

12 March 2024

Mr Patrick Hodder  
Committee Secretary  
Senate Finance and Public Administration References Committee

Email: [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au)

Dear Mr Hodder

**Senate Finance and Public Administration References Committee – Inquiry into the management and assurance of integrity by consulting services – Questions on Notice**

The Institute of Public Accountants (IPA) submits responses to the Questions on Notice arising from the IPA's evidence provided to the Committee on 23 February 2024. These appear in the annexure below.

Our submission is not confidential and can be published.

If you have any queries or require further information, please don't hesitate to contact Vicki Stylianou, Group Executive, Advocacy & Professional Standards

Yours sincerely

[signed]

Vicki Stylianou  
Group Executive, Advocacy & Professional Standards  
Institute of Public Accountants

## ANNEXURE

### Question 1:

**What are the differences between the accounting bodies? What are the services/ benefits that are offered by IPA?**

### Reply:

The differences include:

- Approximately two-thirds of IPA members either work in or advise small businesses and small to medium enterprises (SMEs); and approximately one-third of IPA members are in practice. This leads to a stronger focus on small business and SMEs across all of the IPA's member services, including advocacy.
- IPA's major education pathway is the IPA Program which consists of two parts – a Graduate Certificate of Public Accounting which then leads to an MBA. These have been designed and are delivered in partnership with Deakin University. IPA offers other courses, including a mandatory ethics module, also designed and delivered with Deakin University.
- In terms of Continuing Professional Development (CPD), IPA has three categories of CPD, and members are required to complete a minimum of 20 hours against each category over a three-year period. The categories are: Technical and Product Knowledge; Management and Professional Skills; and Professional and Ethical Standards.

Services and benefits offered by IPA include:

- Advocacy
- Technical tools and resources: Numerous engagement letter templates; ethical clearance letter; accountants toolkit; Professional Practice Quality and Risk Management Manual; Professional Practice Manual; and numerous other practice management resources.
- Communication platforms and publications: Technical Advantage (weekly newsletter); Public Accountant (digital magazine with daily postings); My community (member driven communication platform); and discussion groups both online and in person.
- Professional Assist: Online technical helpline linking members to a large panel of experts.
- CPD: Training and education covering a wide range of topics, both online and in person.
- Mental wellbeing: Formal support by specialists.
- Jobs Board: For use by members seeking to recruit.
- Find an Accountant: Listing of member practices by postcode which is searchable by the public.
- Partnerships: Covering software, cyber security, practice automation, insolvency services, lifestyle services, and more.

## Question 2:

**How collaborative and collegiate are the professional accounting bodies?**

### Reply:

The accounting bodies undertake a large amount of joint advocacy across a range of policy areas, including tax, superannuation, financial advice, accounting and auditing standards, Consumer Data Right, Anti-money Laundering, climate reporting and sustainability standards, and so on. This has hugely increased over the years. We also collaborate with other associations specialising in various sectors.

IPA believes that the current landscape of three professional accounting bodies works effectively and allows us the flexibility to work together on many issues and reforms, whilst allowing us to present different views or emphasis as required to represent our members. For example, given the IPA's focus on the small business and SME sectors, we develop our policy positions from this perspective. IPA also tends to take a very practical approach to all of our work.

There are many accountants who are members of more than one accounting body, which makes our collaborative approach more effective.

## Question 3:

**What services do members offer? What's the shape and nature of the business that the IPA is representing?**

### Reply:

Members that provide professional services in practice must hold a Professional Practice Certificate (PPC). IPA has over 4,700 PPC holders, who are primarily principals and owners of the practice.

Of the PPC holders, over 90% hold a tax agent registration with the Tax Practitioners Board (TPB). Members also hold statutory registrations and offer services as BAS agents, SMSF auditors, Registered Company Auditors, Registered Liquidators, Australian Financial Services Licence (AFSL) holders, Authorised Representatives of AFSL holders, and credit providers.

In addition to these statutory registrations, members offer services in assurance, financial management and reporting, business advisory, valuations, technology related services, SMSF administration, corporate secretarial services and so on.

**Question 4:**

**What would the regulatory framework look like if we followed the APESB proposal?**

**Reply:**

Primarily, IPA agrees that the Code of Ethics applicable to accountants should have legislative force.

Whilst IPA agrees that the APES 110 Code of Ethics is extensive in covering management of conflicts of interest, it may be overly prescriptive for application to consultants who are not covered under any professional Code of Ethics. We believe it would require significant changes to make it applicable to consultants, which would run the risk of undermining the integrity of the current APES 110 Code of Ethics for accountants. Otherwise, it would mean having two Codes operating simultaneously, one for accountants and the other for consultants.

