

AGENDA PAPER

Item Number: 10

Date of Meeting: 5 March 2024

Subject: Update on Parliamentary Inquiries relating to the accounting profession

Action required For discussion For noting For information

Purpose

To update the Board on the Parliament Inquiries relating to the accounting profession.

Background

In recent years, there has been an increased number of ethical failures in the accounting profession, from cheating on ethics exams to fraud, breaches of confidentiality and conflicts of interest. In Australia, these ethical failures have led to the initiation of several parliamentary inquiries impacting the accounting profession.

APESB have engaged with these inquiries by providing submissions and appearing at the public hearings. Technical staff have provided an update, including a high-level summary of the current inquiries related to the accounting profession at the board meetings in August 2023 (Agenda Item 11) and November 2023 (Agenda Item 10).

Current developments

This paper provides an update on these government inquiries since the November 2023 Board meeting. Three current ongoing inquiries are being monitored by the APESB, as follows:

NSW Government- Inquiry into NSW Government's use and management of consulting services

This inquiry was established on 6 June 2023 into the use and management of consulting services by the NSW Government agencies. The focus of the Inquiry is set out in the [Terms of Reference](#).

Since the last update provided to the Board at the November 2023 Board Meeting, the NSW PAC held a public hearing on 5 February 2024, where two professional services firms (Scyne Advisory and EY) appeared. The transcript of this hearing is available [here](#).

The Committee is due to report on this inquiry by 31 May 2024.

PJC Inquiry into Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry

On 22 June 2023, the PJC created an inquiry into Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry in response to allegations of misconduct in the Australian operations of the major accounting, auditing and consultancy firms. The focus of the inquiry is set out in the [Terms of Reference](#), with the Committee expected to report to Parliament by mid-2024.

A summary of the key themes in the submissions made to this inquiry was presented to the Board at the November 2023 Board meeting (refer to [BM 124 Agenda Item 10](#)).

Since the last update was presented, the PJC Committee held two public hearings in late November 2023, where appearances were made by a range of parties, including academics, ethicists, professional associations, and advocacy groups. In addition, the inquiry held a public hearing on 22 February 2024 with appearances from the Boston Consulting Group, The Institute of Internal Auditors of Australia, the AUASB, the AASB and the FRC. The transcripts from these hearings are available on the [Inquiry website](#).

APESB Chairman, Ms Nancy Milne OAM, and CEO, Mr Channa Wijesinghe, are scheduled to appear at a public hearing for this inquiry on 1 March 2024. A verbal update on the appearance will be provided to the Board at the Board Meeting.

The opening statement made by APESB at this hearing is set out at agenda item 10 (c).

FPAR Committee Inquiry into management and assurance of integrity by consulting services

On 9 March 2023, the Senate referred an inquiry into management and assurance of integrity by consulting services to the FPAR Committee. This inquiry was to focus on how the government or other regulatory bodies manage consulting engagements, the oversight of consultants and how conflicts of interest and other integrity breaches are handled. Further details are set out in the [Terms of Reference](#). A report is expected to be provided to the Senate by 28 March 2024.

Since the last update provided to the Board at the November 2023 Board Meeting, the Inquiry has held two public hearings. On 9 February 2024, the Committee heard from the ATO, the Tax Practitioners Board, PwC, Scyne Advisory, KPMG and EY. The transcript from this hearing is available on the [inquiry website](#).

At the public hearing on 23 February 2024, APESB Chairman, Ms Nancy Milne OAM, and CEO, Mr Channa Wijesinghe appeared. The opening statement, including the diagram of the global three-tier Standards Setting process, is set out at Agenda Items 10 (a) and (b), respectively. Other parties appearing at this hearing included Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia, IPA, Business Council Institute, Deloitte, the Department of Finance and the Treasury Department. The transcript from this hearing is also available on the [inquiry website](#).

