



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Disciplinary Tribunal

Mr John Alexander Stenhouse

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 1 October 2024, I, Geoffrey Williams KC, sat as Chairman of a Disciplinary Tribunal on 27-29 November 2025 and 8 May 2025 to hear and determine 1 charge of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mr John Alexander Stenhouse, barrister of the Honourable Society of Lincoln's Inn.

Panel Members

The other members of the Tribunal were:

Lakshmi Ramakrishnan (Lay Member)

Sirah Abraham (Barrister Member)

Charges

The following charge was denied.

Charge 1

Statement of Offence

Professional misconduct, contrary to Core Duty 5 and/or rC8 (integrity only) of the Bar Standards Handbook.

Particulars of Offence

John Stenhouse, a barrister and regulated individual, behaved in a way which was likely to diminish the trust and confidence which the public places in him or in the profession and acted in a way which could reasonably be seen by the public to undermine his integrity, in that, between 15 February 2023 and 23 May 2023, Mr Stenhouse sent to the First-tier Tribunal ("FTT") (Tax Chamber) office email correspondence and a reply to submission of His Majesty's Revenue and Customs ("HMRC") set out in Schedule A in which he:

- (a) Made unfounded and serious allegations of misconduct in public office against a member of the FTT's staff (Person A) and an officer of HMRC (Person B), namely that they had secretly conspired to wrongfully bring about the end of his (Mr Stenhouse's) FTT appeal;

- (b) Made an unfounded and serious allegation of misconduct in public office against the President of the FTT (Tax Chamber), namely that he had covered up the alleged misconduct of Person A and/or Person B.
- (c) Made comments which, taken individually or cumulatively, were unacceptable, insulting or rude in tone and/or content; and/or
- (d) Refused to withdraw the allegations of misconduct or apologise for his insulting or rude language, when invited to do so by the President of the First-tier Tribunal.

Parties Present and Representation

The Respondent was present and was not represented. The Bar Standards Board (“BSB”) was represented by Mr Leo Davidson.

Introduction

1. A three-person Disciplinary Tribunal (“the Tribunal”) heard the case against Mr Stenhouse on 27th – 29th November 2024, 8th – 9th May and 5th June 2025.
2. Mr Stenhouse faced one Charge of professional misconduct contrary to Core Duty 5 and rC8 (integrity only) of the Bar Standards Board (“BSB”) Handbook.
3. The charge related to the content of certain emails sent by Mr Stenhouse to the First Tier Tribunal (Tax Chamber) (“FTT”) between 15th February and 23rd May 2023. There were four sub-paragraphs to the Charge and an Annex setting out the contents of the emails relied upon by BSB.
4. The contents of the emails in question will be analysed individually below.
5. Mr Leo Davidson of Counsel represented the BSB. Mr Stenhouse appeared in person.

The Facts

6. In September 2022 Mr Stenhouse issued an appeal to FTT against late payment penalties notified to him by HM Revenue & Customs (“HMRC”). By the date of submission of the Notice of Appeal HMRC had either cancelled the penalties or reduced them to nil. However, Mr Stenhouse wished to pursue a claim for compensation against HMRC within the appeal proceedings.
7. Directions in the appeal had been made on 22nd November 2022. HMRC had not complied with one such Direction with respect to delivering written representations. Mr Stenhouse had taken no action consequent upon this breach.
8. Mr John O’Shea had conduct of the appeal on behalf of HMRC. Mr O’Shea was described as a Litigator with Legal Operations/Solicitor’s Office and Legal Services of HMRC.

