

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
Question No: 1
Topic: TPB and ATO memorandum of understanding and data protocol
Reference: Spoken p. 7 (26 September 2023)
Senator: Barbara Pocock

Question:

Senator BARBARA POCOCK: Have you provided to the Senate the protocol you've signed between the two agencies?

Mr de Cure: There is an MOU. I don't know whether it's been provided. It hasn't.

Senator BARBARA POCOCK: Could you provide that to us, please?

Mr de Cure: Yes.

Answer:

A copy of the Tax Practitioners Board (TPB) and Australian Taxation Office's (ATO) current Memorandum of Understanding is contained in **Attachment A**.

A copy of the ATO and TPB's current Data Access Protocol is contained in **Attachment B**.

MOU Details	
MOU reference No.:	14.001 (replacing MOU 10.004)
Commissioner:	The Commissioner of Taxation.
ATO:	The Australian Taxation Office (ABN 51 824 753 556).
Commissioner's MOU Relationship Manager:	Name: Hoa Wood Position: Deputy Commissioner, Individuals and Intermediaries
Commissioner's MOU Manager	Name: Kath Anderson Position: Assistant Commissioner, Individuals and Intermediaries
Chair:	Chair of the Tax Practitioners Board.
TPB:	Tax Practitioners Board (ABN 25 109 616 454).
Chair's MOU Relationship Manager:	Name: Michael O'Neill Position: The Secretary, Tax Practitioners Board (TPB)
Chair's MOU Manager:	Name: [REDACTED] Position: Senior Director, Law & Compliance

Accepted and agreed

Approval of this MOU (considered to be variation one of MOU signed on 20 September 2021) has been provided by Assistant Commissioner Kath Anderson and Senior Director [REDACTED] in their capacity as MOU Managers. This MOU includes Schedule1: Information and data exchange'. In this schedule there is reference to a protocol at numerous points, this protocol was developed and made operational as of 3 May 2022. Clause 22.2 has been amended to replace the word 'protocol' with 'ATO-TPB data access protocol'. The Commissioner's MOU Manager's name has also been updated.

Please refer to the ATO Corporate MOU Policy and Advice team for a formal record of electronic approvals between the MOU managers.

Contents

CONTEXT

1. Parties to the MOU

This Memorandum of Understanding (MOU) is between:

- the Australian Taxation Office (ATO)
- the Tax Practitioners Board (TPB)

2. Purpose of this MOU

The ATO and TPB share an interest in ensuring the highest integrity in the tax profession. Given the close alignment of the ATO and TPB strategic objectives with respect to tax professionals, this MOU sets out the framework for how the parties will work together to deliver on agreed joint priorities to achieve a shared and holistic understanding of tax practitioner compliance behaviour and have co-operative approaches to treat tax practitioner risk, while maintaining our respective independence. This includes developing integrated strategies and associated measures of success as well as performance reporting frameworks.

3. Proposing a Subsidiary Arrangement to this MOU

- 3.1 A **Subsidiary Arrangement** would be an arrangement between TPB and the ATO to cover the secondment arrangement applying to ATO staff seconded to the TPB, relating to financial matters or for exchange of data (for the purposes of this MOU, data is taken to mean data or information) or other activities in addition to those contained within this MOU.
- 3.2 Either party may give the other a written proposal for a Subsidiary Arrangement. The proposal should set out:
 - the activities to be carried out under that Subsidiary Arrangement,
 - the parties' MOU Managers for that Subsidiary Arrangement,
 - the duration of that Subsidiary Arrangement,
 - monitoring, evaluation and reporting requirements for that Subsidiary Arrangement, and
 - all other terms proposed for that Subsidiary Arrangement (other than those Common Provisions contained within this MOU).
- 3.3 Each proposal for a Subsidiary Arrangement is to be cooperatively developed and negotiated by the parties in good faith and has no status until both parties agree in writing.
- 3.4 A Subsidiary Arrangement entered into in accordance with this MOU will be treated as an attachment to this MOU and therefore part of this MOU

4. Termination of Subsidiary Arrangements to this MOU

- 4.1 The termination or expiry of a Subsidiary Arrangement to this MOU will not affect:
 - this MOU, or
 - any other Subsidiary Arrangement (unless that other Subsidiary Arrangement states otherwise).

5. Roles of the parties

- 5.1. The role of the ATO is to effectively manage and shape the tax and superannuation systems to support and fund services for Australians. The ATO administers the tax and superannuation acts, including civil and criminal elements of the *Tax Administration Act 1953*. The role of the TPB is to ensure tax practitioner services are provided to the public in accordance with appropriate standards of professional and ethical conduct. The TPB administers the *Tax Agent Services Act 2009*.
- 5.2. Together, this MOU supports the relationship between the two parties in fulfilling our common goal to strengthen the regulation of tax practitioners to increase the integrity of the tax profession.

- 5.3. The roles of the ATO and the TPB are to be further outlined in the ATO and TPB Integrated Plan along with elements of both agencies' strategic frameworks that relate to the work undertaken within each agency. The ATO and TPB Integrated Plan will be published on each agency's website once finalised.
- 5.4. In working together and supporting each other, the ATO and TPB Integrated Plan documents the principles of the relationship between the parties and supports this MOU with the current strategic priorities of the relationship.

6. Key principles

- 6.1. The key principles that underpin the relationship between the ATO and TPB and the operation of this MOU are:
 - 6.1.1. respect and protect both the separate roles and the independence of each entity
 - 6.1.2. work together openly and transparently to address our shared risks, noting that our priorities may not always align.
 - 6.1.3. Engage early to keep each other informed of emerging risks, proposed new services, programs or projects that may affect the other agency.
- 6.2. The role of the ATO in relation to the TPB also includes:
 - 6.2.1. making the services of APS employees, performing duties in the ATO, available to the TPB to provide administrative support to the Board with details of these arrangements to be covered by a subsidiary agreement
 - 6.2.2. allocating funding that has been agreed to by the TPB, for the purpose of allowing the TPB to perform its functions and exercise its powers under the TASA
 - 6.2.3. providing services (including IT and accommodation) and resources to support the TPB to achieve their outcomes;
 - 6.2.4. identifying and referring appropriate cases to the TPB through streamlined guidelines and processes to share intelligence as soon as practicable
 - 6.2.5. recording and undertaking collection of civil penalties imposed by the Federal Court pursuant to the *Tax Agent Services Act 2009* (TASA)
 - 6.2.6. the provision of information and systems access to support the function of the TPB consistent with law and ATO policy
 - 6.2.7. reporting to government (as the accountable authority) on behalf of the TPB on the TPB's compliance with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act)
 - 6.2.8. supporting relevant law reform.
- 6.3. The role of the TPB in relation to the ATO also includes:
 - 6.3.1. Ensuring that only appropriately registered tax agents, BAS agents and tax (financial) advisers provide tax agent services or BAS services
 - 6.3.2. Monitoring and enforcing the TASA including a Code of Professional Conduct for registered tax agents, BAS Agents and tax (financial) advisers
 - 6.3.3. Seeking to ensure that tax agent services are provided to the public in accordance with the appropriate standards of professional and ethical conduct
 - 6.3.4. Provision of information and systems access to support the functions of the ATO consistent with law and policy.