It also begs the question, that if APESB doesn't monitor and enforce (which is clearly stated in submission 17 to this Inquiry), then who would carry out these functions and how would they be funded.

**Question 5:**

**Could the IPA make changes to our complaints and disciplinary function to operate retrospectively?  
What disciplinary tools and resources would we like to see?**

**Reply:****Retrospectivity:**

Policy development doesn't tend to include retrospectivity unless any changes are favourable to the consumer or taxpayer, otherwise it would be unfair. IPA applies this equitable approach when considering our own constitution and by-laws, and in consultation on changes to the APESB professional and ethical standards.

IPA has an investigations and disciplinary process to accept written complaints against IPA members. IPA has no jurisdiction to investigate breaches of the law. IPA's investigation is a process to determine whether a member has breached any of the IPA's requirements or the accounting professional and ethical standards promulgated by APESB.

The current by-laws provide sufficient powers for the IPA to finalise an investigation, even if membership lapsed in the interim, as the time that the complaint or investigation commenced, the person was a member.

In any event, we are currently in the process of supplementing the IPA by-laws to specifically refer to the complaint and investigations regime being applicable to former members.

We wish the Committee to note that most IPA members are mindful of their professional reputation and standing and submit to the disciplinary process in a cooperative manner.

#### **Disciplinary tools and resources:**

- However, it would be extremely useful for the IPA to have the legislative power to compel evidence during the disciplinary process. This could be achieved through amendments to the *Corporations Regulations 2001*. We are able to breach members under our by-laws for not complying with a request for information, however, members can refuse to disclose what might be incriminating evidence.
- More extensive information sharing with the regulators would be useful, however, this has to be a genuine two-sided exchange.
- Protection of the terms ‘accountant’ and ‘accounting services’ would provide a jurisdictional foundation to our monitoring and enforcement activities. The accounting bodies have been operating as co-regulators/ quasi-regulators/ self-regulators for about a century, and we believe the model is mature enough for the accounting bodies to have formal recognition of our role. Currently, anyone can call themselves an ‘accountant’ and offer services to the public (those not covered by statutory registration) and operate without scrutiny.

#### **Question 6:**

##### **What regulatory framework would we like? How should consultants be regulated?**

#### **Reply:**

##### **Regulation of consultants:**

IPA strongly believes that any reform proposals should be considered holistically and avoid disproportionate and duplicative regulatory burden, whilst also considering the cumulative burden.

With respect to consultants, we note that even though the Institute of Management Consultants has developed an ethical code,<sup>1</sup> consultants are generally not required to be members and so are largely not subject to any ethical standards. This position is understandable from a historical perspective given that consultants do not present themselves as having particular qualifications and are engaged by a generally sophisticated client base to perform a diverse range of work, to which a single ethical code would not necessarily be appropriate. Clients are free to engage consultants on the contractual terms that are agreed, including terms relating to probity. However, recent issues demonstrate how

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1 Institute of Management Consultants, Code of Ethics <<https://imc.org.au/about/code-of-ethics/>>.

the reliance upon consultants by the Australian public and private sectors is such that the public interest requires consultants to be subject to stricter standards.

Given the breadth of consulting work, it may not be practicable to mandate that persons providing consulting services must comply with a particular code. However, access to particular kinds of work, such as consulting for government or ASX listed entities, could be restricted to consultants who register with an appropriate professional body or are otherwise subject to regulatory oversight. Any ethical framework could be given legislative force and include penalties for non-compliance.

It may be more expedient to strengthen the government procurement processes and the Commonwealth Procurement Rules rather than to try and regulate such a diverse group of consultants.

This approach would avoid adding further to the regulatory and administrative burden on small practitioners.

#### **IPA suggestions:**

The accounting bodies could report directly to the Australian Accounting Standards Board (once the Financial Reporting Council (FRC) is absorbed). This could improve overall regulatory efficiency as the accounting bodies already report to the FRC. It would obviate the need for overlapping standard setters such as the APESB. We note that the standards promulgated by the APESB do not have the force of law, and in fact are derived from the international standard setter (International Ethics Standards Board for Accountants).

This approach is consistent with that in the United Kingdom, where their FRC sets accounting standards for the UK and Ireland. In IPA's submission this evolution in Australia is appropriate given the maturity of the accounting profession and the accounting standards. This proposed model could involve the establishment of a single regulatory clearing-house for the accounting profession (say the AASB), with compulsory information gathering and information sharing powers and a power to sanction non-compliance with information gathering. AASB could then delegate complaint handling and the disciplinary function, quality assurance, mandatory CPD, and monitoring to each of the professional accounting bodies, under a formal delegated authority. By subjecting professional services to more effective regulatory scrutiny, public faith in the profession could be restored and misconduct discouraged.

