

**INQUIRY INTO NSW GOVERNMENT'S USE AND
MANAGEMENT OF CONSULTING SERVICES**

Organisation: Chartered Accountants Australia and New Zealand

Date Received: 17 July 2023



17 July 2023

Ms Abigail Boyd MLC
Chair Public Accountability and Works Committee
Parliament House
Macquarie Street
SYDNEY NSW 2000

Via email:

Dear Ms Boyd

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

We welcome the opportunity to provide input to the inquiry into the NSW government's use and management consulting services (**the Inquiry**) of the Public Accountability and Works Committee (**the Committee**), and specifically to provide information that may be relevant to the Committee's consideration of *the management of and measures to prevent conflicts of interest, breaches of contract or any other unethical behaviour by consultants*.

The membership of Chartered Accountants Australia and New Zealand (**CA ANZ**) includes full members who are qualified Chartered Accountants, provisional members who are enrolled in the CA ANZ's Graduate Diploma of Chartered Accounting, affiliate members who are not qualified Chartered Accountants but who are partners in accounting firms in Australia (consultants), and firms that opt-in to membership.

All CA ANZ members are bound by the same standards of professional conduct and ethics enshrined in APES 110 Code of Ethics (including Independence Standards) (**Code of Ethics**) issued by the Accounting Professional and Ethical Standards Board (**APESB**) regardless of their professional background or discipline.

The fundamental principles set out in the Code of Ethics – professional competence, confidentiality, integrity, objectivity and professional behaviour – provide the frame of reference and guide to expectations of all CA ANZ members' professional and personal behaviour. The fundamental principle of objectivity requires CA ANZ members to exercise professional or business judgement without being compromised by: (a) bias; (b) conflict of interest; or (c) undue influence of, or undue reliance on, individuals, organisations technology or other factors¹. Section 310 of the Code of Ethics prescribes the duties of members in public practice to identify, evaluate and address threats to compliance with those fundamental principles arising from a conflict of interest. CA ANZ issues guidance materials to assist members with understanding their duties. The **Conflict of Interest Guide** provided as Attachment 1 is an example of the materials we issue. It explains the practical steps members are required to take to manage conflicts of interest.

Where breaches of the Code of Ethics occur, the CA ANZ By-Laws enable an investigation and disciplinary action to be taken.

Appendix 1 provides a detailed overview of:

- Professional ethics standards setting and adoption in Australia;

¹ APES 110, R112.1

- the duties and obligations of members of CA ANZ; and
- the enforcement powers available to CA ANZ's Professional Conduct Committee, Disciplinary Tribunal and Appeal Tribunal (collectively **the disciplinary bodies**) and arrangements for investigation and discipline of Members whose conduct evidences a breach of the Code of Ethics and/or the By-Laws.

We periodically review the CA ANZ By-Laws in accordance with our obligations as a member of the International Federation of Accountants (**IFAC**). IFAC is a global peak body for more than 180 professional accounting organisations. IFAC's Statements of Member Obligations prescribe standards for, amongst other things, CA ANZ's and other members' professional disciplinary frameworks.

In July 2022, we announced a comprehensive review of the CA ANZ By-Laws and related regulatory and administrative arrangements relating to the disciplinary framework (**Professional Conduct Review**). The Professional Conduct Review included benchmarking CA ANZ's framework against global and domestic peers. We also announced the appointment of former Federal Court Justice, the Honourable Dennis Cowdroy AO KC to independently assess and provide feedback on the recommendations arising from the Professional Conduct Review.

The Professional Conduct Review concluded in May 2023, and the findings have been released to our members and published to the CA ANZ website accessible via [this link](#).

In summary, the Professional Conduct Review found that the design and features of CA ANZ's disciplinary framework align with, and in some instances exceed, applicable international and domestic standards and with peer benchmarks. We also identified a number of opportunities for enhancing the disciplinary framework; we have outlined several proposals for amendments to the By-Laws which we will take to our members for approval later in 2023. This includes proposals to have the disciplinary framework apply to *former members* and to more effectively address systemic or firm-wide issues by building upon existing obligations for members who are partners in firms, principally to notify CA ANZ's Professional Conduct Committee of certain adverse events involving the firm (**Firm Events**), by materially increasing the maximum fines that may apply to the members who are partners of such firms.

We look forward to engaging with the Committee in undertaking this important work and would be pleased to follow up with any further information that the Committee may find useful and/or meet to further discuss and explain any aspect of this submission.

