

**Finance and Public Administration Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

**Inquiry into the management and assurance of integrity by consulting services**

**Agency:** Tax Practitioners Board  
**Topic:** PwC - remorse  
**Reference:** Spoken p. 39 (7 June 2023)  
**Senator:** Barbara Pocock

**Question:**

Senator BARBARA POCOCK: When we were talking last time, you indicated that part of the reason why Peter Collins received a fairly lenient penalty—a two-year period before he can reapply—is that he expressed remorse. How did he express remorse?

Mr de Cure: Our system operates on formal submissions. We complete an investigation and provide a formal submission of evidence to the party subject to the investigation. They respond to us in writing. His response through his lawyers included written acceptance of the inappropriateness of his conduct and expressed his remorse.

Senator BARBARA POCOCK: Could you table that correspondence?

Mr de Cure: I will take that on notice if I may.

Senator BARBARA POCOCK: Thank you. If you decide not to, I will press you for any reasons that would make that appropriate, because I believe it should be. There is a great deal of public interest

**Answer:**

The TPB is unable to table this correspondence. The TPB must balance our commitment to working transparently with the Government and the Parliament with issues of wider public policy, our obligations to preserve the secrecy of taxpayer information and the privacy of taxpayers.

Further, the submission contains details of the TPB's investigation processes and disclosing information relating to our investigations can impact on our operations.

The TPB is also mindful of not prejudicing other matters that might be under consideration.

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**Agency:** Tax Practitioners Board  
**Topic:** PwC - timeline  
**Reference:** Spoken p. 42 (7 June 2023)  
**Senator:** Deborah O'Neill

**Question:**

Senator O'NEILL: Can I put it to you, Mr de Cure and Mr O'Neill, that the work of the Senate here is to make sure that we make recommendations that will improve communications. I put it to you that the nature of that clash is actually quite instructive for us about the way in which different perspectives about who can do what are actually being traversed in this area, which seems to be quite a dark space where nobody is quite sure about who has what to do. Can I ask you to review your timeline and add in that event and any further events that you think may be helpful? Because here we are doing the work of the Senate to try to improve the law, improve structures, regulation, practices, to make things better for everybody. I ask you to revise the list and to think about other elements that may not seem material to you but would be important for us to understand. Certainly that is one which seems to be a collision point that is worthy of us knowing about it. So I'll ask you to review your evidence in that way.

**Answer:**

See timeline below:

DATE	ACTIVITY
Late 2019	Initial discussions took place between the Tax Practitioners Board (TPB) and the Australian Taxation Office (ATO).
2 April 2020	The ATO sent an email to the TPB on 2 April 2020 to provide information and evidence in respect of Mr Peter-John Collins' possible unauthorised disclosure of confidential information.
2 July 2020	Referral to the TPB from the ATO re Peter-John Collins
24 September 2020	TPB obtained advice from our in-house General Counsel as to whether the TPB is permitted to disclose information to Treasury or office of the Minister.
6 November 2020	TPB made informal request for information of Treasury.
11 January 2021	TPB issued Treasury with a formal notice for information.
11 January 2021	TPB commenced an investigation into Mr Collins.
8 March 2021	TPB commenced an investigation into PricewaterhouseCoopers (PwC).

DATE	ACTIVITY
3 June 2021	TPB sought further information and evidence from the ATO.
10 June 2021	Having regard to the complexity of the investigation and the numerous avenues for investigation, including contacting third party entities, the TPB's Board Conduct Committee decided to extend the period of investigation of each of Mr Collins and PwC by 18 months respectively.
16 June 2021	The ATO and the TPB had discussions about the limitations of sharing information. The ATO confirmed that further information could not be provided to the TPB.
July 2021	TPB issued formal notices seeking information from PwC and relevant clients.
1 September 2021	The ATO's Commissioner, Chris Jordan, and Second Commissioner, Jeremy Hirschhorn, attend the TPB's Board meeting to raise concerns.
21 September 2021	The ATO's Commissioner sent a letter to the TPB Chair. See FOI Request #24/22-23 on the TPB's FOI Disclosure Log (available at <a href="http://www.tpb.gov.au">www.tpb.gov.au</a> ).
5 October 2021	TPB made a further informal request for information of Treasury.
25 October 2021	TPB issued Treasury with a formal notice for information.
20 January 2022	The TPB Chair sent a letter to the ATO Commissioner, outlining the TPB's adherence to the law and policies. See FOI Request #24/22-23 on the TPB's FOI Disclosure Log (available at <a href="http://www.tpb.gov.au">www.tpb.gov.au</a> ).
19 May 2022	TPB issued Board of Taxation with a formal notice for information.
21 October 2022	Board Conduct Committee met and made a finding of breach re Mr Collins and PwC.
16 November 2022	Board Conduct Committee met and made a sanction decision re Mr Collins and PwC.
25 November 2022	TPB notified ATO of decision re PwC (as required under the <i>Tax Agent Services Act 2009</i> (TASA)).
16 December 2022	TPB notified ATO of decision re Mr Collins (required under the TASA).
23 December 2022	TPB updates our Public Register with findings and sanction decisions.
11 January 2023	TPB provided status update to Assistant Treasurer's office, Treasury, Board of Taxation and ATO.
19 January 2023	TPB updated the Public Register with reasons for decision.