This would also preserve the benefits of having joint advocacy and flexibility, in addition to competition in the market and the specific focus of IPA on small business, SMEs and small to medium practices.

## Question 7:

**What monitoring activities does IPA undertake?**

**Reply:**

### **Complaints and discipline**

IPA has an independent complaints and disciplinary system and processes to enforce compliance. If members become non-compliant their membership may be suspended or forfeited. These requirements are also monitored and enforced by the International Federation of Accountants (IFAC) (global standard setter) and all member bodies (including the Australian accounting bodies) must comply with the Statement of Member Obligations.

As part of the formal review of the complaints and disciplinary systems the following changes, inter alia, have been recommended and are being implemented:

- Acceptance and investigation of anonymous complaints.
- Consideration of including a 'fit and proper' definition in the by-laws.
- Changes to our administrative process for non-contested matters. ' '
- Explicit provision to investigate a former member's conduct.

### **Professional Standards Scheme and Legislation**

IPA operates a scheme under Professional Standards Legislation with mandatory reporting requirements to the Professional Standards Councils (PSC).

An excerpt from the Professional Standards Authority website follows:

#### **Protect consumers**

*We demand high levels of professional standards and practices from those that participate in Professional Standards Schemes. We expect associations within our regulated communities to make sure their members uphold these standards through education and guidance, monitoring and enforcement, and other measures. This plays an important role in protecting consumers.*

Further information can be found at, [Welcome to the Professional Standards Councils | Professional Standards Councils \(psc.gov.au\)](https://www.psc.gov.au/)



## Quality Review Program

IPA undertakes approximately 800 member reviews per annum, which enables us to be compliant with the requirements of IFAC.

The reviews assess member compliance with the IPA's constitution, by-laws and the professional and ethical standards. It is mandatory for members to comply with this requirement. Failure to do so can ultimately result in forfeiture of membership.

IPA reports annually on the results to APESB and the FRC.

## Question 8:

### What are the different partnership models?

#### Reply:

There has been extensive commentary on partnership structures and the legal and regulatory flaws inherent in the unincorporated partnership model, including by leading legal experts in this area. Accordingly, the IPA offers the following observations.

Unincorporated partnerships have been effectively utilised as a workaround to the requirements under the Corporations Act that might otherwise apply. Limited partnerships and limited liability partnerships provide greater accountability, and it would be useful to access data and research on how the various partnership models are being utilised in Australia.

IPA has suggested in its submission to the PJC inquiry on *Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry* that reporting obligations should be imposed such as those which apply to ASX limited entities. IPA's position is that large professional firms could be subject to clearer and more comprehensive governance standards, such as those which apply in respect of ASX listed companies (modified as necessary to reflect the absence of a need to protect shareholders and capital markets). It would also be possible to mandate requirements for disclosure of partner remuneration and reports of serious misconduct.

In IPA's view, this focus on individual responsibility would facilitate improved probity standards without prejudicing participants. However, we note that the extension of responsibility and accountability to entity membership is a welcome complement to ensure that staff and other entity level participants are subject to appropriate regulatory standards and requirements.

As members of a profession, accountants are individually responsible for their own professional conduct. While governance standards and cultural norms internal to a firm clearly have a role to play, government's role in ensuring that criminal and civil pecuniary penalties are appropriately framed and consistently applied both supports good culture and deters unlawful conduct. Given this, a well-



resourced and effective regulator is essential. IPA has often been critical of the performance and lack of transparency of ASIC.

Whilst the option to limit the number of partners permitted in an unincorporated partnership, to say 400 (in line with the legal profession), may seem initially attractive, we believe that any changes should be subject to consultation, especially to avoid unintended consequences.

In our submission to the PJC inquiry we made the following comments:

#### **Public Interest Advocate**

The provision of services to public and private sector clients could also be improved through instituting mandated changes to contract terms. Changes could include requiring consultants to expressly accept fiduciary duties to their clients, and to appoint, if required, a public interest advocate on any major contract. The public interest advocate could be required to be a professional subject to a relevant code of conduct (or another ethical code approved by the Minister), and to be required to report to a central clearing-house regulator of the accounting profession on adherence to probity standards. The public interest advocate could be an additional pathway through which any concerns about the conduct of an engagement could be raised and would support improved whistleblower policies and programs.