9. On 12th December 2022 Mr O'Shea sent by email a letter to Mr Stenhouse. The salient points were as follows: -
- (a) "The late payment penalties for the year 2019-20 and 2020-21 included in your appeal to the Tribunal were either reduced to nil or cancelled on 15 August 2022;"
 - (b) "Interest charged by HMRC is a statutory charge and there is no right of appeal against it. It is therefore outside the scope of the Tribunal's jurisdiction;"
- and
- (c) "There is no tax owed for the years 2019 – 20 and 2020 – 21 and there are no late filings or late penalties charged for either year. In this case the Respondents consider there is nothing further under appeal and the Respondents will be requiring the Tribunal to close their file."
10. In giving evidence Mr Stenhouse considered that sub-paragraph (c) above amounted to a request for FTT to strike out his appeal.
11. Also, on 12th December 2022 Mr O'Shea sent an email to "Tax Appeals" at FTT attaching his letter to Mr Stenhouse and saying, inter alia, "since there is nothing further under appeal the Respondents request that this file is closed."
12. Mr O' Shea did not copy in Mr Stenhouse to this email.
13. Mr John Fairweather a Senior Tribunal Caseworker at FTT had conduct of the appeal. Having given consideration to Mr O'Shea's letter he wrote to Mr Stenhouse on 6th February 2022. Salient points from this letter are as follows: -
- (a) "the matters that fall within our jurisdiction are appeals against late filing and late payment penalties following the submission of self-assessment. HMRC have indicated that the penalties under appeal have been reduced to nil or cancelled;"
 - (b) "My understanding is that there is no right of appeal against interest charged on a direct tax or against a self-assessment as it is a record of your own return;"
 - (c) "As there does not appear to be any remaining matters within the Tribunal's jurisdiction I have set out a direction below for the appellant to comply with. Should the appellant wish to pursue an application for costs they are entitled to do so in accordance with Rule 10 of our rules and procedures;"
 - (d) The direction made was to the following effect: -
 - (1) "Our direction of 22 November 2022 is set aside."

- (2) “Within 14 days of the date of this direction the appellant should confirm to HMRC and the Tribunal how they wish to proceed with their appeal. If the appellant does wish to continue with an appeal to the Tribunal they should confirm the exact matters that remain in dispute, copies of decision letters that show the matters in dispute, and confirmation of the legislation that provides a right of appeal to this Tribunal.”
- (3) “If the appellant does not comply with direction 2 the matter will be referred to a Judge to consider if proceedings should be struck out.”
- (4) “Either party can apply for these directions to be amended or suspended at any time.”

14. Accordingly, FTT did not accede to the “requirement” by Mr O’Shea to close the file. Mr Stenhouse was given the opportunity to make further representations, and he did so.

15. On 16th February 2023 Mr Stenhouse sent an email to Mr Fairweather. He said inter alia: -

- (a) In criticising Mr Fairweather’s actions they were “plainly no more than what he has been instructed to say by HMRC/Mr O’Shea;
 - (b) This amounts to HMRC/Mr O’Shea being permitted to control the Tribunal for the benefit of HMRC;
 - (c) What has actually happened here is that a secret proceeding has taken place to a Directions Order of the Tribunal being made on a basis of the secret representations made to the Tribunal;
- and
- (d) In making a statement as to the jurisdiction of FTT what Mr Fairweather had said was plainly no more than what he had been instructed to say by HMRC/Mr O’Shea.

This email as all other emails described Mr Stenhouse as a Barrister at Law and Certified Mediator practising at Nightingale Chambers. This email is the subject matter of Charge 1(a).

16. On 4th April 2023 Mr Fairweather replied to the above email with an email written by the President of the FTT Judge Greg Sinfield. The following points were made, inter alia: -

- (a) Mr Fairweather had been properly authorised to proceed as he did on 6th February 2022 – see paragraph 13 above;
- (b) In his email of 6th February 2022 Mr Stenhouse had made allegations of misconduct against Mr Fairweather and FTT;

- (c) Mr Stenhouse was accusing Mr Fairweather of failing to discharge his functions as a Senior Tribunal Caseworker in good faith and of acting at the behest of HMRC to the prejudice of Mr Stenhouse;
 - (d) Mr Stenhouse had provided no evidence to substantiate these allegations;
 - (e) Judge Sinfield has asked for the file to be checked. The only correspondence sent to FTT by HMRC which did not appear to have been copied to Mr Stenhouse was the email of 12th December 2022 – see paragraph 12 above. The email was attached;
 - (f) HMRC should have copied this email to Mr Stenhouse for complete transparency but it attached the letter to Mr Stenhouse referred to at paragraph 9 above;
 - (g) There were no undisclosed HMRC representations or “secret proceedings” in this case;