DATE	ACTIVITY
23 January 2023	TPB issued a media release in relation to PwC and Mr Collins.

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**Agency:** Tax Practitioners Board  
**Topic:** PwC – tax practitioner demographics  
**Reference:** Spoken p. 45 (7 June 2023)  
**Senator:** Deborah O'Neill

**Question:**

Senator O'NEILL: Could you provide on notice a sense of the scale of power frequently? Where is the big workforce? How often is that investigated in comparison to the smaller workforce, who have less resources to defend themselves and are unlikely to be able to get into the ATO? I have people here letting me know that the big four have bi-monthly opportunities to talk to the ATO and sort out matters quietly—access that other practitioners don't get, which changes the nature of the way in which they have to work as well. So I would be interested to get who, where and what you are looking at.

**Answer:**

The TPB's regulatory role is to support the public and professional standards of tax practitioners.

The TPB does not classify tax practitioners based on size. Instead our regulatory and compliance approach is responsive to relevant intelligence, evidence and comprehensive risk assessment of the case, irrespective of the size of the entity.

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**Agency:** Tax Practitioners Board  
**Topic:** PwC – reporting requirements  
**Reference:** Spoken p. 46 (7 June 2023)  
**Senator:** Deborah O'Neill

**Question:**

Mr O'Neill: There are, no doubt, reporting requirements in the Tax Agent Services Act, and we would expect—indeed, some firms let us know if there is a breach or a suspected breach under subdivision 30, and we would look into that.

Senator O'NEILL: How often does that occur?

Mr O'Neill: I could take that on notice. I don't really know. As Mr de Cure said, we did not receive any breach reporting under subdivision 30 from PwC and, given what we know now, I would think that they should have reported to us under that subdivision

**Answer:**

In the current financial year to date 50 enquiries were received as 'Notification of change in circumstances'. However, none of these enquiries appear to have been in relation to notifying the TPB of events affecting continued registration.

This relatively low level of notification reflects the nature of the legislative reporting requirement in Subdivision 30-35 of the *Tax Agent Services Act 2009*. Importantly, the TASA requires notification of actual breaches, rather than suspected breaches.

This Subdivision relies on a self-assessment by the tax practitioner who must notify the TPB if they cease to meet one of the tax practitioner registration requirements, including being fit and proper, has a specified event affecting their continued registration or there is a change in address or other circumstances relevant to a tax practitioner's registration.

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**Agency:** Tax Practitioners Board  
**Topic:** PwC – Ian Klug  
**Reference:** Spoken p. 48 (7 June 2023)  
**Senator:** Barbara Pocock

**Question:**

Senator BARBARA POCOCK: My questions are around declarations of interest. Mr Klug preceded you, Mr de Cure, as chair of the TPB. Is that correct?

de Cure: Yes. Senator BARBARA POCOCK: He was there for 4½ years as chair. He oversaw the three-year review of Mr Collins and the PwC matter. Is that correct?

Mr de Cure: Yes, he was the chair at the time.

Senator BARBARA POCOCK: Are you aware, Mr O'Neill—because you may well have both been there—that Mr Klug worked for a decade for Coopers & Lybrand as a tax specialist—that is the precursor body to PwC?

Mr de Cure: I was aware that he had previously worked for Coopers & Lybrand. I was not aware that he had worked as a tax specialist but I was aware that he was a tax practitioner.

Senator BARBARA POCOCK: Mr O'Neill, were you aware?