7. Independence of both parties

Both parties acknowledge the independence and autonomy of each agency, in particular that the TPB is independent of, but supported by, the Commissioner in the delivery of the TPB's outcomes and its administration of the TASA.

ADMINISTRATION OF THIS MOU

8. Status of this MOU

This MOU does not create legally enforceable obligations between the parties.

9. Commencement and duration of this MOU

This MOU commences on the date it is signed by the last party to sign it and continues, unless terminated:

- by the parties at any time by mutual agreement, or
- by either party giving the other a written notice of not less than 60 days

The termination of this MOU affects Subsidiary Arrangements.

10. Interpretation of this MOU

Unless the contrary intention appears, a schedule, annexure or other attachment to this MOU forms part of this MOU. Where there are any inconsistencies between the MOU and its attachments, the attachment can override the MOU provided the inconsistency is specifically identified and has been approved by the MOU managers.

11. Dispute resolution

Any disputes arising from this MOU that cannot be resolved at the operational level must be escalated to the MOU Managers. If unsuccessful, issues should be referred to the MOU Relationship Managers, who will escalate significant issues as appropriate.

12. Variation of MOU

Variations to this MOU are permitted, subject to written agreement between the parties.

13. Review of the MOU

At least annually, and in any event within five years, at the anniversary of the commencement of this MOU and for each subsidiary arrangement to this MOU the parties should conduct a joint review. A review of this MOU may also be conducted following implementation of reforms arising from the Government's response to the *Review of the Tax Practitioners Board 2019*.

13.1. The parties can conduct a joint MOU review at any time by mutual agreement.

13.2. In the event a joint annual review is conducted under subpoint 13.1, the timing of the subsequent annual review may be adjusted (again by mutual agreement). The outcomes of a review are to be noted by the MOU Relationship Managers with recommendations for changes or updates to be agreed to between the parties.

14. Risk Management

14.1. The Commonwealth Risk Management Policy (CRMP) must be applied by each party when carrying out its obligations under this MOU.

14.2. The ATO and TPB will work together and cooperatively to assist with the audit and reporting requirements of the other.

14.3. In addition, the TPB will provide the necessary assurance to the ATO Audit and Risk Committee in relation to its compliance with the *PGPA Act*, on issues relating to governance (such as financial and performance reporting).

15. MOU Managers – roles and responsibilities

- 15.1. **MOU Relationship Managers** are responsible for overseeing the strategic operation of the MOU.
- 15.2. **MOU Managers** are responsible for the day to day management of the MOU and must ensure mandated review activity occurs in accordance with clause 13.
- 15.3. **ATO-TPB Liaison Managers** carry out for each party by nominated ATO and TPB staff respectively who:
- manage the timely referral of cases and exchanges of information between the ATO and the TPB
 - act as the coordination point for requests for information from the other party
 - provide guidance, support and feedback on the referrals process and exchanges of information, and
 - ensure requests for case referrals, management and information exchange between parties satisfy the requirements of agreed processes and legal frameworks
 - ensure adherence to the data exchange provisions outlined in Schedule 1.
- 15.4. Where requests for information between parties require additional review from Liaison Managers, the Liaison Managers are responsible for reviewing information that is intended to be formally exchanged to ensure that only appropriate matters and relevant information is exchanged. Where necessary, additional advice and guidance shall be sought from internal General Counsel and all parties advised of recommended action.

Information and data exchange

Refer to Schedule 1.

16. Meetings

MOU Relationship Managers Quarterly strategy meetings

- 16.1. Strategic direction of ATO/TPB approaches will be overseen by the parties MOU Relationship Managers through regular meetings to:
- discuss the integrated strategy, progress, collaboration as well as provide an opportunity to raise any issues
 - provide leadership on the management of significant risks and issues escalated by the ATO_TPB Working Group
- 16.2. Ad hoc additional meetings may occur as needed as agreed by both MOU Relationship Managers.
- 16.3. The agenda, location and attendees of these meetings are at the Relationship Managers discretion.
- 16.4. Material changes to the broad approach under this MOU require agreement by both parties.

ATO-TPB Working Group meetings

- 16.5. MOU Managers (and key operational contacts) will meet regularly to formally discuss operational matters. These activities include, but are not limited to:
- Joint activity opportunities
 - Communication proposals
 - Policy matters
 - Update on matters being progressed jointly
 - High profile issues

- Data and intelligence sharing, and
- Large compliance activities that may impact on the other party

16.6. During these, both parties also monitor and evaluate the health of the relationship between the ATO and the TPB and the effectiveness of this MOU inclusive of considering review activity and outcomes (refer clause 13).

16.7. The ATO-TPB Working Group should report and escalate risks and issues as appropriate to the parties MOU Relationship Managers

17. Governing laws, codes, agreements and policies

17.1. Each party acknowledges that ATO Chief Executive Instructions (CEIs) that are applicable to the TPB, and employment policies made by the ATO Commissioner, apply to all TPB staff (and their employees or contractors).