and
 - (h) Judge Sinfield rejected the allegation that HMRC controlled the Tribunal and told Mr Fairweather what to say and the allegation was “completely baseless”.
17. Mr Stenhouse replied to this email on 17th April 2023. He stated, inter alia, that: -
- (a) “With regard to Mr Fairweather’s contact with Mr O’Shea I reject the President’s rather pathetic attempt at a whitewash”;
 - (b) “It is beyond dispute that such information that was given to Mr Fairweather by Mr O’Shea in their private and secret dealings with each other”;
 - (c) “This means either that no records of the information passing between Mr O’Shea and Mr Fairweather were ever made or that such records as there were had been removed from the file”.
 - (d) “It is clear beyond peradventure that Mr O’Shea either asked or instructed... Mr Fairweather to cancel the directions of the Tribunal. Mr Fairweather obliged without any prior reference to me. I was simply told that the deal was done, and the directions had been cancelled”;
 - (e) “I am afraid that if the President is going to whitewash what has actually occurred and what is actually recorded in email correspondence in the interests of attempting to maintain the integrity and reputation of and public confidence in the Tax Chamber for which he is responsible he needs to come up with something better... The President has a rather perverse understanding of the concept of transparency.”
18. The matters set out at paragraph 17 above relate to all limbs (a) (b) and (c) of Charge 1.
19. On 21st April 2023 Judge Sinfield caused an email to be sent to Mr Stenhouse offering to consider further submissions with respect to the status of the appeal.
20. On the same day Mr Stenhouse replied declining this offer on the basis that the issue had already been decided. He said “So, stop messing me around and get on with it.”

21. Later that day Judge Sinfield replied by an email which he caused to be sent to Mr Stenhouse stating that no decision had been made and that he would not tolerate rudeness and language from any member of the Bar especially when they are directed to a Court or a Tribunal.
22. Mr Stenhouse replied on the same day. He denied having been rude. He went on to say, "I repeat – stop messing me about and get on with formally making the decision."
23. The matters set out at paragraphs 19 – 22 above relate to Charge 1(c).
24. On 24th April 2023 Judge Sinfield said in an email to Mr Stenhouse "You have accused Mr Fairweather of conspiring secretly with HMRC against you and me of a "pathetic attempt at a cover up." More recently you have told the Tribunal to "stop messing me around and get on with it." The unsubstantiated and wholly false accusations and your peremptory language can only be described as "rude." If you do not withdraw the allegations and make an apology for your tone, I will have no alternative but to report your behaviour to the Bar Standards Board" Mr Stenhouse declined to apologise. Judge Sinfield made a complaint to BSB This matter is the subject of Charge 1(d).
25. Further to the Directions made by Mr Fairweather Mr Stenhouse made detailed representations to FTT. His appeal was considered by Judge Sinfield on the papers on the 24th of July 2023. It was found that the FTT had no jurisdiction with respect to the matters raised by Mr Stenhouse and the appeal was struck out.
26. Mr Stenhouse applied for permission to appeal. This was refused by Judge Sinfield on 3rd October 2023.
27. Mr Stenhouse made an application for permission to appeal to the Upper Tribunal (Tax and Chancery Chamber) against the decision of Judge Sinfield made on 24th July 2023.
28. One of Mr Stenhouse's Grounds of Appeal had related to the interactions between HMRC and FTT.
29. The appeal was considered by Judge Thomas Scott. He found that the allegations supporting the ground in question were "baseless." They were serious allegations of bias and misconduct on the part of Judge Sinfield and Mr Fairweather. It was clear that FTT had offered the parties the opportunity to make submissions. It was found that this ground was totally without merit and Mr Stenhouse was refused permission to appeal.

Oral evidence before the Tribunal

30. Mr Fairweather, Judge Sinfield and Mr Stenhouse had all submitted Statements of Truth. They were all confirmed under Oath and the witnesses were cross-examined at length.

The Recusal Application

Having heard the oral evidence, the hearing resumed on 8th May 2025. At the outset Mr Stenhouse made an application that the Chair should recuse himself from deliberations and decision making.

