THE DISCIPLINARY TRIBUNAL
OF THE TAXATION DISCIPLINARY BOARD

TDB/2025/10

THE TAXATION DISCIPLINARY BOARD

TDB

– and –

MR ADAM HATCHARD
(ATT Student Number 280265)

Defendant

Date of Hearing	12 June 2025
Review on the papers	15 September 2025
Venue	Virtual using Microsoft Teams

Tribunal Members	
Legally Qualified Chair	Jacqueline Findlay
Professional Member	Martin Brown
Lay Member	Michael 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 12 June 2025 to hear charges brought by the TDB against the Defendant, Mr Hatchard, a

student member of the Association of Taxation Technicians ("ATT"). The Tribunal reconvened on 15 September 2025 to review the decision on the papers.

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);
The "ISG" means the Indicative Sanctions Guidance as revised.

3. The Tribunal had regard to a main bundle of 96 pages ("MB"), a supplementary bundle of 16 pages ("SB"), On-table papers, a witness statement from Ms Purtill, ATT's Director of Education, dated 19 June 2025, a transcript of Ms Purtill's oral evidence dated 27 June 2025, email correspondence between the Defendant and the Clerk to the TDB, the Defendant's written submissions filed on 3 August 2025 and a written submission from Mr Micklewright dated 21 August 2025.

4. The Tribunal considered the provisions of Regulation 14 had been complied with. The Tribunal was satisfied that the Defendant had been notified of the date of the hearing and the documents as required under Regulation 14.1. The Tribunal was satisfied that the Defendant had been given reasonable notice of the hearing and a reasonable opportunity to prepare his case.

5. The Tribunal heard a submission from Mr Micklewright and a submission and oral evidence from the Defendant.

6. Post-hearing further cases with issues similar to this case came before the Tribunal. In these cases the Tribunal received Ms Purtill's witness statement dated 19 June 2025 and oral witness evidence from Ms Purtill relating to the witness

statement. The witness statement and oral evidence were not before the Tribunal when determining this case. The Defendant was provided with a copy of Ms Purtill's witness statement dated 19 June 2025 and a transcript of Ms Purtill's evidence on 24 July 2025 to enable him to consider whether or not there was anything contained in that evidence upon which the Defendant wished to make comment or whether in the light of Ms Purtill's evidence the Defendant might have presented his defence in a different manner. The Defendant was invited to make representations which he filed on 3 August 2025.

7. The Tribunal reconvened on 15 September 2025 to consider the written submissions from the Defendant and Mr Micklewright on Ms Purtill's evidence.

8. The Defendant's submissions are summarised as follows:
   a) Ms Purtill confirmed that Google searches were allowed.
   b) Ms Purtill stated that there was no information specifically related to AI in the main body of the email of 16 October 2024 and that the reader would have to go and look to find the Regulations by clicking on the hyperlink
   c) In his view the examinations of November 2024 were in a 'grey area' because the ATT's infrastructure had not been properly updated to inform candidates exactly how GENAI would be dealt with during the examination.
   d) He invites the Tribunal to consider that there are other factors which led him to use ChatGPT inadvertently. During the examination he used Google as a search engine and the answers produced used AI at the top of the page to give results far quicker than if he had searched through the linked webpages. In these circumstances it was reasonable to reach for ChatGPT when he had used the allowable AI which he knew was permitted from previous examination. The only difference between the Google search and the ChatGPT information produced was the length of the answers given. This point was not mentioned in the ATT Online Examination Regulations 2024 which were rather vague.
   e) A candidate should not have to consider during an examination whether one search is permitted and another not.

f) The ATT Online Examination Regulations 2024 were not updated until 10 April 2025 when the situation was made much clearer. The examination in November 2024 was undertaken when the Regulations had not caught up with the changing technology.

g) Had the Regulations been clearer he would not have made the mistake of using ChatGPT.

h) He resat the examination on 30 April 2025 abiding by the Regulations and sat examinations on 4 April 2025 and 9 June 2025. He asks that the resit result should be released to him and that the result be allowed to stay on his ATT record. He was not made aware that the TDB investigation would have any effect on his resit or sitting further exams

9. Mr Micklewright's submissions are summarised as follows:

a) The Defendant's submission about the validity or otherwise of the resat examinations is a matter for the ATT not the Tribunal.

b) It does not assist the Defendant that the Regulations were only changed on the day the emails were sent out on 16 October 2024. The Defendant accepted in cross-examination that he knew the use of GENAI was prohibited and that ChatGPT was a GENAI product.

c) The Defendant's case has always been that he used ChatGPT inadvertently not that he used it believing it was a search engine. Unless the Tribunal found that the Defendant as using ChatGPT as a search engine this does not undermine TDB's case.

d) The Defendant went further than using ChatGPT as a search engine. He used ChatGPT to generate an answer to an examination question and not to provide information to assist in formulating his on answer.

e) The Defendant accepted in his evidence that he did not use ChatGPT inadvertently.

f) Ms Purtill's evidence makes no material difference because the Defendant was fully aware of the restriction on the use of GENAI having read the Regulations after receiving the email of 16 October 2024. The Defendant accepted in his evidence that ChatGPT was being used because he needed a calculation and he knew this was not acceptable.