17.2. For a list of all CEIs and their applicability to TPB, follow this [link](#).

18. General principles

18.1. The ATO and the TPB agree to:

- 18.1.1. work in cooperation, sharing data and information in at the earliest opportunity and to the fullest extent possible on breaches where the other agency has enforcement responsibility, and provide positive support and cooperation in relation to the exchange of information
- 18.1.2. maintain transparency around the other agency's information being accessed, and the manner in which that information will be used and on-disclosed generally and specifically in cases noted at clause 25 and 33
- 18.1.3. keep each other updated in relation to progress of cases, and responses to requests for further information in a timely manner
- 18.1.4. commit to developing automated processes for transferring information, where possible and doing so is consistent with the law, policies and organisational priorities.
- 18.1.5. develop joint communications and responses to media enquiries relating to coordinated treatment of high risk practitioners via ATO Public Affairs and TPB Media Units, and alert each other of any activity that impacts the other party
- 18.1.6. Ensure data, information, analysis and findings/conclusions based on ATO information are:
 - assured by Revenue Analysis Branch and ATO Finance for New Policy Proposals as per usual ATO processes, and
 - consulted on with the ATO prior to being used by the TPB in public forums or for media or public relations activities.
- 18.1.7. notify each other where a Freedom of Information request that impacts on the other agency, Inspector-General of Taxation complaint, or Ministerial correspondence is received in relation to a tax practitioner or other entities registered under the TASA that is under review or in treatment by the other agency.

19. Privacy complaints

19.1. If a party receives a complaint alleging an interference with the privacy of an individual by the other party:

- the party receiving that complaint will immediately notify the other of the nature of that complaint and such details of that complaint as are necessary to minimise any (or further) interference, and

- each party is to keep the other informed as to the progress of that complaint as it relates to the other's actions in connection with that allegation of interference.

19.2. If the Privacy Commissioner directs a party to take particular action concerning the handling of personal information, the other party will co-operate with any reasonable request or direction that may result. Privacy Commissioner means the Information Commissioner within the meaning of the *Australian Information Commissioner Act 2010* or as otherwise referred to in the *Privacy Act 1988*.

20. Service standards

- 20.1. The parties agree to respond to requests from the other party as soon as practicable, including requests for the referral and actioning of cases and information exchange. Each party will keep the other informed on progress and advise if extended timeframes are required to respond.
- 20.2. The ATO and TPB commit to the development of service standards and subsequent reporting requirements for the referral and actioning of cases and information exchange. These will be progressively determined and included in this MOU as a variation.

21. Obligations on expiry or termination

- 21.1. Where this MOU is terminated, the parties are to take all reasonable steps to mitigate the impact of the cessation of the activities the subject of this MOU, and the following clauses survive the termination or expiry of this MOU:
- Clause 21 – Obligations on termination or expiry
 - Clause 19 – Privacy complaints
 - Clause 25 – On-disclosure of data or information obtained under this MOU
 - Clause 26 – Responsibilities in relation to data or information
 - Clause 27 – Third party claims relating to data or information
 - Clause 28 – Data or information integrity, confidentiality and protection
 - Clause 29 – Cyber security incidents.

SCHEDULE 1: Information and data exchange

22. Common outcome

- 22.1. The ATO and the TPB work closely together towards a common outcome of strengthening the integrity of the tax profession and Australia's taxation and superannuation system.
- 22.2. In support of this common outcome, and in line with the principles set out in the ATO-TPB Memorandum of Understanding, the ATO TPB data access protocol is intended to facilitate appropriate information sharing between the ATO and TPB to the extent possible under the law, ATO policies but having regard to respective organisational priorities and objectives.

23. Supporting legal and policy framework

- 23.1. Both agencies note it is critical to safeguard the confidentiality of taxpayer and tax practitioner information as well as maintaining the trust and confidence of the community and government in the ATO and TPB's administration.
- 23.2. The relevant laws that apply to the sharing of information between the ATO and TPB are set out in the *Taxation Administration Act 1953* (TAA) and the *Tax Agent Services Act 2009* (TASA). The parties agree that on-disclosure of sensitive data (publicly or elsewhere in Government or outside Government) should also adhere to principles in Clause 25. In particular:
 - 23.2.1. Information held by the TPB can be disclosed to the Commissioner for the purposes of administering a taxation law. Disclosures are made pursuant to subsection 70-40(3) of the TASA, allowing disclosure of official information to the Commissioner, and can be on-disclosed by the ATO under the 'original purpose' on-disclosure exception in section 70-45 of the TASA. Disclosures are also made pursuant to subsection 70-40(1) of the TASA, where the TASA specifically requires the TPB to advise the Commissioner of certain events, including reasons for decision, such as termination of a tax practitioner's registration.
 - 23.2.2. Information held by the ATO can be disclosed to the TPB for the purposes of the TPB administering the TASA. Disclosures are made pursuant to relevant and lawful exceptions to the taxpayer confidentiality provisions in Division 355 of Schedule 1 to the TAA 1953, and can be on-disclosed by the TPB under a relevant on-disclosure exception in Subdivision 355-C of Schedule 1 to the TAA 1953, including the 'original purpose' exception in subsection 355-175 of Schedule 1 to the TAA 1953.
- 23.3. In addition, general 'need to know' principles, obligations under the *Privacy Act 1988*, *Archives Act 1983* and *Freedom of Information Act 1982* and policy guidance in the ATO Data and Ethical Framework apply to the sharing, use, storage and lifecycle management (retention and disposal) of information.

24. Operative provisions

- 24.1. The ATO and the TPB agree to:
 - 24.1.1. ensure compliance with the applicable laws and agency policies governing the use and disclosure of data or information which are in force at relevant times, including the on-disclosure provisions in both the TASA and the TAA and agreement at Clause 25
 - 24.1.2. take all reasonable measures to ensure data or information is only used for the purpose for which it was provided
 - 24.1.3. ensure data or information is only accessed by persons who have a legitimate "need to know" to perform their duties
 - 24.1.4. follow legal and ethical requirements and policy in relation to data access, noting the TPB's appropriate access and use of data under the TASA.

- 24.1.5. use due care to safeguard the other party's data or information and comply with any requirements specified by a party from time to time, and
- 24.1.6. notify the other party (as soon as practicable and within one business day) if the party suspects or becomes aware of any unauthorised access, copying, use, disclosure in any form, damage or destruction of any of the other party's data or information.

25. On-disclosure of data or information obtained under this MOU

- 25.1. The Parties agree that consultation with the other party is required prior to on-disclosure when either party has identified that information is about a sensitive matter. This ensures that the impact of potential disclosure is considered by the other agency.

