manuals, pre-prepared notes and online resources during the exams.

c) When undertaking the examinations the Defendant was aware that the answers to the questions and all the work produced should be her own. In using AI to provide answers to the questions she was seeking to gain an advantage in the examination.

d) The Defendant signed a registration declaration when making her application to ATT to comply with and be bound by the Articles of Association, the ATT Regulations and the PRPG 2018 (page 33 MB).

e) The Defendant had undertaken open book examinations in the past and understood that it was essential that the answers to the questions and all the work be her own work in any exam.

f) When undertaking Paper 1 the Defendant copied entire questions into Chat GPT (page 42 MB) and used Chat GPT Pro during 9 out of 44 screen captures (page 42 MB). In Paper 5 the Defendant used Chat GPT 4.0 to request answers to specific questions (page 43 MB) and used Chat GPT 4.0 in 21 out of 45 screen captures (page 43 of MB).

g) The Defendant did not tell the truth in her emails to CIOT. In the two emails of 22 January 2025 (pages 18 and 19 MB) to education@ciot.org.uk she stated that for Paper 1 she barely used online resources and little from online websites. She used online resources that were permitted. She stated that she required online resources but not AI. She stated that her wording was her own. She stated that she did not use AI during Paper 1.

- h) The Defendant told the Tribunal that she had lied to the Regulator because she was in a panic.
- i) The Defendant did click on the hyperlinks to the Online exam regulations in the emails of 16 October 2024. Her oral evidence about this issue was confused and contradictory. The Defendant initially stated she did not click on the hyperlinks. She later stated that she probably clicked on the hyperlinks but was not sure if she read the Online exam regulations. She finally admitted that she would have clicked on the hyperlinks and would have glanced at the Online exam regulations for a second or two. This admission was accepted as consistent with the information provided in the Application of Consent Order Procedure (page 155 MB) when the Defendant stated that she “failed to check the regulations properly” and her oral evidence that if had been well she would have taken time to read the Online exam regulations.
- j) Although the Defendant was unwell with Covid on the dates of the examinations of 5 and 6 November 2024, she was able to read the questions of the papers and complete both examinations. On 11 June 2024 in the Special Consideration Application to ATT the Defendant wrote “I have had Covid for the past few days” (page 172 MB). In an email dated 6 November 2024 (page 177 MB) she stated that she had been “battling with covid for the past few days.”
- k) Between 16 October 2024 until 5 November 2024 the Defendant was not prevented due to illness from clicking on the hyperlinks, reading and understanding the Online exam regulations. The Defendant told the Tribunal that she had worked hard, had spent at least a month preparing for the examinations and was well prepared. This was inconsistent with her assertion that she was too unwell and did not have the mental capacity from 16 October 2024, having had Covid for 10 or 12 weeks, to read the Online exam regulations properly. The Tribunal found it unlikely that the Defendant had been suffering from Covid for between 10 and 12 weeks prior to the exams taking into account the information provided on 11 June 2024 in the Special Consideration Application.

- l) The Defendant did not use AI during the examinations under the belief that to do so was permitted. She knew that by using AI she was producing work that was not her own.
- m) The conduct of the Defendant in using AI to produce work that was not her own would be considered to be dishonest by the objective standards of ordinary decent people notwithstanding that the Defendant did not appreciate that what she had done was by those standards dishonest.

Decision on the Charges

- 26. The Tribunal found Charges 1.1 and 2.1 proven on the basis that the Defendant admitted the Charges at the hearing and in her response form (page 5 SB) and on the basis of the evidence at pages 42 to 136 MB. The Defendant when sitting ATT Paper 1 – Personal Taxation Examination on 5 November 2024 and ATT Paper 5 – Inheritance Tax, Trusts and Estates on 6 November 2024 used a GENAI product.
- 27. The Tribunal found Charges 1.2 and 2.2 proven on the basis of its findings in paragraph 25 above. The Defendant was dishonest in that she knew at the time of the examinations that such conduct was in breach of the ATT's Online examinations regulations. Having found Charges 1.2 and 2.2 proven it is not necessary for the Tribunal to make findings in relation to Charges 1.3 and 2.3.
- 28. Having found that Charges 1.1, 1.2, 2.1 and 2.2 proved the Defendant was in breach of Rules 2.1, 2.2.1, 2.6.2 and 2.6.3. In acting dishonestly, she was in breach of the fundamental principle of integrity. She did an act which discredits the profession and was in breach of the fundamental principle of professional behaviour in that she failed to uphold the professional standards of the ATT, she failed to take due care in her professional conduct and professional dealings, she performed her professional work improperly to such an extent as to be likely to bring discredit to herself to the ATT and the tax profession and she conducted herself in an unbecoming manner which tends to bring discredit upon a member and may harm the standing of the profession and the ATT.

Sanction

29. In determining what, if any, sanction to impose the Tribunal had regard to the ISG as revised and applying to all cases on or after 1 January 2025.
30. The Tribunal has borne in mind in approaching the task that it should start by considering the least severe sanction and only consider more serious sanctions if satisfied that the lesser sanction is not appropriate.
31. The Tribunal noted that the purpose of imposing a sanction upon a member, *'is not simply to discipline the individual or firm for any wrongdoing of which he or it may be culpable, but to protect the public and maintain the reputation of the profession by sending a signal as to how serious the Tribunal judges the conduct to be.'*
32. Any sanction imposed 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.
33. The Clerk informed the Tribunal that there were no previous disciplinary findings against the Defendant.
34. The Tribunal considered the mitigating factors which are summarised as follows:
 - a) There has been no previous regulatory history.
 - b) The Defendant is a young and inexperienced person.
 - c) As soon as she realised what she had done the Defendant accepted responsibility and resigned from her role as Tax Assistant as she felt guilty. She has no intention of returning to work in tax in the future. She has reflected on how the situation arose.