10. The Tribunal found that the evidence of Ms Purtill in her witness statement and in the transcript makes no material difference to the decision made and given orally on 12 June 2025 taking into account the Defendant's evidence and the Tribunal's findings as set out below.

11. The Defendant's submission in relation to the exams sat on 4 and 30 April 2025 and 9 June are matters for the ATT and are matters over which the Tribunal has no jurisdiction.

Preliminary Matters

12. Mr Micklewright applied to amend Charges 1.2 and 1.3 by replacing the reference to the 'ATT Code of Conduct' with the reference the 'ATT Online Examination Regulations 2024.'

13. The Clerk to the TDB emailed the Defendant on 11 June 2025 to ask if he agreed the amendments. The Defendant agreed the amendments and given that they were of a minor nature the application was allowed.

14. The Defendant did not apply for the hearing to be held in private. 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.

15. The Tribunal was satisfied that there was public interest in the hearing being in public and the general principle of open justice required openness and transparency which was important for the reputation of the profession. The Hearing Chair was satisfied that there were no compelling reasons to depart from

the normal principle and directed that the hearing should be public save for privacy in relation to personal matters.

Background

16. The complaint relates to the Defendant who is a student member of the ATT. It is alleged that he made direct use of AI during the ATT examination on 6 November 2024.

17. The use of AI was identified through post-examination work. This included use of the ChatGPT website which can be seen as being open through the taking of screenshots through the live examination.

18. The Defendant was referred to the ATT Examinations Steering Group who reviewed the evidence and disqualified the Defendant and requested he be referred to the TDB.

19. The allegations appear to involve potential breaches the PRPG 2018.

20. The Charges are as follows:

Charge 1

1.1 When sitting the ATT Paper 2 – Business Taxation Examination on 6 November 2024, the Defendant used a Generative Artificial Intelligence product (“GENAI”).

1.2 The Defendant was dishonest, in that he knew at the time of the examination that the use of GENAI was in breach of the ATT Online Examination Regulations November 2024.

1.3 Alternatively, the Defendant ought to have known at the time of the examination that the use of GENAI was in breach of the ATT Online Examination Regulations November 2024.

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 he acted in breach of the fundamental principle of integrity;

(b) Rules 2.1 and 2.6.2 and/or 2.6.3 in that he did an act which discredits the profession, in breach of the fundamental principle of professional behaviour in that he 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 his professional conduct and professional dealings; and/or

(iii) performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the ATT or to the tax profession; and/or

(iv) conducted himself 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.

Response to Charges

21. In the Response Form (pages 2 to 6 SB) the Defendant admitted Charges 1.1, 1.2, 1.3 and 1.4.

22. The Charges were put to the Defendant at the hearing by the Clerk and he confirmed that he admitted Charges 1.1, 1.2, 1.3 and 1.4.

23. In an email dated 20 May 2025 the Defendant explained that he had been using GENAI in the buildup to the exam to help him quickly recall taxation laws that he could not remember and it was faster than flicking through his paper notes. He failed to close down the AI tab in the browser. This meant that during the exam when he went to research the first tab that was available was GENAI. He was incredibly busy at work and very stressed. The exam was the final one of the three he needed to pass to be able to move onto the Chartered Tax Adviser exams and

this added to his nerves. As a consequence, he was not concentrating as he should during the exam. The use of GENAI was a genuine mistake, and he did not go into the exam with the intention of using GENAI to cheat and he is extremely regretful. He did use GENAI but also a lot of allowable materials. This was a one-time lapse

24. In oral evidence the Defendant apologised for using the software. He knew that using an AI product was not permitted because he had read the ATT's Online Examination Regulations 2024. He had no malicious intent and there was no premeditated intent. He had made a silly and regrettable mistake. He confirmed that he had read the email of 16 October 2024 and clicked on the hyperlink to the Regulations. He stated that when he opened his browser to do the exam, ChatGPT appeared, and he inadvertently got pulled in to using the answers which appeared. He accepted that there was a difference between using AI as a search engine and using it to produce answers to specific questions. He stated that in the examination he was very stressed, was trying to get an answer and did not step back to realise what he was doing. He was not as alert as he should have been. He accepted that he used ChatGPT to produce a calculation for him in answer to a specific question.

Findings

25. 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.

26. 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 he has done by those standards to be dishonest.

27. The Tribunal made the following findings of fact:

a) The Education Team of ATT sent an email to the Defendant dated 16 October 2024 (pages 10 and 11 SB) which included instructions about the online exam regulations. The emails stated: *"Remember to read the <u>Online exam regulations</u>. 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 22 and 23 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) The Defendant signed a registration declaration when making his application to ATT to comply with and be bound by the Articles of Association, the ATT Regulations and the PRPG 2018 (pages 15 and 16 MB).

d) When undertaking ATT Paper 2 – Business Taxation Examination on 6 November 2024, the Defendant used the AI tool ChatGPT to answer specific questions related to the exam questions and asked AI to perform calculations.

e) On the basis of his evidence, the Defendant used the AI tool ChatGPT in order to gain an advantage. He used ChatGPT to improve his answers by obtaining information which was not his own work. He did not use ChatGPT as a search engine but in order to obtain answers to the questions in the exam paper. In oral evidence the Defendant stated that he used ChatGPT to obtain an answer on only one occasion.

f) The Defendant was aware when using ChatGPT to obtain answers to exam questions that he was producing work which was not his own and was in breach of the ATT Online exam Regulations 2024.
g) The Defendant acted dishonestly when applying the objective standards of ordinary decent people. There is no requirement for the Defendant to appreciate what he has done by those standards to be dishonest.
h) The Defendant accepts he used Gen AI in the exam and should not have done so.