Technical Staff have reviewed the submissions made to this inquiry and have noted the following key themes or recommendations:

- Lack of transparency around work undertaken by consultants

A number of academics and individuals raised concerns in their submissions over the absence of transparency and accountability around the government's engagement of consultants. These concerns included:

- Engagements posed significant risks to public sector integrity with little public knowledge and limited accountability or transparency on the quality of work provided by and procedures undertaken in the consulting firms.
- Conflicts of interest result from the lack of transparency in procurement and inadequate reporting and accountability by consultants.
- Loss of continuity of policy consideration and the loss of intellectual capital in the public service due to the increasing use of consultants.
- A common practice of consulting firms is to disclaim all responsibility for the contents of reports and to limit the circulation to parties other than the immediate recipient.

The Tax Practitioners Board (TPB) noted the risk that preferential contracts could be awarded to consultant tax advisers or professional firms in return for benefits. The TPB also highlighted the importance of improved transparency and external scrutiny to enhance compliance with legal and ethical frameworks.

Most respondents expressed support for improving transparency regarding consultants' interactions with the government, as noted in their respective submissions:

- EY recommended providing greater transparency around the tender and procurement process as this would prevent the perception of a loss of public sector integrity.
- KPMG supports the requirement for the government to report on their contracts and support the related reporting that is required under parliamentary processes and through reviews undertaken by the Australian National Audit Office.
- Boston Consulting Group suggested requiring departments and agencies to provide more information about their value for money processes and assessments.
- The Community and Public Sector Union (government sector union) is supportive of making consultancy reports publicly available through a Senate order.
- Several academics supported mandating transparency and conflicts of interest disclosures. One academic also suggested establishing a platform to access information about all consulting contracts in government to scrutinise potential conflicts of interest.

- Big Four firms and APES 110

The Big Four firms have confirmed that the requirement to comply with APES 110 applies to all their partners and professional staff, including consulting partners. The Big Four firms also explained that the firms' Code of Conduct, as well as their policies and procedures, have been built on the five fundamental principles of ethics in APES 110.

- Absence of legislative requirements or Code of Conduct in place for consultants

It was raised by many parties that some consultants are not subject to a code of ethics, depending on their discipline.

CA ANZ observed that there is no specific registration regime for consultants. In contrast, other professionals, such as registered company auditors, registered liquidators, health care professionals, financial advisers, and solicitors, have such a regime. This means some

consultants are not subject to oversight, while others are subject to multiple oversight and regulatory regimes.

A number of government bodies and academics shared the same views, highlighting the need for a code of conduct for consultants.

The Community and Public Sector Union (government sector union) stated that it is not aware of any such legislative requirements being placed on consultants. The public expects that penalties applicable to public servants should similarly apply to consultants who have acted inappropriately.

The Department of Finance mentioned the development of a Supplier Code of Conduct that will outline the expected behavioural standards, including disclosing conflicts of interest and confidentiality obligations.

Some academics proposed that a Code should include obligations to abide by the ethical standards equivalent to those set by and pursuant to the *Public Service Act*, as well as a corresponding default five-year ban for ethical or professional breaches.

The Institute of Management Consultants (IMC) Australia, on the other hand, encouraged the Committee to consider individuals and corporations providing consulting services to the government to become IMC members and adhere to its Code of Conduct. In the event of a complaint, a Disciplinary Committee will be convened to investigate and recommend appropriate actions against the IMC members.

- Establish a statutory authority

Several academics advocated for the establishment of an independent statutory authority to oversee consultants across all Australian Government agencies. Their submissions have proposed various responsibilities and powers of this authority, including:

- set technical and ethical standards, evaluate compliance, and impose meaningful sanctions for transgressive firms and individuals;
- report annually to provide transparency and make recommendations, with the opportunity for Government agencies to respond;
- periodically audit the use of confidentiality clauses in government contracts;
- possess a statutory investigative function with the power to compel information from the accounting bodies, firms, and individual accountants;
- determine remedies for breaches of APESB standards and other standards; and
- possess a research and policy function to engage with the APESB and international standards and ethics bodies.

Way Forward

Technical staff will continue to monitor the progress and outcomes of government inquiries and update the board on key developments.

Recommendations

That the Board note the update on the Government Inquiries.

Materials Presented

Agenda Item 10 (a) FPAR Inquiry hearing 23 February 2024 – APESB Opening Statement
Agenda Item 10 (b) Diagram: The Global Three-Tier Standard Setting Process
Agenda Item 10 (c) PJC Inquiry hearing 1 March 2024 – APESB Opening Statement

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