



Annual Review of APES 305 *Terms of Engagement* issued in December 2007

Prepared by

Rozelle Azad
Project Manager

November 2011

1. Executive Summary

1.1 Background

Accounting Professional and Ethical Standards Board (APESB) issued APES 305 *Terms of Engagement* in December 2007 with an effective date of 01 July 2008. In June 2009 an updated standard was issued that incorporated minor editorial changes identified by the six-monthly review.

1.2 Reason for this report

In accordance with APESB's constitution, a review needs to be performed on an annual basis after a new standard is effective. This report presents a review of the issues reported to the APESB and a proposed course of action to address the issues identified.

1.3 Issues identified

The concerns raised by stakeholders are summarised below.

1.3.1 – Payment of outstanding debts to a previous Member in Public Practice

A stakeholder raised an issue in relation to the situation where a newly appointed Member in Public Practice may advise a Client not to pay outstanding amounts due to the previous Member in Public Practice. The stakeholder suggested that an additional paragraph be inserted into APES 305 that imposes a professional obligation on the new Member in Public Practice to ensure that the Client produces a sign off indicating that all outstanding debt owing to the previous Member in Public Practice has been settled.

1.3.2 – Clarification of the term “recurring engagement”

A stakeholder has raised a concern that the term “recurring Engagement” in paragraph 5.1 of the standard may be misinterpreted when applying APES 305. The stakeholder suggested that section 5 of the standard should be revised to clarify this issue.

1.4 Recommendation

1.4.1 – Payment of outstanding debts to previous Member in Public Practice

The Board note the concerns raised by the stakeholder and provide Board's views whether further amendments are required in respect of 305. Technical staff are of the view that no amendments should be made to the standard to address this issue.

1.4.2 – Clarification of the term “recurring Engagement”

The Board direct Technical Staff to commence a project in consultation with the professional bodies to revise Section 5 of APES 305 *Terms of Engagement* in respect of recurring Engagements and to provide proposals for the Board’s consideration in 2012.

2 Review of Issues

2.1 Payment of outstanding debts from a Client to a previous Member in Public Practice on appointment of a new Member in Public Practice

Issue

A stakeholder raised concerns with the potential for a newly appointed Member in Public Practice to advise a new Client to stop paying outstanding amounts due to their previous Member in Public Practice. The stakeholder suggested an additional paragraph should be inserted into APES 305 *Terms of Engagement* that imposes a professional obligation on the new Member in Public Practice to obtain a Client’s sign off indicating that all outstanding debts owing to the previous Member in Public Practice has been settled.

Analysis of the issue

The stakeholder believes that this matter should be addressed in a professional and ethical standard. To address this issue, the stakeholder has suggested inclusion of the following paragraph in APES 305:

The new accountant cannot accept a new engagement until the prior accountant has signed off stating that all outstanding debts have been paid in full. This sign off can occur when responding to the professional courtesy letter sent by the new accountant to the old accountant or by way of APES 305 making it obligatory to have the debtor produce a certificate from the old accountant stating a nil balance. If the debtor tries to “get around” this, then the new accountant must confirm that the debtors accountants show a nil balance owing to the old accountant, and then the new accountant must obtain this nil balance certificate. If the new accountant takes on the debtor without this clearance the new accountant becomes liable.

It should be noted that the original contractual arrangements would be between the previous Member in Public Practice and the Client and as such it is a contractual matter between the two parties. Whilst non-payment of debts is a valid concern, APES 305 is not considered the appropriate medium in which this issue should be addressed. If this is occurring in practice, then the relevant Member in Public Practice is probably in breach of their professional behavior obligations under APES 110.

Impacted Stakeholders

Members in Public Practice and Clients.

Recommendation

The Board note the concerns raised by the stakeholder and provide Board's views whether further amendments are required in respect of 305. Technical staff are of the view that no amendments should be made to the standard to address this issue.

2.2 Clarification of Recurring Engagements

Issue

A stakeholder noted that section 5 of APES 305 requires clarification in relation to recurring Engagements.

Analysis of the issue

With a recurring Engagement the provision of services by the Member in Public Practice is repeated on a cyclical basis, often annually. A stakeholder stated that there are two schools of thought on the nature of a recurring Engagement. The first would characterise a recurring Engagement as having a single commencement date at the beginning of the first iteration of the cycle. The second would consider that each iteration effectively has a separate commencement date.

Agreed services and/or terms under which the Engagement is provided may remain constant in each iteration. Any change to the services or the terms would be considered to break the cycle and result in a new Engagement commencing.

Paragraph 5.1 as currently drafted refers to not sending an Engagement Document on "each occasion" however does not identify which occasions are being referred to.

The stakeholder has suggested that APESB should clarify the term "recurring Engagement" in paragraph 5.1. This would have the added benefit in the application of other APES standards that are typically expressed to apply to Engagements commencing on or after a specified date. Clarification of the term would state that the APES standard should apply from the commencement of the next iteration of the cycle as opposed to some unspecified time at which the Terms of Engagement are changed.

Impacted Stakeholders

Members in Public Practice and Clients

Recommendation

The Board direct Technical Staff to commence a project in consultation with the professional bodies to revise Section 5 of APES 305 *Terms of Engagement* in respect of recurring Engagements and to provide proposals for the Board's consideration in 2012.