

TAXATION DISCIPLINARY BOARD

USE OF EXTRANEOUS MATERIAL

1. This guidance, which has been approved by the Board, deals with a matter that has occasionally arisen at meetings of the Investigation Committee (IC).
2. When a complaint is submitted to the IC, it comprises the correspondence that has been received from the complainant and the member, together with a covering paper which the Reviewer prepares suggesting possible charges, summarising the issues and identifying the relevant page numbers. The IC members are free to ignore the summary paper and focus exclusively on the correspondence. In a few cases, for example where there have been court proceedings or press articles or website postings relevant to the complaint, these may form part of the bundle which is prepared for the IC. This bundle also forms the main part of the evidence which is submitted to the Disciplinary Tribunal.
3. On a few occasions members of the IC have made their own additional searches by googling the member's name. Sometimes this may produce relevant additional material, eg Companies House printouts, which it may be reasonable to circulate to the other Committee members. But it is also possible for a panel member, by searching on the internet, to come across additional material which might be prejudicial to one or other of the parties to a complaint.
4. It is also possible that a panel member who is aware of such additional material could be considered prejudiced by virtue of the knowledge gained from that material. Although it may be a matter of public record or public exchanges, it has not been put to the member who is the subject of the complaint. If it were to be discussed at the IC meeting, it would clearly increase the likelihood of a finding that there is a prima facie case on the complaint which is under consideration, and might subsequently affect the decision that the Disciplinary Tribunal would take. Panel members will be aware that juries in criminal trials are told that they must not seek to access additional material about the defendant on the internet, and jurors can be held to be in contempt if they do so.
5. The Board believes that all panel members should be strongly discouraged from making any searches or enquiries in relation to any of the parties to a case they are dealing with. Otherwise there could be a real risk of bias, which could give rise to very serious implications if the member who is the subject of the complaint ever found out that extraneous material had been discussed, which was not part of the official bundle, and complained that the TDB was prejudiced. Decisions made by panel members must be based on the evidence before them, and members are urged most strongly to confine themselves to the material that is formally submitted to either the IC meeting or the relevant Tribunal.

Taxation Disciplinary Board

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