32. Both parties had submitted written submissions and made oral submissions at the resumed hearing.
33. The application was based upon certain questions put to Mr Stenhouse by the Chair after he had given evidence and been cross examined. Essentially Mr Stenhouse was arguing that the Chair had a closed mind and was favouring the case for BSB. He submitted that the questions amounted to “messaging” to the BSB so as to guide the further pursuit of the proceedings.
34. Prior to asking the questions relied upon the Tribunal had retired to consider the questions that should be raised. The questions then put by the Chair were on behalf of the Tribunal as a whole.
35. The application was opposed by Mr Davidson for the BSB. He submitted that it was the role of the Tribunal to put issues not already covered in evidence to Mr Stenhouse. He agreed that the Tribunal should not demonstrate a closed mind but the Tribunal was seeking to clarify certain matters. There was no arguable case for recusal.
36. The Tribunal gave careful consideration to the submissions for both parties and had at the forefront of its collective mind fairness to Mr Stenhouse.
37. The Tribunal concluded that the issues raised by the application did not establish any suggestion of messaging or perceived bias against Mr Stenhouse. The questions were proper and appropriate. The recusal application was totally without merit and was dismissed.

The standard and burden of proof

38. The burden of proof was upon BSB. As to the appropriate standard of proof Mr Stenhouse submitted that BSB had no legal right to effect a change from the criminal to the civil standard of proof by amendment of its regulations.
39. Mr Davidson referred the Tribunal to the Enforcement Regulations in the BSB Handbook which provided for the application of the civil standard.
40. The Tribunal considered that it was bound by Bibi v BSB (2022) EWHC 921 (Admin) at paragraphs 46 and 47. It therefore applied the civil standard of proof i.e. the balance of probabilities.

Abuse of process

41. Mr Stenhouse submitted that the proceedings amounted to an abuse of process. This was on the basis that the allegations went beyond those referred by the Independent Decision-Making Body.
42. The Tribunal rejected that submission. The matters having been properly referred to the BSB the allegations clearly arose from the available material. There was no abuse of process.

Human Rights

The Tribunal is bound by Article 6 (right to a fair trial) Article 8 (right to respect for private life) and Article 10 (freedom of expression) of the European Convention on Human Rights.

44. The emails that were the subject of the allegations were covered by the right to freedom of expression and any sanction with respect to them requires justification. This applies to both Article 8 and Article 10 rights. Such interference can only be justified if it is prescribed by law and pursues a legitimate aim and it is convincingly established that the measure in question is necessary and proportionate in pursuit of that aim. These principles derive from Diggins v BSB (2020) EWHC 467 (Admin) at paragraphs 74 – 75.
45. The Tribunal found that the BSB disciplinary scheme pursues legitimate aims i.e., inter alia, the maintenance of the reputation of the profession and the protection of the public. The rights of others including other barristers and those instructing them are also protected.

Conduct in a personal capacity

46. In his tax appeal Mr Stenhouse was representing himself. It was a personal matter. However, the emails in question described Mr Stenhouse's professional status – see the conclusion to paragraph 15 above.
47. Mr Stenhouse was corresponding with a Tribunal Judge and a Tribunal official in relation to a judicial process. In his closing submissions he repeatedly referred to himself as a barrister or advocate in the context of his communications.
48. The Tribunal concluded that conduct in a barrister's personal life can amount to a breach of the professional Code where there is good reason. There was a clear nexus between the statements made by Mr Stenhouse and subject to the Charges and his duties in conduct as a barrister.

Misconduct

49. The Tribunal recognised that not every breach of a Core Duty will amount to professional misconduct. There is a threshold which has to be overcome before such a conclusion can be reached.
50. To justify a finding of misconduct there needs to be a finding that the conduct would damage the reputation of the profession in the eyes of the public, other barristers and those who instruct them. A high degree of seriousness will be required.

Findings upon the charges

51. The Tribunal considered the Charges individually taking into account the oral and documentary evidence. The Charges all related to emails sent by Mr Stenhouse.
52. **Charge 1(a)**

BSB alleged that Mr Stenhouse made unfounded and serious allegations of misconduct in public office against Mr Fairweather and Mr O'Shea namely that they had secretly conspired to wrongfully bring about the end of his appeal to the First Tier Tribunal.
53. The Annex to the Charge confirmed that it related to Mr Stenhouse's email dated 16th February 2023 which is extracted in the Annex.