Yours sincerely,

Vanessa Chapman

Group Executive - General Counsel & Corporate Assurance

Attachment 1 – Conflicts of Interest Guide

Appendix 1

Measures to prevent conflicts of interest, breaches of contract or any other unethical behaviour by consultants

Introduction

1. Chartered Accountants Australia and New Zealand (**CA ANZ**) is established by Supplemental Royal Charter (**Charter**) and is the professional association for around 136,000 members in Australia, New Zealand and around the world.
2. The Charter prescribes CA ANZ's principal objects which include:
 - the advancement of the theory and practice of accountancy, and the education and continuing professional development of members. CA ANZ is a recognised higher education provider under the TEQSA framework, and we are proud of the high regard and recognition that our Graduate Diploma of Chartered Accounting (GradDipCA) has amongst employers and the business community;
 - the promotion of quality, expertise and integrity in the profession of accountancy by members;
 - the prescription of high standards of practice and professional conduct to be observed by all Members, and disciplinary procedures and sanctions, and the exercise of disciplinary powers and the imposition of sanctions for the better observance of CA ANZ's standards of practice and professional conduct by all Members, including Members in New Zealand in accordance with the *New Zealand Institute of Chartered Accountants Act 1996 (NZICA Act)*; and
 - as one of its ancillary objectives, advocacy in the public interest and the interests of the profession as a whole.
3. Our Professional Conduct Framework Review (the Review) Final Report observed that these objects are mutually reinforcing: the effectiveness of initiatives to advance the profession, to advocate on behalf of the profession in the public interest, to promote quality, expertise and integrity in the profession and to maintain the reputation of Chartered Accountants as skilled, professional and ethical providers of financial reporting, audit, assurance, accounting and related services, depends upon the standards of ethical and professional conduct, by which all Members are bound, being consistently upheld through transparent, fair and proportionate disciplinary procedures.
4. Professionalism, trust and integrity are the foundations upon which CA ANZ members, as practitioners, deliver the services that consumers, businesses and capital markets depend upon, whether those services are in relation to accountancy, audit and assurance or other related professional services. CA ANZ members take great pride in their designation and reputation as trusted advisors. The vast majority of CA ANZ members observe the requirements of membership and uphold the highest standards of ethics and integrity. However, where breaches of relevant professional and ethical standards (including APES 110 Code of Ethics) (**APES 110 or the Code of Ethics**) or other relevant standards or other events prescribed by the By-Laws by members are suspected or alleged, the disciplinary framework enables the investigation and, if misconduct is proven, sanctions to be applied. The details of the disciplinary framework are described in this document from paragraph 29.

Standards and standard setting

5. The CA ANZ By-Laws contractually bind members to standards prescribed by the Australian Accounting Standards Board (**AASB**), Auditing and Assurance Standards Board (**AUASB**), and Accounting Professional and Ethical Standards Board Limited (**APESB**), the terms of the By-Laws and any pronouncements issued by any similar body in Australia or overseas.

6. The AASB and AUASB are government bodies responsible for setting financial reporting, auditing and assurance standards to be observed by practitioners in Australia. The *Corporations Act 2001* makes these standards, and any standards incorporated by reference, legally binding. ASIC and a range of other regulators take the lead on oversight of CA ANZ members who are registered company auditors and SMSF auditors, liquidators, authorised representatives under a financial service licence and any Member who is a director.
7. The APESB is an independent company limited by guarantee and is responsible for setting and maintaining the Code of Ethics, based on the International Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (**IESBA**). Members of the three Australian professional accounting organisations – CPA Australia, the Institute of Public Accountants – are required to comply with the Code of Ethics as a condition of their membership of a professional body. Enforcement of the Code of Ethics is subject to the disciplinary framework adopted by the relevant professional body.
8. IESBA *“is an independent standard-setting board that develops, in the public interest, high-quality ethical standards and other pronouncements for professional accountants worldwide.”*² IESBA receives operational and funding support from the International Federation of Accountants (**IFAC**). IFAC has 180 members being accounting associations in 130 jurisdictions around the globe. CA ANZ is a member of IFAC. IESBA’s work is subject to the oversight of the Public Interest Oversight Board (**PIOB**). The PIOB nominating committee appoints the IESBA Board members.
9. The PIOB is *“an independent oversight body, responsible for overseeing the standard-setting processes by the two standard-setting boards [SSBs]...”*³. The responsibility of the PIOB is *“to ensure the public interest responsiveness of the processes and structures under its oversight, namely:*
 - (i) *to ensure that standard setting follows due process and is responsive to the public interest,*
 - (ii) *to ensure the completeness of the strategies and work plans of the SSBs,*
 - (iii) *to oversee the process of nominations to all SSBs and CAGs under its oversight.”*⁴

The relationships are shown diagrammatically in Appendix 2.