Mr O'Neill: I was aware that he had worked in a number of firms. One of those included Coopers & Lybrand. He left public practice 10 or 15 years ago, I understand, and he worked for Coopers & Lybrand about 20 years ago.

Senator BARBARA POCOCK: From my reading, he worked for nine years for Coopers & Lybrand then he worked for another firm—I am going on the public record. This association is not, I understand, declared on the TPB website or in his LinkedIn bio. I'm stating those as facts because I'm informed that that's the case. You have to work as a bit of a detective, it seems, to uncover this nine-year relationship with PwC's precursor body. Two people from the board were stood down over the Mr Collins matter, as I understand, because they were partners at PwC at the time or recently—is that correct?

Mr de Cure: Yes. Peter Hogan was a partner of Coopers & Lybrand and then a partner of PwC. From memory he retired from the PwC partnership sometime around 2010, but don't take that as gospel. He was retired before these matters came to be. Judy Sullivan was also a legal partner with PwC and she left the firm, I think, in 2018. Both Mr Hogan and Ms Sullivan made appropriate declarations of conflict in relation to their previous associations with PwC. Both were completely isolated from any of the considerations—

Senator BARBARA POCOCK: My questions are not about them. I understand that's what they did, entirely appropriately— Mr de Cure: Yes, but those things happened.

Senator BARBARA POCOCK: Did Mr Klug— Mr O'Neill: Can I clarify: they weren't stood down; they just stood aside.

Senator BARBARA POCOCK: They stood aside.

Senator O'NEILL: They got the papers but didn't come to the meeting.

Mr de Cure: If I may, Senators, I'd like to continue with that. They did not receive the papers. We use an electronic board program called Convene, and when there were board papers in relation to this matter the version that went to Mr Hogan and Ms Sullivan was blank in that—

Senator BARBARA POCOCK: Did Mr Klug disclose his association with the precursor body to PwC, Coopers & Lybrand, in hearing the Collins PwC matter?

Mr de Cure: I'm not in a position to answer that. I don't know whether he did or didn't.

Mr O'Neill: Can I clarify: Mr Klug was never involved in any operational decisions in relation to PwC—

Senator BARBARA POCOCK: That's not my question. My question is: did he disclose, as would be appropriate, his previous employment of almost a decade with PwC and its precursor body?

Mr O'Neill: On Mr Klug's disclosure to us, I'd have to check what he said. I'm not sure what that detail is. We can take that on notice. Members of the board made disclosures to the relevant minister, so Treasury may have them.

Senator BARBARA POCOCK: I note that Mr Klug did not disclose this association when he appeared at estimates in February of this year, where he was questioned on the PwC matter. It has been reported that Mr Peter Collins, Mr Luke Sayers and Mr Klug had employment that overlapped within PwC and its precursor bodies. Can you confirm that or do you have any knowledge of that?

Mr O'Neill: No knowledge at all.

Senator BARBARA POCOCK: That is a matter this committee would be interested to pursue. Do you know whether, while Mr Klug was engaged either as a board member or as chair of the TPB—I'm not sure if he was a board member—he was in receipt, at any time, of income from Coopers & Lybrand, or PwC in its later structure?

Mr O'Neill: No, he wasn't. He told us he was not.

Senator BARBARA POCOCK: He was not receiving any income for the full period?

Mr O'Neill: No. He left Coopers & Lybrand, we're advised, as a relatively junior person, and he received no continuing remuneration from Coopers or its later iteration as PwC.

Senator BARBARA POCOCK: Thank you.

Mr de Cure: I don't believe he was ever a partner of Coopers & Lybrand

#### **Answer:**

Mr Klug was the Chair of the TPB during the relevant time, however, Mr Klug did not participate as a member of the Board Conduct Committee that considered the PwC and Mr Collins matters. It is also noted that Mr Klug did declare his employment history more generally with the Board and no conflict was noted.

Mr Klug has also advised that:

- He started at Coopers and Lybrand (C&L) in January 1981 and left C&L in late 1989.
- He started in the audit team and moved to tax, having spent two years working in London (1985-1987). When he left C&L in 1989 he was a Senior Manager.
- He does not know and has never met Mr Peter Collins or Mr Luke Sayers. According to media reports, Mr Collins started at C&L in 1991 and Mr Sayers started at C&L in 1990. Given he left in 1989, there was no overlap.
- When he left C&L as a Senior Manager in 1989 he received no income or pensions from C&L or PwC.