54. Mr Stenhouse was correct in stating that Mr O'Shea had contacted the Tribunal via Mr Fairweather.
55. On 12th December 2022 Mr O'Shea emailed the letter sent to Mr Stenhouse referred to at paragraph 9 above. He was plainly submitting that the appeal be brought to an end. Mr O'Shea made it clear that a copy of the letter had been sent to the Tribunal.
56. However, when so doing Mr O'Shea failed to copy in Mr Stenhouse. This was unfortunate and appears to have led to Mr Stenhouse jumping to conclusions.
57. However, Mr Fairweather did not do what he was asked to do by Mr O'Shea. Rather he sent the email dated 6th February 2023 to Mr Stenhouse which is summarised at paragraph 13 above. The appeal file had not been closed as Mr O'Shea had wished. Mr Stenhouse quite properly took advantage of the opportunity to make further representations, and the appeal continued.
58. It is against that background that the Tribunal construed Mr Stenhouse's email the subject of the Charge. It found that there was no basis for the assertions that: -
- (a) "Mr Fairweather has done what he was asked to do by Mr O'Shea/HMRC".
 - (b) That amounted to "HMRC/John O'Shea being permitted to control the Tribunal for the benefit of HMRC".
- and
- (c) "What has actually happened here is that a secret proceeding has taken place... leading to a Directions Order of the Tribunal being set aside on the basis of secret representations made to the Tribunal".
59. For Mr O'Shea's email attaching his letter to the Tax Tribunal to have been "secret" this Tribunal concluded that it would need to be established that it was intended to be kept unknown to Mr Stenhouse for some reason. The Tribunal found this to have been an oversight by Mr O'Shea in not copying in Mr Stenhouse. In any event the email contained the information sent in the letter to Mr Stenhouse on 12th December 2022 referred to at paragraph 9 above.
60. The Tribunal found that Mr Fairweather to be a credible and careful witness of truth. He gave his evidence in a reasonable and measured way.
61. Mr Fairweather had not done what he was asked to do by Mr O'Shea. He did not cede control of the Tribunal to HMRC. The allegations that he had done so were of the utmost gravity expressing alleged serious misconduct by Mr Fairweather in the conduct of his public duties. Had he behaved in such a way there would no doubt have been very serious consequences for him.
62. Whilst it would certainly have been preferable for the Charge and the Annex to cite verbatim what Mr Stenhouse had said the Tribunal found that what was alleged reflected what Mr Stenhouse had said and the Tribunal was not persuaded that the Charge should fail on such a basis.

63. Given the very serious nature of the baseless allegations the Tribunal unanimously concluded that Mr Stenhouse breached Core Duty 5 and that further it crossed the threshold so as to amount to professional misconduct. The Tribunal did not find a breach of rC8 (integrity).
64. Charge 1(a) was therefore proved on the above basis with respect to Mr Stenhouse's allegations against Mr Fairweather.
65. **Charge 1(b)**
- This Charge alleged that Mr Stenhouse had made unfounded and serious allegations against Judge Sinfield of misconduct in public office "namely that he covered up the alleged misconduct of Mr Fairweather and Mr O'Shea."
66. The Annex to the Charge made it clear that it was based upon an email from Mr Stenhouse to the Tax Tribunal dated 17th April 2023.
67. The evidence of Judge Sinfield was that Mr Fairweather had brought to his attention the matters covered by Charge 1(a). Judge Sinfield asked Mr Fairweather for his reaction to the allegations and arranged for the file to be checked for any communications between Mr O'Shea and Mr Fairweather that had not been copied to Mr Stenhouse. The communication referred to at paragraph 11 above was the only such communication. Judge Sinfield explained this to Mr Stenhouse by an email dated 4th April 2023. He confirmed that the communication should have been copied to Mr Stenhouse "in the interests of complete transparency" but the email did not say anything that was not said to Mr Stenhouse in the letter.
68. Judge Sinfield went on to find that there were no secret proceedings, and he rejected the allegation that HMRC controlled the Tribunal and told Mr Fairweather what to say as "completely baseless."
69. Whilst the email dated 4th April 2023 was signed by Mr Fairweather it made it clear that it served to forward the comments of Judge Sinfield.
70. This prompted the email from Mr Stenhouse the subject of the charge. He stated "I am afraid that if the President is going to try and whitewash what has actually occurred and what is actually recorded in email correspondence in the interests of attempting to maintain the integrity and reputation of and public confidence in the Tax Chamber for which he is responsible he needs to come up with something better by way of explanation and exoneration than just having the file examined ex post facto. The President has a rather perverse understanding of the concept of transparency."
71. In his Statement confirmed on Oath Judge Sinfield stated that he regarded the email as "rude to the point of being offensive to me and the Tribunal and also patronisingly dismissive towards Mr Fairweather in particular."
72. Judge Sinfield was a careful and highly reasonable witness of truth and dealt courteously with the points put to him by Mr Stenhouse. The Tribunal accepted his evidence which appeared to have been given more in sorrow than in anger.