10. The application of international standards to CA ANZ members in Australia is therefore based on:
 - (i) CA ANZ’s obligations as a member of IFAC⁵; and
 - (ii) Consultants’ who are members of CA ANZ obligations to CA ANZ.
11. CA ANZ is one of 180 accounting associations that is a member of IFAC. As a member, CA ANZ is required to comply with IFAC’s statements of member obligations (**the SMOs**). The *“SMOs provide clear benchmarks to current and potential IFAC member organizations of IFAC’s requirements. The SMOs also serve as the global benchmarking framework and represent the core competencies of strong, credible, high-quality professional accountancy organizations (PAO) that most appropriately serve and function in the public interest.”*⁶

CA ANZ is subject to periodic review of its compliance with these SMOs by IFAC. The key SMOs relevant to this submission are:

- SMO 1 – Quality Assurance;

² <https://www.ethicsboard.org/about-iesba>, downloaded 6 April 2023

³ <https://piob.org/how/#howModel>, downloaded 6 April 2023

⁴ Standards setting in the public interest: A description of the Model., Public Interest Oversight Board, 15 September 2015.

⁵ IFAC is *“the global organisation for the accountancy profession, comprising 180 member and associate organisations in 135 jurisdictions, representing more than 3 million professional accountants”*. <https://www.ifac.org/who-we-are/our-purpose>, downloaded 6 April 2023.

⁶ <https://www.ifac.org/knowledge-gateway/supporting-international-standards/publications/statements-membership-obligations-1-7>, downloaded 6 April 2023

- SMO 2— International Education Standards for Professional Accountants and Aspiring Professional Accountants (includes IES 7 Continuing Professional Development);
 - SMO 4 – International Code of Ethics for professional Accountants (including International Independence standards) issued by the IESBA; and
 - SMO 6 – Investigation and Discipline.
12. The standard-setting process locally and internationally is robust and transparent. Keys elements of this process include:
- all meetings of the standards setters are open to public observers;
 - meeting papers are publicly available;
 - prior to approving a standard or changes to a standard, comments are sought from the public via a published exposure draft;
 - comments to exposure drafts are published by the standard setters; and
 - for the IESBA standards, an additional control is the PIOB’s oversight of the standard setting process.

Membership obligations

13. On admission to membership, all members agree to be bound by CA ANZ’s membership rules and ethical conduct obligations, in particular the requirements of our constitutional documents and the Code of Ethics. Membership is renewed annually and is subject to members’ declarations of continuing fitness to practise. The membership obligations, which are contractual in nature, are supported and augmented by our education and information sharing programs, and other professional support services designed to help members navigate ethical issues.
14. As noted above, CA ANZ members have a number of professional obligations, including the requirement to comply with the Code of Ethics or APES 110. APES 110’s fundamental principles of:
- integrity (“to be straightforward and honest in all professional and business relationships”⁷);
 - objectivity (“to exercise professional or business judgment without being compromised by (a) bias (conflict of interest or (c) undue influence of, or undue reliance on, individuals, organisations, technology or other factors⁸);
 - confidentiality (being the duty to respect the confidentiality of information acquired as a result of professional relationships⁹);
 - professional competence and due care (to “act diligently and in accordance with applicable technical and professional standards”¹⁰, to “exercise sound judgement in applying professional knowledge and skill when undertaking professional activities”¹¹); and
 - professional behaviour (to “(a) comply with all relevant laws and regulations; (b) ...to act in the public interest...;and (c) avoid any conduct that the accountant knows or should know might discredit the profession”¹²);

⁷ Para R111.1

⁸ Para 112.1 and 112.2

⁹ Para 114.1

¹⁰ Para R113.1(b)

¹¹ Para 113.1A1

¹² Para R115.1

are directed to the prevention of acts and omissions that would knowingly give rise to a conflict of interest, a breach of contract or unethical behaviour.

15. CA ANZ members are also required to comply with APES 320 System of Quality Management (**APES 320**) issued by the APESB. This standard requires firms *“to establish and maintain a system of quality management that is designed to provide it with reasonable confidence that the Firm and its Personnel comply with Professional Standard and applicable legal and regulatory requirements”*¹³. APES 320 requires this system of quality management to address the following elements:

- a) governance and leadership;
- b) professional standards;
- c) acceptance and continuance of client relationships and specific engagements;
- d) resources;
- e) engagement performance;
- f) information and communication; and
- g) monitoring and remediation.¹⁴

This system of quality management will help members to prevent conflicts of interest, breach of contract and other unethical behaviour.

