

THE DISCIPLINARY TRIBUNAL
OF THE TAXATION DISCIPLINARY BOARD

TDB/2025/13

THE TAXATION DISCIPLINARY BOARD

TDB

– and –

MR JAMES JOHNSON
(ATT Student Number 260496)

Defendant

Date of Hearing 13 and 27 June 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

AMENDED DECISION AND REASONS

Introduction

1. The Disciplinary Tribunal (“the Tribunal”) of the TDB sat remotely on 13 and 27 June 2025 to hear charges brought by the TDB against the Defendant, Mr Johnson, a student member of the Association of Taxation Technicians (“ATT”).

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 (“MB”) of 110 pages (A1 to E10), a supplementary bundle (“SB”) of 11 pages and On-table papers (2 pages), 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 and email correspondence between the Defendant and the Clerk to the TDB.
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 dates of the hearings and the documents as required under Regulation 14.1. The Tribunal was satisfied that the Defendant had been given reasonable notice of the hearings and a reasonable opportunity to prepare his case. The Tribunal sat on two days as there was insufficient time to complete the hearing on the first day.
5. The Tribunal heard a submission from Mr Micklewright and oral evidence from the Defendant.
6. Ms Purtill’s witness statement was sent to the Defendant before the Tribunal reconvened on 27 June 2025 and as before the Tribunal when making its decision. Post-hearing further cases with issues similar to this case came before the Tribunal. In one of these cases the Tribunal received oral witness evidence from

Ms Purtill relating to the witness statement she had provided. This oral evidence was not before the Tribunal when determining this case. The Defendant was provided with 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 oral 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 to the TDB by no later than 8 August 2025. The Defendant made no representations.

7. The Tribunal was of the view that Ms Purtill's oral witness evidence would have made no difference to its decision had it been available at the hearing. The Tribunal have proceeded on the basis that the Defendant does not wish his case to be revisited.

Preliminary Matters

8. Mr Micklewright applied to amend Charge 1 by replacing the reference to the ATT Code of Conduct with the correct reference of the ATT Online Examination Regulations in Charges 1.2 and 1.3.
9. The Clerk to the TDB emailed the Defendant on 12 June 2025 to ask if he agreed to the amendments. Defendant did not object to this amendment and given that it was of a minor nature the application was allowed.
10. In the Response Form (page 5 SB) the Defendant applied 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.

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 public interest in transparency outweighed any person embarrassment to the Defendant. 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.
12. In the Response Form the Defendant indicated he had disabilities which affected his concentration and short memory, and he sometimes had to ask for questions to be repeated in order to understand completely. At the hearing the Defendant did not ask for any reasonable adjustments and confirmed he would say if he did not understand anything that was said or any questions put to him. He confirmed that he would ask if he needed a break at any time.

Background

13. 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 5 November 2024.
14. 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.
15. 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.

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

17. The Charges are as follows:

Charge 1

1.1 When sitting the ATT Paper 4 – Corporate Taxation Examination on 5 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 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 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 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

18. In the Response Form signed on 24 May 2025, the Defendant admitted Charge 1.1 and 1.4(b)(ii) and denied 1.2, 1.3 and 1.4(a)(b)(i)(iii) and (iv) (pages 2 to 6 SB).
19. The Charges were put to the Defendant at the hearing by the Clerk and he confirmed that he admitted Charge 1.1 and 1.4(b)(ii). He denied Charges 1.2, 1.3 and 1.4(a)(b)(i)(iii) and (iv).
20. While giving evidence the Defendant changed his position in relation to the Charge 1.3 and confirmed that he wished to change his plea and admitted he ought to have known at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations.
21. In an email dated 7 February 2025 the Defendant admitted using GenAI during the exam. He stated that he was unaware that it was explicitly prohibited under the updated regulations. As the exam was conducted online and allowed open book access to materials, he mistakenly assumed that using AI tools was permitted. He apologised for his oversight and recognised the importance of adhering to exam regulations. It was never his intention to deceive or compromise the integrity of the exam. He accepts full responsibility for not reviewing the updated guidelines more thoroughly. He is committed to upholding the highest professional and ethical standards.
22. In Annex A – Agreement to Consent Order Procedure Form, the Defendant stated that it was never his intention to disrespect the ATT/CIOT exam board. His actions stemmed from a true misunderstanding and not misconduct. He had not looked at the newest exam policy and assumed that Open Book and online format allowed the use of GENAI. As a person with a disability, he cannot keep up with certain procedural changes and this explains how the misunderstanding came

about. He accepts his actions and the consequences which arise. The mistake was due to inadvertence. He has co-operated fully with the investigation. This mistake will not happen again, and he will continue to observe the standards of the profession and compliance will be guaranteed.

