

AGENDA PAPER

Item Number: 6 (e)
Date of Meeting: 22 August 2017
Subject: Annual review of APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business*

Action required **For discussion** **For noting** **For information**

Purpose

In accordance with APESB's Constitution, an annual review of APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business* (APES GN 40) has been performed to identify and resolve any issues identified by stakeholders.

Background

APESB originally issued APES GN 40 in March 2012, and subsequently revised the Guidance Note in October 2015.

Consideration of Issues

APESB Technical Staff have completed the following procedures to identify any issues associated with APES GN 40:

- Consultation with the Professional Bodies to identify whether Members or other stakeholders have raised any issues in respect of APES GN 40;
- Reviewed the APESB Issues Register to identify whether stakeholders have reported any matters in relation to APES GN 40; and
- Performed an internal technical review of APES GN 40 including considering the technological neutrality of the Guidance Note.

The issues identified through completion of the above procedures are noted below.

Use of APES GN 40 by Members in Business

A Professional Body has raised the matter of whether APES GN 40 is effective and used by Members in Business. The Professional Body has suggested that APESB conduct a survey of its use and reconsider whether transforming it into a Standard would make it more effective.

Technical Staff are of the view that transforming APES GN 40 into a Standard is not necessary. The purpose of APES GN 40 is to expand on the fundamental principles and requirements

outlined in the Code's *Part A – General Application of the Code* and *Part C – Members in Business* and to provide guidance on how to apply the Code for Members in Business.

Amendments for NOCLAR and Whistle-blowing legislation

Technical Staff are aware of two matters which will need to be reflected in APES GN 40:

- **NOCLAR**

In May 2017 APESB issued an amending standard to the Code to incorporate provisions relating to Responding to Non-Compliance with Laws and Regulations (NOCLAR). The NOCLAR provisions are effective from 1 January 2018, although early adoption is permitted.

APES GN 40 needs to be updated to refer to NOCLAR in the following areas of the guidance note:

- Paragraph 4.2 - outlines the ethical decisions making process & should cover the NOCLAR framework;
- Paragraph 6.1 - outlines the sections in Part C and now needs to refer to Section 360;
- Section 12 Disclosing Information and Whistle-blowing - requires comprehensive review and updating; and
- Section 13 Case studies – there is an opportunity to include additional case studies specific to NOCLAR.

As a guidance note becomes effective from their date of issue, any revision to APES GN 40 should be issued after the NOCLAR standard becomes operative in January 2018.

- **Whistle-blowing legislation**

Technical Staff are also aware that the Government is considering changes to whistle-blower legislation. Treasury issued a consultation paper earlier this year, reviewing the Tax and Corporate Whistle-blower protections in Australia. The paper proposes that any changes to the provisions will be enacted by the government by mid-2018.

Amendments to whistleblowing legislation will impact the following sections of APES GN 40:

- Section 12 Disclosing Information and Whistle-blowing; and
- Section 13 Case studies – to update the existing case studies on whistle-blowing, if required.

Technical Staff propose to commence a project in 2018 to update APES GN 40 for amendments relating to NOCLAR and for changes in whistle-blowing legislation.

Staff Recommendation

That the Board approve the proposed project to revise APES GN 40 in relation to the new NOCLAR provisions and any amendments to whistle-blowing legislation.

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Date: 1 August 2017