

Public Accountability and Works Committee

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

KPMG responses to Questions on Notice from public hearing on 5 September 2023

1 TAHE related performance appraisals

PAUL LOW: *That's a matter for Brendan. That's a personal decision. I wasn't in the room; I'm not part of that conversation, so I can't answer that question. What I can say to you, though, in relation to issues around consequence, is that in our firm there is a structure—a balance scorecard around performance—and each and every year we look at how our staff and our partners responded to the particular areas of behaviour, of living the values et cetera. During that process, there are times when people's behaviour and activities are brought to the fore around their contribution and how they went about it. So, in that environment, there would have been conversations at the time around performance. I'm not in the performance chain for those conversations, so I can't give any insights to the Committee about others that were impacted. But what I would say is that both Heather Watson and Brendan resigned from the firm.*

The Hon. MARK BUTTIGIEG: *Are you saying there were performance appraisals that fed into that process?*

PAUL LOW: *I'm not sure if there were any performance appraisals, Mr Buttigieg, that were going into the resignation-retirement process. I can't provide insight on that. I wasn't in those conversations.*

The Hon. MARK BUTTIGIEG: *Are you able to provide the Committee with any of those performance appraisals, on notice?*

PAUL LOW: *I'm happy to take that question on notice.*

KPMG Response:

Performance appraisals did not feed into the process of Heather Watson or Brendan Lyon retiring from the firm.

2 Performance frameworks

The Hon. Dr SARAH KAINE: *Could I ask a related question? I think we asked this of Deloitte in here recently. Could we also get your performance framework? Most particularly, I am interested in your KPIs and how performance bonuses are awarded. This question may be for you, Mr McArdle. Obviously, we don't need to identify them, but could we get how many people have been disciplined or gone through some kind of process because you have identified behaviour that does not comply with your standards and your codes?*

MARCUS McARDLE: *We could take that on notice, Dr Kaine. Yes.*

KPMG Response:

Assessing performance at KPMG is a combination of what our people achieve – performance against the expectations of their role and achievement of their goals – and how our people accomplish what they set out to – demonstrating consistency of performance and demonstrating behaviours aligned with the firm values.

KPMG's performance framework includes five performance ratings determined during the end of year performance review process including unsatisfactory performance; inconsistent performance; effective performance; highly effective performance; and outstanding performance.

Individual performance ratings play a role in determining end of year performance bonuses.

Partner performance frameworks

In addition, KPMG Australia sets out clear performance and conduct expectations for partners. The remuneration model is designed to drive and reward performance and behaviours consistent with our strategy and Values.

KPMG Partners' individual performance is assessed based on their achievement of specific goals and a common partner scorecard across People, Growth, Client outcomes, Quality and Innovation. In addition, all partner scorecards have mandatory Independence and Compliance metrics, across mandatory training, audit quality (where relevant) and any failure to comply with our policies and procedures.

Any matters of conduct that may have arisen during the performance year are also considered, and appropriate remuneration consequences applied.

Workplace complaints data

We continue to empower our people to speak up about any unethical or inappropriate behaviour in the workplace. We take all matters seriously and in FY23, where the complaint has been substantiated, one in four people who were the subject of the complaint were exited from the firm. The remaining employees received a warning, counselling and (as applicable), an adverse impact to their end of year rating and payments.

Our FY23 workplace complaints data is below, as disclosed in KPMG's Impact Plan 2023.¹

| Conduct complaints | FY23 |
|---|-------------|
| Complaints raised | 142 |
| Complaints closed out | 131 |
| Complaints raised per 100 employees | 1.24 |
| Types of complaints raised | |
| Breach of the Code or policies (other than sexual harassment) | 127 |
| Sexual harassment | 15 |
| Substantiated closed out complaints | |
| All | 84 |
| Breach of the Code or policies | 76 |
| Sexual harassment | 8 |

3 Commonwealth whistleblower legislation

The Hon. MARK BUTTIGIEG: *This is genuinely a question out of ignorance, so it's not a rhetorical question. So the current Federal legislation [regarding whistleblowers] doesn't have provision for external recourse?*

MARCUS McARDLE: *I couldn't comment on that, Mr Buttigieg.*

PAUL LOW: *We would have to take that question on notice, I think, given that we're not experts in the HR dimensions and human resources dimensions.*

KPMG Response:

The corporate sector whistleblower protection regime applies to companies operated by KPMG. ASIC is responsible for enforcing the corporate sector whistleblower protection regime. The *Corporations Act 2001* (Cth) sets out offences, compensation and other remedies that can be ordered by a court.

