

Law Division
Treasury
Langton Cres
PARKES ACT 2600

*By email: PwCResponse@treasury.gov.au
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Submission – Response to PwC – information sharing

Thank you for the opportunity to make a submission in response to the *Treasury Laws Amendment (Measures for Consultation) Bill 2023: PwC Response: Information Sharing (Bill)*.

The Professional Standards Councils administer the national system of professional standards regulation created by corresponding legislation in each State and Territory. The Commonwealth participates in the national system through its appointed representative to each of the State and Territory Councils, and through prescription of professional standards schemes under Commonwealth legislation.

The Councils' primary focus is on improving professional standards and protecting consumers, with a particular emphasis on the affordability and availability of professional indemnity insurance. The Councils approve professional standards schemes for these purposes. Three large accounting associations – Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants – operate professional standards schemes approved by the Councils.

The Councils consider that information sharing between regulators and disciplinary bodies greatly enhances the ability to identify and manage risks to professional standards. The Professional Standards Authority has a memorandum of understanding in place with the Tax Practitioners Board (TPB) for this reason.

The Councils consider that the provisions of the Bill will significantly improve the exchange of information between relevant bodies. In particular, we note that the Bill will allow taxation officers and TPB officials to:

- share protected information with Treasury about misconduct arising from suspected breaches of confidence by intermediaries engaging with the Commonwealth, and
- share protected information with prescribed professional associations to enable associations to perform their disciplinary functions.

These provisions will remove certain existing statutory barriers to disclosure of information. The removal of these barriers will assist regulators and disciplinary bodies to more readily identify and deal with conduct which constitutes a risk to professional standards (such as unethical or unlawful conduct). It will thereby help to better protect consumers.

The Councils note that, prior to prescribing any professional disciplinary bodies under the proposed provisions, consideration will be given to whether the body has appropriate processes and safeguards in place to ensure that protected information is appropriately managed. In the case of accounting associations operating approved professional standards schemes, we note safeguards for the protection of confidential information should already be in place in respect of disciplinary processes.

The Councils will continue to work with the TPB and other regulators to promote the sharing of information regarding emerging risks and operational experiences. We would be pleased to provide any further assistance to you should it be beneficial.

If you require any further information, please contact me

Yours sincerely

Roxane Marcelle-Shaw

Chief Executive

On behalf of the Professional Standards Councils

4 October 2023

Professional Standards Councils

Questions taken on notice – 12 October 2023

Question on notice:

Senator O'NEILL: Are there any test cases?

Mr Holder: There is very little judicial citing of the legislation, unfortunately.

Senator O'NEILL: If you have anything you could provide us with on notice, it would be helpful.

Mr Holder: I can only think of one off the top of my head, but we'll have a look.

CHAIR: That would be a time frame thing because this is a 1990s to early 2000s type of process.

Mr Holder: That's right. The only cases might be prior to mutual recognition coming into effect across jurisdictions, but we will get back to you on that.

Answer:

The following cases may be of assistance:

Re Doolan [2023] NSWSC 320

Ryan Wealth Holdings Pty Ltd v Baumgartner [2018] NSWSC 1502

Neville's Bus Service Pty Ltd v Pitcher Partners Consulting Pty Ltd [2018] FCA 2098

Ritchie v Woodward (as executor of the estate of the late Woodward) [2016] NSWSC 1715

Question on notice:

Senator O'NEILL: As you get to see everything, and acknowledging that you are not a policy entity, in response to a QON—as a brains trust, and in the national interest—could you report to us about what you observe and what could improve the current prevailing structures?

Mr Holder: We could talk about our regulatory experience. I am not sure we could make any sort of recommendation to you about what could be improved; we would have to take some advice.

Senator O'NEILL: Could you look at the KPMG cheating case? It took a long time for CAANZ to investigate. There was an international dimension to the triggering of that inquiry. Whistleblower action was necessary as well, which indicated a flat-footed response.

Answer:

The Professional Standards Councils recently made a submission to the Commonwealth Treasury in response to the *Treasury Laws Amendment (Measures for Consultation) Bill 2023: PwC Response: Information Sharing* (Submission).

We are pleased to provide a copy of the Submission to the Committee for its consideration.

The Councils consider that information sharing between government regulatory bodies and disciplinary bodies greatly enhances the ability to identify and manage risks to professional standards for the benefit of consumers. This includes occupational associations with approved professional standards schemes which regulate the accounting industry, which overlaps with the consulting industry.

In relation to the national system of professional standards regulation, established under corresponding State and Territory legislation in each jurisdiction, we note that a range of statutory amendments have been considered at officer level. Among these is a proposal to make the definition of 'occupational association' consistent across jurisdictions. However, for the reasons given in evidence at the Committee hearing on 12 October 2023, it is unlikely that a professional standards scheme could be implemented for the broader consulting industry in the foreseeable future.

We note the Committee may find some of the information in the Councils' online research library useful (at <https://psc.gov.au/research-library>). The library contains publications in areas including professions, ethics and conduct, regulation and governance, and professional standards research.