73. The Tribunal considered that “whitewash” and “cover up” meant exactly the same thing and declined to dismiss the Charge on a technical basis. Again, it would have been better if the Charge had cited the precise words used by Mr Stenhouse.
74. The Tribunal concluded that Mr Stenhouse was insulting and rude in his email to Judge Sinfield. Furthermore, the allegation of whitewash/cover up was completely baseless. Had Judge Sinfield indulged in such activity it would have amounted to very serious judicial misconduct. Plainly he did not. He was careful and courteous in his dealings with Mr Stenhouse.
75. The Tribunal regarded this as a very serious example of baseless allegations being made against the Tribunal Judge expressed in rude insulting and patronising terms. The Tribunal unanimously found this to be a breach of Core Duty 5 and that the conduct crossed the threshold of professional misconduct. The Charge was found proved on that basis. The allegation of a breach of rC8 (integrity) was not found proved.
76. **Charge 1(c)**
- This Charge related to two emails sent by Mr Stenhouse directed at Judge Sinfield and urging him to “stop messing me around and get on with it” and “stop messing me about and get on with formally making the decision.”
77. The Tribunal found the use of such expressions to be most unfortunate but that it fell short of a breach of any Core Duty. Accordingly, the Tribunal unanimously found that this Charge was not proved.
78. **Charge 1(d)**
- By an email dated 24th April 2023 Judge Sinfield reminded Mr Stenhouse of the allegations he had made against Mr Fairweather. He had informed Mr Stenhouse that unless he withdrew the allegations and apologised his behaviour would be reported to BSB.
79. Mr Stenhouse did neither. The Tribunal found this to be an opportunity that Mr Stenhouse should have taken particularly in light of the investigation that Judge Sinfield had carried out and reported upon.
80. However, the Tribunal unanimously concluded that Mr Stenhouse was aggrieved at the conduct of his appeal and believed, however misconceived such a position was, that he had nothing to apologise for. Accordingly, the Tribunal unanimously found that this Charge was not proved.
81. The sixth day of this hearing took place remotely on 5th June 2025. By an email to BTAS dated 21st May 2025 Mr Stenhouse stated “I am available for a remote sanctions hearing on 5th June.”
82. On 29th May 2025 BTAS sent Mr Stenhouse a Zoom link for the hearing. Mr Stenhouse acknowledged receipt by an email dated 3rd June 2025 and requested confirmation of the start time for the hearing.
83. On the morning of the hearing Mr Stenhouse sent an email to BTAS attaching written: -

- (a) Submissions on sanction;
 - (b) Reply to the BSB submissions on sanction;
 - and
 - (c) Submissions on costs.
84. However Mr Stenhouse made it clear that he would not be attending the hearing stating that “since the BSB is not advocating any particular sanction I will not be attending the Sanctions Hearing in person and have submitted written submissions instead. Due to the limited time available to me as a result of my existing professional commitments I can make better use of today by settling my Grounds of Appeal.”
85. Counsel for BSB applied to proceed in the absence of Mr Stenhouse. He directed the Tribunal to the appropriate Rule. In essence the test is whether it is in all the circumstances just to proceed in absence.
86. The Tribunal having retired to consider this question found as follows: -
- (a) Mr Stenhouse had been issued with this Decision (up to paragraph 80 above) on 29th May 2025;
 - (b) He had confirmed that he was aware of the date fixed for the sanctions hearing and had confirmed that it was convenient for him;
 - (c) Mr Stenhouse had not requested an adjournment;
 - (d) Granting an adjournment was unlikely to result in Mr Stenhouse attending on another day;
 - (e) His absence was voluntary;
 - and
 - (f) Mr Stenhouse had submitted written submissions covering all the issues to be dealt with at the hearing.
87. The Tribunal found that it was just to continue the hearing in the absence of Mr Stenhouse and proceeded accordingly, paying particular attention to his written submissions.