16. The CA ANZ By-Laws require members to comply with these standards.¹⁵ A member’s proven failure to comply with the By-Laws may result in disciplinary action. CA ANZ has implemented a range of measures to educate all members (including those who are consultants) about the risks to ethical conduct and which, if observed, should prevent members engaging in unethical behaviour; this is consistent with CA ANZ’s own obligations as a member of IFAC.

17. The key obligations of CA ANZ members are summarised in the table below.

Obligation	Description	Reference
Comply with the law	Members are required to comply with relevant laws and regulations	APES 110 para 115.1 By-Law 40 (2.1(b)(d))
Comply with Standards	Members are required to comply with relevant professional and ethical standards	APES 110 para 113.1 By-Law 40 (2.1(h))
Complete Continuing Professional Development (CPD)	Members are required to complete 120 hours of CPD every triennium. This includes 2 hours of ethics training.	CR 7
Quality Review	Members may be selected for a quality review. A quality review is a process whereby a member’s system of quality management will be reviewed and assessed for conformity to prescribed standards and requirements.	CR 2 & 3 APES 320
Conduct and Discipline	Certain conduct of members may result in disciplinary action. The By-Laws provide a framework for the investigation of	By-Law 40 CR 8

¹³ APES 320 para 3.1

¹⁴ APES 320 paragraph 3.5

¹⁵ CA ANZ By-Laws para 40 (2.1(e) and (h))

Obligation	Description	Reference
	members' conduct, the consideration of conduct by an independent disciplinary panel (comprised of CA ANZ members and non-members) and the imposition of sanctions. Sanctions can include fines, reprimands, publication of findings and suspension or termination of membership.	
Professional Indemnity Insurance (PII)	All CA ANZ practices are required to hold PII sufficient for their practice. PII is also essential if the practice wishes to claim a benefit under the CA ANZ Professional Standards Scheme. The amount of PII required to be held by a member/practice is determined by reference to the nature and size of the practice's engagements. For consulting engagements this would range from a minimum of \$2 million for engagements with a fee less than \$100,000 to \$20 million where the engagement fee is \$500,000 or more.	CR 2A

18. CA ANZ is also a professional association with a scheme approved by the Professional Standards Council (PSC) under professional standards legislation. A requirement for the ongoing operation of the scheme is that CA ANZ undertake continual improvements to our professional standards and complete annual reporting to the PSC. The PSC reviews a number of CA ANZ's membership obligations (specifically professional indemnity insurance, continuing professional development, entrance requirements and conduct and discipline) at least every five years as part of the scheme application process.
19. CA ANZ's education and information sharing programs assist members to understand and comply with their obligations. All CA ANZ members are required to comply with CA ANZ Regulation CR 7 Continuing Professional Development (CR7). CR 7 requires members to undertake 120 hours of continuing professional development (CPD) every triennium. From July 2021 members are specifically required to include the completion of two hours of ethics training in their 120 hours.
20. In practice CA ANZ offers members several complimentary and paid-for learning modules on professional ethics, including complimentary online learning events covering ethical obligations relating to the identification and management of conflicts of interest and conflicts guides and toolkits to assist members in practice. Our official publication *Acuity* frequently includes articles educating members about conflicts of interest. Additional articles are included as part of our series called "[Practical Ethics Advice Series](#)". CA ANZ also provides two free services for members who may be facing an ethical issue: the professional standards line and the [Chartered Accountants Advisory Group](#) (CAAG). Both services facilitate member access to experienced professionals who can help them determine an ethical course of action.
21. CA ANZ members who do not comply with the standards or By-Laws are liable to disciplinary action. Paragraph 24 details the grounds for action. Specifically, By-Law 40 (2.1)(h) addresses members' obligations to comply with the Code of Ethics, professional standards and CA ANZ's constitutional documents. Any member who has demonstrably failed to appropriately manage conflicts of interest, who is proven to have caused the breach of a contract with a client or who has behaved unethically (in contravention of the Code of Ethics) would, prima facie, be liable to disciplinary action under the CA ANZ By-Laws.

Disciplinary action and bodies

22. The authority to take enforcement action against CA ANZ members is established by the Charter and the CA ANZ By-Laws. Article 3 of the Charter sets out the principal objects and powers of CA ANZ which include:

To prescribe disciplinary procedures and sanctions, to exercise disciplinary powers and to impose sanctions for the better observance of the standards of practice and professional conduct of CA ANZ members, non-member practice entities and provisional members.