¹ [KPMG Australia Impact Plan 2023](#)

KPMG has recommended stronger whistleblower protections across the professional services sector in its submission to the Parliamentary Joint Committee on Corporations and Financial Services to help inform the Inquiry into Structural Challenges in the Audit, Assurance and Consultancy Industry.²

4 Deeds of release

The CHAIR: *Are you able to take it on notice to tell us how many partners have resigned with a deed of release in, say, the past three years?*

PAUL LOW: *I'm happy to take the question on notice.*

KPMG Response:

As set out in our Partnership Agreement, all partners agree to execute a Partner Retirement Deed when they retire from the Partnership.

The Partnership Agreement is available on our website here: [KPMG Australia Partnership Agreement 2022](#).

5 Mr Pratt's employment at KPMG

The CHAIR: *Are you able to tell us if Mr Pratt ever worked for KPMG?*

PAUL LOW: *I'm not aware of Mr Pratt working for KPMG.*

The CHAIR: *Could you double-check your records? There is certainly a media report that refers to him as having worked at KPMG.*

PAUL LOW: *I'm not aware of that, but I'm happy to take that on notice.*

KPMG Response:

From 2 March 2009 to 26 June 2009, Mr Pratt worked as a contractor to KPMG on a specific, short-term project.

6 KPMG's partnership agreement

The Hon. Dr SARAH KAINÉ: *... Mr McARDLE—again I think we asked Deloitte—could we please get a sample partnership agreement? We already had a brief discussion about how partnerships are different to other business arrangements. I know you're probably going to say it's commercial—*

MARCUS McARDLE: *No, Dr Kaine, that one is—we've released that publicly. We're the only big four firm that has released our partnership agreement. We can certainly provide it to you.*

KPMG Response:

As at the date of this response, KPMG is the only Big Four firm in Australia to have publicly published its Partnership Agreement – it is available on our website here: [KPMG Australia Partnership Agreement 2022](#).

7 CA ANZ investigation

The CHAIR: *When did CA ANZ get in touch with KPMG?*

² [KPMG submission to the Inquiry into structural challenges in the audit, assurance and consultancy industry](#), August 2023

PAUL LOW: *I'm not sure when that was. It's a confidential investigation. I'm not privy to when that contact was made.*

The CHAIR: *I understand the content of it is confidential, but the fact of it has been well aired in this inquiry already. Are you able to come back on notice, perhaps, to tell us when you were contacted?*

PAUL LOW: *Yes, within the realms of those expectations that CA ANZ has around confidentiality, I'm happy to take that question on notice, Chair.*

KPMG Response:

CA ANZ first contacted KPMG regarding this matter in August 2022.

8 KPMG Partner on the Board of CA ANZ

The Hon. MARK BUTTIGIEG: *Is there a KPMG partner on the board of CA ANZ?*

MARCUS McARDLE: *I'd have to take that question on notice, Mr Buttigieg.*

KPMG Response:

Yes. The membership of the CA ANZ board is set out on their website: [Our Board | CA ANZ \(charteredaccountantsanz.com\)](https://www.charteredaccountantsanz.com)

9 KPMG secondees

The CHAIR: *I expect there is. In the few minutes we have left, I will ask you a little bit about something quite different: secondments. How many secondees do you have within New South Wales government?*

PAUL LOW: *We currently have five FTEs seconded into the New South Wales government.*

The CHAIR: *Which agencies are they sitting in?*

PAUL LOW: *They're across, I think, five agencies. I'll take that question on notice. I think there's one in Health.*

KPMG Response:

The agencies referenced are the NSW Department of Education, NSW Environment Protection Authority, Insurance and Care NSW (iCare), NSW Land and Housing Corporation, and NSW Ministry of Health.

Supplementary questions

1 Would Mr Yates accept an invitation from the Committee to appear himself?

As per KPMG's evidence on 5 September, given this inquiry's terms of reference, Paul Low and Marcus McArdle are best placed to continue to assist the committee.