Consideration of Sanction

88. The Tribunal considered the Sanctions Guidance Version 6 dated 1st January 2022.

89. The Tribunal found that the applicable Misconduct Group was Group I alone – unreasonable behaviour towards others.
90. As to seriousness the Tribunal found that the misconduct fell within the middle range – moderate culpability and moderate harm, the harm being towards the reputation of the profession and the reputations of Mr Fairweather and Judge Sinfield. The misconduct would have had a serious impact upon Mr Fairweather in his working life. Mr Stenhouse had been reckless, there was a course of misconduct and the harm would reasonably have been foreseen. These factors applied to both Charges. Furthermore the misconduct could have adversely impacted the administration of justice and the reputation of Judge Sinfield.
91. The Tribunal therefore approached its’ consideration of sanction on the basis of a medium level fine (between £5,001.00 and £15,000.00) and a suspension of up to 12 months.
92. The Tribunal then proceeded to find aggravating and mitigating circumstances considering each Charge individually.
93. Charge 1(a)
- The Tribunal’s findings with respect to the misconduct in general are set out at paragraph 63 above.
94. The following were found to be aggravating circumstances: -
- (a) Lack of remorse;
 - (b) Lack of insight;
 - (c) Given the above it was found that there was a risk of repetition;
 - (d) Misconduct towards a member of Court Staff;
- and
- (e) Misconduct on the part of a very experienced barrister.
95. The following were found to be mitigating circumstances: -
- (a) Mr Stenhouse was of good character;
- and
- (b) He had no previous disciplinary findings recorded against him.

96. The Tribunal did not take into account a previous decision of the Legal Ombudsman and the remarks of Coulson J (as he then was) in the subsequent Judicial Review as it regarded these matters as historic. It also found that the Legal Ombudsman was not a regulator for the purpose of the relevant Rule.

97. Charge 1(b)

The Tribunal's findings with respect to the misconduct in general are set out at paragraphs 71, 74 & 75 above.

98. The following were found to be aggravating circumstances: -

- (a) Lack of remorse;
- (b) Lack of insight;
- (c) Given the above there was a risk of repetition;
- (d) Misconduct towards the President of the Tax Tribunal;
- and
- (e) Misconduct on the part of a very experienced barrister.

99. The following were found to be mitigating circumstances: -

- (a) Mr Stenhouse was of good character;
- and
- (b) He had no previous disciplinary findings recorded against him.

100. Having taken into account these finding the Tribunal imposed fines of £7,500.00 upon each charge considering such sanctions to be fair and proportionate for the proper purpose of sanction. The Tribunal had to assume that Mr Stenhouse would be able to pay these penalties given the fact that he had not taken the opportunity to appraise the Tribunal of his personal and financial circumstances.

101. **Costs**

Both parties submitted schedules of costs. The updated schedule of the BSB was only issued on the day of the hearing in breach of Regulation E245 of the Disciplinary Tribunal Regulations. Accordingly the Tribunal had recourse to the previously served schedule dated 21st May 2025 which was in a lesser amount. Mr Stenhouse's schedule was served in accordance with the Regulation.

102. The Tribunal decided that Mr Stenhouse should be liable for the costs of the BSB. No deduction was appropriate for the two Charges that had not been proved. Those Charges were the least serious and had been properly brought.
103. The costs set out in the schedule were entirely reasonable. The Tribunal assessed the costs at £8,049.48 and ordered that they be paid by Mr Stenhouse.
104. The application for costs made by Mr Stenhouse was found to be without merit and was dismissed.
105. The Tribunal ordered that time for appeal should only start to run from the date of service of this document upon Mr Stenhouse.

Dated: 23rd June 2025

Geoffrey Williams KC
Sirah Abraham
Lakshmi Ramakrishnan