23. All disciplinary decisions are made by CA ANZ's independent disciplinary bodies. In Australia, the Professional Conduct Committee (PCC), Disciplinary Tribunal (DT) and Appeals Tribunal (AT), are formally established by the CA ANZ By-Laws and comprise senior, independent Members and lay members whose qualifications and experience commend them for such decision-making. In New Zealand, the PCC, DT and Appeals Council are formally established by the NZICA Act and NZICA Rules. All bodies have access to administrative law expertise, legal advice and expert advice as required.

The table below summarises each of the decision-making bodies in the Australian disciplinary framework.

Name	Purpose	Membership	Quorum
PCC	To receive, initiate, investigate and refer complaints against Members	A mix of CA ANZ members and non-members. Appointments are made by the CA ANZ Board.	1 for decisions relating to By-Law 40 (4.3), (5.4), (6.1(f)) and (7.2). 3 for other matters – must include one non-member.
DT	To hear and determine complaints made to it by the PCC.	A mix of CA ANZ members and non-members. Appointments are made by the CA ANZ Board.	3 – one must be a non-member.
AT	To hear and determine appeals of decisions of the DT	A mix of CA ANZ members and non-members. Appointments are made by the CA ANZ Board.	3 – one must be a non-member

Sanctionable conduct

24. Investigation and enforcement action can be taken against any Member who has committed an act or omission which constitutes a sanctionable event. By-Law 40 (2.1) sets out the matters that may result in a Member being liable to disciplinary sanctions, and include if the Member:
- has failed to observe a proper standard of professional care, skill, competence or diligence in the course of carrying out that Member's professional duties and obligations;
 - has, before any court of law in any jurisdiction in Australia or elsewhere pleaded guilty to, or been found guilty of, any criminal offence which has not been set aside on appeal;
 - has in any civil proceedings before any court of law, tribunal or similar body in any jurisdiction in Australia or elsewhere been found to have acted dishonestly (provided such finding has not been entirely set aside on appeal);
 - has pleaded guilty to, or been found guilty of, any statutory or other offence by a court of law, professional body, statutory or other regulatory authority or body, commission or inquiry in any jurisdiction in Australia or elsewhere which may not be a crime but which, in the opinion of the Professional Conduct Committee, the Disciplinary Tribunal or the Appeals Tribunal, brings, or may bring, discredit upon that Member, CA ANZ or the profession of accountancy (provided such finding has not been entirely set aside on appeal);
 - has been the subject of an adverse or unfavourable finding in relation to that Member's professional or business conduct, competence or integrity by any court of law, professional body, royal commission, statutory authority, regulatory authority, statutory body, commission or inquiry in any jurisdiction in Australia or elsewhere;

- (f) with or without any admissions, has given or entered into an undertaking (whether enforceable or not) or consented, accepted or agreed to any order in connection with any matter or proceedings or any threatened or proposed proceedings or any review, audit or investigation by any statutory or regulatory authority or body, or professional body in any jurisdiction in Australia or elsewhere (other than an undertaking or order in respect of procedural matters in respect of or in the course of the conduct of the proceedings or investigation);
 - (g) has agreed to, or has had imposed, any condition or restriction on any professional membership, registration or licence in that Member's name;
 - (h) has committed any breach of the Supplemental Charter, these By-Laws or the Regulations, any pronouncements issued by the Accounting Professional and Ethical Standards Board, Australian Accounting Standards Board and Auditing and Assurance Standards Board (or their successor entities) including the Code of Ethics, or any applicable pronouncements, instruments, technical or professional standards or guidance issued by any similar body whether in Australia or in a foreign jurisdiction;
 - (i) has failed to comply with any reasonable and lawful direction of any officer or organ of CA ANZ acting within the powers conferred by CA ANZ's Supplemental Charter, these By-Laws or the Regulations and which relates to a matter concerning the good order and management of CA ANZ;
 - (j) suffers an Insolvency Event;
 - (k) has committed any act, omission or default which, in the opinion of the Professional Conduct Committee, Disciplinary Tribunal or Appeals Tribunal brings, or may bring, discredit upon that Member, CA ANZ or the profession of accountancy;
 - (l) is or was the Principal of a Practice Entity that has done any of the things described in paragraphs (b), (c) or (d), has an adverse finding against it as described in paragraph (e), entered into an undertaking of the kind described in paragraph (f), had a condition or restriction imposed on a professional registration or licence as described in paragraph (f) [sic] or suffers an Insolvency Event;
 - (m) has provided information to CA ANZ or NZICA which is false or misleading;
 - (n) has failed to comply with any determination or decision made by the Professional Conduct Committee, the Disciplinary Tribunal or the Appeals Tribunal; or
 - (o) has failed to comply with any undertaking given to the Professional Conduct Committee, the Disciplinary Tribunal or the Appeals Tribunal in accordance with By-Law 40(13.8).
25. Details of the types and numbers of complaints and matters determined by the disciplinary bodies are published in [CA ANZ's Annual Report](#).