2 How much money did KPMG and associated entities receive from the NSW government and its agencies in each of the Financial Years from 2011/12 to 2022/23?

KPMG's total recorded revenue for all work from NSW Government over this period has averaged 9% of the firm's revenues in NSW.

As noted in our submission to this Inquiry, KPMG supports better centralised collection and reporting of procurement data through a single platform.

3 Please list every engagement undertaken with any agency, department, State Owned Corporation or other entity related to the NSW government since 2011. In your answers, please detail:

- *the agency or entity the engagement was with,*
- *the details of the work requested for each engagement,*
- *the details of the work undertaken for each engagement,*
- *the tendering process for the engagement,*
- *the initial value of the engagement,*
- *the contract period relating to the engagement, and whether the engagement period was extended. If the engagement was extended, the additional length of that engagement as a result of the extension and the additional value of each subsequent extension,*
- *the total value of the engagement, and*
- *whether a post-engagement evaluation of the work was completed.*

Records in relation to every engagement since 2011 are so numerous and extensive that their provision and review by KPMG would not be practical.

We submit to NSW Procurement detailed breakdowns of all of the work we have undertaken under the PMS scheme over the last three years. This covers work considered as General Consulting.

These submissions, made on a monthly basis, include details of the name of the agency, the name of the project, the staff who worked on the project, the number of hours billed, the rates involved, the initial value of the engagement and the total value and the contract period. The submissions do not include the details of the work undertaken for each engagement. The tendering arrangements and any post engagement evaluation is a matter for NSW Procurement and the relevant agency.

4 A number of pieces of evidence provided by you at our hearing was then contradicted by the testimony of Prof Brendan Lyons on 6 September 2023. What is your response to Mr Lyons' evidence?

KPMG provided evidence to the committee in the hearing on 5 September and we stand by the evidence provided. These matters were also the subject of KPMG's submission to the Senate's Inquiry into the management and assurance of integrity by consulting services in June 2023.³

³ See [here](#) at item 45 for KPMG's response to Mr Lyon's submission.

5. Do you use any form of artificial intelligence internally to either:

- **Consolidate and catalogue information held by KPMG**
- **Put together tenders or advice for a company**

KPMG is active in the application of artificial intelligence (AI) and is doing so in a trusted and controlled manner.

In March 2023, KPMG became one of a handful of companies globally to be given access to a private version of ChatGPT which has become a core part of our AI strategy. The solution, known as KymChat, allows our people to safely use ChatGPT's groundbreaking technology in the workplace with specific safeguards.

KPMG Australia is required to protect our people and client data against loss and exploitation. It is critical that we ensure we have appropriate governance structures in place to manage data and cyber risks – as outlined in our Impact Plan.⁴ There were no notifiable data breaches in FY23.

We recognise the responsibility we have in handling client data and AI, and have enacted various safeguards and limitations when it comes to using this information in AI systems:

- KPMG uses a data classification standard to determine what sources of data are permissible for use in AI applications. Those employees who have job responsibilities where they may have access to certain types of data, such as (and not limited to) federal, state and local government, are prohibited from using such AI applications and their access is excluded where appropriate.
- KPMG implements strict anonymisation protocols where client data is used in AI applications.
- Data is held within a private, KPMG only, AI environment which is subject to our mandatory technology policies and controls.

6. If you use artificial intelligence for these purposes, how do you ensure that IP in systems from or for government work is quarantined from other work and doesn't inform the answer or work for private business clients?

Ongoing compliance of KPMG's AI strategy and systems is managed and monitored by an internal Risk Management team which is independent of the technology services team managing the technology.

A dedicated AI technology services team governs and manages KPMG's AI applications and will only allow permitted data to be ingested into our AI "master models". The AI services team will not ingest any data without approval from the Risk Management team which undertake a detailed review before any approval is granted. This ensures that no confidential client or government data or intellectual property is ingested into KPMG's AI "master model".

All KPMG employees are also educated and made aware of the strict restrictions we have on the use of internal and external AI services. All employees must comply with the firm's technology usage policy and a set of clearly stated acceptable use conditions on key user interfaces that state government data can only be used with written consent.

The above safeguards and responsibilities ensure that government data will not be used to influence answers or work for private business clients.

⁴ [KPMG Australia Impact Plan 2023](#), page 21.