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 he has done by those standards to be dishonest.

25. The Tribunal made the following findings of fact:

a) The Education Team of ATT sent an email to the Defendant dated 18 October 2024 (pages 7 and 8 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 21 and 22 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 14 and 15 MB). The Defendant stated in oral evidence that he had read the declaration at the time he signed it.
- d) When undertaking ATT Paper 4 – Corporate Taxation Examination on 5 November 2024, the Defendant used the AI tool ChatGPT to answer specific questions related to the exam questions. He used ChatGPT in 8 out of 60 screen captures (pages 23 to 88 MB).
- 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 guide him to the right answer.
- f) The Defendant's evidence was inconsistent and for that reason unreliable. He stated that he received the email with the hyperlink to the ATT Online Regulations and that there was nothing which would have prevented him reading the email as he was perfectly capable of doing so and understanding its contents taking into account the length of time he had to read the email between 18 October 2025 and 5 November 2025. He stated, also, that his brain went through the email automatically as he had read it before. He stated he went onto auto-pilot when he read the email. He stated that he had difficulty in keeping up to date with changes and could not concentrate for very long. However, he confirmed he was able to

concentrate to take the exam, read the questions and was fit to take the exam on 5 November 2025. He stated he did not think he needed to check the 2024 Regulations.

- g) 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.
- h) 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.
- i) The Defendant accepts he used Gen AI in the exam and should not have done so.

Decision on the Charges

26. The Tribunal found Charges 1.1 proven on the basis of the Defendant's admission in the Response Form and the evidence at pages 23 to 88 of MB. The Tribunal found that when sitting the ATT Paper 4 – Corporate Taxation Examination on 5 November 2024 the Defendant used a GenAI.

27. The Tribunal found Charges 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.

28. 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 unbecoming or unlawful 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 has acknowledged his failings, to a limited extent. He has expressed regret and stated he is committed to not repeating the mistake.
- c) The Defendant did not try to cover up his errors.
- d) The Defendant has co-operated with the investigation and the proceedings.
- e) There has been no repetition of any misconduct.

35. The Tribunal considered the aggravating factor that the Defendant used AI on numerous occasions during the examination, gave different explanations for the breaches and has not expressed a genuine understanding of his failings.

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 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 there were no particular circumstances or mitigation which satisfied the Tribunal that the misconduct was not deliberate and no clear demonstration by the Defendant of his understanding and appreciation of his failings. A fine was not appropriate taking into account the Defendant's financial situation. 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 there should be a recommendation that the Defendant be removed from the Register because the misconduct was so serious as to undermine confidence in the profession if a lesser sanction were to be imposed. 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.

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 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.

Costs

39. The TDB, at the hearing, applied for costs in the sum of £3,157.

40. 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.

41. 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.
42. The Defendant asked that his financial circumstances be considered because he was in receipt of Universal Credit. The financial consequences of the proceedings together with his low earning makes it difficult for him to afford any meaningful costs. He asked that the costs be proportionate to the circumstances of the case and his ability to meet them. He would like a payment arrangement that would have the least impact on his personal financial situation allowing him to manage the payments without undue hardship.
43. In the absence of any evidence of his financial circumstances the Tribunal is entitled to assume the Defendant has the ability to pay the costs.
44. The Tribunal was satisfied that costs of £3,157 were proportionately and reasonably incurred.
45. The Tribunal was of the view that the costs of £3,157 were relevant to this case and would not have been incurred save for the Defendant's own failings and actions.

46. The Tribunal decided that the Defendant should pay £3,157 costs to the TDB. It is open to the Defendant to apply to the TDB in relation to the period of time over which the costs will be paid.

Publicity

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

49. 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 stated that he respected the need for publication to establish credibility, but that publicity would cause unwarranted damage to his reputation and livelihood. 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.

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

51. 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

52. 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: 15 August 2025

Amended: 1 September 2025