Disclosure obligations

26. By-Law 40(3) and the corresponding NZICA Rule 13.5 prescribe Members' obligations to self-report and to notify the PCC promptly of sanctionable conduct, with particular emphasis on the disclosure of convictions of indictable offences, offences under the *Tax Administration Act 1953* and insolvency, in relation to the Member and any Practice Entity of which the Member is a partner or principal. The annual membership renewal process requires Members to make Mandatory Declarations about these events.
27. CA ANZ or the PCC may also become aware of Members' conduct in potential contravention of the Code of Ethics (or other applicable standards) or the By-Laws in the following ways:
- via Quality Practice Review, the process by which CA ANZ periodically monitors Members' and practices' adherence to applicable standards;
 - on receipt of a complaint from a client or third party;
 - on advice from a regulator or another professional association;

- via media monitoring;
 - via monitoring of legal and regulatory decisions; and/or
 - on notification of a matter by the Member themselves in accordance with By-Law 40(3) (Disclosure Events and Notification Events), as a stand-alone notification or as part of our annual membership subscription renewal process.
28. The PCC may investigate *any matter* that it considers may result in disciplinary action being taken against a Member: By-Law 40(5.1). The power is exercised without fear or favour.
29. The PCC is not bound to investigate all complaints. By-Law 40(4.3) prescribes the grounds for dismissal of complaints.
30. Investigation and enforcement prioritisation may result in the prioritisation of investigations involving imminent harm or risk to consumers.
31. The PCC (and the disciplinary bodies generally) are bound to comply with the By-Laws/NZICA Rules and apply principles of natural justice and procedural fairness in the discharge of their investigative, prosecutorial and adjudicative functions, specifically by:
- requiring individuals on the disciplinary bodies and those who exercise delegated authority to make associated decisions to be impartial and free from actual or apparent bias;
 - ensuring that Members receive a fair hearing, including by having an adequate and reasonable opportunity to respond to any adverse material that could influence a decision about them; and
 - requiring decisions and findings to be based on evidence that is relevant and logically capable of supporting the decision made.
32. Timeframes for the resolution of investigations and proceedings vary according to the complexity of the matter, the availability of evidence, the requirement for expert or other advice and whether there are other law enforcement, regulatory or court proceedings in progress which relate to the matter.
33. CA ANZ By-Laws which establish the powers of the disciplinary bodies are contractual in nature. Where there are other law enforcement investigations, regulatory or court proceedings in progress it is appropriate that the PCC investigation and / or disciplinary proceedings do not interfere with or unduly impact on them. It is currently the PCC's and disciplinary bodies' policy to pause an investigation or adjourn proceedings in relation to a Member if the Member has been referred to a regulator or law enforcement or is defending civil claims in relation to a matter that is the same as, or substantially similar to, the subject matter of the complaint/investigation.
34. The reasons for this include:
- to limit the potential to prejudice a concurrent regulatory, criminal or civil action;
 - to afford procedural fairness and allow the Member to properly defend higher order proceedings;
 - to enable all issues be dealt with at the same time and to allow the provisions of the By-Laws that are predicated on findings by courts, tribunals and other regulators to be properly engaged, which is most efficient following the conclusion of any other proceedings/actions; and
 - an investigation process can be lengthy and costly; the disciplinary bodies may be able to rely on the findings and decisions made by courts, tribunals and regulators as a basis for a disciplinary investigation and finding.

This approach is also consistent with our membership obligations to IFAC as set out at paragraph 39 of [Statement of Membership Obligation 6 Investigation and Discipline](#).

35. An exception to this policy applies in the case of matters where the Disciplinary Tribunal considers that interim suspension of a Member is warranted. The Disciplinary Tribunal may interim suspend a Member if it is satisfied that it is necessary or desirable to do so, having regard to a number of factors including the urgency of the matter, the interests of the public, the reputation of CA ANZ, or the integrity of the profession of accountancy.

An exception to the policy may also apply where it is clear that the Member is not intending to contest the higher order proceedings, however care is always required in such circumstances to avoid actions which might prejudice the proceedings.