- d) In relation to protecting the public and the public confidence in the profession the Defendant has resigned her job and poses no risk to the public or the reputation of the profession.
- e) The Defendant was unwell with Covid on the dates of the examinations, and she contacted ATT on 6 November 2024 to inform of her situation.
- f) She has acknowledged her mistake and expressed regret for her actions and remorse.

35. The Tribunal considered the aggravating factors which are summarized as follows:

- a) The Defendant did not immediately admit that she had used AI and gave misleading and untruthful information. The Defendant by her own admission lied to her Regulatory body.
- b) The Defendant was dishonest in two examinations on a number of occasions.
- c) The Defendant provided conflicting and inconsistent evidence in the proceedings.
- d) The Defendant has produced no evidence of remediation or detailed reflection.
- e) The Defendant has filed no character references. Although she stated she had told no one about the proceedings the evidence indicates her employer was aware of the situation.

36. The Tribunal has assessed the different sanctions in ascending order of seriousness. The Tribunal was of the view that taking no further action or allowing the matter to rest on the file was disproportionate to the seriousness of the Charges. An apology was clearly not appropriate in the circumstances. The Tribunal was of the view that a warning or a censure were not appropriate

because the misconduct was more than minor and the imposition of a fine was not appropriate. A suspension was not appropriate given the nature and seriousness of the Charges found proven.

37. Taking account of all the circumstances, the Tribunal determined that the appropriate and proportionate sanction was a recommendation to remove the Defendant from the Register for a period of three years.
38. In reaching its decision the Tribunal considered Section 4(10) of ISG Student Issues. The Tribunal noted that the examples of misconduct although not strictly analogous to this case did provide some guidance in relation to obtaining improper assistance during an examination and an appropriate lesser sanction that recommendation to remove from the Register where a student was found to be in possession of unauthorised material during an examination without an intention to cheat. In this case the Tribunal had found that the Defendant acted as she did in order to obtain an advantage.
39. In the Tribunal's judgement, public confidence in the profession, its reputation and its standards would be upheld by a recommendation for removal from the Register, as a reasonable and informed member of the public would feel concerned with any lesser sanction for the same reasons that the Tribunal has outlined above throughout this determination. Thus, the Tribunal concluded that the wider public interest will be preserved by the imposition of this sanction.

Costs

40. The TDB, at the hearing, applied for costs in the sum of £3,180.
41. The Tribunal had regard to the ISG's Guidance on Awarding Costs in dealing with a Defendant against whom a charge has been proved. The presumption that an unsuccessful Defendant should pay costs is based on the principle that the majority of professional members should not subsidise the minority who, through their own failings, have brought upon themselves disciplinary proceedings.

42. The power to award costs is discretionary. The general principle requires exceptional circumstances for a Tribunal not to award costs against an unsuccessful Defendant. The Tribunal found no reason to depart from that presumption and found no exceptional circumstances.
43. The Tribunal considered costs of £3,180 and considered that these costs were proportionately and reasonably incurred. The Defendant made no submission in relation to the level of costs or her ability to pay.
44. The Tribunal was of the view that the costs of £3,180 were relevant to this case and would not have been incurred save for the Defendant's own failings and actions.
45. The Tribunal decided that the Defendant should pay £3,180 in costs to the TDB.

Publicity

46. The Tribunal noted the guidance in Annex A of the ISG on the publication of disciplinary findings and Regulation 28.
47. The Tribunal noted the general principle that any disciplinary finding made against a member would be published and the member named in the publication of the finding. The purpose of publishing such a decision was not to add further punishment for the member. It was to provide reassurance that the public interest was being protected and that where a complaint was made against a member of one of the professional bodies covered by the Taxation Disciplinary Scheme, there were defined, transparent procedures for examining the complaint in a professional manner and for imposing a sanction upon a member against whom a disciplinary charge had been proved.

48. The Tribunal further noted that while regulation 28 makes a presumption in favour of publishing the findings made by a Tribunal, there is a discretion to order that there should not be publication of the name of the member, or the details or orders made against the member. The Defendant made a submission in relation to publicity. The Tribunal has borne in mind the guidance in the ISG in Annex A that the discretion not to publish the findings where in exceptional circumstances both the conduct was not serious, and publication might have an adverse impact on innocent third parties. This was not applicable in this case. Additionally, a Tribunal might exercise its discretion not to publish in exceptional circumstances where the conduct was not serious and where publication would be unduly harsh and have an adverse impact on a member's health.
49. Although the Tribunal found that the conduct was serious it found that taking into account the likely very serious adverse consequence to the Defendant the need for her name to be redacted outweighed the public interest in her name being published.
50. The Tribunal ordered that, in accordance with Regulation 28.1, this Decision and Reasons should be published as soon as practicable, and the Defendant's name should be redacted. The Decision and Reasons should remain on the TDB website for a minimum period of five years in accordance with Annex A of the ISG.

Effective Date

51. Pursuant to Regulation 20.10 of the Regulations, this decision will be treated as effective from the date on which it is deemed served on the Defendant.

Jacqueline Findlay

Hearing Chair, Disciplinary Tribunal

21 July 2025