Decision on the Charges

28. The Tribunal found Charge 1.2 proven on the basis of the above findings. The Tribunal found that the Defendant was dishonest in that he knew at the time of the examination that such conduct was in breach of the exam regulations that the work must be his own.

29. Having found that Charge 1.2 proved the Defendant was in breach of Rules 2.1, 2.2.1, 2.6.2 and 2.6.3. He acted in breach of the fundamental principle of integrity and did acts which discredit the profession, in breach of the fundamental principle of professional behaviour. He failed to uphold the professional standards of the ATT, he failed to take due care of his professional conduct and professional dealings and performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the ATT or to the tax profession and conducted himself in an unbefitting or unlawful manner, which tends to bring discredit upon a member and may harm the standing of the profession and the ATT.

Sanction

30. 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.

31. 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.

32. 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.*'

33. 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.

34. The Clerk informed the Tribunal that there were no previous disciplinary findings against the Defendant.

35. The Tribunal considered the mitigating factors which are summarised as follows:

a) There has been no previous regulatory history.
b) The Defendant acted deliberately but his actions were not premeditated.
c) The Defendant has fully and frankly acknowledged his misconduct.
d) He has expressed deep regret and stated he is committed to not repeating the mistake.
e) The Defendant did not try to cover up his errors.
f) The Defendant has co-operated with the investigation and the proceedings.
g) There has been no repetition of any misconduct.
h) His employer has been kept informed and been supportive. He has worked for the same employer for six years and studied hard. He has taken and passed three further examinations including a resit of the ATT Paper 2 – Business Taxation Examination.

36. The Tribunal considered that the fact the Defendant had used GENAI on a number of occasions in the exam was an aggravating factor.

37. 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 was not appropriate because the misconduct was more than minor and the imposition of a fine was not appropriate. The Tribunal was of the view that a censure was not appropriate because the misconduct was of a serious nature and although there was no risk to the public the Defendant had used GENAI on a number of occasions during the exam. A fine was not appropriate taking into account the Defendant's financial situation.

38. Taking account of all the circumstances, the Tribunal determined that there should be a recommendation that the Defendant should be suspended from the Register for one year. The misconduct was sufficiently serious to warrant temporary exclusion from membership but not so serious as to require permanent expulsion taking into account there was no risk of a recurrence of the misconduct, and the protection of the public could be assured by a temporary exclusion from the benefits of membership. The Tribunal did not consider a recommendation for expulsion was appropriate taking into account that there was an understanding and appreciation of the seriousness of the actions by the Defendant.

39. The Tribunal was satisfied that a lesser sanction would undermine confidence in the profession. In reaching its decision the Tribunal considered that the actions of the Defendant were a serious departure from the relevant professional standards and there was dishonesty in his actions. The Tribunal was satisfied that the wider public interest will be preserved by the imposition of this sanction.

40. 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 the guideline that if the Tribunal is satisfied that there was no intention to cheat then in the absence of other misconduct factors, a lesser sanction than removal from the Register should be considered. The Tribunal attached weight to mitigating circumstances in deciding that in this case this guidance should not be followed.

Costs

41. The TDB, at the hearing, applied for costs in the sum of £2,400.

42. 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.

43. 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 as it found that there were no exceptional circumstances.

44. The Defendant asked that his financial circumstances be considered, and he provided details of his current financial position. The Tribunal was not satisfied that payment of the costs would put the Defendant into financial difficulties.

45. The Tribunal was satisfied that costs of £2,400 were proportionately and reasonably incurred.

46. The Tribunal was of the view that the costs of £2,400 were relevant to this case and would not have been incurred save for the Defendant's own failings and actions.

47. The Tribunal decided that the Defendant should pay £2,400 costs to the TDB to be paid in monthly instalments by 11 June 2026.

Publicity

48. The Tribunal noted the guidance in Annex A of the ISG on the publication of disciplinary findings and Regulation 28.

49. 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.

50. 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, at the hearing, made no submission with regard to publicity and stated that this was his burden to bear for his mistake. In his email dated 20 May 2025 he asked that in relation to the decision on publicity consideration be given to the fact this was a one-time lapse rather than an attempt to offend the profession, and any leniency would be greatly received.

51. 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. Again, this was not applicable in this case.

52. The Tribunal found that the conduct was serious and there was a public interest in the Defendant's name being published.

53. The Tribunal ordered that, in accordance with Regulation 28.1, this Decision and Reasons should be published as soon as practicable. 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

54. 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 **Signed: 24 September 2025**