26. Responsibilities in relation to data or information

- 26.1. The data or information held by a party relating to its clients and other third persons (its data or information) may not be accurate, up-to-date, complete or error-free. However, each party is responsible for:
- acting in accordance with, and meeting obligations imposed on it by this MOU, the law and any applicable policies
 - amending its data or information within a reasonable time of it being formally notified by a person of changes to their details or of any inaccuracy, omission, defect or error in that data relating to them,
 - taking reasonable measures to ensure its data is free from malicious computer codes, and
 - testing data it receives from the other to ensure that data is free from malicious computer codes.
- 26.2. Data (Information and Records) destruction can occur in accordance with the Agency's records authority unless a longer retention period is specified in this MOU.

27. Third party claims relating to data or information

- 27.1. If a party receives notice of a claim directed against it by a third person concerning any alleged error, defect, inaccuracy or omission in the data or information provided to, or received from, the other party under this MOU:
- the party receiving that notice will be responsible for responding to that claim, and is to notify the other party of that claim within 7 days of that receipt where appropriate,
 - each party is to provide the other with all reasonable assistance in relation to that claim, and
 - where that claim is the result of that other party's failure to act in accordance with its responsibilities under this MOU or the law, the receiving party may request that other party to reimburse its reasonable costs in responding to and meeting that claim.
- 27.2. In addition, if either party is involved in litigation that may impact on the other, they will disclose and consult between agencies.

28. Data or information integrity, confidentiality and protection

- 28.1. Each party will in relation to the data or information provided to it by the other party under this MOU:
- comply with any Commonwealth policy relevant to information including:
 - The Protective Security Policy Framework, and
 - The Information Security Manual,
 - notify the other party (as soon as practicable or within one business day) of any possible error or defect in that data or information,
 - take all reasonable measures to ensure that data or information is only used, in accordance with relevant policies and for the purpose for which that data or information was provided or obtained and is only accessed by persons who have a legitimate 'need-to-know' to perform their duties,
 - ensure that data or information is protected by such security safeguards, as are reasonable in the circumstances, against loss, destruction, or unauthorised access, modification, disclosure,

recording or use to meet Protective Security Policy Framework and Information Security Manual standards,

- ensure that data or information is not transferred, disclosed, or allowed to be accessed by persons, outside Australia (unless otherwise permitted under this MOU or an existing overseas data or information exchange related agreement) without the other party's prior written approval,
- comply with any reasonable request of the other party to deal with data or information in a particular way, and
- work together to come to an agreement on how that data or information is managed/handled by the other party.

29. Cyber security incidents

- 29.1. Each party is to promptly inform the other party (and the required official external bodies and any affected third parties where appropriate and/or required by law) of any cyber security incidents or breaches to its own ICT systems that impact:
- services for any system which stores, processes or communicates ATO or TPB data or information,
 - the confidentiality or integrity of that data or information.
- 29.2. The report must include:
- the cause of the incident, and
 - what remediation has occurred.
- 29.3. Reporting must occur within 4 hours, and a preliminary report be provided to the other party within 3 business days of an incident being detected. A final report is to then be delivered within 5 business days of recovery from the incident.
- 29.4. Each party is to ensure that cyber security incidents are recorded in a register. At a minimum, the register should include:
- the date the incident was discovered,
 - the date the incident occurred,
 - a description of the incident, including the personnel and locations involved,
 - the action taken,
 - the date reported,
 - the file reference.

30. Review of data or information integrity procedures, systems and safeguards

Each party may review the systems, procedures and security safeguards that the other party has in place for maintaining the confidentiality and integrity of data or information, but a party seeking to conduct any such review must give the other party reasonable notice of that review, and first consult with that other party as to the scope and criteria of that review.

31. Direct access to systems and data

31.1 Access to TPB data and ATO systems and data is set out in the table below. Additional matters relating to the TPB's access to ATO information, systems and data can be detailed further in subsidiary arrangements, that will address any uncertainties arising from AGS advice relating to TPB officer access to ATO systems and data and implement Recommendation 3.4(1)(b) of the *Review of the Tax Practitioners Board 2019*.

Information sharing scenario	Method
TPB registrations data	<p>The TPB will send a daily file of registrations data to the ATO as specified in the TPB to ATO Data Exchange Specification.</p> <p>The future aspiration will be to live-connect ATO and TPB systems rather than rely on manual reconciliations and daily exchanges of registration data.</p>
Access to ATO systems	<p>The ATO grant prescribed TPB officers access to ATO case management systems including Siebel and ICP, for the purposes of staff administering the TASA, subject to relevant policies and law</p> <p>Where access is granted, TPB officers will access ATO systems directly to undertake their functions under the TASA (such as verifying the accuracy of statements made by agents at registration or renewal, and gaining access to relevant information for the progress of investigations).</p> <p>Access is contingent on the following controls being maintained:</p> <ul style="list-style-type: none"> ▪ TPB officers to complete ATO learning packages relevant to Siebel and ICP use and the need to know principle ▪ TPB officers to hold relevant security clearances ▪ ATO systems access logs being maintained and reviewed regularly to ensure conformance with the ATO Data and Ethical Framework. ▪ If any system access roles with greater than “read only” access are required they are to be requested and approved by the MOU Manager for the ATO. <p>The TPB will retain CASE SPIN access, noting that updates will also be made available to the TPB through case updates as part of the Coordinated Compliance Strategy as appropriate.</p> <p>Case by case access to CLIENT SPIN records can be provided upon advice to the Liaison Manager, in line with the TPBs purpose and function under the TASA and usual ATO access processes.</p>
Access to ATO data	<p>The ATO is committed to providing appropriate access to information to enable the TPB to perform its duties under the TASA and make decisions under the TASA, subject to relevant policies and law</p> <p>Access to ATO data can be provided through a combination of up to date curated data sets and interface systems which have appropriate controls. The ATO may provide the TPB with effective tools to optimise appropriate self service capability. Where additional access to ATO data and analysis is sought (whether ad-hoc or for inclusion in the curated data set), this can be requested by the TPB requesting information through the Smarter Data Service Desk. Certain staff members (nominated by the TPB) may be granted access to lodge these requests directly.</p> <p>Access to ongoing data is contingent on the follow controls being maintained:</p> <ul style="list-style-type: none"> ▪ TPB officers to complete ATO learning packages relevant to the work they are conducting and equivalent to ATO officers with similar roles ▪ TPB officers to hold relevant security clearances ▪ ATO systems access logs maintained and reviewed regularly to ensure conformance with the ATO Data and Ethical Framework

32. Case officer interactions

- 32.1. The ATO and TPB agree to produce guidance to support staff to share information and interact with each other. This documentation will encourage information sharing between the ATO and the TPB to the fullest and earliest extent possible, whilst recognising the independence of each agency.