36. The By-Laws establish the sanctions that can be applied by the PCC, DT and AT/AC. It is a fundamental principle of natural justice that sanctions be proportionate to the breach. The table below summarises the sanctions that can be applied (or in the case of the AT, affirmed on appeal) by the Australian disciplinary bodies.

Sanction	PCC ¹⁶	DT	AT
Reprimand	✓		
Severe Reprimand	✓		
Fine (currently capped at \$25,000 at PCC and \$50,000 at DT) ¹⁷	✓	✓	✓
Pay Costs	✓	✓	✓
Complete professional development	✓	✓	✓
Notification of the decision to a regulatory body or other professional association ¹⁸	✓	✓	✓
Engage an adviser or consultant	✓	✓	✓
Publicise the decision	✓ ¹⁹	✓ ²⁰	✓
Remove the member from the register of members		✓	✓
Suspend the member for up to 5 years		✓	✓
Cancel or suspend a member's certificate of public practice		✓	✓
Require a review of the member's practice	✓	✓	✓
Censure the member		✓	✓

37. Further detail can be found at By-Law 40 (6.1) and 40 (7.3) for the PCC and 40 (10.12) for the DT and 40 (11.12) for the AT.

Confidentiality and publicity

38. The PCC is not an adjudicative body. It investigates, gathers probative information, establishes whether there is sufficient evidence of sanctionable conduct and other information relevant to the imposition of sanctions. The Regulations provide that investigations are to be conducted by the PCC on a confidential basis: see CA ANZ Regulation 8. This is consistent with the approach taken by regulatory bodies with similar oversight and enforcement responsibilities.
39. Charges and allegations against a Member may prove to be partially or completely unsubstantiated, and yet publication of the Member's identity and details of claims may seriously damage the Member's reputation. The

¹⁶ The PCC can only apply these sanctions pursuant to a Consent Agreement. A Consent Agreement may be proposed in relation to complaints which would otherwise be suitable for referral to the Disciplinary Tribunal. Such complaints include: Member convicted of an indictable offence, an offence under the Tax Administration Act 1953 (or analogous legislation), or Member (or the Member's firm) suffers an insolvency event.

¹⁷ The Review proposes that maximum fines be increased in respect of Firm Events to \$100,000 at the PCC and \$250,000 at the DT.

¹⁸ Notification requires special circumstances.

¹⁹ The name and location of the member are withheld unless there are special circumstances.

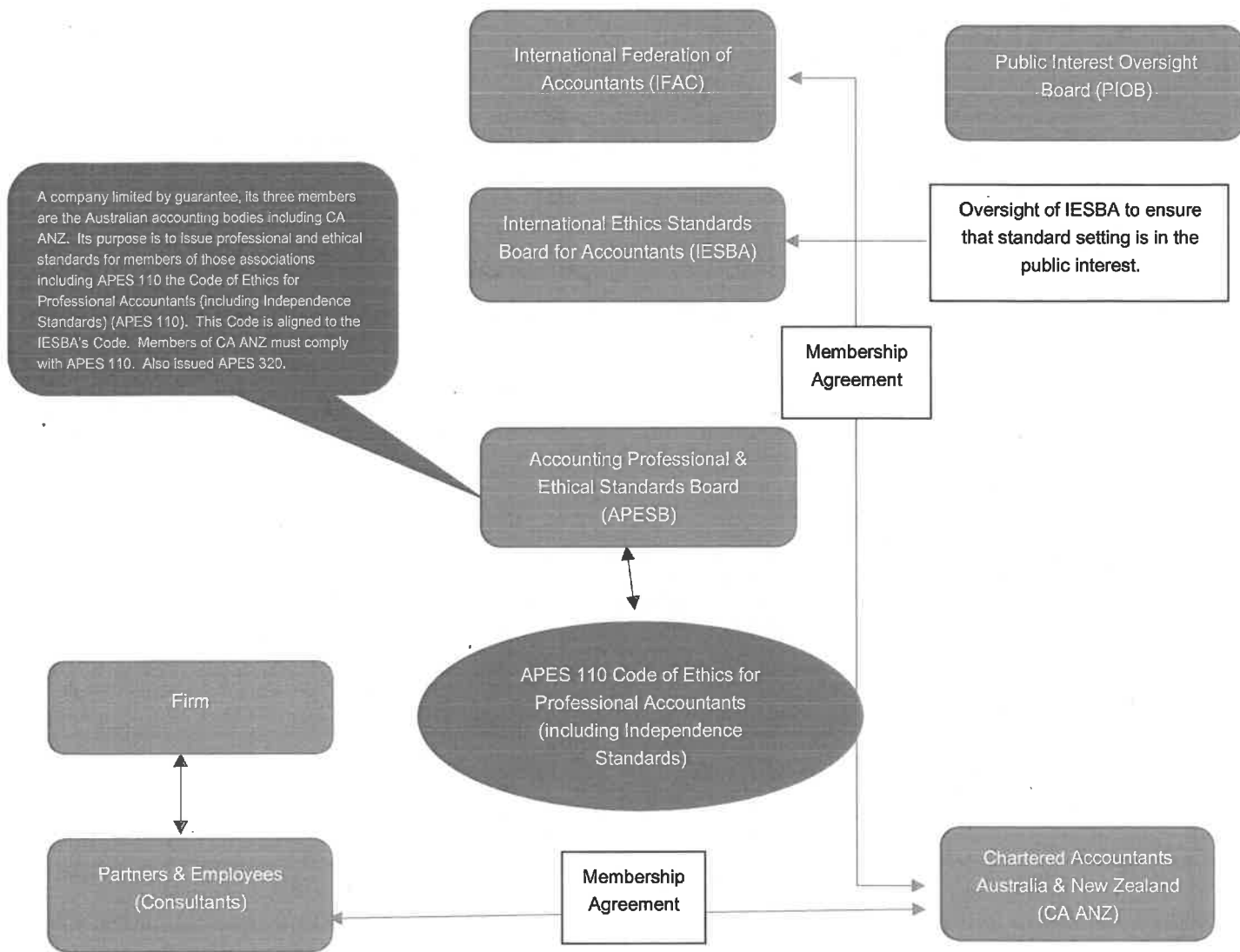
²⁰ The name and location of the member is published unless there are exceptional circumstances.

