

## AGENDA PAPER

**Item Number:** 15 (b)  
**Date of Meeting:** 29 August 2016  
**Subject:** Annual review of APES 305 *Terms of Engagement*

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Action required     For discussion     For noting     For information

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### Purpose

In accordance with Accounting Professional & Ethical Standards Board's (APESB) constitution, an annual review of APES 305 *Terms of Engagement* (APES 305) has been performed to identify and resolve any issues identified by stakeholders.

### Background

APESB originally issued APES 305 in December 2007. Subsequently, APES 305 was revised in June 2009, March 2013 and October 2015. The 2015 revised version has an effective date of 1 January 2016, with earlier adoption permitted.

### Consideration of Issues

APESB Technical Staff have completed the following procedures to identify any issues associated with APES 305:

- Consulted with the Professional Bodies to identify whether Members or other stakeholders have raised any issues with the Professional Bodies in respect of APES 305;
- Reviewed the APESB Issues Register to identify whether stakeholders have reported any matters in relation to APES 305; and
- Performed an internal technical review of APES 305.

The issues identified as a result of completion of the above procedures are set out below.

#### Specificity and Prominence of requirements

A Professional Body provided feedback that clarity around the terms of engagement is an important issue for their members, and therefore key paragraphs in APES 305 should have increased prominence and specificity. The paragraphs listed were 4.4(d), (e) and (f), 4.5(a), 4.8 and 4.9.

Technical Staff agree that the terms of engagement is important for all members. APES 305 has been structured to allow terms of engagement documents to be adapted to a broad range of different engagements from a simple personal tax return engagement to a complex accounting or tax engagement for a listed entity.

The mandatory key obligation in APES 305 is for Members in Public Practice to document the terms of engagement in an Engagement Document. Section 4 of APES 305 provides guidance on the contents of an Engagement document. APESB have also set out specific requirements regarding terms of engagement for different professional services provided in other APESB pronouncements (for example, APES 225 *Valuation Services* paragraph 4.2 and APES 230 *Financial Planning Services*, paragraph 5.2).

Therefore Technical Staff do not recommend changing the prominence and specificity of paragraphs within APES 305.

### Legal Requirements

A Professional Body noted that section 4 of APES 305 could refer to legal requirements (such as the Financial Services Guide). Technical Staff note that Members are required to include details of relevant legislation in paragraph 4.4(c). To ensure all legal requirements are captured this paragraph could be amended to include a reference to regulations, as shown below:

- (c) references to any legislation, [regulations](#), Professional Standards, accounting or auditing and assurance standards that may be relevant to the Engagement;

This amendment could be considered in the next review of APES 305.

### Fees

Paragraph 4.8 of APES 305 provides guidance on specifying fees and billing agreements in an Engagement Document. Professional Bodies have suggested alterations to this paragraph to:

- reduce the instances of misunderstanding regarding fees charged; and
- clarify the need to disclose referral fees or commissions (which may be more common if members required to refer clients to financial planners for financial advice).

Based on these suggestions, Technical Staff have drafted the following proposed amendments to paragraph 4.8 of APES 305 as follows:

*Fees and billing arrangements:* Reference to the basis [and calculation](#) of fees (e.g. time based billing, fixed price contracts, [referral fees and commissions](#), contingent fee arrangements or other similar agreement). Details of agreed upon billing schedules should also be included.

These amendments can be considered in the next review of APES 305.

### Definition of Writing

Technical Staff note that the definition of Engagement Document in APES 305 refers to it being a written form. Paragraph 3.5 outlines that the terms of engagement can be in the form of an electronic communication. Technical Staff believe that including a definition of the term 'Writing' will assist in clarifying that written form may include electronic formats. An example of this definition is in APES 220 *Taxation Services* where the term 'Writing' is defined as "...a mode of representing or reproducing words in a visible form, and includes words in an

*electronic format capable of being converted to printed text.* The addition of this definition can be considered in the next review of APES 305.

### **Recommendation**

Technical Staff recommend that amendments identified as part of this annual review be addressed in the next planned revision of APES 305.

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**Date:** 5 August 2016