- 32.2. The general principle underlying case officer interactions is that where an officer of one agency identifies an issue relevant to the other agency, or requires information from the other agency to carry out their duties, they should contact the other agency at the earliest opportunity.
- 32.2.1. Where relevant cases officers are known to each other, initial conversations are encouraged to confirm whether or not information exists that should be shared. In circumstances where it is unknown who the relevant case officer or team leader is for a particular matter, initial contact should be made via the ATO-TPB Liaison team to establish appropriate connections. Subsequent interactions can be held at the case officer or team leader level, however any formal exchanges of information must still be shared via the ATO-TPB Liaison Team.
- 32.2.2. Formal referrals and information exchanges should be made to the ATO-TPB Liaison team via the approved form to ensure appropriate governance and reporting. The form should be simple to complete, and the approval process will support the timely sharing of information.
- 32.3. Where urgent access to information is required (for example, if there is a parliamentary inquiry or if evidence is required for litigation purposes) the parties are committed to prioritising and responding to these urgent requests within the requested time. These requests should be sent to the [ATO-TPB liaison mailbox](#) and TPBlegalunit@tpb.gov.au to allow for timely coordination.

33. Coordinated compliance action

- 33.1. The TPB and ATO agree to work closely on coordinated compliance strategies to address higher risk tax practitioners.
- 33.1.1. This may involve sharing and validating risk profiles and developing and executing joint treatment plans to address risks posed by high risk tax practitioners, their associates or clients.
- 33.1.2. In these scenarios, information sharing will happen regularly and rapidly with a record of information shared between case officers working on the coordinated compliance strategy program of work. Outcomes from coordinated case call overs and workshops will be appropriately recorded and stored in approved corporate systems in accordance with the specific business processes applying to each Agency's case officers.
- 33.1.3. A separate governance framework document for the Coordinated Compliance Strategy will be established and agreed to by both parties.
- 33.2. For cases under the coordinated compliance strategies, when requested, the TPB will share with the ATO copies of 'show cause' letters and TPB Board Conduct Committee submissions relating to higher risk agents.

34. Sensitivities around information that can be shared

- 34.1. Some information that the ATO currently receives through the Tax Integrity Centre is unable to be disclosed to the TPB.
- 34.1.1. Amendments in the *Enhancing Whistleblower Protections Act 2019* mean that ATO staff are unable to disclose a tax whistleblower's identity, or information likely to lead to their identification to the TPB, as the TPB is currently not an authorised recipient.
- 34.1.2. Where the whistleblower themselves consents to a disclosure to the TPB, the ATO will do so.
- 34.1.3. Both agencies agree that joint interviews (under formal powers) will not be conducted. This will also ensure that secrecy laws in the TASA and the TAA are not inadvertently breached.
- 34.2. Where there is covert compliance action underway in the ATO or Federal Taskforce operation, clearance from Integrated Compliance and/or Serious Financial Crime Taskforce and/or Phoenix Taskforce and/or Australian Federal Police (AFP) may be required before information can be shared with the TPB. However, where possible the ATO will share sufficient identifiers for the TPB to make its own enquiries with the relevant taskforce or AFP directly.

35. Reporting

- 35.1. The parties agree to respond to requests from the other party as soon as practicable, including requests for the referral and actioning of cases and information exchange. Each party will keep the other informed on progress and advise if extended timeframes are required to respond.
- 35.2. The TPB will share information on agents that are relevant to the ATO's administration of the tax laws. On a monthly basis, the TPB will provide the following:
- cases currently open, contact officer, primary issue of concern, and status of investigation (eg preliminary enquiries, formal investigation, and whether it is in progress or on-hold)
 - cases closed since last report and outcomes

36. Implications for access or use of data or information contrary to protocols

- 36.1. In the event that information / data is accessed, used or on-disclosed contrary to the protocols documented in this MOU:
- Where the agency in breach identifies the breach: breaches must be declared within 1 working day of being identified to the other agency's MOU Manager in writing and include reason for the breach and rectification action being taken.
 - Where the agency not in breach identifies the breach: a show cause request can be made, seeking reasons for the breach, impacts and rectification action being taken. Responses to a show cause request must be provided in 3 working days of the incident being identified.
- 36.2. Pending the response, impact and risk posed by the breach:
- Agency accesses may be reviewed and restricted
 - MOU Relationship Managers will be advised
 - Heads of both agencies (Commissioner of Taxation and TPB CEO) may be advised

Failure to proactively declare known breaches will also result in the aforementioned outcome

37. Service Management

The ATO EST and its service providers will provide ATO IT services support to TPB Staff for the services provisioned by the ATO, requests for support must be lodged via contacting the ATO IT Service Desk or via ATO Insight Portal.

38. Non-standard Work Requests

A request from the TPB for ATO IT services will be managed by the ATO as a non-standard work request and must be supported by a business case and lodged via the ATO Insight Portal.

Data Access Protocol

Australian Taxation Office (ATO) And Tax Practitioners Board (TPB)

THIS PROTOCOL is operational as of 3 May 2022

Version Control

Version Number	Date	Changes Made By	Change Details
0.1			Initial version
0.2	22 March 2022	TPB	Added: <ul style="list-style-type: none">• Purpose• Legislative framework• Policy framework• Data access process
0.3	1 April 2022		Updated with feedback and comments from ATO
1.0	28 April 2022		Endorsed by TPB and ATO

1. PURPOSE

- 1.1 The head Memorandum of Understanding (MOU) sets out the respective roles and responsibilities of the ATO and TPB, noting in particular the importance of effective collaboration between the parties, recognising the common opportunities and shared risks, and the role of ATO employees made available by the Commissioner to support the functions of the TPB¹.
- 1.2 This protocol establishes the process through which requests to access ATO data by TPB staff will be submitted and actioned. This process recognises the TPB's status as independent of, but supported by, the Commissioner of Taxation in its administration of the *Tax Agent Services Act 2009* (TASA).
- 1.3 This protocol supports the intent of the ATO-TPB MOU.

2. OVERVIEW OF THE LEGISLATIVE FRAMEWORK

- 2.1 The TPB administers the TASA².
- 2.2 The role of the TPB is to ensure tax practitioner services are provided to the public in accordance with appropriate standards of professional and ethical conduct.
- 2.3 The ATO provides assistance to the TPB when it is legally appropriate through provision of ATO data, to the extent that data supports the TPB to administer the TASA.
- 2.4 Both the TPB and the ATO note the legislative requirement to safeguard the confidentiality of taxpayer and tax practitioner information, as well as maintaining the trust and confidence of the community and government in the ATO and TPB's administration³.
- 2.5 The relevant laws that apply to the sharing of information between the ATO and TPB are set out in the *Taxation Administration Act 1953* (TAA) and the TASA.
- 2.6 Item 1 of the Table in subsection 355-50(2) of the TAA permits disclosures of protected information to any entity for the purpose of administering any taxation law. The TASA is a tax law. Further, Item 8 of the Table permits the disclosure of protected information by a taxation officer to any board or member of a board performing a function or exercising a power under a taxation law.
- 2.7 Independent legal advice notes that on balance "APS employees made available to assist the TPB are 'taxation officers' under s 355-30(2) of Sch 1 to the TAA 1953. In any

¹ APS employees whose services are made available to the Board by the Commissioner (under section 60-80 of the *Tax Agent Services Act 2009*) will be referred to as "TPB staff" under this protocol. The protocol notes the Government's response to Recommendation 3.2 of the James Review, supporting the development of a formal MOU which clarifies the role, responsibilities and accountability of ATO secondees allocated to the TPB.

² Clause 5.1 of Memorandum of Understanding 14.001 between the ATO and the TPB (MOU)

³ Clause 23.1 of MOU

case, even if this view were incorrect it seems clear that such persons would be treated as though they were 'taxation officers' for the purposes of Div 355 (to the extent that their duties were to assist the TPB), consistently with s 355-15 of Sch 1 to the TAA 1953."⁴

- 2.8 Accordingly, the ATO can disclose protected information to TPB staff, where the information in question would assist the TPB to administer or enforce the TASA or perform a function or exercise a power under TASA.

3 POLICY FRAMEWORK

- 3.1 The ATO and the TPB work closely together towards a common outcome of strengthening the integrity of the tax profession and their role in Australia's taxation and superannuation system⁵.
- 3.2 The ATO is committed to providing appropriate access to information to enable the TPB to perform its duties under the TASA, and make decisions under the TASA, subject to relevant policies and law⁶.
- 3.3 While the TPB is independent from the ATO, TPB staff are bound by relevant ATO Chief Executive Instructions (CEI), including the Data Management CEI and the 'need-to-know' principle.
- 3.4 In addition, TPB staff have obligations under the Privacy Act 1988, Archives Act 1983 and Freedom of Information Act 1982, and policy guidance in the ATO Data and Ethical Framework apply to the sharing, use, storage and lifecycle management (retention and disposal) of information⁷.
- 3.5 This protocol recognises the ATO's Data Stewardship Model which was endorsed in January 2021. This model was developed to support data governance, ethical use of data, and to achieve greater value from ATO data. The Data Stewardship Model provides roles and responsibilities as they apply to all data activities in the ATO. The ATO Business Data Steward is the accountable person for the data shared under this protocol.
- 3.6 The TPB, in relation to data and information provided to it by the ATO, also⁸:
- 3.6.1 Complies with any Commonwealth policies relevant to information including the Protective Security Policy Framework and the Information Security Manual.
- 3.6.2 Takes all reasonable measures to ensure that ATO data or information is only used in accordance with relevant policies, and for the purpose for which the data

⁴ Australian Government Solicitor's Legal Advice, "Capacity of the ATO to share information with the TPB" (30 September 2021), paragraph 2.

⁵ Clause 22.1 of MOU

⁶ Clause 31.1 of MOU

⁷ Clause 23.3 of MOU

⁸ Clause 28.1 of MOU

or information was provided or obtained, and is only accessed by persons who have a legitimate 'need-to-know' to perform their duties.

4 TPB Curated Dataset

- 4.1 TPB staff access to ATO data is provided through a combination of up-to-date curated data sets and interface systems which have appropriate controls⁹ (this replaced the TPB's earlier access to the ATO's data warehouse (DWH)).
- 4.2 Since June 2020, the TPB has worked with the ATO to develop this curated dataset, with a number of additions and enhancements made since then. The datasets currently included in the TPB curated dataset are outlined in **Appendix A**.
- 4.3 The TPB has been provided with tools to perform data analysis, predominantly through the VIPER platform. Recognising some limitations with this platform, both the TPB and the ATO are committed to ongoing assessment of the effectiveness of these tools to optimise the TPB's appropriate self service capability.

5. DATA ACCESS PROCESS

- 5.1 ATO data requests from the TPB will generally fall within the following two categories:
- 5.1.1 Requests for additional data to be included in the curated dataset¹⁰
- 5.1.2 Ad-hoc (one-off) data requests.
- 5.2 Both types of requests will generally follow the same process, however given the varying nature and complexity between the two categories, they are likely to result in different deliverable timeframes. TPB staff requests for ATO data will follow the process below:

DATA REQUEST PROCESS
1. The TPB will email the IAI Liaison Team mailbox using the REQUEST TEMPLATE
2. For simple data requests, where the legal position is clear or the request replicates earlier requests, IAI will determine if the request is lawful and ethical within 5 business days of receiving the request.
3. For complex or novel data requests, IAI will acknowledge receipt of the request and liaise with the TPB on the likely timing for responding to the request within 5 business days of receiving the request. IAI will consult with the TPB if there is any uncertainty and provide a revised timeframe for responding to the data request.
4. IAI can utilise the following for advice: <ul style="list-style-type: none">○ SDP SME Domestic Data Sharing team○ D&A Ethics Committee○ ATO General Counsel● Document decision in DATA SHARING REPORT TEMPLATE which is maintained contemporaneously throughout the exchange.

⁹ Clause 31.1 of MOU

¹⁰ Appendix A details what is included in the current ATO Curated Dataset

<ul style="list-style-type: none"> • If IAI determines that the request is not ethical or lawful, IAI will provide a copy of the decision to TPB. • The request will be escalated to relevant SES officers in both organisations where case officers are unable to reach agreement.
<p>5. TPB raise a JIRA service request for SDP Data Sharing to triage and allocate to appropriate team – USE DEDICATED OUTBOUND DATA SHARING JIRA TICKET.</p> <ul style="list-style-type: none"> • Send JIRA ticket to SDP resources for action OR • Escalate to planning process by raising a work request for features to estimate effort and obtain schedule for production (for more complex data requests that require enduring solutions) and liaise with TPB on process and timeframes. OR • Escalate to Design Authority if a solution cannot be determined and liaise with TPB on process and timeframes. • Add IAI Liaison team members as Watchers in the JIRA ticket. <ul style="list-style-type: none"> - Multiple watchers can be added. - Watchers will receive notifications as the ticket is updated i.e. status, assigned to etc. - Watchers can access the request and notes at any time to see how it is tracking. • SDP team allocated ticket assesses the request, and confirm data available and in format etc requested • Advise TPB of estimated timeframe for delivery within 5 business days of the service request being raised. • Undertake data extraction in agreed format • Liaise with TPB where relevant to ensure that business requirements are understood and met. • Keep TPB informed with regular progress updates where relevant outside of automatic JIRA update process and notify TPB of any delays or developments impacting the fulfillment of the request at the earliest opportunity. • SDP SME Domestic Data Sharing team consulted on final output. • IAI will be consulted in circumstances where either SDP or TPB believe a re-evaluation of the legality or ethics of the request is required including where any change to the initial request is made at any stage of the process.
<p>6. SDP provide output to TPB via agreed channel or advise TPB that data has been curated.</p>
<p>7. IAI and SDP Data Sharing document details of the exchange in DATA SHARING REPORT TEMPLATE</p>
<p>8. TPB advise SDP when the solution has passed testing after which SDP will close the ticket. IAI will be kept informed of key milestones given their governance and relationship management role.</p>
<p>9. IAI to liaise with TPB regarding data provided – details captured in DATA SHARING REPORT TEMPLATE until data access is no longer required.</p>

6. REVIEW ARRANGEMENTS

- 6.1 This protocol will be reviewed after a maximum of one year from the date of signing in order to ensure that it remains current. Matters to be considered at that point include:
- whether it is necessary to undertake a user charging system for provision of curated data sets;
 - whether the data sets being provided are being utilised;
 - whether the data sets are useful to the TPB;
 - if the timeframes for responding to data requests need amendment.

7. CONTACT DETAILS

Australian Taxation Office

ATO-TPB Liaison team

ATO-TPBLiaisonTeam@ato.gov.au

Tax Practitioner's Board



Senior Director, Law & Compliance

ANNEXURE A: Current Curated Dataset

Database name		Description
Tax practitioner details – Summary of clients	PSIFT.TPB_TA_DTLS and PSIFT.TPB_TA_Lnks	Access to information contained in existing data warehouse table (PLCV.TA_Dtls) to be maintained via the curated dataset. An ATO generated table that contains summary level information about a practitioner's client base including lodgment performance, client by year, entity type and product, debt level and top 5 industries. All the available columns will be provided in the data dictionary. Note some fields will be excluded for example the client internal ID, market segment and client experience.
Tax Practitioner employer summary	PSIFT.TPB_PAYG_PAYM ENT_SUMMARY	Single Touch Payroll and payment summary data as it relates to the employees of tax practitioners. Includes employee lists and payment information.
Group wealth system (GWS)	PSIFT.TPB_GWS_Visual_Lks PSIFT.TPB.GWS.Visual.Obj	Provides the output from the GWS as it relates to the tax practitioner population, including their directors, partners and whether the tax practitioner is a group head or member
Tax return and Activity statement data - Label level	PSIFT.TPB_ACTY_STMNT PSIFT.TPB_IND_ITR PSIFT.TPB_FUND_ITR PSIFT.TPB_TRUST_ITR PSIFT.TPB_PTRNSHP_ITR PSIFT.TPB_COY_ITR	Provide views of the latest tax returns and activity statements lodged by tax practitioners over the last five financial years. Also provide views of the latest tax returns and activity statements lodged for: - tax practitioners, their directors and partners - registered practitioner companies and partnerships and their principals - any trusts that have a practitioner as a trustee Provide granular level data at the employment income label to enable the TPB to identify a practitioner's employers. Note, Self-preparer data will not be included in the self-service dataset.
Siebel case data	PSIFT.TPB_CSE PSIFT.TPB_Cse_OUTCM	Provide views of Siebel case outcomes as they relate to tax practitioners and their (current and former) clients over the last five years. This data will include project descriptions, case outcomes and case start and end dates.

Database name		Description
Client migration (movements between agents)	PSIFT.TPB_CInt_mgrtn	Provide TPB staff access to client migration reports. These reports show client movements between tax practitioners and will include the ability to use a chosen date of interest, for a given list of tax practitioners and identify the relevant clients as well as counts.
Risk model outputs	PSIFT.TPB_TP_Risk_Mdl PSIFT.TPB_APT	Provide the aggregated view of agent risk from the Agent Profiling Tool and the Tax Practitioner Risk Model.
Jobkeeper data	PTACR.TPBV_JOBKPR	Provide records of all Jobkeeper registrations and lodgements by clients and ex-clients of tax practitioners and ex-tax practitioners.

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
Question No: 2
Topic: Date notices were issued
Reference: Spoken p. 10 (26 September 2023)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: I have so many questions. I might need a few extra minutes. What exact date did the TPB send requests to the US clients of PwC?

Mr O'Neill: I'm not sure. I'd have to take that on notice.

Answer:

The Tax Practitioners Board (TPB) issued notices, under section 60-100 of the *Tax Agent Services Act 2009*, to the Australian subsidiaries of the US clients of PwC Australia in July 2021.

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
Question No: 3
Topic: Unregistered tax practitioners
Reference: Spoken p. 11 (26 September 2023)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: Do you have any sense of how many unregistered tax practitioners there are?

Mr O'Neill: No, it's really impossible to know that number.

Senator O'NEILL: Are there Australian people operating businesses calling themselves tax practitioners who are unregistered?

Mr O'Neill: Yes.

Senator O'NEILL: Is that of concern to you?

Mr O'Neill: Yes.

Senator O'NEILL: How many of them do you estimate there are?

Mr O'Neill: We wouldn't have a specific number on that, but we do have with the ATO a risk tool for the identification of those. We then look to identifying the risks associated with those. Some people veer into this territory because they're good natured and they're trying to help a group who are linguistically diverse engage with the tax system. They're doing nothing wrong. We write to them. They correct their errors. There are other people who are previously registered by us, they've been deregistered but they continue to drive misconduct. There are others who are unregistered who are using the tax system to drive broader fraudulent misconduct. It's that end of the spectrum that with the ATO we'd like to take action. There will be investigations, audits, litigation, pecuniary penalties and injunctions. An important part of that is engaging with the client so their interests are protected.

Senator O'NEILL: Can you indicate on notice how many of those matters are on foot?

Answer:

As of 3 October 2023, the Tax Practitioners Board (TPB) has 27 cases involving unregistered advisers. Eighteen (18) are at an earlier stage of preliminary enquiries, to clarify facts, risk and treatment plans. Nine (9) unregistered advisers are subject to more detailed investigation and/or litigation. This includes applications to the Federal Court to have pecuniary penalties imposed and/or injunctions to stop misconduct. Some investigations include other agencies or the police.

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
Question No: 4
Topic: PwC and TPB meeting dates
Reference: Spoken p. 14 (26 September 2023)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: I don't have any blame to lay at your door, Mr de Cure, but let's be clear about the kind of entity with which you're engaging. We all hoped that there would be change, but what you've given in evidence to me this morning indicates a continuing media game of playing cat and mouse. That's where we are. So, there was a request for a meeting with PwC by you on what date?

Mr O'Neill: I could take those details on notice.

Senator O'NEILL: You finally had the meeting on what day last week?

Mr O'Neill: Last week they responded to that notice.

Mr de Cure: There's been more than one meeting.

Senator O'NEILL: More than one meeting?

Mr O'Neill: There has been a series of meetings with PwC. At one stage we formalised our request in the form of a production notice, and that production notice then compelled PwC to provide that information to us by a requisite date. My recollection—

Answer:

Since the Tax Practitioners Board (TPB) imposed its sanctions on Mr Peter-John Collins and PwC Australia, a number of key meetings between the TPB and the PwC have taken place. The purpose of these meetings was to meet new members of PwC Australia's leadership team, PwC Australia to advise what action it was taking in response to the TPB's disciplinary decision and to provide briefings of PwC Australia's reviews.

In 2023, the following have meetings have taken place:

Date	TPB attendees	PwC attendees	Key items discussed
14 April 2023	Michael O'Neill Janette Luu	Tom Seymour Chris Morris	To discuss how PwC can work with the TPB going forward. Mr Seymour discussed his public comments about 'perceptions' and PwC's culture and approach to tax advice.
19 June 2023	Peter de Cure Michael O'Neill	Kristen Stubbins Tony O'Malley	To introduce the acting CEO and to provide a status update on what action PwC were taking in response to the TPB's disciplinary action.

Date	TPB attendees	PwC attendees	Key items discussed
5 July 2023	Peter de Cure Michael O'Neill Janette Luu	Kristin Stubbins Carol Stubbings	For the TPB to confirm that it is seeking cooperation and transparency with PwC. PwC also provided an update on its new leadership team and its current internal review activities.
19 July 2023	Michael O'Neill Ryan McDonald	Karen Evans-Cullen Geoffrey Ezgar Jan McCahey Paul Nicols (Allens) Simon Sherwood (Allens)	For the TPB to provide further context to written correspondence it would shortly provide to PwC seeking further information.
7 August 2023	Peter de Cure Michael O'Neill Janette Luu	Kevin Burrowes Karen Evans-Cullen Jan McCahey	For the TPB to meet the new CEO and acting General Counsel and for PwC to provide a status update on their internal reviews that arose in relation to the TPB's disciplinary action.
18 August 2023	Michael O'Neill Ryan McDonald Sally Richards	Karen Evans-Cullen Paul Nicols (Allens) Simon Sherwood (Allens)	For PwC to provide information about their ongoing internal reviews and context to their written responses to TPB regarding request for information.
11 September 2023	Ryan McDonald Sally Richards	Karen Evans-Cullen Zoe Walker (Allens) Simon Sherwood (Allens)	For PwC to provide a status update on their internal reviews that arose in relation to the TPB's disciplinary action.
10 October 2023	Peter de Cure Michael O'Neill Ryan McDonald	Kevin Burrowes Karen Evans-Cullen	For PwC to provide context around the public release of their reports following internal reviews. TPB sought clarification of certain issues and identification of 'former partners'.

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
Question No: 5
Topic: Provider of PwC reports
Reference: Spoken p. 15 (26 September 2023)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: So, redacted was the offer because, really, why would the TPB need to know what's going on inside PwC? Seriously? Nothing to see here! This is quite alarming and very disturbing evidence. Clearly this committee is respecting the AFP's process. That's why we haven't called PwC yet, but there seem to be continuing problems with the culture and practice of leadership at PwC. You indicated that you have now had a response to your order for production of documents, which you received as a link. How complete is the information you've received in the nine bundles of reports? Could you take on notice whether they have come from Linklaters or Mallesons because, in the public's place, my understanding is that they are operating separately and looking at separate things?

Answer:

The information was provided by Allens.

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
Question No: 6
Topic: Whistleblowers
Reference: Spoken p. 17 (26 September 2023)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: I haven't asked any questions about whistleblowers. Can I put this on notice. There is some change to the legislation coming forward about whistleblowers. Senator Pocock, the Chair and I have heard from an incredible number of Australian citizens working in this sector about their disgust at some of the practices operating within the sector, and their concern about the quality of audit that follows. Everybody is interested in the super new bits of a consultancy. A question on notice: could you indicate what you believe the new legislation will do in terms of whistleblower disclosure practice, and how can that improve or change your operations?

Answer:

The Tax Practitioners Board (TPB) welcomes the Government's proposal to extend the tax whistleblower protections to eligible whistleblowers who wish to disclose alleged misconduct to the TPB. The proposed changes will also authorise the TPB and Australian Taxation Office (ATO) to share information it has received from whistleblowers with the Australian Charities and Not-for-profits Commission, as well as each other, where the information received relates to their regulatory responsibilities.

Subject to passage, these new laws will provide the TPB with an additional important source of intelligence and complaints and better equip the TPB to support clients and professional standards. The new laws will also address tax misconduct and malicious practices by tax practitioners or scheme promoters by receiving information and referrals that might otherwise not have been provided. This will assist the TPB in our continued focus on high-risk tax practitioners to ensure that tax services are provided to the public in accordance with appropriate standards of professional and ethical conduct.