rules on publicity and publication strike a balance between principles of procedural fairness and natural justice (particularly the evidence rule) and the interests of the public and/or affected parties in transparency and open justice. Thus, investigations and PCC settlements are confidential. However, the PCC has the power to propose an agreed general publicity or notification order as part of the settlement (Consent Agreement). General publication must not name the Member unless there are special circumstances such as, for example, a risk to clients or prospective clients that can only be adequately addressed with publication and cannot be allayed by any other means. On the same basis, a more limited notification may be made by the PCC to other professional bodies, regulatory authorities, members' current and/or former employers, partners and clients of the Member's Practice Entity who are or may be affected by the Member's conduct: see By-Law 40(12.2).

40. The Disciplinary Tribunal is an adjudicative body and its decisions and details of the evidence it relies on, along with decisions of the AT if relevant, are (where the complaint has been established and the member is sanctioned) published on the CA ANZ website (for the Australian rule see By-Law 40 (12.3)). The By-Laws and NZICA Rules do permit the DT and AT/AC, in exceptional circumstances, to make name suppression orders on reasoned grounds however in practice in Australia that power is rarely, if ever, exercised.
41. CA ANZ may make public statements about PCC investigations. It is not permitted to make statements or disclose information that would prejudice an investigation or undermine a decision that the PCC or DT has made with respect to confidentiality.
42. The following links provide more information about our disciplinary framework and professional conduct program:
 - [Main website page regarding complaints against CA ANZ members](#)
 - [Additional information about conduct program](#)

Appendix 1

Professional and Ethical Standard setting framework and obligations of CA ANZ and its members



- Consultants are required to comply with:**
- **their Firm's**
 - Policies
 - Codes of Conduct/ Ethics
 - Partnership Agreements
 - Employment Contracts
 - Local laws and Regulations
 - **Membership obligations to CA ANZ including:**
 - Compliance with the Code of Ethics
 - Regulations for continuing professional development
 - Regulations for professional indemnity insurance
 - By-laws requiring quality reviews and professional conduct

Appendix 3

About CA ANZ

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 136,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world-class services and life-long education to members and advocates for the public good. We protect the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process. We also monitor Chartered Accountants who offer services directly to the public.

Our flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

We actively engage with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.

Our support of the profession extends to affiliations with international accounting organisations.

We are a member of the International Federation of Accountants and are connected globally through Chartered Accountants Worldwide and the Global Accounting Alliance. Chartered Accountants Worldwide brings together members of 13 chartered accounting institutes to create a community of more than 1.8 million Chartered Accountants and students in more than 190 countries. CA ANZ is a founding member of the Global Accounting Alliance which is made up of 10 leading accounting bodies that together promote quality services, share information and collaborate on important international issues.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents more than 870,000 current and next generation accounting professionals across 179 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications.