

The Senate

Finance and Public
Administration References
Committee

Management and assurance of integrity by
consulting services

Final Report

June 2024

© Commonwealth of Australia 2024

ISBN 978-1-76093-676-1 (Printed version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 4.0 International License.



The details of this licence are available on the Creative Commons website:
<https://creativecommons.org/licenses/by-nc-nd/4.0/>.

Printed by the Senate Printing Unit, Parliament House, Canberra

Members

Chair

Senator the Hon Richard Colbeck LP, TAS

Deputy Chair

Senator Louise Pratt ALP, WA

Members

Senator Barbara Pocock AG, SA
Senator Dave Sharma (from 18 March 2024) LP, NSW
Senator Dean Smith (to 18 March 2024) LP, WA
Senator the Hon James McGrath LNP, QLD
Senator Jana Stewart (to 13 June 2023) ALP, VIC

Substitute member

Senator Deborah O'Neill (from 13 June 2023) ALP, NSW

Participating member

Senator David Pocock IND, ACT

Secretariat

Bonnie Allan, Committee Secretary (from 14 May 2024)
Patrick Hodder, Committee Secretary (to 13 May 2024)
Sarah Batts, Principal Research Officer
Nicholas Craft, Principal Research Officer
Anika Khwaja, Principal Research Officer
Hugh Lane, Senior Research Officer
Alexander Migdalias, Research Officer
Ayesha Elahi, Administrative Officer

PO Box 6100
Parliament House
Canberra ACT 2600

Telephone: (02) 6277 3846
Email: fpa.sen@aph.gov.au
Website: www.aph.gov.au/senate_fpa

Contents

Members	iii
List of recommendations	ix
Abbreviations	xiii
Chapter 1—Introduction.....	1
Referral	1
Conduct of the inquiry	1
Context for the inquiry	2
Reports tabled.....	3
Related reports	4
Content and structure of the report.....	4
Chapter 2—Australian Government Procurement Framework.....	5
Commonwealth Resource Management Framework	5
The Management Advisory Services (MAS) panel	6
Australian Government Contract Management Guide	8
The Supplier Code of Conduct	9
AusTender.....	10
Chapter 3—Reliance on consultants by the Australian government	13
Recent reviews.....	14
Thodey Review.....	14
APS Inc: undermining public sector capability and performance.....	16
Factors contributing to the increase in use of consulting services	17
ASL staffing cap	18
The appropriateness of the Australian government's reliance on consulting services.....	19
Perspective of government departments and agencies	19
Perspective of consulting firms.....	21
Perspective of academics	22
Impacts of the increased use of on consulting services	24
APS Capability	24
Frank and Fearless Advice	25
Movement of staff between public and private sectors.....	27

Lack of transparency	27
Conclusions.....	29
Rebuilding APS capability	29
In-house consulting capability – Australian Government Consulting	31
Chapter 4 – APS Contract management	33
Effective management of contracts.....	33
Greater transparency, accountability and managing conflicts of interests.....	39
Chapter 5 – Culture in the Big 4 consulting firms	45
A difference in values and motivation.....	45
APS Values and Code of Conduct.....	45
The bottom line for consultancy services	46
Reviews of Big 4 culture.....	48
Switkowski Review	48
Broderick Review	51
Data on workplace behaviour in the Big 4	53
APS survey results in connection with culture.....	54
Conflicts of interest	55
Inherent risks—Scyne Advisory example	58
Other concerns about Big 4 culture	60
Power mapping.....	60
Chapter 6 – Regulation of the consulting industry	65
Management consulting—an unregulated profession?.....	65
Options for consideration	69
Structural and regulatory changes	70
Treasury consultation paper: Regulation of accounting, auditing and consulting firms in Australia	77
Parliamentary oversight—case study	78
Role and membership of the Public Works Committee	78
Responsibilities referrals, and inquiry processes	80
Parliamentary approval	81
Follow-up activities	82
Chapter 7 – Committee view and Recommendations	83
Introduction	83

PwC Matter	84
Engagement of consultants by the APS	84
Differences in core values must be managed.....	84
APS capability to procure and manage contracts with consultancy firms	85
Transfer of knowledge from consultants to the APS	87
The procurement framework	87
Management of conflicts of interest	88
AusTender.....	89
Regulation of the consulting industry.....	89
Scrutiny of self-regulated professions and the consulting sector	89
Partnership structure and size	90
Professional standard schemes	91
Need for strong and independent regulators	92
Government Senators' Additional Comments	95
Australian Greens Additional Comments—A Very Public Swindle: Ending the Cost, Conflict and Regulatory Failure in Big Consulting and Rebuilding the Public Sector.....	99
Appendix 1—Submissions and additional information	149
Appendix 2—Public hearings and witnesses	163

List of recommendations

Recommendation 1

- 7.12** The committee recommends that PwC be open and honest with the Australian Parliament and people, and with the international community, by promptly publishing accurate and detailed information about the involvement of PwC partners and personnel (including names and positions) in the breach of confidential government information.

Recommendation 2

- 7.19** The committee recommends that the Department of Finance update the Contract Management Guide to require that Australian Government contracts include a clause that states service providers have a duty to act in the public interest when delivering work for the Australian Government.

Recommendation 3

- 7.28** The committee recommends that the Department of Finance improve the training of officials undertaking procurement to ensure that the Australian Public Service is adequately equipped to ensure that value for money is obtained in circumstances where it is deemed necessary to engage consultants.

Recommendation 4

- 7.33** The committee recommends that the transfer of knowledge from the consultant to the Australian Public Service be factored into the design, management and evaluation of contracts.

Recommendation 5

- 7.38** The committee recommends that the Department of Finance amend the Supplier Code of Conduct to include a requirement for service providers to:
- act in the public interest; and
 - incorporate elements from the professional standard APES 110 that align with public sector values.

The Department of Finance should also publish guidance to illustrate examples of conduct that are consistent with these values.

Recommendation 6

- 7.42** The committee recommends that the Department of Finance review its guidance on conflicts of interest and provide a clear and consistent definition of what constitutes a conflict of interest, a conflict-of-interest breach, and

expectations around the management of conflicts of interest. The guidance should also emphasise that active management of conflicts of interest must be an element of APS project management of the contract.

Recommendation 7

7.44 The committee recommends that the Department of Finance develop a central register for conflicts of interest breaches for use by government entities.

Recommendation 8

7.46 The committee recommends that the Department of Finance improve the useability of AusTender by including:

- detailed, consistent and meaningful descriptions of contracts;
- clarity on the nature of contract extensions including links to the original contract notification; and
- information on any concerns raised in relation to the service provider.

Recommendation 9

7.60 The committee recommends that the government commissions the Australian Law Reform Commission, or other appropriate body, to undertake a review of the legislative frameworks and structures of partnerships in Australia with particular focus on partnerships in excess of 100 partners. The review should make recommendations to provide for appropriate regulatory governance and oversight of structures of this scale.

Recommendation 10

7.64 The committee recommends that the Australian government:

- require those organisations that operate professional standards as self-regulatory regimes, to report annually on the operation of those standards to the Joint Standing Committee on Corporations and Financial Services; and
- require these same organisations to appear before that committee to provide oversight on the operation of the relevant standard.

The committee recognises that the Commonwealth government may need to work with state and territory governments to implement this recommendation.

Recommendation 11

7.71 The committee recommends that the Parliament legislate to establish a Joint Standing Committee to review and approve consultancy and services contracts with provisions and thresholds similar to those in the

Public Works Act 1969 but appropriately adjusted to suit the requirements of providing oversight for this significant element of government spending.

Recommendation 12

7.72 The committee recommends that the Senate pass the following order:

That:

- there be laid on the table, by the Minister for Finance, biannual statements on expenditure on consultancy contracts which provide for consideration to the value of \$2million or more, by all Australian Public Service departments and agencies;
- the statements are due not later than the tenth day after the end of the preceding six-month period commencing 1 January and 1 July;
- each report is to include, in relation to each contract, details of the:
 - dollar value;
 - subject matter;
 - duration;
 - contracting government agency;
 - firm or entity providing the work;
 - an explanation of what the contract is expected to deliver/purpose of the contract;
 - any changes or extensions; and
 - any matters of probity or conflict of interest that have arisen in the conduct of the work.
- each report is to include the total amount of all current consultancy contracts in each agency or department.
- The order is of continuing effect until the Senate Finance and Public Administration References Committee has reported to the Senate that Recommendation 8 and 11 of this report have been implemented.

Abbreviations

ACCC	Australian Competition and Consumer Commission
ACQSC	Aged Care Quality and Safety Commission
AGC	Australian Government Consulting
AGS	Australian Government Solicitor
ANAO	Australian National Audit Office
APES 110	APES 110 Code of Ethics for Professional Accountants
APES 320	APES 320 Quality Management for Firms
APESB	Accounting Professional & Ethical Standards Board Limited
APS	Australian Public Service
APS Inc	<i>APS Inc: undermining public sector capability and performance</i>
APSC	Australian Public Service Commission
ASIC	Australian Securities and Investments Commission
ASL cap	APS staffing level cap
ATO	Australian Taxation Office
BCG	Boston Consulting Group
BEPSTAG	Base Erosion and Profit Shifting Tax Advisory Group
Big 4	Deloitte, EY, KPMG and PwC
Big 7	Big 4 and McKinsey & Company, Accenture and Boston Consulting Group
Broderick Review	Independent Review into Workplace Culture at EY Oceania
CA ANZ	Chartered Accountants Australia and New Zealand
CPI	Centre for Public Integrity
CPRs	Commonwealth Procurement Rules

CPSU	Community and Public Sector Union
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DSS	Department of Social Services
ESG	Environmental, Social and Governance
Finance	Department of Finance
HINSW	Health Infrastructure NSW
Home Affairs	Department of Home Affairs
ICMCI	International Council of Management Consulting Institutes
IMC	Institute of Management Consultants
IPA	Institute of Public Accountants
ISO 20700	International Standard ISO 20700:2017 Guidelines for Management Consultancy Services
Justice and International Mission Cluster	Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia
MAS panel	Management Advisory Services Panel
PCAOB	Public Company Accounting Oversight Board
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
Procurement framework	Commonwealth Resource Management Framework
PS Act	<i>Public Service Act 1999</i>
Supplier Code	Supplier Code of Conduct
Switkowski Review	Review of Governance, Culture and Accountability at PwC Australia
TAHE	Transport Asset Holding Entity
TfNSW	Transport for NSW
The Guide	Australian Government Contract Management Guide

Thodey Review

Independent Review of the Australian Public
Service

Chapter 1

Introduction

Referral

- 1.1 On 9 March 2023, the Senate referred the following matter to the Senate Finance and Public Administration References Committee (the committee) for inquiry and report by 26 September 2023:

The management and assurance of integrity by consulting services provided for the Australian Government, with particular reference to:

- (a) the management of conflicts of interest by consultants;
- (b) measures to prevent conflicts of interest, breach of contract or any other unethical behaviour by consultants;
- (c) enforcement measures taken in response to integrity breaches, such as the inadequate management of conflicts of interest, breach of contract or any other unethical behaviour by consultants;
- (d) the management of risks to public sector integrity arising from the engagement of consultants;
- (e) the transparency of work undertaken by consultants, and the accountability of consultants for this work; and
- (f) any other related matters¹

- 1.2 The Senate agreed to extend the presentation of the report on four occasions, most recently granting an extension to 12 June 2024.²

Conduct of the inquiry

- 1.3 The committee opened submissions from 9 March 2023 until 21 April 2023. Submissions continued to be received after this date. The committee wrote to a range of key stakeholder groups, organisations and individuals, drawing their attention to the inquiry and inviting them to make a written submission.
- 1.4 The committee received 61 submissions which are listed on the committee's webpage and at Appendix 1.³

¹ *Journals of the Senate*, No. 36, 9 March 2023, pp. 1073–1074.

² On 16 June 2023 an initial extension was granted to 30 November 2023; on 18 October 2023 a second extension was granted to 28 March 2024; on 18 March 2024 a third extension was granted to 31 May 2024, and on 31 May 2024, a final extension was granted to 12 June 2024.

³ Parliament of Australia, Senate Standing Committees on Finance and Public Administration, Inquiry into the Management and Assurance of Integrity by Consulting Services, [Submissions](#) (accessed 8 April 2024).

- 1.5 The committee held 10 public hearings in Canberra for the inquiry on the following dates:
- 2 May 2023
 - 7 June 2023
 - 17 July 2023
 - 18 July 2023
 - 26 September 2023
 - 27 September 2023
 - 12 October 2023
 - 9 November 2023
 - 9 February 2024
 - 23 February 2024.
- 1.6 A list of witnesses who gave evidence at the hearings is available at Appendix 2 of this report.
- 1.7 The committee thanks all those who contributed to the inquiry by making submissions and giving evidence before the committee at the public hearings.

Context for the inquiry

- 1.8 In January 2023, media reports brought to light that accounting, auditing, and consulting firm PwC and one of its partners, Mr Peter Collins, had been investigated and received sanctions from the Tax Practitioners Board (TPB).⁴
- 1.9 From 2013 to 2016, Mr Collins received confidential information from Treasury consultations and through his engagement with the Board of Taxation in relation to Australia's forthcoming anti-avoidance tax laws.
- 1.10 Despite having signed multiple confidentiality agreements, Mr Collins intentionally shared this confidential information with PwC partners and others both in Australia and overseas.
- 1.11 In sharing this confidential information, Mr Collins sought to assist existing and potential new clients of PwC to avoid the anti-avoidance tax laws to be introduced in 2016—putting at risk \$180 million per year of tax to be paid in Australia.⁵ Further, 'Project North America' generated new income of at least \$2.5 million for the first tranche of PwC's services in assisting clients to sidestep the new laws.⁶

⁴ ['The Tax Practitioner Board investigation into PwC over tax leaks'](#), *Australian Financial Review*, 30 January 2023 (accessed 14 June 2023).

⁵ Mr Chris Jordan AO, Commissioner of Taxation, *Opening Statement*, Senate Economics Legislation Committee, 2023-24 Budget Estimates hearing, 30 May 2023.

⁶ Tax Practitioners Board, Attachment to answer to question on notice AET243, Senate Economics Legislation Committee Supplementary Budget Estimates 2023-23, 17 February 2023, (received 2 May 2023).

- 1.12 These events were the principal catalyst for the referral of the inquiry into the management and assurance of integrity by consulting services to the committee and caused the committee to table two reports in relation to the matter.

Reports tabled

- 1.13 The first report tabled in June 2023, *PwC: A Calculated Breach of Trust*, examined the key events of the PwC matter and sets out the committee's views on PwC Australia's conduct at the time of the breach and subsequently in covering up and not reporting the breach.⁷ In this report, the committee made two recommendations. First, that PwC publish accurate and detailed information about the involvement of PwC partners and staff in the breach of confidential government information. Second, that PwC cooperate fully with any investigations.
- 1.14 The second report tabled in March 2024, *PwC: The Cover-up Worsens the Crime* follows up on PwC Australia's progress in implementing the above recommendations and examined other documents and events related to the PwC matter since June 2023.⁸
- 1.15 An important element of the PwC matter examined in the committee's second report was the involvement of PwC partners overseas. The Linklaters report, commissioned by PwC International to identify any overseas PwC partners involved in the breach of confidential government information, was requested on numerous occasions by numerous entities.⁹ So far, PwC has declined to provide a copy of the report to the committee.
- 1.16 Despite this lack of cooperation from PwC, the committee is aware that multiple PwC partners overseas are potentially involved in the matter. The Linklaters report apparently identifies six individuals who ought to have questioned the information, the origin, and potential confidentiality of the information they received.
- 1.17 In addition, the Tax Practitioners Board (TPB) currently has nine investigations underway and understands that the involvement of overseas partners goes beyond the six individuals identified in the Linklaters report.¹⁰

⁷ Senate Finance and Public Administration References Committee, [*PwC: A Calculated Breach of Trust*](#), June 2023.

⁸ Senate Finance and Public Administration References Committee, [*PwC: The Cover-up Worsens the Crime*](#), March 2024.

⁹ Mr Kevin Burrowes, Chief Executive Officer, PwC Australia, *Proof Committee Hansard*, 12 October 2023, p. 15.

¹⁰ Mr Peter de Cure, Chair, Tax Practitioners Board, *Proof Committee Hansard*, 9 February 2024, pp. 15-16; Mr Michael O'Neill, Secretary and CEO, Tax Practitioners Board, Senate Economics Legislation Committee, *Proof Committee Hansard*, 14 February 2024, p. 90.

- 1.18 The Australian Federal Police investigation into the PwC matter, referred by Treasury in May 2023 and known as Operation Alesia, which has both domestic and international elements, is still ongoing.¹¹
- 1.19 The committee concluded in its second report and maintains the view that PwC has failed to be completely open and honest and to genuinely change.
- 1.20 These events at PwC point to broader issues in the consulting industry, including in the other Big 4 firms: Deloitte, EY, and KPMG. These four firms are in receipt of the largest number and value of consultancy-related contracts.¹²
- 1.21 The inquiry's terms of reference reflect these broader issues and the committee has examined the use of consultants by the Australian government as set out below.

Related reports

- 1.22 The committee is cognisant of several other related reviews and reports which are relevant to this report, including:
- Independent Review of the Australian Public Service (Thodey Review)—2018;
 - Senate Finance and Public Administration Committee's inquiry report—APS Inc: undermining public sector capability and performance—2021;
 - Independent Review into Workplace Culture at EY Oceania (Broderick Review)—July 2023;
 - Review of Governance, Culture and Accountability at PwC Australia (Switkowski Review)—August 2023; and
 - NSW Public Accountability and Works Committee, *NSW Government's use and management of consulting services*, May 2024.¹³

Content and structure of the report

- 1.23 The remainder of the report is structured as follows:
- Chapter 2—Australian Government Procurement Framework
 - Chapter 3—Reliance on consultants by the Australian government
 - Chapter 4—APS Contract Management
 - Chapter 5—Culture in the Big 4 consulting firms
 - Chapter 6—Regulation of the consulting industry
 - Chapter 7—Committee view and recommendations.

¹¹ Ms Krissy Barrett APM, Deputy Commissioner, National Security, Senate Legal and Constitutional Affairs Legislation Committee, *Proof Estimates Hansard*, 31 May 2024, pp. 83–85.

¹² Australian National Audit Office, [Australian Government Procurement Contract Reporting — 2022 Update](#), February 2023, p. 56 (accessed 21 May 2024).

¹³ This report can be viewed [here](#).

Chapter 2

Australian Government Procurement Framework

- 2.1 The Australian Public Service (APS) currently manages the procurement and engagement of consultants via contract management within the Commonwealth Resource Management Framework.
- 2.2 In Australia, there is no standard definition of the term 'consultant' nor any consistent understanding of what services they can be engaged to provide. However, in general terms, a consultant is a person who provides professional advice, either to the public or to those practising a profession.¹
- 2.3 According to the Department of Finance consultants are contracted to provide services which:
- involve specialist professional knowledge or expertise that may not be maintained in-house;
 - require independent research or assessment; or
 - involve the development of an intellectual output, e.g. research, evaluation, advice, and recommendations, to assist with entity decision-making.²
- 2.4 This chapter will examine the Commonwealth Resource Management Framework and discuss whether it is appropriate as a tool for the engagement of consultants by the Australian Government.

Commonwealth Resource Management Framework

- 2.5 The Commonwealth Resource Management Framework consists of legislation and policies that govern the management of the Commonwealth's resources.³ The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) is the cornerstone of the Commonwealth Resource Management Framework.⁴
- 2.6 In addition to the PGPA Act, the framework includes the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule), the Commonwealth Procurement Rules, Accountable Authority Instructions and various Resource Management Guides.⁵

¹ See Macquarie Dictionary, [Word Search \(macquariedictionary.com.au\)](https://www.macquariedictionary.com.au) (accessed 28 May 2024)

² Department of Finance, [Characteristics of Contracts](#) (accessed 23 May 2024).

³ Department of Finance, [Commonwealth Procurement Rules](#), 23 June 2023 (accessed 11 April 2024).

⁴ Department of Finance, *Submission 8*, p. 3.

⁵ Department of Finance, [Australian Government Contract Management Guide](#), 12 July 2023 (accessed 11 April 2024).

- 2.7 The Department of Finance (Finance) is responsible for the policy stewardship of the Commonwealth Procurement Framework, which forms part of the wider Commonwealth Resource Management Framework. Under this framework, each government entity is responsible for its own procurement processes and decisions. Under this devolved framework, it is the responsibility of the procuring entity to undertake due diligence activities commensurate with the scale, scope, risk, and nature of the procurement.⁶ Finance does not have a compliance role in Commonwealth procurements—this is managed by each entity via contract management.⁷
- 2.8 Additionally, the Australian Government Contract Management Guide (the Guide) provides guidance to support contract management for entities. This includes:
- general advice related to contract planning;
 - key contract management activities; and
 - managing performance.⁸
- 2.9 This framework places duties and obligations on Commonwealth officials engaging consultants, rather than on the consultants. The obligations and duties on the consultants lie within their individual contracts with the government entity.

The Management Advisory Services (MAS) panel

- 2.10 The Management Advisory Services (MAS) panel was established by Finance in 2021 as a coordinated panel arrangement to streamline the engagement of consulting services, increase transparency and improve contract management. In a panel arrangement, suppliers have been appointed to supply goods or services for a set period, under agreed terms and conditions, including agreed pricing. Once a panel has been established, an entity may then purchase directly from the panel by approaching one or more suppliers on the panel.⁹
- 2.11 The MAS panel covers three main service areas: financial, corporate and commercial.¹⁰ The use of the MAS panel for procurement is mandatory for non-corporate Commonwealth entities that are subject to the PGPA Act, and optional for corporate Commonwealth entities and Commonwealth companies, including Government Business Enterprises.¹¹ Finance advised that it is

⁶ Department of Finance, *Submission 8*, p. 4.

⁷ Department of Finance, *Submission 8*, p. 3.

⁸ Department of Finance, [Australian Government Contract Management Guide](#), 12 July 2023 (accessed 11 April 2024).

⁹ Department of Finance, [Panels 101](#), 2021 (accessed 11 April 2024).

¹⁰ Department of Finance, *Submission 8*, p. 8.

¹¹ Department of Finance, [Management Advisory Services Panel](#), 22 April 2024 (accessed 11 April 2024).

considered 'better practice to undertake regular refreshes of panel arrangements, with the MAS Panel to be refreshed approximately every two years'.¹²

2.12 More recently, the MAS Panel Head Agreement (the 'template' contract to be used when engaging services from the panel) has been amended to include clauses that require 'active disclosure', where a service provider is required to notify Finance immediately on becoming aware of any adverse findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct of the service provider or its capacity to deliver the agreed services.¹³

2.13 Compliance with applicable laws and legislation, including the *Crimes Act 1914*(Cth), also apply to suppliers delivering services under the MAS Panel. Finance advised that potential breaches of the Head Agreement are considered on a case-by-case basis and will be dependent upon the nature and seriousness of the breach to determine whether the right to terminate a contract should be exercised.¹⁴

2.14 In relation to these new clauses in the Head Agreement, Mr Andrew Jagers, Deputy Secretary, Commercial Group of the Department of Finance advised:

What it means is that, if an event like the one with the Tax Practitioners Board happened today, there would be a requirement for that entity to advise Finance under our contracts, under the Management Advisory Services Panel contracts. Then they would need to do that immediately if they became aware of an adverse finding that's made by a court, commission, tribunal or any other statutory or professional body regarding the conduct of the service provider. That would enable the Commonwealth to terminate the contract for material breach, or, if there's an adverse event, the contract manager might ask for a remediation plan. If they're not satisfied with that remediation plan, there's potential for that procuring agency, if it's Finance, under the Management Advisory Services Panel, to cancel or terminate those contracts.¹⁵

2.15 While the establishment of the MAS panel provides a more coordinated approach to procurement in the APS, it relies on effective contract management by government departments and on service providers to self-report adverse findings.

¹² Department of Finance, answer to written question on notice, 21 December 2023 (received 1 February 2024).

¹³ Mr Andrew Jagers, Deputy Secretary, Commercial Group, Department of Finance, *Committee Hansard*, 27 September 2023, p. 2.

¹⁴ Department of Finance, *Submission 8*, p. 8.

¹⁵ Mr Andrew Jagers, Deputy Secretary, Commercial Group, Department of Finance, *Committee Hansard*, 27 September 2023, p. 2.

Australian Government Contract Management Guide

- 2.16 Noting the predominant way that the APS currently manages the conduct and performance of external consultants is via individual contract management, Finance publishes and maintains the Australian Government Contract Management Guide (the Guide) to assist government officials.
- 2.17 The Guide supports effective contract management at a practitioner level for entities. The Guide contains:
- general advice related to contract management planning;
 - key contract management activities;
 - managing performance;
 - closing a contract; and
 - contract management for standing offer arrangements.¹⁶
- 2.18 The Guide describes the obligations of procurement and contract management officials to behave ethically, including complying with relevant laws, declaring conflicts of interest and not acting fraudulently.
- 2.19 It provides that if a supplier does not uphold their obligations within the relevant contract, it may result in a termination of the contract due to a breach. Finance has advised that the Guide is currently being updated to support further capability development of contract management officials.¹⁷
- 2.20 The Guide contains some sections about behaving ethically – however this is targeted at the government officials conducting procurement activities, rather than the contractors engaged.¹⁸
- 2.21 The Guide also addresses managing supplier underperformance, noting that formal action may need to be taken if there is 'repeated or serious underperformance', including: withholding payments until performance returns to a satisfactory level, involving senior management from both parties in formal discussions, developing strategies to address the problem, formally documenting issues and implementing formal mechanisms written into the contract. Regardless of the severity of the underperformance, the guide stresses the importance of obtaining legal advice before taking any of these actions.¹⁹
- 2.22 The option of terminating a contract due to poor performance is briefly discussed, and the guide emphasises that the dispute resolution process set out

¹⁶ Department of Finance, *Submission 8*, p. 6.

¹⁷ Department of Finance, *Submission 8*, p. 6.

¹⁸ Department of Finance, [Australian Government Contract Management Guide](#), 12 July 2023, (accessed 11 April 2024).

¹⁹ Department of Finance, [Australian Government Contract Management Guide](#), 12 July 2023, (accessed 11 April 2024).

in the contract must first be followed, and legal advice must be sought beforehand.²⁰

The Supplier Code of Conduct

- 2.23 Finance has advised the committee that it is developing a Supplier Code of Conduct (the Supplier Code). Industry consultation on the Supplier Code closed on 1 March 2024, and it is anticipated to come into effect in mid-2024.²¹
- 2.24 The Supplier Code will outline the Commonwealth's minimum expectations of suppliers, their personnel and their subcontractors while under contract with the Commonwealth. The Code will place a positive duty on suppliers to take proactive steps to prevent and discourage breaches of the Code. Failure to adhere to the Supplier Code could result in remedial action and/or termination in accordance with contractual provisions. Where a contract is terminated due to a breach of the Supplier Code, Finance may hold details of the termination centrally.²²
- 2.25 In its draft form, broadly, the Supplier Code sets out expectations of ethical behaviour from consultants, including the requirement to actively manage conflicts of interest and protect sensitive, privileged and confidential information. It also sets out requirements such as the need for a supplier to meet its taxation obligations, maintain appropriate records and undertake and cooperate in audits and assessments, among other requirements.²³
- 2.26 The draft Supplier Code does not explicitly require Commonwealth suppliers to act in the public interest, explicitly comply with the APS Values or other existing standards like the APES 110 (the ethical standard for accountants). Given a Commonwealth supplier, including a consultant, is contracted to assist the Commonwealth fulfil its fundamental obligations to the Australian community, it is unclear why existing ethical frameworks have been omitted from the draft code. A more integrated system could be achieved if consideration were to be given to these existing frameworks when drafting the code.

²⁰ Department of Finance, [Australian Government Contract Management Guide](#), 12 July 2023, (accessed 11 April 2024).

²¹ Department of Finance, [Commonwealth Supplier Code of Conduct](#), 27 March 2024, (accessed 22 April 2024).

²² Department of Finance, [Commonwealth Supplier Code of Conduct](#), 27 March 2024, (accessed 22 April 2024).

²³ Department of Finance, [Commonwealth Supplier Code of Conduct](#), 27 March 2024, (accessed 22 April 2024).

AusTender

- 2.27 AusTender was established as a centralised portal to connect government entities with suppliers and to provide transparency of contracts awarded. Commonwealth entities must also report their procurement contracts on AusTender to comply with the requirements of the Commonwealth Procurement Rules.²⁴
- 2.28 AusTender is designed to be a centralised transparency tool, however some submitters have raised concerns with how it currently operates.
- 2.29 The AusTender website has been described as 'difficult to navigate' with an 'unwieldy interface'.²⁵ So much so, that a separate website was created in an open democracy project, 'Love me Tender', which states that it uses data from AusTender and presents the information in a searchable and user-friendly manner.²⁶ Love Me Tender's website explains that:
- In the government sector, procurement data is made freely available through AusTender but not in a readily usable form. Love Me Tender unlocks the value of this publicly available data by delivering insights relevant to particular sectors, agencies and suppliers, as well as the economy as a whole.²⁷
- 2.30 The fact that a separate website was considered necessary due to the current useability of AusTender is concerning, particularly as it is mentioned as a tool for public servants to rely on to conduct additional checks regarding suppliers.
- 2.31 In addition, submitters have raised concerns that there is not enough information on AusTender about each contract.²⁸ For example, AusTender does not specify if concerns have been identified in relation to a service provider, or the nature of those concerns.
- 2.32 Mr Jagers submitted that in undertaking procurement activities, government officials, in their due diligence process, could check AusTender to see whether that entity has been engaged by another department and seek its view on the entity's performance.²⁹ However, setting aside the website navigation issues raised that might impact on an official's ability to find this information, this

²⁴ Department of Finance, *Submission 8*, p. 10.

²⁵ The Australia Institute, *Submission 14*, p. 10.

²⁶ The Australia Institute, *Submission 14*, p. 15.

²⁷ Love Me Tender, [A match-making service for government agencies and suppliers](#), 2024 (accessed 1 May 2024).

²⁸ The Australia Institute, *Submission 14*, p. 15.

²⁹ Mr Andrew Jagers, Deputy Secretary, Commercial Group, Department of Finance, *Committee Hansard*, 27 September 2023, p. 2.

check does not appear to be a required step in the procurement process so could be easily neglected without consequence.

- 2.33 Mr Gareth Sebar, Assistant Secretary, Procurement and Discretionary Payments Branch in the Department of Finance, advised that there are a range of planned enhancements to AusTender that are being explored by the Department of Finance, including improving the data available on AusTender, for example, to standardise data on the reasons for a contract variation. Mr Sebar explained that at the moment, this is a free text field, and consideration is being given to standardise the reasons a variation was entered into. Further, Finance is considering collecting data on the number of tenders that were invited to respond, particularly on panel arrangements, so that there is more visibility of the level of competition.³⁰
- 2.34 Additionally, Finance is working on training with the Future Made in Australia Office to ensure that individuals entering data into AusTender are including sufficient information in a consistent manner to provide readers with a greater understanding of the contract.³¹
- 2.35 Some submitters have advocated for further improvements to AusTender. For example, the Business Council of Australia recommended that AusTender data could be improved through:
- clearer and more consistent definitions of consulting services, as well as identification of contracts;
 - more meaningful information on the scope of contracts by category and sub-category;
 - more detailed, consistent and meaningful descriptions of contracts; and
 - clarity on the nature of contract extensions.³²
- 2.36 The Centre for Public Integrity submitted that when reporting on AusTender is required, the quality of information disclosed is not of sufficient detail to facilitate real scrutiny. Further, the way in which contracts are categorised makes tracking government spending 'more difficult'.³³ They recommended the following improvements to address these issues:
- AusTender categories be updated to better reflect the type of consultancy service solicited as well as the purpose of the external contract;

³⁰ Mr Gareth Sebar, Assistant Secretary, Procurement and Discretionary Payments Branch, Department of Finance, *Committee Hansard*, 27 September 2023, p. 13.

³¹ Mr Gareth Sebar, Assistant Secretary, Procurement and Discretionary Payments Branch, Department of Finance, *Committee Hansard*, 27 September 2023, p. 13. The Future Made in Australia Office is housed within the Department of Finance.

³² Business Council of Australia, *Submission 61*, p. 4.

³³ The Centre for Public Integrity, *Submission 58*, p. 36.

- the use of categories and the manner in which expenditure is reported across departments should be evaluated, with a view to achieving consistent usage;
- the 'reasons for consultancy' field on AusTender should be updated to make 'skills currently unavailable within agency' a separate yes/no flag.³⁴

2.37 This chapter has set out the Australian Government procurement framework as background to the increased reliance on consultants by the Australian Government which is discussed in Chapter 3.

³⁴ The Centre for Public Integrity, *Submission 58*, p. 36.

Chapter 3

Reliance on consultants by the Australian government

- 3.1 Over the last several decades, and particularly over the last 10 years, the Australian government has relied increasingly on consultants to undertake work for the Australian Public Service (APS).
- 3.2 During the 1980s and 1990s, the use of consultants increased significantly in English speaking countries. The Australian government expenditure on consultancy services nearly tripled between 1987 and 1993, 'as governments seeking to maximise efficiency turned to external consultants as part of a way to transfer business management ideas and practices into the public sector'.¹
- 3.3 The use of consultancies in Australia continued to grow from the 1990s to the 2010s. In 2016-17, Australian government spending on consultants was 2.7 times higher than in 1988-89 (adjusted for inflation). Australian Government spending on consultancies then tripled between 2010 and 2020, to over \$1 billion.²
- 3.4 In 2021, the global consulting services market was valued between \$US700 billion (\$1.06 trillion) and \$US900 billion (\$1.37 trillion).³ At this time in Australia, the five largest consultancies secured \$2 billion in contracts.⁴ In 2024, Australia's consulting industry (both public and private) is the fourth largest in the world. Australia's spending on consultancies is greater than that of any other country by population, and approximately double that of comparable countries like Canada or Sweden.⁵
- 3.5 Australia has not always been an outlier in this respect. According to research by the CPI, the demand for management consultants has surged over the past decade.⁶ Indeed, a 2023 analysis of AusTender data by the Australian National Audit Office (ANAO) found that the value for consultancy-related contracts increased from \$325m in 2012-13 to \$888m in 2021-22.⁷

¹ The Centre for Public Integrity, *Submission 58*, p. 13.

² The Australia Institute, *Submission 14*, pp. 6, 10.

³ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, p. 1.

⁴ The Australia Institute, *Submission 14*, p. 10.

⁵ The Australia Institute, *Submission 14*, p. 10.

⁶ The Centre for Public Integrity, *Submission 58*, p. 13.

⁷ Community and Public Sector Union (CPSU), *Submission 6*, p. 7.

- 3.6 In 2022–23, the Australian Government published 83, 625 procurement contracts with a combined value of \$74.8 billion. Management Advisory Services, typically provided by consulting firms, had a value of \$3.272 billion in 2022–23, which represents 4.37 per cent of the total value of procurement contracts.⁸
- 3.7 The Big 4 firms, Deloitte, EY, KPMG, and PwC are in receipt of the largest number and value of consultancy-related contracts.⁹
- 3.8 In this chapter the committee has asked the following questions to understand the Australian Government's use of consultants:
- Has this issue been examined previously?
 - What caused such a dramatic increase in the use of consulting services by the Australian Government, particularly over the last 10 years?
 - Is the Australian government's reliance on consulting services appropriate?
 - What are the impacts of the Australian government's reliance on consulting services?

Recent reviews

- 3.9 The increased use and reliance of Australian governments on consulting services is not a new issue. Several reports on the matter have been released in the last 10 years, including the 2018 Thodey Review and the 2021 inquiry into the capability of the APS undertaken by this committee during the previous parliament.

Thodey Review

- 3.10 In May 2018, the Government commissioned an Independent Review of the APS. The independent panel was chaired by Mr David Thodey AO and the Review's Final Report was delivered in 2019 (Thodey Review).
- 3.11 The Thodey Review found that while 'the APS is not broken'—there are many examples of excellence across the service—'the APS is not performing at its best today and it is not ready for the big changes and challenges that Australia will face between now and 2030'.¹⁰ The panel's findings were unequivocal:

...the APS needs a service-wide transformation to achieve better outcomes. It needs short-term change and long-term reform to serve the Government,

⁸ Department of Finance, '[Statistics on Australian Government Procurement Contracts](#)' (accessed 10 April 2024).

⁹ Australian National Audit Office, '[Australian Government Procurement Contract Reporting—2022 Update](#)', February 2023, p. 56 (accessed 21 May 2024).

¹⁰ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 16.

Parliament and the Australian public more effectively and efficiently — now and in the years ahead.¹¹

- 3.12 The Thodey Review identified a program of transformational reforms, designed to ensure the APS is fit-for-purpose for the coming decades, and to guide and accelerate future reform activities.¹² The final report made 40 recommendations and highlighted the need for the APS to have 'ambitious service-wide performance outcomes and targets to provide a focal point for transformation and hold the APS to account'.¹³
- 3.13 The recommendations included proposals to:
- undertake regular capability reviews to build organisational capacity and accountability;
 - build the culture of the APS to support a trusted APS, united in serving all Australians;
 - harness external perspectives and capability by working openly and meaningfully with people, communities and organisations, under an accountable Charter of Partnerships; and
 - deliver value for money and better outcomes through a new strategic, service-wide approach to using external providers.¹⁴
- 3.14 The Thodey Review considered that, when implemented, the full list of recommendations 'will trigger and sustain far-reaching change'.¹⁵
- 3.15 In relation to consultants, the Thodey Review noted that 'labour contractors and consultants are increasingly being used to perform work that has previously been core in-house capability, such as program management'.¹⁶

¹¹ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 16.

¹² Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 13.

¹³ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 19.

¹⁴ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, pp. 34–37.

¹⁵ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 21.

¹⁶ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 185.

- 3.16 The Review recommended that the Australian Public Service Commission (APSC) and the Department of Finance ensure all agencies extend APS integrity requirements to service providers, long-term APS contractors and consultants.¹⁷
- 3.17 The Thodey Review concluded that the 'APS now needs to be much more joined-up to best deliver government priorities and meet emerging challenges'. The review also noted that this conclusion has been reached earlier in the 2010 *Ahead of the Game* review.¹⁸
- 3.18 The government released its response to the Thodey Review on 13 December 2019. The response either noted, agreed in full, or agreed in part with the 40 recommendations. In addition to commenting on the recommendations, the government's response was also set out an APS reform agenda.¹⁹
- 3.19 However, progress in implementing these recommendations was delayed due to the COVID-19 pandemic.²⁰

APS Inc: undermining public sector capability and performance

- 3.20 In 2021, this committee in the last parliament undertook an inquiry into the capability of the Australian Public Service. The committee's report, *APS Inc: undermining public sector capability and performance* (APS Inc) was tabled in November 2021 and made 36 recommendations.
- 3.21 The former committee expressed its deep concern at the excessive use of consultants within the APS and the relationship of dependence that has formed.²¹ It also highlighted its particular concern of the overreliance on external consultants for policy advice:

The role of the public service in providing 'frank and fearless advice' to government is one of the key characteristics of a properly functioning Westminster democracy. When the Government, despite access to a skilled and independent APS, consistently chooses to spend exorbitant amounts of

¹⁷ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 113.

¹⁸ Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019, p. 97.

¹⁹ Department of the Prime Minister and Cabinet, *Delivering for Australians. A world-class Australian Public Service: The Government's APS reform agenda*, 13 December 2019, pp. 15–26.

²⁰ Senate Finance and Public Administration References Committee, *APS Inc: undermining public sector capability and performance*, November 2021, p. 9.

²¹ Senate Finance and Public Administration References Committee, *APS Inc: undermining public sector capability and performance*, November 2021, p. 90.

taxpayer money on commissioning strategic policy advice from private consulting firms, public sector capability is undermined.²²

- 3.22 The former committee also contended that a 'preference for policy advice from private, for-profit firms that operate with an ethos vastly different to that characterised by the values of service, integrity and impartiality which define the APS, is alarming'.²³
- 3.23 The former committee noted in its report that evidence it received indicated that the ASL cap has led to a systemic overreliance on labour hire and contracting arrangements within the APS. The committee considered that 'this widespread and unnecessary externalisation is eroding workforce capability and leading to poor service delivery outcomes'.²⁴
- 3.24 Coalition senators dissented from this report, noting that the APS reform agenda underway at the time was already focused on lifting the capability of the APS through a range of initiatives including: financial management and accountability; recruitment and talent acquisition, procurement and grants administration; delivering new operating models and shared services; providing ICT platforms for use across the APS; and supporting APS entities to deliver Government priorities and services at best value.²⁵

Factors contributing to the increase in use of consulting services

- 3.25 Governments around the world, including in Australia, rely heavily on consulting firms to provide public services and have done so increasingly over the last 10 years.²⁶ According to some submitters, the increased reliance on consultants by the Australian government can principally be attributed to neoliberal economic policy or new public management.²⁷

²² Senate Finance and Public Administration References Committee, *APS Inc: undermining public sector capability and performance*, November 2021, p. xx.

²³ Senate Finance and Public Administration References Committee, *APS Inc: undermining public sector capability and performance*, November 2021, p. 91.

²⁴ Senate Finance and Public Administration References Committee, *APS Inc: undermining public sector capability and performance*, November 2021, p. xx. See also The Australia Institute, *Submission 13*, p. 13.

²⁵ Senate Finance and Public Administration References Committee, *APS Inc: undermining public sector capability and performance*, November 2021, Dissenting Report from Coalition Senators, p. 135.

²⁶ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, p. 1.

²⁷ The Centre for Public Integrity, *Submission 58*, p. 13; Dr Adam Lucas, *Submission 9*, p. 2.

- 3.26 This new policy approach led to the downsizing of the APS workforce through the introduction of the ASL staffing cap.²⁸

ASL staffing cap

- 3.27 In the 2015-16 Budget, the then Government undertook to maintain the size of the general government sector, excluding military and reserves, at around or below the 2006-07 APS staffing level of 167,596.²⁹ This measure became known as the APS staffing level cap (ASL cap). The Government stated that this was a necessary budgetary repair measure.
- 3.28 Several submitters considered that the introduction of the ASL cap had a direct effect on the increased use of consultants by the Australian Government. The Australia Institute highlighted that departments and agencies have turned to consultants because staffing caps have prevented them from employing public servants.³⁰
- 3.29 The Community and Public Sector Union (CPSU) were also of the view that the ASL cap contributed to the growth in the use of consultants by artificially limiting the supply of public servants.³¹
- 3.30 Per Capita contended that while the ASL cap was described as 'necessary so that the Government can repair the Budget and strengthen Australia's future', in reality, 'it has been a costly own goal, driving up costs for external contractors and consultants'.³²
- 3.31 Some submitters proposed that the money the Australian Government is spending on consultants would be better spent employing more public servants. Dr Alexia Adhikari, Postdoctoral Research Fellow at The Australia Institute, gave evidence that the money spent on consultancies could instead hire thousands of public servants.³³
- 3.32 In the October 2022 Budget, the Government removed the Average Staffing Level cap, indicating that abolishing the ASL cap is part of 'a continued focus on

²⁸ Dr Julia Anaf PhD and Professor Fran Baum PhD AO, *Submission 4*, p. 1; Community and Public Sector Union (CPSU), *Submission 6*, p. 7; Community and Public Sector Union (CPSU), *Submission 6*, p. 5; The Australia Institute, *Submission 13*, p. 13; Per Capita, *Submission 19*, p. 2.

²⁹ Parliament of Australia, Budget Review April 2022-23, [Public sector staffing and resourcing](#) (accessed 18 April 2024).

³⁰ The Australia Institute, *Submission 13*, p. 13.

³¹ Community and Public Sector Union (CPSU), *Submission 6*, p. 5.

³² Per Capita, *Submission 19*, p. 2.

³³ Dr Alexia Adhikari, Postdoctoral Research Fellow, The Australia Institute, *Committee Hansard*, 2 May 2023, p. 25. See also The Australia Institute, *Submission 14*, pp. 10-11.

reducing spending on external labour'.³⁴ By decreasing the funding of consultants and increasing that of ASL the total reduction in Budget expenditure is \$811 million over the forward estimates.³⁵ The Budget indicated:

This represents an important rebalancing of the APS workforce to reduce the reliance on external labour where work can appropriately be done by APS staff.³⁶

- 3.33 In the 2023–24 Budget, the Government further increased the number of roles converted from external labour to ASL. The estimated ASL figure for 2023–24 is 191,861.³⁷
- 3.34 In 2024–25, total ASL in the public service is expected to be around 209,000. This is approximately 17,000 ASL 'below the level that would be consistent with the relative size of the public service in 2006–07 as a percentage of the labour force (which would be around 226,000 in 2024–25)'.³⁸

The appropriateness of the Australian government's reliance on consulting services

- 3.35 The committee received evidence from a range of organisations on whether it was appropriate for the Australian government to rely so heavily on consulting services. Submitters broadly fell into two categories. On the one hand, submissions principally from government departments and from consulting firms affirmed that consultants have an important role to play in supporting Australian governments. On the other hand, evidence from academics and other organisations suggested that the way in which consultants are being relied on by Australian governments is inappropriate.

Perspective of government departments and agencies

- 3.36 The evidence received from Australian government departments and agencies considered that the engagement of consultants is necessary in certain circumstances and is always undertaken appropriately. Australian government departments and agencies that made submissions to this inquiry noted that they engage consultants appropriately in line with the Commonwealth Procurement Rules (CPRs).³⁹

³⁴ External labour includes contractors, consultants, and external labour hire. See Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2023–24*, p. 154.

³⁵ Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2023–24*, p. 11.

³⁶ Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2023–24*, p. 154.

³⁷ Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2023–24*, p. 153.

³⁸ Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2024–25*, p. 7.

³⁹ See, for example, Department of Home Affairs, *Submission 16*, p. 3; Australian Taxation Office, *Submission 22*, p. 4; Department of Parliamentary Services, *Submission 25*, p. [2], Department of Veterans' Affairs, *Submission 28*, p. [1], Department of Education, *Submission 35*, p. 3; The Treasury,

- 3.37 Some departments specified the circumstances in which they engage consultants—that is where skills which are not available within the department itself are required.⁴⁰ This view is supported by ANAO analysis which found that the 'Need for specialised or professional skills' was the most cited reason for consultancy-related contracts.⁴¹
- 3.38 For example, the Department of Health and Aged Care explained that it engages consultants to provide specialist expertise, independent research, reviews or assessments in relation to:
- investigating or diagnosing a defined issue or problem;
 - carrying out defined reviews or evaluations; or
 - providing independent advice, information, or creative solutions to assist the department in decision making.⁴²
- 3.39 The Australian Taxation Office (ATO) highlighted that when it procures consultants it ensures they represent good value for money and provide a unique or specialised service that cannot be accessed 'in-house'. Often these are services which are not economical for the ATO to retain on an ongoing basis.⁴³
- 3.40 The ATO specified that the reasons for which it engages consultants vary from year to year depending on ATO business needs and priorities. However, they may include the following:
- the use of experts to provide technical advice such as the application of an accounting standard, a foreign law, a commercial arrangement, or an industry, business or industrial process;
 - the use of highly specialised expertise such as valuation experts where it would be impractical to maintain such expertise 'in-house';
 - the engagement of expert witnesses in legal proceedings (noting the ATO is provided legal services by the Australian Government Solicitor (AGS), external law firms and counsel, but these are outside the definition of consulting services); and
 - the use of experts to provide probity services for complex procurements.⁴⁴

Submission 37, p. 2. The CPRs and Australian Government procurement framework is examined in Chapter 2 of this report.

⁴⁰ See for example, Department of Social Services, *Submission 1*, p. 1, Department of Health and Aged Care, *Submission 11*, p. 3; Department of Agriculture, Fisheries and Forestry, *Submission 12*, p. 2.

⁴¹ Community and Public Sector Union (CPSU), *Submission 6*, p. 3.

⁴² Department of Health and Aged Care, *Submission 11*, p. 3.

⁴³ Australian Taxation Office, *Submission 22*, p. 4.

⁴⁴ Australian Taxation Office, *Submission 22*, p. 5.

- 3.41 The Department of Education noted that it uses consultants for social and market research, actuarial and audit, assessment and evaluation, policy and project skills that are currently not available within the department.⁴⁵

Perspective of consulting firms

- 3.42 Consulting firms submitted that their engagement by Australian government departments and agencies was appropriate and that they have much to contribute. For example, Sententia submitted that the use of consultants is an important part of ensuring the APS can deliver outcomes to 'the highest possible standard':

While the Australian Public Service at large, and the officials in Australian Government agencies, are highly talented, capable and dedicated, they do not (and cannot) have all of the skills, depth of expertise and experience and breadth of perspective that is necessary to always do everything in the scope of an agency to the highest possible standard. Consultants have a role to bring specific deep expertise and experience as well as a breadth of perspective that comes from working across organisations and sectors, that helps to ensure that public sector outcomes are delivered with quality and integrity.⁴⁶

- 3.43 PwC Australia contended that:

A vibrant and capable APS is vital to enable the government to deliver on its objectives and support Australians' use of its public services. The use of consultants by the Australian Government and APS provides value for money and contributes to the effectiveness of the public sector, particularly where:

- The nature of the work requires access to unique specialisations, private sector knowledge or technology not immediately available at scale to the APS;
- There is a conscious, informed want from a government entity or APS to seek an independent view, for example program and project assurance;
- The work is required in a timeframe that better suits a contingent 'surge' project team;
- A Government entity is able to mitigate risk, e.g. of expertise and delivery, by involving an external party; and
- Consultants can bring external perspective and innovation to the work of government, for example where they can harness the experience from their global colleagues to bring contemporary ideas to assist in solving complex issues.⁴⁷

⁴⁵ Department of Education, *Submission 35*, p. 3.

⁴⁶ Sententia, *Submission 15*, p. 3.

⁴⁷ PwC Australia, *Submission 14*, pp. 2–3.

- 3.44 Deloitte noted that their core focus in providing services to governments is 'to deliver tangible value and outcomes in a high-quality manner which is complementary and additive to the core capabilities of the public service'.⁴⁸
- 3.45 KPMG considered that 'it is a privilege for any private sector organisation to support the Commonwealth Government in a commercial capacity or advisory role' and that to serve the Australian Government is 'by extension serving the Australian public and committing to put the national interest before any other commercial consideration'.⁴⁹ KPMG also stated:
- KPMG is proud to assist the work of the APS, supporting engagements with wide-ranging impacts on the Australian community. With the pace and scale of change facing the Australian community, the public sector calls on specialist skills and capabilities from the private sector to complement the resources within the public service in delivering complex, time-challenged projects. This approach provides value for taxpayers and brings best practice expertise to the frontline of public policy. KPMG fully supports the ongoing development of the APS.⁵⁰
- 3.46 EY noted that it is regularly engaged by the Commonwealth 'to ensure that citizens are able to access best-in-class products and services across Australia'. EY also noted that it is most often called on for the specialist knowledge and the skills of its staff when governments are seeking assistance to address increasingly complex issues. These issues often require different skill sets, technologies and capabilities to those that exist within government agencies and departments.⁵¹

Perspective of academics

- 3.47 Professor Andrew Podger AO, an honorary professor of public policy at the Australian National University and former senior APS officer, was of the view that consultants do have a role to play in the provision of expertise that it is not value for money to have inside a government department or agency. Professor Podger elaborated:

You don't need it all the time, so you don't have permanent public servants who have that expertise. It's not worth your while to invest in that as you only need that expertise from time to time. You'll see that in cases of specialist lawyers, or a range of other people you might need, or specialist engineers if you're in the defence department, where you need that expertise and it's not worth your while to have it on an ongoing basis. That can be value for money.⁵²

⁴⁸ Deloitte Touche Tohmatsu, *Submission 2*, p. 1.

⁴⁹ KPMG Australia, *Submission 3*, p. 3.

⁵⁰ KPMG Australia, *Submission 3*, p. 7.

⁵¹ EY, *Submission 24*, p. 3.

⁵² Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, pp. 1–2.

- 3.48 Professor Marianna Mazzucato and Ms Rosie Collington, authors of *The Big Con*, recognised that 'it is necessary for governments to work with knowledgeable and experienced organisations in order to develop relevant capacity to meet democratic, environmental and social needs':

The collective intelligence that is necessary for confronting the greatest challenges of our time – from the climate crisis to the COVID-19 pandemic – is created across our economies when governments are able to identify and work mutualistically with these organisations.⁵³

- 3.49 Professor Podger also suggested that an external perspective can sometimes be required, for example, when an internal view should be tested. Professor Podger considered that in this circumstance, the engagement of a consultant would be appropriate.⁵⁴
- 3.50 Evidence from some academics and other organisations strongly suggested that the use of consultants by the Australian government is problematic. Indeed, Dr Adam Lucas, Senior Lecturer in Science and Technology Studies at the University of Wollongong, said that 'the extent to which state and federal governments now rely on consultancies to formulate policy on a wide range of issues should be a matter of concern to all Australians'.⁵⁵
- 3.51 The Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia (the Justice and International Mission Cluster) submitted that it is concerned about what it describes as an overuse and overreliance on external consulting services by the Commonwealth Government.⁵⁶ However, Dr Mark Zirnsak from the Justice and International Mission Cluster also acknowledged that consulting firms do play a useful role and can engage in pieces of work that are valuable. For example, KPMG was commissioned to undertake a review of the *Illegal Logging Prohibition Act 2012*, which he described as 'very good' and produced a 'very constructive, helpful finding'.⁵⁷
- 3.52 The CPSU has been a vocal critic of the increased use of consultants and holds particular concerns over the expansion of consulting services into the provision of day-to-day public sector work.⁵⁸

⁵³ Professor Marianna Mazzucato and Rosie Collington, *Submission 7*, p. 4.

⁵⁴ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, pp. 1–2.

⁵⁵ Dr Adam Lucas, *Submission 9*, p. 2.

⁵⁶ Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 21*, p. 2.

⁵⁷ Dr Mark Zirnsak, Senior Social Justice Advocate, Synod of Victoria and Tasmania, Uniting Church in Australia, *Committee Hansard*, 18 July 2023, p. 3.

⁵⁸ Community and Public Sector Union (CPSU), *Submission 6*, p. 3.

- 3.53 The Australia Institute agreed that the Australian Government has become 'overly-dependent on consultants to guide and justify its decision-making' and considered that this dependence is 'corrosive to Australian democracy'.⁵⁹

Impacts of the increased use of on consulting services

- 3.54 The committee heard that the reliance on consultants by the Australian government has demonstrated itself to be detrimental in four key ways:

- negative impacts on APS capability;
- a move away from genuinely frank and fearless advice to the APS;
- movement of staff between the APS and consulting firms; and
- decreased transparency of APS work.

APS Capability

- 3.55 Submitters to the inquiry contended that consultants are not only being used to supplement the work of the APS by providing specialist skills and knowledge. Rather, consultants are increasingly being used to undertake core APS work, including policy development, and that this is weakening the APS's capability to effectively serve the Australian Government, and in turn, the Australian community.⁶⁰

- 3.56 The CPSU noted that 'while the issue of the use of consultants eroding public sector capability has recently been a cause for concern in the wake of the PwC scandal, it is not a new phenomenon'.⁶¹

- 3.57 Professor Marianna Mazzucato and Ms Rosie Collington contended that the use of consultancies at such a large scale and scope present a risk to public sector capacity:

We recognise that this risk is particularly acute in the public sectors of Anglo-Saxon economies, where the public sector reform programme of New Public Management has, at crucial times, led to the increase of outsourcing.⁶²

- 3.58 Professor Mazzucato and Ms Collington also considered that overreliance on consultants 'undermines the evolution of capacity internally within organisations, which can render it more challenging for them to adapt in response to evolving policy challenges'.⁶³

⁵⁹ The Australia Institute, *Submission 13*, p. 4.

⁶⁰ See, for example, Community and Public Sector Union (CPSU), *Submission 6*, p. 7; Professor Marianna Mazzucato and Rosie Collington, *Submission 7*, p. 4.

⁶¹ The Centre for Public Integrity, *Submission 58*, p. 13.

⁶² Professor Marianna Mazzucato and Rosie Collington, *Submission 7*, p. 4.

⁶³ Professor Marianna Mazzucato and Rosie Collington, *Submission 7*, p. 4.

- 3.59 Professor Podger shared this view and explained that using consultants to do the work of the public service prevents the APS from developing those skills:

In a vicious cycle, an under-skilled public service becomes increasingly dependent on external consultants, and even loses qualified staff who realise they can do the same or more satisfying government work in the private sector for higher pay.⁶⁴

- 3.60 The Australia Institute and the Justice and International Mission Cluster also agreed that the overreliance on consultants was decreasing APS capability because 'once consultants secure a contract, they are difficult to replace because they develop the specific knowledge that the public service lacks'.⁶⁵ The Justice and International Mission Cluster described a 'self-reinforcing cycle':

...public servants are forced to go back to the consulting service that has built up the expertise funded by government revenue through the consulting contracts. In our view, it would be preferable to build up the expertise within the public service, where greater levels of accountability and transparency applies.⁶⁶

- 3.61 Dr Adhikari also described the relationship between the APS and consultants as a 'vicious cycle of dependence':

The overuse of consultancies undermines public sector capacity and investment in further developing the skills and knowledge of the APS. Public money invested in public servants to make decisions about the Australian public makes more sense in a strong democratic society.⁶⁷

- 3.62 Submitters also noted their particular concern that the APS lacks the skills and knowledge required to effectively engage consultants, manage these contracts, and ensure value for money. This aspect of APS capability is examined in Chapter 4 of this report.

Frank and Fearless Advice

- 3.63 The APS is required to be apolitical and provide the government with advice that is frank, honest, timely and based on the best available evidence.⁶⁸ However, submitters to the inquiry considered that the capacity of the APS to deliver this

⁶⁴ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 5. Professor Podger was not referring to the quality of the people in the APS. Indeed, Professor Podger considered that today's public service workforce is the most educated it has ever been.

⁶⁵ The Australia Institute, *Submission 13*, p. 4.

⁶⁶ Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 21*, p. 2.

⁶⁷ Dr Alexia Adhikari, Postdoctoral Research Fellow, The Australia Institute, *Committee Hansard*, 2 May 2023, p. 25.

⁶⁸ Australian Public Service Commission, [APS Values](#) (accessed 24 April 2024).

frank and fearless advice has been diminished.⁶⁹ Indeed, Professor Baum noted a large body of literature 'now showing how over the last four decades that notion of an independent, frank and fearless public service has been eroded, and that's been to the detriment of Australian public policy'.⁷⁰

3.64 Submitters attributed this erosion in part to the increased use of consultants by the Australian government: because the government is seeking more of its advice from consultants (who are not bound by the APS Values to provide frank advice), the government is instead, at times, receiving the advice that consultants think it wants to hear, or the advice they think will get them the next contract.

3.65 Professor Podger warned that 'there is a danger, in using consultants, that they will say what they think is wanted in order to get the next job'.⁷¹ For example, Professor Podger pointed to the Robodebt Royal Commission where concerns were raised about the behaviour of both the consulting firm and the government department:

If [the department is] going to external advice and they want some degree of independence of it, they should accept that independence when it comes in and not feel as if somehow that should now be set aside and not drawn upon at all or revealed. If you're going to pay for advice on the basis that you want an external perspective, you've got to accept what you get, rather than then saying, 'Whoops; that's embarrassing for us.'⁷²

3.66 Professor Podger highlighted that the Robodebt Scheme example also demonstrates a broader issue about evaluations. He argued that evaluations ought to be objective. If evaluations are tailored to suit a particular outcome or perspective, there was no point in undertaking the work in the first place.⁷³

3.67 Emeritus Professor Guthrie also considered that the change in the final outcome of PwC's work for the department constituted a contract variation, and that this should have been documented, ensuring accountability for the work the department had commissioned.⁷⁴

⁶⁹ See, for example, The Australia Institute, *Submission 13*, p. 1; Professor Frances Baum, Private capacity, *Committee Hansard*, 2 May 2023, pp. 22–23; The Australia Institute, *Submission 13*, pp. 4, 22. Submitters pointed to the [Robodebt Royal Commission](#) as an issue which demonstrates this diminished willingness among some APS employees to provide frank and fearless advice.

⁷⁰ Professor Frances Baum, Private capacity, *Committee Hansard*, 2 May 2023, p. 22.

⁷¹ The Australia Institute, *Submission 13*, p. 22.

⁷² Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 4.

⁷³ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 4.

⁷⁴ Emeritus Professor James Guthrie AM, Private capacity, *Committee Hansard*, 2 May 2023, p. 8.

Movement of staff between public and private sectors

- 3.68 The committee heard evidence about the movement of staff between the APS and consulting firms often referred to as the 'revolving door' between the public and private sectors.
- 3.69 Dr Adhikari considered that the revolving door phenomenon was a product of the overuse of consultancies:
- [It] leads to a vicious cycle of dependence in which an underskilled public service becomes increasingly dependent on external consultants, or qualified APS staff leave to work in the private sector for higher pay.⁷⁵
- 3.70 Dr Julia Anaf highlighted the risks of the revolving door, which included the emergence of conflicts of interest, and the potential for a compromised, and in some circumstances unethical, exchange of information.⁷⁶
- 3.71 Mr Bill Browne, Director, Democracy and Accountability Program at The Australia Institute, recommended that existing provisions around public servants leaving the APS could be clarified and strengthened.⁷⁷

Lack of transparency

- 3.72 Several submitters and witnesses raised their concerns about a lack of transparency associated with the work that consultants do for the Australian government. It was argued that greater transparency would provide oversight and assurance that consultants are providing value for money and enable others to assess this contribution.
- 3.73 Emeritus Professor Guthrie agreed that the transparency and accountability of government contracts with consulting firms is inadequate, particularly given the significant amount of money the Australian Government hands over to these firms each year.⁷⁸
- 3.74 Per Capita noted that although the APS 'requires transparency and accountability in both its core values and in expectations of public servants no such statutory requirement exists for private consulting firms'.⁷⁹ Per Capita explained:

⁷⁵ Dr Alexia Adhikari, Postdoctoral Research Fellow, The Australia Institute, *Committee Hansard*, 2 May 2023, p. 25.

⁷⁶ Dr Julia Anaf, Research Fellow, Stretton Health Equity, Stretton Institute, University of Adelaide, *Committee Hansard*, 2 May 2023, p. 18.

⁷⁷ Mr Bill Browne, Director, Democracy and Accountability Program, The Australia Institute, *Committee Hansard*, 2 May 2023, p. 29.

⁷⁸ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, p. 1.

⁷⁹ Per Capita, *Submission 19*, p. 4.

While spending within the APS is subject to rigorous oversight and full transparency through the Parliament's budget estimates process, the same oversight is not applicable to private companies. Government contracts with private companies for policy advice and service delivery too often include commercial-in-confidence provisions that prevent the public from knowing what their money is being spent on, and whether the contracts represent value for money or adequately protect against conflicts of interest.⁸⁰

- 3.75 The Justice and International Mission Cluster highlighted that a particular barrier to the transparency and accountability of Australian Government contracts with consulting firms is that Freedom of Information (FOI) requests relating to the contract work are often denied or only partially agreed to.⁸¹ Per Capita noted that 'when the work done by a consulting company becomes the property of the government department or agency by which it was procured, these documents are often not released or not released in their entirety, with the justification that they are subject to commercial in confidence'.⁸²
- 3.76 Mr Mark Warburton, a former public servant, drew the committee's attention to one such example which involved Boston Consulting Group (BCG) and the Department of Social Services (DSS). In his supplementary submission, Mr Warburton included a document accessed under FOI. The document is a heavily redacted version of the work undertaken by BCG for DSS.⁸³
- 3.77 Sententia noted that the 'transparency of the outputs of consultancy work is largely at the discretion of agencies, who need to manage the risks versus benefits to the agency from disclosing consultancy outputs' and considered that Australian Government contracts typically achieve a 'sensible balance for the management of confidentiality'.⁸⁴
- 3.78 Per Capita contended that governments should not be permitted to avoid transparency and accountability by contracting with private sector bodies for policy advice.⁸⁵
- 3.79 EY agreed that greater transparency around contracts is fundamental to ensuring engagements with external service providers are delivering value to the Commonwealth.⁸⁶

⁸⁰ Per Capita, *Submission 19*, p. 4.

⁸¹ Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 21*, p. 2.

⁸² Per Capita, *Submission 19*, p. 5.

⁸³ Mr Mark Warburton, *Supplementary Submission 57.1*, pp. 4–199. See also Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 4.

⁸⁴ Sententia, *Submission 15*, pp. 2–3.

⁸⁵ Per Capita, *Submission 19*, p. 6.

⁸⁶ EY, *Submission 24*, p. 1.

- 3.80 However, it is important to recognise that the APS does not automatically share all of its work with the public, particularly policy advice to government. While Ministers and the APS are accountable through a range of mechanisms such as Senate Estimates Hearings, questions in Parliament and the *Freedom of Information Act 1982*, there is still a range of confidential documents that are not released through these processes (e.g. some early policy work, cabinet documents, sensitive material connected to Australian security will often be withheld through FOI Act exemptions or if a public interest immunity claim is made and upheld by the Senate).

Conclusions

- 3.81 As demonstrated above, the increased reliance of the APS on consultants has reduced the capacity of the APS, leading to a move away from genuinely frank and fearless advice and lessened transparency of some APS work. The difference in culture and motivations between the APS and consulting firms, particularly the Big 4: Deloitte, EY, KPMG, and PwC render these issues more difficult to address. This difference in culture is examined in Chapter 5 of this report.
- 3.82 In assessing the evidence about the need for increased transparency of consulting contracts, a distinction must be made between the product of the work that is performed by consultants, and the detail of the value of the contracts.

Rebuilding APS capability

- 3.83 The committee received limited evidence on approaches to reducing the Australian Government's reliance on consulting services. The prevailing opinion amongst submitters was that the only solution is to urgently rebuild APS capability and redirect funding from the engagement of consultants to the employment of more public servants.
- 3.84 Since the committee began this inquiry, the Australian Government's use of consulting firms has dropped. It was noted in the 2024–25 Budget that 'the use of the largest consulting firms has significantly reduced under the Government, dropping in value by \$624 million year-to-date for 2023–24 compared to the same period in 2021–22'.⁸⁷
- 3.85 The 2024–25 Budget also announced that the Government would further reduce spending on consultants, contractors, and labour hire, achieving a saving of \$1.0 billion over four years from 2024–25.⁸⁸
- 3.86 Ms Rosie Collington gave evidence that one of the biggest challenges is how the importance of the public sector can be recognised again. She contended that

⁸⁷ Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2024–25*, p. 6.

⁸⁸ Commonwealth of Australia, *Budget Measures: Budget Paper No. 1 2024–25*, p. 96.

there has been an undermining of confidence in the public sector and in civil servants which creates a self-fulfilling prophecy. She stated:

...if we don't believe that there is talent to take on the 'crunchy issues' of today within the public sector, and just go externally for them, that public sector is not going to be able to learn by doing.⁸⁹

3.87 The committee received evidence that as a starting point, this could simply involve employing more public servants with the funds saved by reducing the number of consultants engaged.⁹⁰

3.88 Professor Podger and others warned that APS capability cannot be rebuilt overnight by simply cutting the work given to consulting firms—it will be a long process to rebuild.⁹¹ Ms Collington considered that investing in the public sector does not necessarily mean increasing spending—it means reconfiguring the spending that is currently going to external consultants, recognising that this is critical for governments to be able to adapt and respond to these evolving needs and demands that are acting on it.⁹²

3.89 The committee heard that APS careers also need to be seen to be attractive. Professor Frances Baum submitted that the value of serving the public good in the APS was promoted at business schools—not just consultancy companies. She stated:

I know many business schools now focus on how many people get into consultancy companies. It would be great to see them competing with how many people or graduates get into the public service. They could make it seem like an exciting place to work, where career development is encouraged but also where there is a strong public-sector ethic: 'We are here for the public good. We are here to create as good a society as we can,' emphasising that it's not just about the bottom line, the dollar, but also about what the constituents of a good society are and how the public service can work towards those.

3.90 The gap in remuneration between consultancy roles and the APS will also have an impact on recruitment and retention. Professor Podger observed that the current remuneration arrangements in the public service are not 'designed to

⁸⁹ Ms Rosie Collington, Researcher, UCL Institute for Innovation and Public Purpose, *Committee Hansard*, 7 June 2023, p. 67.

⁹⁰ Professor Frances Baum, Private capacity, *Committee Hansard*, 2 May 2023, p. 22; Dr Alexia Adhikari, Postdoctoral Research Fellow, The Australia Institute, *Committee Hansard*, 2 May 2023, p. 25.

⁹¹ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 5. See also Community and Public Sector Union (CPSU), *Submission 6*, p. 16; Professor Allan Fels AO, Private capacity, *Committee Hansard*, 17 July 2023, p. 6.

⁹² Ms Rosie Collington, Researcher, UCL Institute for Innovation and Public Purpose, *Committee Hansard*, 7 June 2023, p. 70.

attract, develop and retain the best talent', and pay arrangements do not reflect what the markets require.⁹³

In-house consulting capability – Australian Government Consulting

3.91 Although not raised in evidence, the committee is aware of the new Australian Government Consulting (AGC), 'an in-house consulting capability to reduce over-reliance on external consultants'. From July 2023, the Australian Government committed \$10.9 million over 2 years to create AGC.⁹⁴

3.92 AGC is led by Mr Andrew Nipe, Chief Consulting Officer, who has previously worked at Bain & Co in Australia, and McKinsey & Co in the United States. Prior to joining AGC, Mr Nipe was the Victorian Chief Data Officer.⁹⁵ Mr Nipe indicated that AGC currently employs 20 staff and will grow to 38 staff in 2024–25.⁹⁶

3.93 The government intends that AGC will benefit the public service through three related functions:

- delivering core strategic consulting projects;
- strengthening APS capability through consulting practitioner skillset transfer and leveraging existing APS capability through a Specialist Network; and
- supporting agencies to achieve better value when engaging external consultants.⁹⁷

3.94 AGC is also intended to take the following approach:

AGC will apply a rigorous, structured problem-solving methodology combining the best of public sector expertise and private sector approaches to quickly bring clarity to a client's challenges.

Clients will have the opportunity to practise and implement in-house consulting methodologies through a collaborative approach to project delivery. Over time, the tested approaches to capability uplift can be rolled out across the APS.

The AGC's Specialist Network of existing APS specialist services also allows experts to be seconded into project teams, bringing relevant expertise together on a particular problem.⁹⁸

⁹³ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 7.

⁹⁴ Australian Public Service Commission, [Australian Government Consulting](#) (accessed 5 May 2024).

⁹⁵ Australian Government Consulting, [Our People](#) (accessed 5 May 2024)

⁹⁶ Mr Andrew Nipe, Chief Consulting Officer, Australian Government Consulting, Senate Finance and Public Administration Legislation Committee, *Proof Committee Hansard*, 13 February 2024, p. 22.

⁹⁷ Australian Public Service Commission, [Australian Government Consulting](#) (accessed 5 May 2024).

⁹⁸ Australian Public Service Commission, [Australian Government Consulting](#) (accessed 5 May 2024).

3.95 Ms Liz Hefren-Webb, Deputy Secretary, Social Policy Group, Department of Prime Minister and Cabinet, gave evidence to the Senate Finance and Public Administration Legislation Committee at Estimates that:

...the 'buy better' element of the [AGC's] work, which is about helping departments and agencies, if they are procuring from the private sector, with how to do that well and how to do it in a way that highlights some of those issues around conflicts of interest, and also how to get good value for money.⁹⁹

3.96 During the most recent estimates hearings the committee heard that the scale of projects that AGC is currently undertaking is relatively small compared with those contracted to other consulting firms including the Big 4. Mr Nipe commented that a standard sized project for AGC is one that 'requires three to four people for three to four months'.¹⁰⁰

3.97 Relatedly, it was announced in the 2024–25 Budget that the Department of Defence will also commence its own pilot program (Australian Defence Consulting) to provide internal consultancy support across Defence using public service and Australian Defence Force staff. This measure is similarly aimed at reducing the department's need for external support and build the capability of its public sector workforce.¹⁰¹

3.98 It is too early for the committee to assess the effectiveness of AGC.

⁹⁹ Ms Liz Hefren-Webb, Deputy Secretary, Social Policy Group, Department of Prime Minister and Cabinet, Senate Finance and Public Administration Legislation Committee, *Proof Estimates Hansard*, 13 February 2024, p. 25.

¹⁰⁰ Mr Andrew Nipe, Chief Consulting Officer, Australian Government Consulting, Senate Finance and Public Administration Legislation Committee, *Proof Estimates Hansard*, 30 May 2024, p. 64.

¹⁰¹ Commonwealth of Australia, *Budget Measures: Budget Paper No. 4 2024–25*, p. 6.

Chapter 4

APS Contract management

- 4.1 Contract management is the principal way in which the Australian Public Service (APS) manages the consultants that it engages. This includes planning for the contract, procurement, monitoring performance, managing variations, managing disputes and evaluating the final product or service delivered to ensure it is up to standard and represents value for money. This chapter examines the APS's ability to effectively undertake this work.

Effective management of contracts

- 4.2 In addition to the specific contract terms, departments gave evidence that they manage contracts by following the requirements and guidance in the Commonwealth Resource Management Framework.¹ However, as noted in Chapter 3, some submitters raised concerns that the APS currently lacks the skills and knowledge required to effectively do this work.
- 4.3 Professor Mazzucato and Ms Collington held this view, contending that the decreased capability of the public service may undermine its capacity for evaluating the claims of tendering consultancies and managing contracts with them. Additionally, they pointed out that seeking to manage breach of contracts with management consultancies relates to the (often) qualitative and ambiguous nature of consulting services contracts and the interactive nature of consultants relationship with clients can make it challenging to pinpoint blame.²
- 4.4 Additionally, Professor Podger argued that writing a good tender requires deep knowledge of whatever is being consulted on and that the loss of capacity from the public service in turn reduces the quality of the consulting that the government receives.³
- 4.5 Regarding this issue, Mr Gareth Sebar, Acting First Assistant Secretary with the Department of Finance (Finance) highlighted that the 2023–24 Budget included funding to improve the training of procurement officials across the Commonwealth:

That will include training to assist officials to go through the process of assessing value for money. With a more skilled procuring workforce, we will expect that there will be a greater focus on value for money and those decisions will reflect that. Also, part of that measure is engaging with suppliers to help them through the process for applying for government

¹ See Chapter 2 of this report.

² Professor Marianna Mazzucato and Rosie Collington, *Submission 7*, p. 4.

³ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 5.

procurement and assisting them in identifying the types of issues that might better explain the value that their particular service can provide.⁴

4.6 Mr Sebar also noted that Finance regularly engages with other departments to discuss their procurement behaviour. Mr Sebar indicated that Finance will call out concerning behaviour and 'suggest to them different approaches that they might want to take rather than continually extending and broadening contracts'.⁵ The Department did not provide any examples to illustrate this point.

4.7 Mr Andrew Jagers, Deputy Secretary, Commercial Group, Department of Finance also noted that Finance is working closely with the Australian Public Service Commission (APSC) and other agencies to provide training for procurement officials:

We are taking this very seriously, because it is not just about the rules but also about how they interpret the rules and how they run it. Since September [2023], we have put 700 public servants through procurement training across 22 different agencies.⁶

When to engage consultants

4.8 Submitters to this inquiry offered suggestions to improve the procurement process and how contracts could be managed more effectively.

4.9 Starting at the procurement stage, submitters recommended that there should be clearer guidance about when it is appropriate to engage an external consultant.

4.10 The Australia Institute urged that clear guidelines be established about when consultants should be used. They advised that not only would this give the Public Service room to grow and develop skills in-house, but it would leave 'expensive and partial consultancies to do specialised work that, for whatever reason, the Public Service is not suited to'.⁷

4.11 Professor Baum said that she would like to see external consultants being engaged to complete very specific pieces of work, such as a specific report, rather than broad topics such as 'how do we reorganise our department?' or 'how do we deal with this whole area of policy?' This approach would also make

⁴ Mr Gareth Sebar, Acting First Assistant Secretary, Procurement and Insurance Division, Commercial Group, Department of Finance, *Committee Hansard*, 7 June 2023, p. 11.

⁵ Mr Gareth Sebar, Acting First Assistant Secretary, Procurement and Insurance Division, Commercial Group, Department of Finance, *Committee Hansard*, 7 June 2023, p. 12.

⁶ Mr Andrew Jagers Deputy Secretary, Commercial Group, Department of Finance, *Proof Committee Hansard*, 23 February 2024, p. 80.

⁷ Dr Alexia Adhikari, Postdoctoral Research Fellow, Australia Institute, *Committee Hansard*, 2 May 2023, pp. 25-26.

it easier to evaluate whether the consultant has delivered on the specific piece of work requested.⁸

- 4.12 Similarly, Professor Podger submitted that 'when you're procuring consultants, you have to have a good process of managing the purchasing of that advice. You need to be very clear about what it is that you are seeking'.⁹

Knowledge transfer

- 4.13 Several submitters emphasised that consultants should be required to share their knowledge with public servants, rather than keeping this information hidden which would result in building APS capacity and reduce the need for future consultants in a particular area.¹⁰

- 4.14 Consultants agreed that knowledge transfer was an important part of their work for the APS. For example, Mr John Vidas, from consulting firm Accenture commented that knowledge transfer was an important part of every project they undertake, including with the APS.¹¹

- 4.15 Mr Paul Low from KPMG Australia also agreed that knowledge transfer was important:

From our perspective I guess that skills transfer or that capacity building really can be built through a knowledge transfer process, on-job coaching, role shadowing or providing local insights and/or artefacts back into the public sector. So, it's financial models and economic models used for appraisals.¹²

- 4.16 Mr Miguel Carrasco from Boston Consulting Group and Mr Damien Bruce from McKinsey Australia both proposed that not only is knowledge transfer important, but that it should be a requirement built into every APS contract with a consulting firm. Further, Mr Carrasco and Mr Bruce suggested that the

⁸ Dr Julia Anaf PhD and Professor Fran Baum AO PhD, *Committee Hansard*, 2 May 2023, p. 23.

⁹ Department of Defence, *Submission 38*, p. 5.

¹⁰ See, for example, Dr Julia Anaf PhD and Professor Fran Baum AO PhD, *Committee Hansard*, 2 May 2023, p. 23; Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, p. 1-2; Mr Michael Tull, Assistant National Secretary, Community and Public Sector Union, *Committee Hansard*, 2 May 2023, p. 36; Mr Bran Black, Chief Executive Officer, Business Council of Australia, *Proof Committee Hansard*, 23 February 2024, p. 47.

¹¹ Mr John Vidas, Health and Public Service Client Group Lead, Australia and New Zealand, Accenture, *Committee Hansard*, 18 July 2023, p. 60.

¹² Mr Paul Low, National Industry Leader, Infrastructure, Government and Healthcare, KPMG Australia, *Committee Hansard*, 27 September 2023, p. 43.

success of the knowledge transfer should be measured at the end of each contract.¹³

- 4.17 The evidence provided to the committee indicates that knowledge transfer should be an important feature of consultancy work. The exact manner in which knowledge transfer is delivered may vary on a contract-by-contract basis. For example, one way to achieve this may be a fifty-fifty staffing ratio of consultants to APS staff to ensure adequate knowledge transfer.

Identifying and addressing poor performance and unethical conduct

- 4.18 The Commonwealth Resource Management Framework largely relies on APS officials to identify and manage poor performance, breaches of contract and unethical conduct, rather than on the consultants themselves, or the consulting firms that employ them (apart from recent changes to the MAS Head Agreement discussed in Chapter 2).
- 4.19 The evidence provided to the committee suggests that even the most experienced and diligent APS officer could encounter difficulties in managing contracts with large consultancy firms.
- 4.20 Defence submitted that, despite its best endeavours to conduct appropriate due diligence screening and risk reduction activities, it is reliant on a consultant self-declaring if their ability to provide impartial and objective advice is compromised. Similarly, verifying a declaration of 'no' conflicts of interest is restricted, as there is no centralised database which captures the work being undertaken by consultants and other external service providers.¹⁴
- 4.21 Defence advised that access to a Commonwealth-wide database which identifies other government and private sector contracts, or proposed tenders held, may support the due diligence activities that it currently undertakes. They noted that Defence and the broader Commonwealth currently lack the ability to track consultants who have been proven to have engaged in unethical conduct, and this information should be available as part of the procurement process, given the absence of transparency of the work being undertaken by consultations.¹⁵
- 4.22 Additionally, the committee received evidence that in practice, the enforcement of contractual terms relating to non-criminal unethical conduct may be challenged, resulting in lengthy legal proceedings, and it may be difficult to conclusively determine that the contract requirements have been breached.¹⁶ For

¹³ Mr Miguel Carrasco, Managing Director and Senior Partner, Boston Consulting Group, *Committee Hansard*, 26 September 2023, p. 35; Mr Damien Bruce, Senior Partner and Public and Health Sector Leader, McKinsey Australia, *Committee Hansard*, 26 September 2023, p. 72.

¹⁴ Department of Defence, *Submission 38*, p. 3.

¹⁵ Department of Defence, *Submission 38*, p. 5.

¹⁶ Department of Defence, *Submission 38*, p. 4.

example, Defence submitted that it is aware of instances of consultants concurrently selling 'the same product' both within Defence and across the Commonwealth. Whilst such practices are not considered illegal, Defence advised that it considers these practices unethical, and yet there is currently no clear way, at a whole-of-government level, to prevent this from occurring or for dealing with the conduct when it is identified as having occurred.¹⁷

- 4.23 To this point, government departments were asked whether, in the last ten years, a consulting firm they engaged did not fulfil their contract obligations, had their contract terminated, and whether any contracts have been the subject of dispute or legal action. Concerningly, several departments advised that they are unable to provide an answer to some or all of these questions as they do not have a central repository that captures this information.¹⁸ Treasury and the Department of Home Affairs (Home Affairs) advised that it would be an unreasonable diversion of resources to obtain the requested information.¹⁹
- 4.24 In relation to contract disputes, Home Affairs noted that 'a significant number of contracts will have been the subject of dispute or legal action because that is a normal part of contract management including disputed invoices, issues around scope of deliverables, milestone payments, timeframes and so on, as well as more significant actions such as litigation'. However, identifying the disputes in all contracts over the ten-year period would involve reviewing records of various entities for different periods, through multiple Machinery of Government changes.²⁰
- 4.25 Similarly, the Department of Health and Aged Care advised that its systems do not record data on contract management issues to support reporting in the manner requested without an unreasonable diversion of resources. However, they were able to advise the committee that their records show that at least one consultancy contract has been the subject of dispute or legal action in the last ten-year period.²¹

¹⁷ Department of Defence, *Submission 38*, p. 4.

¹⁸ See, for example, Attorney-General's Department, answer to written question on notice, 23 March 2023 (received 21 April 2023); Department of Infrastructure, Transport, Regional Development, Communications and the Arts, answer to written question on notice, 23 March 2023 (received 17 April 26 April 2023); Department of Agriculture, Fisheries and Forestry, answer to written question on notice, 23 March 2023 (received 21 April 2023); Department of Industry, Science and Resources, answer to written question on notice, 23 March 2023 (received 17 April 2023).

¹⁹ Treasury, answer to written question on notice, 23 March 2023 (received 25 May 2023); Department of Home Affairs, answer to written question on notice, 23 March 2023 (received 26 April 2023).

²⁰ Department of Home Affairs, answer to written question on notice, 23 March 2023 (received 26 April 2023).

²¹ Department of Health and Aged Care, answer to written question on notice, 23 March 2023 (received 8 May 2023).

- 4.26 Defence advised that information relating to consultancy contracts are commercial in confidence and cannot be provided but did note that it had not identified any consulting contracts that have been subject to legal proceedings or formal dispute.²²
- 4.27 The Department of Prime Minister and Cabinet advised that it holds all records relating to a contract for a period up to seven years after the expiration or early termination of a contract, and it is not aware of any instances in this period where a consultancy has been terminated, or of any instances of contracts being the subject of dispute or legal action.²³
- 4.28 Finance also advised that it holds all records relating to a contract for a period up to seven years after the expiration or termination of the contract and during this time period, it is unaware of any instance where a consulting firm has not fulfilled its contract, had their contract terminated, or been subject to legal action, advising that it 'proactively manages the performance of all contracts in accordance with the Commonwealth Contract Management Guide (the Guide).'²⁴
- 4.29 The Department of Agriculture, Fisheries and Forestry submitted that it does not have a central repository of these records, but it is aware of one consultancy contract that was recently terminated due to budget constraints, and four contract disputes that were addressed through dispute resolution processes.²⁵
- 4.30 The Department of Climate Change, Energy, the Environment and Water advised that it is aware of one consultancy contract that has been terminated by mutual agreement with the consultant.²⁶
- 4.31 It is unclear how officials conducting procurement can access relevant and critical information about previous issues or concerns with suppliers if this information is not recorded, or easily accessible.
- 4.32 In relation to the departments that were able to provide substantive responses to the questions asked, the number of contracts that were the subject of dispute or ultimately terminated appear to be remarkably low in the context of the

²² Department of Defence, answer to written question on notice, 23 March 2023 (received 6 April 2023).

²³ Department of the Prime Minister and Cabinet, answer to written question on notice, 23 March 2023 (received 22 May 2023).

²⁴ Department of Finance, answer to written question on notice, 23 March 2023 (received 12 April 2023).

²⁵ Department of Agriculture, Fisheries and Forestry, answer to written question on notice, 23 March 2023 (received 21 April 2024).

²⁶ Department of Climate Change, Energy, the Environment and Water, answer to written question on notice, 23 March 2023 (received 17 April 2023).

evidence received throughout this inquiry about poor performance and unethical conduct by certain consultants.

Greater transparency, accountability and managing conflicts of interests

- 4.33 The committee heard that greater transparency and accountability surrounding the engagement, conduct and output of consultants is needed, and the APS needs to better identify and manage the conflicts of interest as they arise.

Increasing transparency and accountability

- 4.34 Emeritus Professor James Guthrie, AM, Professor Jane Andrew and Dr Erin Twyford recommended increased disclosures should be mandated by consultants wanting to win public sector contracts, as this would enable taxpayers to better assess the quality of the work produced by advisers and support confidence in the public sector and its integrity. Additionally, consulting firms should not advise private entities that profit from government programs, and that should be enshrined in any contract for service.²⁷
- 4.35 Emeritus Professor James Guthrie, AM, Professor Jane Andrew and Dr Erin Twyford also recommended that in order to lift the 'veil of secrecy made clear in the case of robodebt' that the Joint Committee of Public Accounts and Audit inquiry into Commonwealth procurement be broadened to include reviewing all consulting services in Commonwealth agencies.²⁸ Further, they recommended that the Australian National Audit Office (ANAO) play a more significant role, and be resourced to undertake more performance audits, particularly in relation to procurement processes.²⁹
- 4.36 The Centre for Public Integrity recommended the following reforms:
- broaden the scope of the Commonwealth Procurement Rules to capture all corporate Commonwealth entities;
 - require disclosure of outputs produced pursuant to contracts;
 - develop and require compliance with a set of codes to facilitate analysis of government expenditure disclosed on AusTender;
 - allow FOI;
 - establish an Independent Transparency Monitor (previously proposed by the Centre for Public Integrity);

²⁷ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, pp. 1–2.

²⁸ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, pp. 1–2.

²⁹ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5.1*, p. 1.

- empower the ANAO or a new independent statutory authority with oversight over consultants to periodically audit the use of confidentiality clauses in government contracts;
- establish an independent Whistleblower Protection Authority;
- require contracts with consultants to include obligations to abide by the ethical standards equivalent to those set by and pursuant to the Public Service Act;
- broaden the jurisdiction of the Australian Public Service Commissioner to cover the conduct of consultants performing government contracts.³⁰

4.37 The Community and Public Sector Union (CPSU) made similar recommendations, stating 'as a simple test the public and the parliament should have access to information that clearly shows why a consultant is being engaged, what work they will be doing, how much they are being paid, and what was the outcome of this work. The recommendations include:

- regularly publishing agency and service-data on consultancy expenditure and numbers;
- that the Department of Finance lead work to reform how consultancies are categorised and tagged in AusTender with the goal of more accurately capturing the level of expenditure on consultants across the APS;
- consideration should be given to adopting an 'open contracting' regime; and
- strong whistleblower protections for public servants to both reveal corruption, conflicts of interest and other unethical behaviour.³¹

4.38 Professor Allan Fels urged for greater transparency about the relationship between the APS and consultants that it engages. He submitted:

Transparency should apply in regard to the terms of reference, conflicts and the process which will be used by consultants. Also, there should be processes about the link—the communications—between governments and consultants so that there are no secret messages to them, no conclusions told to them in advance and no saying, 'I want these conclusions,' unless that has been made public and there's a justification for it.³²

4.39 Further, Professor Allan Fels recommended that:

...governments should publish quite full information about bids, including winning bids, how much is being paid and what the promise from the consulting firm is. In general, I don't think that it is relevant to quote commercial-in-confidence factors affecting your ability to compete. If you offer a low or a high price and you win, and you beat other bids, I don't see what commercial need there is to keep the bid secret. It would be much more

³⁰ The Centre for Public Integrity, *Submission 58*, pp. 6-10.

³¹ Community and Public Sector Union, *Submission 6*, p. 14.

³² Professor Allan Fels, Private capacity, *Committee Hansard*, 17 July 2023, p. 2.

healthy if the amounts of money on offer and the job offer were made public.³³

- 4.40 Finally, it was suggested that the Senate could make orders to increase transparency relating to the output of external consultants. The Australia Institute proposed that, the Senate could require final reports and advice provided by consultants to be published, unless there is a good reason not to, noting 'the executive could still apply the protections that it has and the privileges it claims for things like cabinet confidence and so on'.³⁴ Professor Podger stated that there should be an expectation of publication – noting that there will be some exceptions in particular circumstances.³⁵

Conflicts of interest management

- 4.41 The committee heard that there is no assurance that conflicts of interest are identified in a timely way and managed effectively. Finance noted that as it does not have access to a list of clients of the consulting firms, it is therefore unable to check itself whether a consulting firm might be undertaking work that would put it in a conflicted position.³⁶ Rather the onus is on the consulting firms to responsibly manage conflicts of interest.

- 4.42 The CPSU highlighted that the key issue in the onus being on consulting firms 'is the potential for the consultancy to act in its own material interests', for example:

One way this could occur is where the consultant makes recommendations that generate further work for the initial consultant or for a business unit of the same company. CPSU is aware that among the consultancy industry this approach is referred to as 'land and expand'.³⁷

- 4.43 CPSU also contended that consulting firms' conflicts of interest were particularly difficult to manage in the Australian market because it is dominated by a small number of very large players i.e. the Big 4, who have substantial business interests across the economy: 'Put simply, the larger the client list the more chance there could be of conflict of interest'.³⁸ CPSU considered that the

³³ Professor Allan Fels, Private capacity, *Committee Hansard*, 17 July 2023, p. 8.

³⁴ Mr Bill Browne, Director of the Democracy & Accountability Program, Australia Institute, *Committee Hansard*, 2 May 2023, p. 28.

³⁵ Professor Andrew Podger AO, private capacity, *Committee Hansard*, 2 May 2023, p. 5.

³⁶ Mr Andrew Danks, Acting Deputy Secretary, Commercial Group, Department of Finance, *Committee Hansard*, 7 June 2023, p. 16.

³⁷ Community and Public Sector Union, *Submission 6*, p. 5.

³⁸ Community and Public Sector Union, *Submission 6*, p. 5.

strict conflicts of interest rules that apply to the APS should also apply to consultants.³⁹

- 4.44 Ms Rosie Collington suggested that 'conflicts of interest could be identified by requiring consultants who undertake government work to produce a list of all their current contracts and clients'.⁴⁰
- 4.45 The Business Council of Australia considered how conflicts of interest relating to consultants could be better managed, submitting that there should be a 'clear and consistent definition of what constitutes a conflict of interest, a conflict-of-interest breach, and expectations around the management of conflicts of interest'. Further, they suggested large entities that tender for government contracts could be required to undertake independent reviews of conflicts of interest policies, systems and processes.⁴¹
- 4.46 The Centre for Public Integrity also made recommendations about identifying and managing conflicts of interest, including requiring consultants to provide client lists if they wish to work for the government⁴² and utilising exclusivity clauses in government contracts with consultants (for example, requiring government consent before a consultant can take on potentially conflicting work).⁴³
- 4.47 The Business Council of Australia made a similar recommendation, proposing that consideration be given to 'maintaining breaches in a central register for use by government entities to promptly identify breaches for new/existing tenders, and requiring government entities to consult the register before considering tenders (and requiring public reporting of such breaches).⁴⁴
- 4.48 EY also recommended public disclosure of the management of Conflicts of Interest by Commonwealth entities and companies:

One measure could be a requirement for the Commonwealth entity or company to establish and maintain a Conflicts of Interest disclosure log, which publicly discloses potential Conflicts of Interest and how the tenderer has managed these Conflicts of Interest. Appropriate safeguards would be required to protect the confidential information of the Commonwealth,

³⁹ Community and Public Sector Union (CPSU), *Submission 6*, p. 4.

⁴⁰ Ms Rosie Collington, Researcher, UCL Institute for Innovation and Public Purpose, *Committee Hansard*, 7 June 2023, p. 65.

⁴¹ Business Council of Australia, *Submission 61*, p. 3.

⁴² The Centre for Public Integrity, *Submission 58*, p. 68.

⁴³ The Centre for Public Integrity, *Submission 58*, p. 67.

⁴⁴ Business Council of Australia, *Submission 61*, p. 4.

supplier and other private sector entities or individuals involved in this disclosure.⁴⁵

- 4.49 In reviewing these suggestions, the committee considers that any mechanism requiring consultants to declare their contracts, clients, and conflicts should require active disclosure, ensuring the information available is current throughout the life of the government contract for which the consultant has been engaged. It is important that the active disclosure requirement is enforced by APS staff who manage contracts. One option for ensuring updated information could be to require active disclosure of a consulting firm's conflicts of interest as a component of the contract management process. The committee cautions the introduction of such disclosure requirements without adequate and enforceable consequences for consultants who breach these requirements.
- 4.50 The committee will set out its views in connection with these suggestions for improvement in further detail in Chapter 7.

⁴⁵ EY, *Submission 24*, p. 9.

Chapter 5

Culture in the Big 4 consulting firms

- 5.1 The Australian Government's reliance on consultants has increased significantly in recent years, and this has created challenges for the Australian Public Service (APS) and the Australian community. Part of the reason for this is the difference in culture and motivations between the APS and consulting firms, particularly the Big 4: Deloitte, EY, KPMG, and PwC, who collectively share the largest proportion of Australian Government spending on consulting services.
- 5.2 Culture and purpose for an organisation (a company, a partnership, a department, an agency) is important. The leadership of an organisation has a significant influence, for good or bad, on the culture of that organisation. This is because it affects how the entity performs its role, and culture at a micro level is also important because it affects how individual employees perform their jobs and also the working conditions they experience. Cultural differences will be examined in this chapter.

A difference in values and motivation

APS Values and Code of Conduct

- 5.3 The APS Values articulate the parliament's expectations of public servants in terms of performance and standards of behaviour and are set out in section 10 of the *Public Service Act 1999* (PS Act). The APS Values require that the APS is: impartial, committed to service, accountable, respectful and ethical.¹ The Australian Public Services Commission (APSC) highlighted that APS employees occupy a position of trust, and as such:

They are entrusted by the Government and the community to undertake important work on their behalf. With this trust comes a high level of responsibility which should be matched by the highest standards of ethical behaviour from each APS employee.²

- 5.4 The APS are required by law to act impartially and to provide the government with advice that is 'frank, honest, timely and based on the best available evidence'.³ The work of the APS is subject to transparency and accountability mechanisms including freedom of information requests, questioning at Senate Estimates hearings and giving evidence in other forums.

¹ Australian Public Service Commission, [APS Values](#) (accessed 24 April 2024).

² Australian Public Service Commission, [APS Values and Code of Conduct in practice](#) (accessed 24 April 2024).

³ The Australian Public Service Commissioner's Directions 2002, Rule 17 (made under the *Public Service Act 1999*).

- 5.5 The Big 4 consulting firms each submitted to this inquiry that they hold similar values to the APS.⁴ For example, Deloitte listed integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour as its core set of values.⁵ EY also stated that its values guide its 'actions and behaviours, influence the ways in which we work with each other, and steer the ways in which we serve our clients and engage with our communities'.⁶
- 5.6 Another consulting firm, Sententia, also considered there is a 'strong correlation between our values and the Australian Government's values of respect, ethics commitment and accountability which aligns with our teams' beliefs to work cohesively and with a common purpose'.⁷
- 5.7 While there is not a universal and clearly articulated set of standards that apply to consulting firms in the way that there is for the APS, some staff in consulting firms are bound by the standards set by the Accounting Professional & Ethical Standards Board Limited (APESB).⁸ The aim of APES 110 is to require compliance with the fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour. APES 110 states that 'a distinguishing mark of the accountancy profession is its acceptance of responsibility to act in the public interest'.⁹ In doing so, the member must not just consider the needs of the individual client or employer, but also the interests of other stakeholders.¹⁰ In at least one consulting firm all the partners are bound by APES: KPMG told the committee that all its partners are required to comply with APES 110.¹¹ Regulation of consulting firms and their employees is considered in the next chapter.

The bottom line for consultancy services

- 5.8 The motivations of the consulting firms and the APS, at their core, are different and some submitters suggested that this difference in values amounts to an inconsistency in values. Several submitters noted their concern at what they considered to be a clear contradiction in motivations between the APS and

⁴ Deloitte Touche Tohmatsu, *Submission 2*, p. 1; KPMG, *Submission 3*, p. 3; PwC Australia, *Submission 14*, pp. 3-4; EY, *Submission 24*, p. 2.

⁵ Deloitte Touche Tohmatsu, *Submission 2*, p. 1.

⁶ EY, *Submission 24*, p. 2.

⁷ Sententia, *Submission 15*, p. 4.

⁸ See generally: Accounting Professional & Ethical Standards Board Limited (APESB), *Submission 17*.

⁹ APES 110 Code of Ethics for Professional Accountants, s 100.

¹⁰ APES 110 Code of Ethics for Professional Accountants, s 100.6. A4.

¹¹ Mr Andrew Yates, Chief Executive Officer, KPMG *Official Committee Hansard*, 27 September 2023, p. 46

consultants. They considered that consultants are primarily concerned with making a profit, whereas the APS works to support the Australian community.

- 5.9 Consulting firms that are private companies are market players who exist to generate profit. According to Per Capita:

...the chief imperative of private companies is to generate profit. Even where they are performing tasks which aim to benefit the public, they are primarily accountable to the interests of their shareholders. They have no obligations to act in the interests of the public.¹²

- 5.10 Dr Damien Williams and Ms Michelle Hornstein also contended that a heavy reliance on consulting services drives commercial or profit-driven outcomes rather than the public interest.¹³ Indeed, Dr Alexia Adhikari from the Australia Institute considered that the interests of consulting firms rarely align with the public interest.¹⁴

- 5.11 Professor Frances Baum also considered that although consultancy firms 'may have some concern for the public good, [...] they also have as their bottom line profit, not the public interest'.¹⁵

- 5.12 The Australia Institute referenced Paul Barratt AO, a former Secretary of the Department of Defence, who observed three ways in which the incentives consultants face are at odds with their objective to advise the government:

- as for-profit companies, they have an incentive to minimise costs;
- to justify their fees, they have an incentive to recommend novel and sweeping changes; and
- as contractors, they do not have to experience the disruption that comes from their recommendations.¹⁶

- 5.13 Some submitters suggested that one driver in the consulting firms' priority of profit over values is linked to a lack of consequences for disregarding the values they claim to hold. Mr Michael Tull, Assistant National Secretary of the Community and Public Sector Union (CPSU), explained that while the APS has a very clear set of values and a code of conduct, and very clear processes around

¹² Per Capita, *Submission 19*, p. 1. Note that some firms operate on a partnership model and do not have shareholders.

¹³ Dr Damien Williams, Ms Michelle Hornstein, *Submission 54*, p. [1].

¹⁴ Dr Alexia Adhikari, Postdoctoral Research Fellow, The Australia Institute, *Committee Hansard*, 2 May 2023, p. 25.

¹⁵ Professor Frances Baum, Private capacity, *Committee Hansard*, 2 May 2023, p. 19.

¹⁶ The Australia Institute, *Submission 13*, p. 22.

breaches of the values, including internal disciplinary action and referral for criminal action – the same thing does not apply to consultants.¹⁷

- 5.14 The APSC noted that the framework of the PS Act does not explicitly provide measures in relation to the integrity of consulting services, or other external sources of labour that agencies may use to complement the APS employee workforce in delivery of their business outcomes.¹⁸ The Department of Foreign Affairs also noted that because contractors are not engaged under the PS Act, 'integrity concerns are not able to be effectively addressed through an administrative process under the APS Code of Conduct'. The Department noted that, where it does identify integrity issues, these will be 'managed directly through contract management processes which may include replacement of the specified personnel nominated in the contract or contract termination under appropriate circumstances'.¹⁹
- 5.15 The Centre for Public Integrity (CPI) suggested that one way of extending the ethical standards set out in the PS Act to consultants could be to embed the APS values in service contracts.²⁰

Reviews of Big 4 culture

- 5.16 Concerns about the culture of the Big 4 consulting firms have been raised previously through reviews including the Switkowski Review and the Broderick Review.

Switkowski Review

- 5.17 In May 2023, as part of its response to the breach of confidential government information by PwC partners, PwC Australia announced a review of its governance, culture and accountability to be led by Dr Ziggy Switkowski AO (the Switkowski Review).²¹ The Switkowski Review is examined in detail in the committee's March 2024 report *PwC: The Cover-up Worsens the Crime*.²²
- 5.18 PwC Australia released the Switkowski Review, including its 23 recommendations, on 27 September 2023. The Switkowski Review presented an

¹⁷ Mr Michael Tull, Assistant National Secretary, Community and Public Sector Union, *Committee Hansard*, 2 May 2023, p. 37.

¹⁸ Australian Public Service Commission, *Submission 29*, p. [1].

¹⁹ Department of Foreign Affairs and Trade, *Submission 39*, p. [3].

²⁰ The Centre for Public Integrity, *Submission 58*, p. 78.

²¹ PwC Australia, ['Ziggy Switkowski AO to lead independent review of PwC Australia'](#), Media Release, 15 May 2023 (accessed 16 June 2023).

²² Senate Finance and Public Administration References Committee, *PwC: The Cover-up Worsens the Crime*, March 2024, pp. 23–31.

unflattering assessment of PwC, its practices and processes, and identified seven key shortcomings of the firm:

- (i) Lack of independence and external 'voices' within the ultimate governing body.
- (ii) Excessive power conferred on the CEO.
- (iii) Disproportionate focus on revenue growth and market leadership as the strategic imperatives.
- (iv) Decentralised business model without sufficient visibility of the enterprise view.
- (v) Complexity and fragmentation contributing to ineffective structures and processes.
- (vi) Unclear responsibilities and accountabilities creating gaps and risks.
- (vii) Overly collegial culture inhibiting constructive challenge.²³

5.19 Dr Switkowski considered that the culture of an organisation is critical to how it functions:

Culture has a significant impact not only on how an organisation is governed, makes decisions and manages risk, but on how effectively it meets broader community expectations. These factors are all critical to earning and maintaining trust with stakeholders, both internal and external.²⁴

5.20 The Switkowski Review reflected particularly negatively on the culture at PwC Australia, particularly its finding that the mindset was 'growth at all costs' with a spotlight on 'revenue, revenue, revenue'.²⁵

5.21 Dr Switkowski found that while PwC embodies a 'high-performance, results-focused culture supported by strong collegiality and care within teams', its cultural strength is weakened due to a 'tone from the top' which emphasises revenue and growth.²⁶

5.22 Dr Switkowski also found that '[f]ear, competition, and high expectations for strong financial performance by partners have been apparent in recent years'.²⁷ Further, Dr Switkowski considered that this drive increased the pressure on

²³ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, p. 3.

²⁴ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, p. 44.

²⁵ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, p. 46.

²⁶ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, pp. 45–46.

²⁷ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, pp. 48.

partners to meet financial targets. In leadership meetings, dialogue has focused on which parts of the business are 'make-take positive or negative'.²⁸

5.23 Dr Switkowski considered that one of PwC's strengths is that its culture is highly collegial. However, he also explained that when this strength is overplayed, it manifests as 'cronyism': the phenomenon in which people give important jobs to friends rather than to people who may be better suited based on skills or experience.²⁹

5.24 The Switkowski Review noted recent efforts at PwC to encourage a 'speak up' culture, designed to call out behaviour which does not align with the firm's stated values and ethics. However, the 'tone from the top' again impeded such an initiative:

A preparedness to discuss and learn from mistakes and near misses at PwC Australia is not consistently role-modelled from the top. Instead, there is a focus on optimism and communication of 'good news' and stories of success.³⁰

5.25 The Switkowski Review was clear that it was looking at the practices within the firm that had developed over several years, which led to a culture and ingrained practice of valuing profit over ethics which allowed the breach of confidential government information to occur and go unreported.³¹

5.26 On 27 September 2023 PwC also released its response to the Review, entitled *PwC Australia's Commitments to Change* which acknowledged Dr Switkowski's findings and how poorly the Switkowski Review reflected on the firm. It also undertook to implement all the recommendations made in the Switkowski Review.³²

5.27 In its March 2024 report, the committee considered:

The [...] apparent ethical failures raise questions about PwC's leadership, internal culture, and risk management. It appears the internal management and audit controls either failed or were broken. That said, even good risk managers are only as powerful as the internal culture and leadership of a firm allows them to be. For example, if revenue always comes first, then risk management is relegated. Further, an internal culture can only be as strong

²⁸ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, p. 48.

²⁹ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, p. 50.

³⁰ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, pp. 50–51.

³¹ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023, p. 4.

³² PwC Australia, *PwC Australia's Commitments to Change*, September 2023.

as the leadership and governance which must be committed on a thorough and consistent basis to a robust culture of doing the right thing.³³

Broderick Review

- 5.28 In September 2022, EY Oceania commissioned a review into its workplace culture. The review was undertaken by Ms Elizabeth Broderick & Co (Broderick Review) and published in July 2023.³⁴
- 5.29 The impetus for the Broderick Review was different to the circumstances which prompted the Switkowski Review. The Broderick Review was commissioned due to two factors. First, the unprecedented workforce pressures of the COVID-19 pandemic. And second, the passing of Aishwarya Venkatachalam, an Indian-Australian auditor who died by suicide on-site at the EY Oceania Sydney premises in August 2022.³⁵
- 5.30 The Broderick Review's mandate was to explore bullying, sexual harassment, racism, psychological safety, and the impact of work demands on the well-being of employees.³⁶ The key findings of the Broderick Review are organised across four broad themes:
- inclusion and safety;
 - harmful behaviours;
 - long working hours and overwork; and
 - leadership and change.
- 5.31 In relation to inclusion and safety, the Broderick Review found that the majority of staff and partners feel safe, included, and have a positive experience of EY workplaces. However, several staff and partners reported negative experiences of the firm and the harmful impacts on individuals, teams and the firm.³⁷
- 5.32 In relation to harmful behaviours and discrimination, the Broderick Review found the following:
- 15 per cent of people experienced bullying in the last five years;
 - 10 per cent of people experienced sexual harassment in the last five years;
 - and

³³ Senate Finance and Public Administration References Committee, *PwC: The Cover-up Worsens the Crime*, March 2024, p. 38.

³⁴ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023. Elizabeth Broderick & Co is a specialist consultancy focusing on high-level strategic consulting and transformation, particularly in the areas of gender equality, diversity, inclusion, and cultural renewal.

³⁵ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 3.

³⁶ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 3.

³⁷ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 4.

- 8 per cent of people experienced racism in the last five years.³⁸
- 5.33 The Broderick Review found that the majority of staff and partners have low confidence in the reporting mechanisms and resolution strategies in place within EY and reporting levels are significantly lower than incidence rates.³⁹
- 5.34 In relation to long working hours, the Broderick Review found a substantial proportion of staff and partners at EY Oceania regularly work above-standard hours and view working such hours as a normative expectation within EY Oceania and the professional services sector more broadly. The Broderick Review found that 31 per cent of people at EY Oceania are routinely working 51 or more hours a week, and approximately 11 per cent are routinely working 61 hours or more in a week.⁴⁰ Only 31 per cent of respondents were confident that EY Oceania can change a culture of long working hours and overwork.⁴¹
- 5.35 Ms Broderick noted the negative impacts of such long working hours:
- When we looked at EY Oceania staff and partners, almost half reported that their health was being negatively impacted as a result of long working hours, and two in five, or 42 per cent, had considered quitting their role as a result of the long working hours.⁴²
- 5.36 Respondents also indicated that leadership across the firm is variable, with perceptions of leadership ranging from exceptional to sub-optimal. The impacts of poor leadership had the potential to be both personally and professionally devastating for individuals, and spur broader negative organisational ramifications.⁴³
- 5.37 Finally, the Broderick Review found that experiences of psychological safety were variable, and heavily influenced by individual leaders. This finding is well summarised by the below participant statements:
- “Psychological safety very much depends on who you work for”.⁴⁴
- “Leadership can be great on one project and toxic on the next”.⁴⁵

³⁸ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 5.

³⁹ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 5.

⁴⁰ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 5.

⁴¹ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 6.

⁴² Ms Elizabeth Broderick, Principal, Elizabeth Broderick & Co., *Committee Hansard*, 9 November 2023, p. 2.

⁴³ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 6.

⁴⁴ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 43.

⁴⁵ Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023, p. 44.

5.38 Ms Broderick considered that the Switkowski Review and her own review of EY overlapped in the area lack of psychological safety:

[Dr Switkowski] pointed to a number of areas where, if people had felt safe to speak out, some of these issues might not have ended up where they did. We saw a similar issue at EY, particularly where people weren't speaking up about sexual harassment or racism or indeed, most importantly, the long-working-hours culture. So the analysis in that report as well as the analysis in our report—both are useful learnings across the whole sector.⁴⁶

5.39 EY has accepted all 27 recommendations of the Broderick Review and is working to implement them.⁴⁷

5.40 Ms Broderick suggested that although she had not undertaken a study of each of the Big 4 firms, that the issues which her team identified at EY would also exist in 'pretty much every professional services firm'. Ms Broderick explained:

Part of that is the whole way the system rewards partners and senior leaders but [...] I wouldn't just see it in professional services firms; to be honest, I see this across particularly large organisations across this country and beyond, really.⁴⁸

Data on workplace behaviour in the Big 4

5.41 Further to the information set out in the Broderick Review, EY acknowledged that in 2022, it undertook 17 formal investigations of workplace behaviour. Of the 17 formal workplace investigations, 13 were substantiated and one remained under investigation at the time of the report, in the following categories:

- sexual harassment: 5
- bullying: 4
- multiple allegations: 4⁴⁹

5.42 In 2021–22, Deloitte noted that it investigated and closed out 146 concerns raised, representing 1.2 concerns per 100 employees:

Of these, 78 were substantiated with actions including counselling & training (36), written reprimands (24) and firm exit (18).

Of the 78 substantiated concerns, we note the following key categories;

- respect and fair treatment (includes bullying and harassment) 25
- sexual harassment 16

⁴⁶ Ms Elizabeth Broderick, Principal, Elizabeth Broderick & Co., *Committee Hansard*, 9 November 2023, p. 7.

⁴⁷ EY Oceania, Press release, [EY Oceania releases EB&Co.'s Independent Report into workplace culture](#), 27 July 2023 (accessed 6 May 2024).

⁴⁸ Ms Elizabeth Broderick, Principal, Elizabeth Broderick & Co., *Committee Hansard*, 9 November 2023, p. 5.

⁴⁹ EY, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023), p. 7.

- misuse of Confidential or Proprietary Information 18
- discrimination 6⁵⁰

5.43 For KPMG in 2021–22, 88 reports were raised regarding the conduct of its people, with the majority of these linked to KPMG's Values, a policy or Code of Conduct breach (36 per cent) or bullying (27 per cent). KPMG reported that:

...the allegations included nine reports of sexual harassment. Seven of these were substantiated with one individual leaving the firm and the remainder being censured because of their actions. None of the reports involved sexual assault.⁵¹

5.44 KPMG noted that '[o]ffsite social events continue to be the primary source of sexual harassment incidents.⁵²

5.45 Finally, PwC reported that in 2021–22, it received 6 formal complaints of bullying and 8 formal complaints of sexual harassment.⁵³

APS survey results in connection with culture

5.46 The APSC State of the Service survey (the survey) results reveal that the APS also has room for improvement in its culture – this is common across all large organisations, private or public.⁵⁴

5.47 The survey revealed that in 2023, 10.4 per cent of respondents to the APS Employee Census indicated they had been subjected to harassment or bullying in the workplace in the last 12 months, up from 9.7 per cent in 2022.⁵⁵

5.48 Further, while most respondents agreed that their manager acts with integrity, the survey noted:

- Around 4 out of every 5 respondents agree their immediate supervisor is open and honest (82 per cent), accountable (81 per cent), and takes responsibility for what happens in their workgroup (79 per cent); and
- Two-thirds of respondents agree that their immediate supervisor calls out unacceptable behaviour (67 per cent).

⁵⁰ Deloitte, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023), p. 5.

⁵¹ KPMG, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023), p. [4].

⁵² KPMG, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023), p. [4].

⁵³ PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023),

⁵⁴ Australian Public Service Commission, [State of the Service Report 2022-23](#) (accessed 24 May 2024).

⁵⁵ Australian Public Service Commission, [State of the Service Report 2022-23](#) (accessed 5 June 2024), p. 9.

5.49 Additionally, the survey found that in 2022–23, agencies reported formal investigations into 62 employees for conduct that was categorised as corrupt. Of these, 56 employees were found to have breached the APS Code of Conduct. While this is a reduction from 138 employees in 2021–22, it indicates there is room for improvement.⁵⁶

5.50 Ms Lisa Pusey, Lead Consultant at Elizabeth Broderick & Co also noted that while comparisons between any two workplaces can be challenging due to differences in methodologies, there were some notable statistics around bullying and sexual harassment in the public sector available. Ms Pusey noted:

The New South Wales parliament was around 28 per cent in the last five years [bullying]. On sexual harassment, again, the federal parliament was roughly consistent with the national data, at around 33 per cent, and the New South Wales parliament was at around 20 per cent. I note those organisations and numbers, because in our opinion they are the most closely aligned methodologies. There are many other surveys on these issues out there, but those methodologies were very similar.⁵⁷

Conflicts of interest

5.51 When looking at consulting firms doing work for the Australian Government, conflicts of interest exist in numerous forms. It is important that conflicts are identified and managed appropriately. Conflicts of interest may arise when:

- staff are seconded between consulting firms and government departments;
- an APS employee has been involved in engagement with a consultant and then works for the consultant afterwards;
- consulting firms undertake work in the same field for competing clients;
- consulting firms make recommendations that generate further work for the their firm; and
- consulting firms undertake work for the public sector, which relates to work they undertake for private sector clients.

5.52 As set out in the APS Values and APS Code of Conduct (the Code), the public is entitled to have confidence in the integrity of their public officials, and to know that an APS employee's personal interests do not conflict with his or her public duties.⁵⁸

5.53 The Code requires employees to take reasonable steps to avoid any conflict of interest, real or apparent, in connection with their employment. The Code defines real and apparent conflicts of interest as follows:

⁵⁶ Australian Public Service Commission, [State of the Service Report 2022-23](#) (accessed 5 June 2024).

⁵⁷ Ms Lisa Pusey, Lead Consultant, Elizabeth Broderick & Co., *Committee Hansard*, 9 November 2023, pp. 12–13.

⁵⁸ Australian Public Service Commission, APS Values and Code of Conduct in practice, [Section 5: Conflict of Interest](#) (accessed 24 April 2024).

A real conflict of interest occurs where there is a conflict between the public duty and personal interests of an employee that improperly influences the employee in the performance of his or her duties.

An apparent conflict of interest occurs where it appears that an employee's personal interests could improperly influence the performance of his or her duties but this is not in fact the case.⁵⁹

5.54 The ASPC notes that the appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.⁶⁰

5.55 The approach to managing conflicts of interest varies across consulting firms. Some employees and partners in consulting firms who are professional accountants are required to comply with the APES 110, which sets out specific requirements for the management of conflicts of interest. The APESB explained that:

Before professional accountants in public practice accept a new client relationship, engagement or business relationship, APES 110 requires them to take reasonable steps to identify circumstances that might create a conflict of interest and, therefore, a threat to compliance with one or more of the fundamental principles (paragraphs R310.5 to 310.5 A3).

Professional accountants must also remain alert to changes in the nature of activities or services, interests and relationships that might create a conflict of interest while performing professional activities or engagements (paragraph R310.6 of APES 110).⁶¹

5.56 APES 110 provides additional guidance, including the management of conflicts when sharing information within the firm.⁶²

Case studies—management of conflicts of interest

5.57 The interpretation of what constitutes a conflict of interest is not consistent across consulting firms or with how the APS considers conflicts of interest. The Big 4 consulting firms, and others, each have their own unique conflicts of interest policies. However, the committee has received evidence that despite the existence of these policies, conflicts of interest are improperly managed, and at times, ignored.

5.58 For example, a clear conflict of interest exists in the case which prompted this inquiry: the breach of confidential government information by PwC. In November 2013, Mr Peter Collins and Mr Michael Bersten attended the first

⁵⁹ Australian Public Service Commission, APS Values and Code of Conduct in practice, [Section 5: Conflict of Interest](#) (accessed 24 April 2024).

⁶⁰ Australian Public Service Commission, APS Values and Code of Conduct in practice, [Section 5: Conflict of Interest](#) (accessed 24 April 2024).

⁶¹ APESB, *Submission 17*, p. 6.

⁶² APESB, *Submission 17*, p. 6.

meeting of the Base Erosion and Profit Shifting Tax Advisory Group (BEPSTAG). In December 2013, Mr Collins, Mr Bersten, and Mr Pete Calleja each signed confidentiality agreements with Treasury in relation to this work.⁶³ Mr Collins and Mr Bersten both forwarded their unsigned confidentiality agreements to Mr Tom Seymour, then leader of PwC Australia's tax practice. Nobody in PwC Australia identified or reported the clear conflict of interest 'that arose from having client-facing partners participating in confidential Government consultations'.⁶⁴

- 5.59 KPMG contended that it has very strong processes, controls, and policies around conflicts of interest:

We have independent from the business an independent risk team that focuses purely on conflict resolution. We have a global system where every piece of work needs to be put in that system and approved by the relevant head partner on the client before it can begin. We have a lot of processes in place to manage conflicts.⁶⁵

- 5.60 However, conflicts of interest concerns have been raised in relation to KPMG as well. One example concerns the work KPMG undertakes in the aged care sector. KPMG is one of four firms contracted by the Aged Care Quality and Safety Commission (ACQSC) to provide accreditation assessors. KPMG also offers consultancy services to aged care providers, including assisting providers with accreditation.⁶⁶ Mr Yates, CEO of KPMG, commented he had tasked his firm's risk team with reviewing this matter 'to make sure that we are actually doing the right thing'.⁶⁷
- 5.61 Deloitte also stated that it strives for the highest level of professional and ethical standards, using a set of rigorous protocols, practices, and safeguards to mitigate conflicts of interest and manage confidentiality.⁶⁸
- 5.62 Despite this, in April 2022, Deloitte was engaged to provide an assurance service over the Environmental, Social and Governance (ESG) data of a government entity. Deloitte was simultaneously the contracted auditor for the financial statement audit of that government entity. In August 2022, four months after the commencement of the engagement, Deloitte realised it had not sought the required pre-approval from the ANAO to provide the service. Deloitte

⁶³ PwC Australia, *Review of Tax Confidentiality Breaches and Related Questions*, 27 September 2023, p. 3.

⁶⁴ PwC Australia, *Review of Tax Confidentiality Breaches and Related Questions*, 27 September 2023, p. 3.

⁶⁵ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 63.

⁶⁶ Community and Public Sector Union, *Submission 6*, pp. 9-11; Henry Belot, ['KPMG Australia launches internal review after potential conflict-of-interest concerns raised'](#), *The Guardian Australia*, 27 June 2023 (accessed 9 May 2024).

⁶⁷ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 57.

⁶⁸ Mr Tom Imbesi, Chairman, Deloitte Australia, *Committee Hansard*, 17 July 2023, p. 9.

undertook its own internal investigation and later disclosed this to the ANAO. Deloitte noted that '[i]t was concluded by the ANAO that the assurance services did not represent an independence threat to the financial statements being audited'.⁶⁹

- 5.63 Concerns have also been raised about conflicts of interest in work undertaken by EY. EY provides audit services to a range of companies, including Origin Energy, Santos, Beach Energy, BHP, BlueScope Steel and Brickworks, which are subject to the safeguard mechanism⁷⁰ and that rely on carbon offsets to meet their voluntary climate targets and obligations.⁷¹ At the same time, EY was contracted by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) to provide 'analysis and advice on emission outputs for oil and gas facilities', 'analysis and advice under the safeguard mechanism' and 'professional advice on market modelling services electricity'. According to government records these contracts were worth \$510,000.⁷²

Inherent risks—Scyne Advisory example

- 5.64 As set out in the committee's March 2024 report, *PwC: The Cover-up Worsens the Crime*, the sale of PwC's government consulting work to Allegro Funds, now established as Scyne Advisory, is one of the key measures it put in place to minimise the possibility of conflicts of interest compromising PwC's future work.
- 5.65 Mr John Mullen, Chairman of Scyne Advisory, emphasised that Scyne is immune from the inherent conflicts of interest of other firms given that it will only undertake work for the public sector, not the private sector:

At the moment Scyne is in a category of its own in being able to say to government that we are unconflicted with the private sector. We also believe that this specialised approach delivers better advice for our clients. Our people concentrate on supporting governments and their increasingly complex policy challenges. But we're clear that our role is to support the Public Service over the long-term, not replace it. We started from scratch and designed the structure to support these goals.⁷³

⁶⁹ Deloitte, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023), p. 9.

⁷⁰ The Safeguard Mechanism requires Australia's highest greenhouse gas emitting facilities to reduce their emissions in line with Australia's emission reduction targets of 43 per cent below 2005 levels by 2030 and net zero by 2050. If a safeguard facility exceeds their baseline, they must manage any excess emissions.

⁷¹ Mr David Larocca, Oceania Chief Executive Officer and Regional Managing Partner, EY, *Committee Hansard*, 9 February 2024, p. 82.

⁷² Mr Henry Belot, ['EY Oceania accused of potential conflict of interest over government contracts on climate policy'](#), *The Guardian Australia*, 24 January 2024 (accessed 9 May 2024).

⁷³ Mr John Mullen, Chairman, Scyne Advisory, *Proof Committee Hansard*, 9 February 2023, p. 46.

- 5.66 However, the committee holds some reservations that this change is an elegant solution, particularly given evidence that the committee received in relation to KPMG's involvement with the NSW Government and the work it undertook in relation to the Transport Asset Holding Entity (TAHE).
- 5.67 In 2020, NSW Treasury and NSW Transport commissioned separate KPMG teams to assess aspects of TAHE. The KPMG team working for NSW Transport concluded that TAHE would leave the state budget \$10 billion worse off than Treasury had claimed. A separate KPMG team, working for NSW Treasury, backed Treasury's assertion that TAHE would not have any effect on the state's budget.⁷⁴
- 5.68 Professor Brendan Lyon was an equity partner in KPMG's infrastructure practice from 2018 to 2021, and was the partner engaged by NSW Transport in relation to TAHE. In evidence to the committee, he explained:
- ...the New South Wales transport secretary engaged me to help in a matter regarding the accounting for public rail assets. I had some ethical departures that, if we wanted to enumerate, were about \$10.6 billion between my opinion of the budget impact of that and what another part of KPMG and the New South Wales treasury had sort of sold. I wasn't willing to change my results on the basis only of narrative and no-one was able to show me where the model itself was wrong or the logic was wrong.⁷⁵
- 5.69 Mr Yates explained to the committee that, at the time, KPMG viewed the NSW Government as one client. Mr Yates contended that the firm realised too late that NSW Transport and NSW Treasury held different positions.⁷⁶
- 5.70 In 2020, once KPMG understood the two departments' positions, KPMG installed an oversight committee to ensure they worked independently from one another. Mr Yates noted that while the two reports that were ultimately issued by two separate teams of the firm, KPMG 'lost sight of the fact that we were in a conflict situation'.⁷⁷
- 5.71 Professor Lyon argued that he was forced out of the KPMG partnership following his unwillingness to change his analysis:

I was segregated, I was separated and, ultimately, I was excluded from the firm. I was exposed to a whole range of wholly vexatious conduct complaints.⁷⁸

⁷⁴ Mr Edmund Tadros, ['KPMG chief concedes TAHE errors as he defends consultancy's work'](#), *Australian Financial Review*, 8 March 2022 (accessed 10 May 2024).

⁷⁵ Professor Brendan Lyon, Private capacity, *Committee Hansard*, 17 July 2023, p. 48.

⁷⁶ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 55.

⁷⁷ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 56.

⁷⁸ Professor Brendan Lyon, Private capacity, *Committee Hansard*, 17 July 2023, p. 48.

- 5.72 Mr Yates, CEO of KPMG acknowledged that the TAHE matter is 'another really black mark on our firm'.⁷⁹
- 5.73 This example demonstrates that a firm consulting uniquely for the public sector is not immune from conflicts of interests. Indeed, firms like Scyne Advisory that are limited to consulting for one sector, will need to be just as vigilant about managing their conflicts of interest as any other firm.

Other concerns about Big 4 culture

- 5.74 The committee has also received a range of evidence that speaks to poor culture, that is not in line with APS Values or community expectations across the Big 4 consulting firms, in connection with cheating and power mapping.
- 5.75 A significant example of such behaviour is KPMG's cheating scandal. In 2022, it was reported that over 1000 KPMG staff were accused of cheating on an internal test relating to independence rules which included a section on managing conflicts of interest and the separation of roles. This cheating reportedly occurred systematically for at least 5 years up to 2020.⁸⁰
- 5.76 Mr Yates, CEO of KPMG Australia advised the committee that the systemic cheating on the test was reported by a junior member of staff to senior leadership. Following a brief internal investigation by KPMG Australia, the firm then self-reported the issue to the US regulator, the Public Company Accounting Oversight Board (PCAOB), as well as to the Australian Securities and Investments Commission (ASIC) and to Chartered Accountants Australia and New Zealand (CA ANZ).⁸¹
- 5.77 The PCAOB fined KPMG \$615,000 and sanctions for the staff involved varied from verbal warnings and written warnings for the over 1000 staff involved, through to financial penalties and, for two partners, separation from the firm.⁸²

Power mapping

- 5.78 In August 2023, the Big 7 consulting firms (the Big 4 as well as McKinsey & Company, Accenture, and Boston Consulting Group) were asked, through written questions on notice, by the committee whether they aware of or had ever engaged in 'power mapping'. Power mapping is a term which refers to the

⁷⁹ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 55.

⁸⁰ Hannah Wootton, '[KPMG accountants cautioned over systemic exam cheating](#)', *Australian Financial Review*, 13 July 2022 (accessed 7 May 2024).

⁸¹ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 52.

⁸² Hannah Wootton, '[KPMG accountants cautioned over systemic exam cheating](#)', *Australian Financial Review*, 13 July 2022 (accessed 7 May 2024); Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 7 June 2023, p. 52.

practice of creating a visual tool used to understand who has more or less power in a work environment to help navigate its politics.⁸³

5.79 Deloitte, EY, KPMG and PwC, McKinsey & Company, and Boston Consulting Group each responded that they did not engage in power mapping.⁸⁴

5.80 Accenture alone acknowledged that it was aware of and made use of the practice of power mapping and noted that this practice is interchangeably referred to as 'Relationship Mapping', 'Stakeholder Mapping' and 'Stakeholder Engagement'.⁸⁵ Accenture elaborated:

Within Accenture, we use a form of power mapping as a tool to help us understand an organisation's structure, governance forums, and views/experiences of Accenture particularly as it relates to their satisfaction with Accenture's service delivery. The maps can also include alliance partners, third-party advisors and the role of competitors in the broader ecosystem.

Power maps are one element in our assessment of potential client projects and are used on most of our client engagements, including with our public service clients, and as part of our account planning processes. They are commonly deployed through a Customer Relationship Management system such as Salesforce and we use them to determine how we can best assist our clients.⁸⁶

5.81 Accenture also provided two examples of the type of power maps it uses, including a sample map that it might apply to a government department or agency.⁸⁷

5.82 Following receipt of these answers from the Big 7, the committee became aware of a power map created by KPMG in relation to its work for Transport for NSW (TfNSW). The document is entitled 'TfNSW Latest Org Structure & strength of relationships' and includes a legend which colour codes individuals in the map

⁸³ Harvard Business School Online, [Power mapping: What is it & How to use it](#) (accessed 9 May 2024).

⁸⁴ EY, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 31 August 2023); Deloitte, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 29 August 2023); KPMG, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 25 August 2023); PwC Australia, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 30 August 2023); McKinsey & Company, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 30 August 2023); Boston Consulting Group, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 31 August 2023).

⁸⁵ Accenture, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 29 August 2023), p. 1.

⁸⁶ Accenture, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 29 August 2023), p. 1.

⁸⁷ Accenture, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 29 August 2023), p. 3.

according to the strength of their relationship with KPMG: Sponsor, Good, Ambivalent, Poor, No relationship, Unknown.

5.83 At a public hearing on 27 September 2023, KPMG's CEO Mr Yates contended that the document was a relationship map and not a power map.

5.84 Noting the interchangeability of these terms, the committee was of the view that KPMG's response to the question on notice and the existence of the document described during the hearing were contradictory. The committee wrote to KPMG requesting that the firm review their responses and what it viewed as an apparent attempt to mislead the Senate.⁸⁸

5.85 KPMG's response doubled-down on its denial that it uses power maps and specified that the TfNSW document was not a power map as it does not:

- set out a ranking or measure of the power or influence of any individual (such as labelling them decision-makers or influencers);
- draw lines or arrows to show how any person might seek to influence or persuade any other person; or
- make any subjective assessment of any individual's character, performance, or qualities, (for example amiable, analytical, expressive, driving).⁸⁹

5.86 At a public hearing on 9 February 2024, KPMG was again provided with an example of a power map it had created. In this instance, the document related to Health Infrastructure NSW (HINSW) and set out six relationship mapping action plans, including specific tasks that certain KPMG staff would need to fulfill to deepen their relationships with individuals within HINSW.⁹⁰

5.87 Mr Yates considered that KPMG's initial responses to the power maps presented were too focussed on the use of the term power map:

We got caught up in whether something is a power map, a relationship, a client map—whatever it's called. I'm happy to go with power map. Clearly, if I had my time again, I would do that.⁹¹

⁸⁸ Correspondence, [Finance and Public Administration References Committee and KPMG Australia](#), power mapping, October 2023, pp. 1–2.

⁸⁹ Correspondence, [Finance and Public Administration References Committee and KPMG Australia](#), power mapping, October 2023, pp. 3–4.

⁹⁰ KPMG, [Health Infrastructure NSW \(HINSW\) Workshop Actions](#), 15 May 2023, tabled by Senator Barbara Pocock on 9 February 2024.

⁹¹ Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 9 February 2024, p. 65.

5.88 Mr Yates also acknowledged that KPMG does map its relationships and noted that their 'intent is not to unduly influence people', rather it is an organisational tool for KPMG's interactions with clients.⁹²

⁹² Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 9 February 2024, p. 66.

Chapter 6

Regulation of the consulting industry

Management consulting—an unregulated profession?

- 6.1 While individual management consultants are subject to domestic laws, unlike other professional services such as auditing and law, management consulting is not a protected or regulated profession.¹ Consequently, management consultants cannot formally be stripped of their title in cases of unethical behaviour.²
- 6.2 In his submission to the committee, Mr Peter Woolcott AO, the Australian Public Service Commissioner, stated that the current framework of the *Public Service Act 1999* (PS Act) does not explicitly provide measures in relation to the integrity of consulting services, or other external sources of labour, that agencies may use to complement the Australian Public Service (APS) employee workforce.³
- 6.3 As noted previously, the Commissioner advised:
- Individuals providing consulting services to the APS are not employed under the PS Act, and are therefore not required to uphold the APS Values and Employment Principles, or comply with the APS Code of Conduct. However, they are likely to be bound by contractual provisions that are broadly analogous to certain obligations under the APS Code of Conduct, including those relating to the declaration and management of conflicts of interest, compliance with all laws and relevant policies applicable to the performance of the services, maintaining confidentiality, not providing false or misleading information and an additional positive obligation to prevent and detect fraud. Protections for the Commonwealth are included in the majority of Commonwealth contracts, where contract clauses allow for the termination of a contract based on a material breach (for example, breaches of confidentiality and breaches of moral rights).⁴
- 6.4 Managing issues related to breach of contract in government consulting contracts can be challenging and time consuming. Nevertheless, it is the predominant method that the APS has to hold the external consultants that it engages to account. This is made more difficult as the regulation of large partnerships, which is the structure of the major accounting, audit and consulting firms in Australia, is within the remit of the State and Territory governments, rather than the Commonwealth.

¹ Professor Marianna Mazzucato and Ms Rosie Collington, *Submission 7*, p. 4.

² Professor Marianna Mazzucato and Ms Rosie Collington, *Submission 7*, p. 4.

³ Australian Public Service Commission, *Submission 29*, p. 1.

⁴ Australian Public Service Commission, *Submission 29*, p. 1.

- 6.5 This means that the duties and obligations placed on corporations and their directors set out in the *Corporations Act 2001* do not apply to many consultants, including those employed by the Big 4, and federal regulators such as the Australian Securities and Investments Commission (ASIC) do not generally have the power to initiate investigations of wrongdoing.⁵
- 6.6 The current framework has resulted in major regulatory gaps in relation to the performance and conduct of consultants which will be explored further in this Chapter.

Professional standards apply to some consultants

- 6.7 The committee received evidence that unlike professions such as accounting, law, medicine, and engineering, there is no specific registration regime for consultants.⁶ This can result in some consultants being subject to no oversight and others being subject to multiple overlapping oversight and regulatory regimes (for example if they are also a legal practitioner or a registered tax agent).⁷ The following standards apply to some consultants, but not all, creating a significant and uneven gap in regulation.

APES 110 Code of Ethics for Professional Accountants

- 6.8 The Accounting Professional & Ethical Standards Board Limited (APESB) was created as an independent body in 2006 by the Australian professional accounting bodies with a primary purpose to develop, issue and maintain high-quality professional and ethical pronouncements for the Australian accounting profession (including firms) in an independent manner with a public interest focus.⁸
- 6.9 The committee received evidence that some consultants, who are also members of other professional organisations such as Chartered Accountants Australia and New Zealand (CA ANZ), are required to comply with APES 110 Code of Ethics for Professional Accountants (including Independence Standards) (APES 110) and APES 320 Quality Management for Firms (APES 320) that provide Non-Assurance Services.⁹
- 6.10 While APES 110 does not apply to all consultants, it appears to provide a comprehensive code of ethics for the consultants who are required to comply with it. APES 110 has been described as a 'robust, comprehensive suite of

⁵ Mr Warren Day, Chief Executive Officer, Australian Securities and Investments Commission, *Committee Hansard*, 12 October 2023, p. 44.

⁶ Chartered Accountants Australia & New Zealand (CA ANZ), *Submission 20*, p. 2.

⁷ Chartered Accountants Australia & New Zealand (CA ANZ), *Submission 20*, p. 2.

⁸ Accounting Professional & Ethical Standards Board Limited (APESB), *Submission 17*, p. 1.

⁹ Chartered Accountants Australia & New Zealand (CA ANZ), *Submission 20*, p. 6.

Australian professional and ethical standards which are benchmarked to global standards issued by the International Ethics Standards Board of Accountants (IESBA) and the International Auditing and Assurance Standards Board, and which codify global best practice'.¹⁰ Further, it is based on the Code of Ethics for Professional Accountants (including Independence Standards) issued by IESBA.¹¹

- 6.11 The aim of APES 110 is to require compliance with the fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. This also includes the requirement to act in the public interest. It is intended to be complied with in addition to all legal and regulatory requirements. These requirements are set out in considerable detail and include practical strategies and examples to assist members to comply with requirements. It discusses nuances that could impact on compliance, including, for example, the factors to consider when certain requirements clash with others, and what steps to take when responsibilities under the Code conflict with legal or regulatory requirements.
- 6.12 As discussed earlier, APES 110 provides additional guidance, including the specific requirements for the management of conflicts.¹² The APESB explained that:

Before professional accountants in public practice accept a new client relationship, engagement or business relationship, APES 110 requires them to take reasonable steps to identify circumstances that might create a conflict of interest and, therefore, a threat to compliance with one or more of the fundamental principles (paragraphs R310.5 to 310.5 A3).

Professional accountants must also remain alert to changes in the nature of activities or services, interests and relationships that might create a conflict of interest while performing professional activities or engagements (paragraph R310.6 of APES 110).¹³

- 6.13 In his evidence to the committee, Mr Channa Wijesinghe, CEO of the APESB advised:

On average, 80 per cent of the big four firms' revenue in Australia comes from consulting clients, as opposed to audit clients, where detailed audit independence standards and prohibitions are in place. The Australian Code APES 110 applies equally to work performed for consulting clients as they do to audit clients of these firms. Accordingly, we encourage the inquiry to consider the opportunity to establish a rigorous code of ethical behaviour

¹⁰ Ms Nancy Milne OAM, Chairman, Accounting Professional and Ethical Standards Board, *Committee Hansard*, 23 February 2024, p. 21.

¹¹ Accounting Professional and Ethical Standards Board, [Code of Ethics APES 110](#), June 2023 (accessed 29 April 2024).

¹² APESB, *Submission 17*, p. 6.

¹³ APESB, *Submission 17*, p. 6.

based on APES 110 that would be applicable to all consultants that contract with, and provide any form of professional services to, the government.¹⁴

- 6.14 At least one consulting firm is bound by APES 110, KPMG told the committee that all its partners are required to comply with APES 110.¹⁵
- 6.15 APES 320 requires firms to establish and maintain a system of quality management for non-assurance services designed to provide it with reasonable confidence that the firm and its personnel are complying with Professional Standards and applicable legal and regulatory requirements.¹⁶ This system of quality management is intended to assist members to prevent conflicts of interest, breach of contract and other unethical behaviours.¹⁷
- 6.16 The committee notes that some submitters have said that while APESB sets standards, its mandate does not include monitoring or effective enforcement mechanisms.¹⁸ However, it is still a comprehensive code that is a sound starting point for consultants who are currently not subject to any industry codes.

The Institute of Management Consultants (IMC)

- 6.17 The Institute of Management Consultants (IMC) is a peak professional body for management consultants in Australia. The IMC is a member of the International Council of Management Consulting Institutes (ICMCI).¹⁹ Mr Peter Westlund, the National President and Board Chair of the IMC gave evidence that of the approximately 90,000 management consultants in Australia, around 300 are members of the IMC. Concerningly, his evidence was that no members of the Big 4 consultancies were, at the date of that hearing, members of the organisation.²⁰
- 6.18 IMC's role is to 'promote excellence and integrity in the management consulting profession, to improve the knowledge and skill of management consultants with respect to their roles, duties and responsibilities and to encourage and require

¹⁴ Mr Channa Wijesinghe, CEO, Accounting Professional and Ethical Standards Board, *Committee Hansard*, 23 February 2024, p. 21.

¹⁵ Mr Andrew Yates, Chief Executive Officer, KPMG, *Committee Hansard*, 27 September 2023, p. 46

¹⁶ Chartered Accountants Australia & New Zealand (CA ANZ), *Submission 20*, p. 6.

¹⁷ Chartered Accountants Australia & New Zealand (CA ANZ), *Submission 20*, p. 7.

¹⁸ See for example, Accounting Professional & Ethical Standards Board Limited (APESB), *Submission 17*, p. 2 and The Centre for Public Integrity, *Submission 58*, pp. 69–70.

¹⁹ The Institute of Management Consultants, *Submission 30*, p. 3.

²⁰ Mr Peter Westlund, National President and Board Chair, Institute of Management Consultants Australia, *Committee Hansard*, 7 June 2024, p. 4.

the highest professional standards and ethics among management consultants'.²¹

6.19 The IMC submitted that:

Unlike other professions, the management consulting profession is not regulated in Australia: anyone who wants to call themselves a management consultant can do so, unlike accountants, financial advisors, engineers, health professionals, lawyers etc who all have to meet the accreditation requirements of the relevant professional or regulatory bodies before they can practice.²²

...

Where legislation does not require a licence to practice and there is no regulator, professional organisations are crucial in maintaining professional standards, especially the competency and ethics in the practice of management consulting.²³

6.20 The IMC submitted that members of its organisation are governed by a Code of Ethics, and the International Standard ISO 20700:2017 Guidelines for Management Consultancy Services (ISO 20700). Breaches of the Code of Ethics may be reported by clients, the public or a member of the IMC. When a complaint is received, a constitutional disciplinary procedure is instituted to investigate and recommend appropriate action.²⁴

6.21 The IMC advised that in relation to disciplining members for unethical conduct, the directors may resolve to warn, suspend or expel a member from the Institute.²⁵

6.22 Therefore, while the IMC does have some influence over members, it does not appear that it can issue or enforce a wider sanction or ban on an individual member (unlike, for example, a law society on a legal practitioner who has behaved unethically), and of course, the relevant codes and standards that it applies would not apply to consultants who choose not to be a member, which currently is the majority of consultants in Australia.

Options for consideration

6.23 Throughout this inquiry, the committee has received evidence from several submitters who have provided suggestions and recommendations for addressing the lack of regulation of consultants who are engaged by the

²¹ The Institute of Management Consultants, *Submission 30*, p. 4

²² The Institute of Management Consultants, *Submission 30*, p. 9.

²³ Mr Peter Westlund, National President and Board Chair, Institute of Management Consultants Australia, *Committee Hansard*, 7 June 2024, p. 1.

²⁴ The Institute of Management Consultants, *Submission 30*, p. 8.

²⁵ The Institute of Management Consultants, *Submission 30*, p. 8.

government. The suggestions and recommendations made will be discussed in this section.

Structural and regulatory changes

Imposing a cap on external consultants

- 6.24 To support rebuilding the capacity of the APS and employing more public servants, several submitters suggested introducing a cap on the engagement of consultants and using an in-house consulting service to address the gap that will initially arise from reducing the number of consultants (such as Australian Government Consultancy which is discussed in more detail in Chapter 3 of this report).
- 6.25 The Centre for Public Integrity (CPI) submitted that consideration should be given to the benefits of a cap on spending on external consultations, as well as the form this could take.²⁶ However, it considered that a 'hard cap' would be unworkable, but a 'soft cap'—similar to that which previously existed in the UK—could be designed in such a way that it achieves a reduction in the overreliance on consultants while avoiding rigidity.²⁷
- 6.26 CPI advised that the use of an in-house consultancy service and partnerships with research institutions could address issues that may arise when first reducing spending on external consultants without paralysing the ability of the APS to meet its key responsibilities.²⁸
- 6.27 CPI acknowledged that 'there is likely always going to be a need for the engagement of specialised consulting services where technical expertise would be uneconomical to maintain within the APS, but much of this specialised knowledge could be developed and maintained through an in-house consulting model, where a team with specialised and technical knowledge can work collaboratively with APS staff who have sectoral knowledge to keep skills within the public sector and produce better outcomes'.²⁹
- 6.28 Ms Rosie Collington, Researcher at the UCL Institute for Innovation and Public Purpose, provided the committee with an example of the experience in Denmark. In 2019, Denmark introduced a 50 per cent cut (over three years) on the amount that could be spent on consultants, and concurrently established an in-house public sector consultancy that was then able to do many of the tasks

²⁶ The Centre for Public Integrity, *Submission 58*, pp. 31–32.

²⁷ The Centre for Public Integrity, *Submission 58*, pp. 31–32.

²⁸ The Centre for Public Integrity, *Submission 58*, p. 20.

²⁹ The Centre for Public Integrity, *Submission 58*, p. 22.

that other government departments had been contracting out to external consultancies.³⁰

Separating audit from consulting

6.29 Several submitters stated that to avoid the conflicts of interest that are prevalent in this current system, a professional services firm cannot provide both auditing and consultancy services.

6.30 Professor Allan Fels AO, professor of law and economics at Melbourne and Monash universities and former Australian Competition and Consumer Commission (ACCC) chair, submitted that:

Audit is critical to the economy and should not be compromised unnecessarily. Non-audit activities have the potential to compromise the conduct of audit. Self-regulation can't be relied upon, nor can government regulation. We therefore need legislation to break up the big four—and, in time, other audit businesses—and to prohibit audit businesses from doing consulting, advisory and other forms of business.³¹

6.31 Professor Fels contended that while a breakup may appear 'radical', it is 'far simpler and more effective than alternative methods of dealing with the conflicts of interest that inevitably arise when auditing or non-auditing is done by the sector. In fact, the industry and regulators have been edging towards separation for years'.³²

6.32 He noted several factors add to the need for separation:

Firstly, there are already inherent conflicts of interest in doing auditing insofar as the audit firm has to report independently on the company that pays it. It's a difficult enough job without overlaying other potential conflicts of interest. Secondly, the market is highly concentrated. That means that there is a rather relaxed climate in which conflicts of interest can be accepted as the norm. The finance sector, of which auditing is a part, is particularly poor at handling conflicts of interest. Measures to resolve conflicts in this sector usually work badly in practice, are steadily eroded over time and are poorly enforced by regulators.³³

6.33 Dr Julia Anaf, Research Fellow with the Stretton Institute, University of Adelaide, agreed with this view, arguing that auditing and consultancy practices have to be split:

There's a lot of talk about that, and there are many recommendations to say that the same firm that does auditing can't give taxation advice and consultancy advice. They have to do one or the other... there should be at

³⁰ Ms Rosie Collington, Researcher, UCL Institute for Innovation and Public Purpose, *Committee Hansard*, 7 June 2023, p. 67.

³¹ Professor Allan Fels, private capacity, *Committee Hansard*, 17 July 2023, p. 2.

³² Professor Allan Fels, private capacity, *Committee Hansard*, 17 July 2023, p. 2.

³³ Professor Allan Fels, private capacity, *Committee Hansard*, 17 July 2023, p. 2.

least eight of these firms and they should have to compete with each other on a greater basis but not by being able to walk both sides of the street.³⁴

- 6.34 CPI advised there has been a 'blurring of the line between audit and non-audit consultancy services' and this has led to questions regarding audit quality and independence.³⁵ They noted that conflicts of interest can arise where firms provide services to the same client with conflicting functions – such as auditing, which is legally independent or investigative, and consulting, which is facilitative.³⁶
- 6.35 They also warned that a lack of auditor independence can have 'wide-reaching implications for financial stability and accountability of institutions, with potential for broader economic and social impact' and as such, there are serious questions about whether the Big 4 should be split into separate audit and non-audit segments'.³⁷
- 6.36 CPI provided suggestions on two ways to separate the audit and consulting parts of an organisation. The first is to create two legal entities, one for the audit practice and one for the consulting practice, ensuring that the two arms are entirely separate regarding finances and liability. The second approach suggested was to separate the two arms by employing different personnel for each area.³⁸
- 6.37 In advocating for this approach, Professor Fels indicated that there is 'strong opposition to this proposal from the industry' and that it is unlikely to voluntarily break up, and that this would require legislation.³⁹

Redefining partnerships

- 6.38 As discussed previously in this report, the CPI also noted the fact that the 'Big 4' are partnerships rather than incorporated companies produces transparency deficiencies, insofar as they are not subject to the reporting, compliance, and governance obligations imposed on companies by the *Corporations Act 2001* and are largely outside the jurisdiction of ASIC.⁴⁰ Consultancy firms that are partnerships are not required to lodge certain financial reports to ASIC. The disclosure of such information to the public would likely increase transparency

³⁴ Dr Julia Anaf PhD and Professor Fran Baum AO PhD, *Committee Hansard*, 2 May 2023, p. 20.

³⁵ The Centre for Public Integrity, *Submission 58*, p. 82.

³⁶ The Centre for Public Integrity, *Submission 58*, p. 82.

³⁷ The Centre for Public Integrity, *Submission 58*, p. 82.

³⁸ The Centre for Public Integrity, *Submission 58*, p. 86.

³⁹ Professor Allan Fels, Private Capacity, *Committee Hansard*, 17 July 2023, p. 2. See discussion of Scyne Advisory in Chapter 5.

⁴⁰ The Centre for Public Integrity, *Submission 58*, p. 87.

around conflicts of interest and taxation, and consideration should be given to how this can be addressed.⁴¹

- 6.39 Additionally, while the Corporations Regulations 2001 (Cth) limits partnerships of legal practitioners to up to 400 partners, accounting partnerships are able to have up to 1,000 partners without, in its view, an adequate justification provided for this difference.⁴²
- 6.40 Mr Adam Powick, CEO of Deloitte acknowledged that once a partnership gets above 100 equity partners, it becomes quite a complex organisation reasonably sophisticated governance and management systems and processes are required, including regulation.⁴³
- 6.41 The committee understands that the historical basis for the partnership structure of firms which were established initially as auditing firms is due to the requirement that audits must be signed off by an individual. In this circumstance, a partnership structure appears to be more accountable than, for example, a corporate structure, which does not have the same direct personal accountability.
- 6.42 While the committee has received a great deal of evidence in relation to the size of partnerships and the failure of their regulatory structures—and the committee agrees that this matter should be reviewed—the committee did not receive enough specific evidence in relation to this point to determine what changes to the current partnership structure of large firms would be appropriate.

The need for an independent regulator

- 6.43 Given the current patchwork of regulation surrounding consultants, several submitters have argued that an independent regulator is needed.
- 6.44 CPI has recommended that an independent statutory authority for consulting be established, with powers and resources to set technical and ethical standards, evaluate compliance, and impose meaningful sanctions for transgressive firms and individuals.⁴⁴ Such an authority could take the form of a new, independent authority, or a dedicated office within an existing body, such as the Australian National Audit Office (ANAO).⁴⁵

⁴¹ The Centre for Public Integrity, *Submission 58*, p. 87.

⁴² The Centre for Public Integrity, *Submission 58*, p. 87.

⁴³ Mr Adam Powick, Chief Executive Officer, Deloitte, *Proof Committee Hansard*, 23 February 2024, p. 52.

⁴⁴ The Centre for Public Integrity, *Submission 58*, pp. 69-70.

⁴⁵ The Centre for Public Integrity, *Submission 58*, pp. 69-70.

- 6.45 They suggested that the functions of such an authority in respect of consulting services provided to government could include:
- setting technical and ethical standards;
 - monitoring and reporting on compliance with the provisions of the procurement framework, with own-motion powers to investigate reported breaches;
 - providing guidance to government officials on procurement-related matters including how to achieve value-for-money;
 - conducting analysis of trends in order to identify areas where public sector capacity should be supplemented; and
 - acting as a repository for outputs.⁴⁶
- 6.46 Further, they noted that if there were a cap on the use of or spending on consultants, this authority could also be the body from which permission is needed to use consultants when a department has reached its cap.⁴⁷
- 6.47 A similar approach was proposed by Emeritus Professor James Guthrie, AM, Professor Jane Andrew and Dr Erin Twyford. They recommended that an independent statutory body be established that has oversight of the consulting industry.⁴⁸
- 6.48 Dr Erin Twyford explained that this is similar to the New Zealand model, which includes establishing a statutory authority that:
- ...oversees everything that's happening, taking a whole-of-government approach, which would report annually and provide transparency and also make recommendations, with the opportunity for agencies to respond as well so there's not a monologue happening.⁴⁹
- 6.49 Additionally, Dr Twyford noted that the New Zealand model's authority would 'comprise public servants, and they would oversee the contracts and consulting activities in all Commonwealth bodies'. Further, there could be a performance capability framework that the authority could ensure compliance against.⁵⁰
- 6.50 In considering this issue, and industry specific regulation in general, Professor Fels indicated to the committee that 'a good case has been made for having a separate regulator. Certainly, self-regulation does not work'. However, he cautioned:

⁴⁶ The Centre for Public Integrity, *Submission 58*, pp. 69–70.

⁴⁷ The Centre for Public Integrity, *Submission 58*, pp. 69–70.

⁴⁸ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, pp. 1–2.

⁴⁹ Dr Erin Twyford, *Committee Hansard*, 2 May 2023, p. 14.

⁵⁰ Dr Erin Twyford, *Committee Hansard*, 2 May 2023, p. 13.

...the history of industry-specific regulation in general has not been that happy because often they tend to be captured. They often identify with the interests of those they are regulating. They are often not big enough, they're not well resourced, they're not strong enough or well equipped enough to do the job. So, probably, there is a case for some kind of regulation, particularly in the light of all the problems we're hearing about, but it needs careful thought and attention as to how it's done.⁵¹

New regulations and a code of conduct

- 6.51 Throughout this inquiry, it has become clear there is no established code of conduct that applies to management consultants as a profession. This leads to a lack of alignment with the APS Code of Conduct when consultants are undertaking work for the government.
- 6.52 Of the current system of regulation, Professor Fels said 'it doesn't seem to work in this field. It's soft, it's not very strongly enforced, it is confusing because quite a few different government entities are involved and getting evidence is a very hard job'.⁵²
- 6.53 Emeritus Professor Guthrie, AM, Professor Andrew and Dr Twyford gave evidence that there are:
- '...few enforcement measures for integrity breaches and unethical behaviour by consultants. Professional bodies, such as the accounting and legal professional associations, take limited action about the misdemeanours of their members who are partners at Big 4 consulting firms. Primarily, whistle-blowers and investigative journalists reveal conflicts of interest and unethical behaviour'.⁵³
- 6.54 Earlier in this Chapter, the APES 110 Code of Ethics was discussed, as this applies to some consultants. The committee also considered the advice from Department of Finance (Finance) that it is progressing a Supplier Code of Conduct which can be used in future contracts with consultants.
- 6.55 However, the committee received evidence that a 'legislated, mandated code of conduct that has real teeth' is required.⁵⁴
- 6.56 As mentioned above, the CPI recommended that a new regulator with appropriate powers could set the technical and ethical standards for

⁵¹ Professor Allan Fels, Private Capacity, *Committee Hansard*, 17 July 2023, p. 7.

⁵² Professor Allan Fels, Private Capacity, *Committee Hansard*, 17 July 2023, p. 2.

⁵³ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, p. 3.

⁵⁴ Mr Micheal Tull, Assistant National Secretary, Community and Public Sector Union, *Committee Hansard*, 2 May 2023, p. 37.

management consultants, monitor and report on compliance and impose meaningful sanctions for transgressive firms and individuals.⁵⁵

- 6.57 Dr Mark Zirnsak, Uniting Church, recommended a whole-of-government 'debarment process', giving the example of the World Bank's process, noting that it lists the companies that it has debarred from being able to get World Bank contracts because of criminal conduct and corrupt conduct.⁵⁶ He further stated:

You want government to raise the bar and actually say, 'If you want to work with us as government, we're going to pick the ethical companies—the companies that we can trust and that we know will obey the law and, even better, operate at high ethical standards.'⁵⁷

- 6.58 In making this recommendation, Dr Zirnsak noted the challenge with such a process is to actually use it.⁵⁸
- 6.59 The committee also heard examples of other governments, that were able to take strong action in response to poor and unethical behaviour by consulting firms. One example provided related to Bain & Co, a Boston based global management consulting firm. The British government banned Bain & Co, from tendering for UK government contracts for three years because of its 'grave professional misconduct' in South Africa. Subsequently, the South African Treasury imposed a ten-year ban on Bain & Co from tendering for government contracts for its role in 'state capture'.⁵⁹
- 6.60 The Community and Public Sector Union (CPSU) gave evidence that there is discretion under the Commonwealth Procurement Rules to exclude companies, but there is no clear service-wide policy framework for debarment and suspension. The CPSU noted that Western Australia recently introduced Australia's first debarment and suspension regime which is broad and enables the cancellation of existing contracts and has some retrospectivity. They suggested that a similar debarment and suspension regime should be developed at a Commonwealth level to be a 'strong stick to dissuade consultancies from engaging in unethical behaviour'.⁶⁰

⁵⁵ The Centre for Public Integrity, *Submission 58*, p. 69–70.

⁵⁶ Dr Mark Zirnsak, Senior Social Justice Advocate, Synod of Victoria and Tasmania, Uniting Church, *Committee Hansard*, 18 July 2023, p. 1.

⁵⁷ Dr Mark Zirnsak, Senior Social Justice Advocate, Synod of Victoria and Tasmania, Uniting Church, *Committee Hansard*, 18 July 2023, p. 7.

⁵⁸ Dr Mark Zirnsak, Senior Social Justice Advocate, Synod of Victoria and Tasmania, Uniting Church, *Committee Hansard*, 18 July 2023, p. 1.

⁵⁹ Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA, *Submission 5*, p. 1.

⁶⁰ Community and Public Sector Union, *Submission 6*, p. 15.

Treasury consultation paper: Regulation of accounting, auditing and consulting firms in Australia

6.61 While the committee was unable to ascertain the views of government departments, including Finance,⁶¹ on larger reforms and regulations regarding consultants, it notes that in May 2024, Treasury published a consultation paper considering some of these issues. The Treasury paper seeks stakeholder feedback and views on issues for government consideration in relation to the regulation of accounting, auditing and consulting firms.⁶²

6.62 The consultation paper discusses the shared legislative framework between the Commonwealth and the States and Territories, the role of the various professional bodies and issues including transparency, enforcement powers and the protection of whistle-blowers.⁶³ It also canvasses potential issues, including:

- the joint governance and sharing of profits between audit partners and non-audit partners may create conflicts of interest which pose risks to auditor independence; and
- the absence of legislatively enforceable ethical standards for partners of multi-disciplinary and consulting firms that are not working in the regulated industries, including audit, insolvency, financial services and tax.⁶⁴

6.63 Further, the consultation paper provides that the following issues warrant further consideration:

- the adequacy of prescribed governance requirements for large partnerships;
- the adequacy of current professional standards, regulations and laws (including those relating to independence and the management of conflicts of interest);
- whether the transparency requirements for accounting, auditing and consulting firms are sufficient to:
 - give capital markets confidence that independent audit services are delivered in accordance with prescribed laws and standards; and
 - enable stakeholders to obtain the information they need to inform their engagement with the firm(s).
- the adequacy of regulatory enforcement capabilities and standard setting;

⁶¹ Department of Finance, answers to written questions on notice from Senator Richard Colbeck, 12 April 2024 (received 24 April 2024).

⁶² The Treasury, [Regulation of accounting, auditing and consulting firms in Australia – Consultation paper](#), May 2024 (accessed 13 May 2024).

⁶³ The Treasury, [Regulation of accounting, auditing and consulting firms in Australia – Consultation paper](#), May 2024 (accessed 13 May 2024).

⁶⁴ The Treasury, [Regulation of accounting, auditing and consulting firms in Australia – Consultation paper](#), May 2024 (accessed 5 June 2024).

- the protection of whistleblowers; and
- competition/resilience in the audit sector.⁶⁵

6.64 The paper also seeks feedback on a range of topics, including the current governance of companies and partnerships, whether conflicts of interest are appropriately managed and whether powers and resources dedicated to regulatory oversight are sufficient.⁶⁶

6.65 As the committee is considering a number of these topics in this inquiry, it will keenly follow the progress of this consultation, noting that feedback has been sought by 28 June 2024 by Treasury.

Parliamentary oversight—case study

6.66 The evidence to this committee demonstrates that oversight and effective management of consultancy contracts is essential to ensure that the Australian government is obtaining value for money, and that appropriate ethical standards are met. As discussed in Chapter 3, the Australian Government spent \$3.272 billion on management advisory contracts in 2022-23, which represents 4.37 per cent of the total value of procurement contracts. Another area of government expenditure of similar value is major capital works.⁶⁷ This area of expenditure is subject to parliamentary oversight through the Parliamentary Standing Committee on Public Works. The role and functions of this committee are summarised below.

Role and membership of the Public Works Committee

6.67 The Parliamentary Standing Committee on Public Works (Public Works Committee) is a joint committee of the Parliament, constituted by the *Public Works Committee Act 1969* (Public Works Act). Its website states:

The Committee conducts inquiries into matters referred to it by either House of the Parliament or the Governor-General pursuant to the provisions of s18 of the *Public Works Committee Act 1969*.⁶⁸

6.68 The following information is largely drawn from Public Works Committee Procedure Manual (Public Works Manual) that sets out its operations.⁶⁹

⁶⁵ The Treasury, [Regulation of accounting, auditing and consulting firms in Australia – Consultation paper](#), May 2024 (accessed 6 June 2024).

⁶⁶ The Treasury, [Regulation of accounting, auditing and consulting firms in Australia – Consultation paper](#), May 2024 (accessed 13 May 2024).

⁶⁷ Public Works Committee, *Eighty Seventh Annual Report*, 27 March 2024.

⁶⁸ [See the Public Works Committee’s website here.](#)

⁶⁹ House of Representatives Parliamentary Standing Committee on Public Works, [Public Works Committee Procedure Manual: Version 9.6 December 2022](#) (Public Works Committee Procedure Manual) (accessed 5 June 2024).

6.69 The Public Works Manual observes:

All major capital works projects delivered by the Commonwealth require Parliamentary approval. The focal point of Parliamentary approval is the Parliamentary Standing Committee on Public Works (the Committee).

The Committee is established under the *Public Works Committee Act 1969* (the Act) and is one of the oldest committees of the Australian Parliament. Its membership includes six Members of the House of Representatives and three Senators.

The Committee processes allow the Parliament and the community a measure of confidence that public monies are being spent on infrastructure that meets the needs of the community.

Under the Act, the Committee is required to consider the need, scope, cost, purpose and value-for money of proposed works and report to the Parliament whether or not it is advisable that the works proceed.⁷⁰

6.70 The Public Works Manual is intended to be used by entities that are developing public works projects, alongside other resources including the Public Works Act, as they are responsible for 'determining whether the Act applies to a particular project, and if so for ensuring that they comply with their obligations'.⁷¹

6.71 Regarding projects that must be scrutinised by the committee, the Public Works Manual states:

The Act specifies that all public works proposed to be undertaken by, or on behalf of the Commonwealth, estimated to cost in excess of a threshold amount must not commence until:

- the work has been referred to the Committee; and
- the Committee has reported to the Parliament; and
- House of Representatives approval has been obtained.

The current threshold amount is \$15 million as set by Section 18(9)(a) of the Act. This amount is exclusive of GST, unless GST is not recoverable.⁷²

Entities should also understand that the Committee must be notified of all proposed public works projects with an estimated cost between \$5 million⁷³ and \$15 million, including from the Department of Defence (excluding GST, unless GST is not recoverable), referred to as 'medium works'. Public works projects for defence purposes with a value of between \$15 million and \$75 million are also required to be notified to the Committee. Public works

⁷⁰ Public Works Committee Procedure Manual, p. iii.

⁷¹ Public Works Committee Procedure Manual, p. 1.

⁷² Note: on 23 March 2015, the referral threshold for defence works was increased from \$15 million to \$75 million. Public Works Committee Procedure Manual, p. 4.

⁷³ Note: from 1 January 2023 the lower medium works threshold was increased from \$2 million to \$5 million. Public Works Committee Procedure Manual, p. 4.

in this category are referred to as medium works. Under certain circumstances the Committee may inquire into medium works.⁷⁴

Committee membership and current inquiries

- 6.72 The Public Works Committee is a joint committee, consisting of six Members of the House of Representatives and three Senators. All members are set out [on the committee's website here](#).
- 6.73 The Public Works Act sets out the procedures for members to be appointed, and for the Chair and Deputy Chair to be chosen. By convention, the Chair is a member of the government, and the Deputy Chair a non-government member.
- 6.74 A list of current inquiries, completed inquiries, and other relevant information can be found [on the committee's website here](#).

Responsibilities referrals, and inquiry processes

- 6.75 The Public Works Committee is required to consider and report on all public works that are referred to it with regard to its terms of reference, namely:
- the stated purpose of the proposed work and its suitability for that purpose;
 - the need for, and advisability of, the work;
 - the cost-effectiveness of the proposal;
 - if revenue-producing, the amount of revenue the work will produce if that is its purpose; and
 - the current and prospective public value of the work
- 6.76 Referrals can be made through either House of Parliament, or more rarely by order of the Governor-General through the Executive Council when both houses are adjourned for a period of over one month.⁷⁵ Referrals are coordinated by the Department of Finance's Policy and Analysis Branch, which is also a first point of contact for proponents working on a project requiring scrutiny by the Public Works Committee.⁷⁶
- 6.77 Public works can be in Australia and its external territories, or overseas, and are defined in Section 5 of the Act as including:
- the construction, alteration, repair, refurbishment or fitting-out of buildings and other structures (including demountable buildings);
 - the installation, alteration or repair of plant and equipment designed to be used in, or in relation to, the provision of services for buildings and other structures;
 - the undertaking, construction, alteration or repair of landscaping and earthworks (whether or not in relation to buildings and other structures);

⁷⁴ Public Works Committee Procedure Manual, p. 4.

⁷⁵ More information on referrals is available at Public Works Committee Procedure Manual, pp. 9–10.

⁷⁶ Public Works Committee Procedure Manual, p. 9.

- the demolition, destruction, dismantling or removal of:
 - buildings and other structures;
 - plant and equipment; and
 - earthworks;
- the clearing of land and the development of land for use as urban land or otherwise; and any other matter declared by the regulations to be a work.⁷⁷

6.78 Once referred to the Public Works Committee, an inquiry is undertaken into the proposed public work. The proponent must provide two submissions, one public that sets out the proposal, and the other confidential, which contains detailed costings. In order to satisfy the above terms of reference, the Public Works Committee will:

- seek public comment on the proposal [or, if more suitable, seek in-camera evidence];
- hold a public hearing with the proponent entity and any other relevant bodies (individuals and/or organisations who have made comment on the proposal);
- hold an in-camera hearing with the proponent entity on the project costs; and
- may undertake a site inspection [at the discretion of the committee].⁷⁸

6.79 This informs a Public Works Committee report to both Houses of Parliament on whether it is 'expedient' (appropriate) for the proposed work to proceed. Under the Act, the Public Works Committee is also able to recommend alterations to the project as it sees fit.

Parliamentary approval

6.80 After the Public Works Committee has reported to both houses of Parliament, the proposed project cannot proceed until the House of Representatives has resolved and passed a motion that 'it is expedient to carry out the works'.

6.81 The Public Works Committee can make any recommendations it sees fit. However, a report's final recommendation will be:

- if the Committee is satisfied that the project has merit 'that the House of Representatives resolve that it is expedient that the works be carried out'; or

⁷⁷ The Public Works Committee Procedure Manual contains more definitional aspects of public works, including works that are not considered public works. See particularly pp. 7–8. It also sets out particular requirements for scrutiny of public-private partnerships, at pp. 10–11.

⁷⁸ Public Works Committee Procedure Manual, pp. 5–6. The Public Works Committee Procedural Manual provides more information on all these processes used to receive and seek evidence to inform the Public Works Committee's inquiries at pp. 36–43.

- if the Committee is not satisfied that the project has merit 'that the work does not proceed'.

6.82 Following parliamentary approval, the proponent can progress with the project.

6.83 Any additional recommendations made by the committee must be addressed appropriately, if agreed to by the Government, and the Public Works Committee informed on progress of implementation. Additionally, works can be re-referred back to the Public Works Committee for further consideration; the Public Works Committee has the power to ensure any relevant earlier reports can be reconsidered and reviewed. In particular:

If after the works have been approved there are significant changes to project scope, delivery timeframe, cost, function or design, the Committee must be advised and may choose to make a further report to the Parliament on the work.⁷⁹

Follow-up activities

6.84 It is a requirement that the proponent must update the Public Works Committee on any significant changes to the 'scope, time, cost, function or design for all projects' in writing. Additionally, entities must also report on any specific recommendations made by the Public Works Committee in its report.⁸⁰

6.85 Within three months of completion, entities are required to submit to the Public Works Committee a post-implementation report. As with the submission made by the proponent to the committee on proposals, this includes:

- a public-facing document outlining that the project was completed within the advised scope, cost and timeframe; as well as
- a confidential section reviewing confidential matters such as 'risk management, contractual and consultation processes, lessons learned and user satisfaction'.⁸¹

6.86 The purpose of this report is:

...to enhance accountability and transparency, and to assist entities to identify any lessons learned. Over time, post-implementation reporting may also help to establish an entities' 'track record'.⁸²

6.87 This report is not only considered by the Public Works Committee, but also provided to Finance for data collection and review.⁸³

⁷⁹ Public Works Committee Procedure Manual, pp. 6–7.

⁸⁰ Public Works Committee Procedure Manual, p. 32.

⁸¹ Public Works Committee Procedure Manual, p. 33.

⁸² Public Works Committee Procedure Manual, p. 13.

⁸³ Public Works Committee Procedure Manual, p. 13.

Chapter 7

Committee view and Recommendations

Introduction

- 7.1 Australia's spending on consultancy services is proportionally greater than any other country. In the past two decades the Australian Government has relied increasingly on consultants to undertake work for the Australian Public Service (APS), with the bulk of this work performed by the Big 4 consulting firms (Deloitte, EY, KPMG, and PwC).
- 7.2 As indicated in earlier chapters of the report, the growth in expenditure on consultants has approximately trebled every decade for the last 30 years.
- 7.3 The increased use of consultancy services has not been accompanied by an increase in APS capacity to effectively conduct procurement activities and manage contracts. Instead, increased use of consultants has limited the capability growth of the APS, given rise to occasions of serious conflict of interest and been accompanied by questions about transparency. It has also resulted in enormous costs to the APS for work that is often opaque and, in some instances, raised genuine questions regarding value for money.
- 7.4 The first two reports the committee delivered focused on PwC Australia's conduct at the time of a breach of confidentiality, investigation by the Tax Practitioners Board (TPB) and subsequent failure to effectively manage and disclose the breach.
- 7.5 In this third, and final report, the committee has taken a wider view to examine the management and assurance of integrity by consultancy services generally, with a focus on the Big 4. The committee has considered the Australian Government procurement framework, the reliance on consultants by the APS, contract management by the APS, the culture in the Big 4 firms and options to regulate the consulting industry. The evidence provided to the committee in this inquiry has convinced the committee that action is required.
- 7.6 In this chapter the committee provides its views drawn from the evidence collected in submissions to this and other concurrent inquiries, and Senate Estimates hearings, and sets out a course to address the serious issues that have been raised. The committee's recommendations, taken together, are designed to support the achievement of four objectives:
- To **enhance APS capability** to perform its core functions for the Australian people and the government, and its capability to effectively procure consultancy services and manage contracts.
 - To **increase transparency** so that the nature, scope, and scale of consultancy services provided across the APS is collected centrally and made available.

- To establish **appropriate regulation and integrity assurance** of the consulting services industry.
- To **provide oversight** by the Australian Parliament of the now significant expenditure on consultancy and services contracts.

PwC Matter

- 7.7 The committee has issued two reports that focus on the events brought about by the breach of a confidentiality agreement by Mr Peter Collins and PwC, *PwC: A Calculated Breach of Trust* and *PwC: The Cover up Worsens the Crime*.
- 7.8 While the committee does not feel the need to repeat all that has gone before in those reports, we remain concerned that the committee's core recommendation has not been reflected in the actions of PwC. In particular, the failure to release the now infamous Linklaters advice which relates to the international elements of this matter, leaving the committee little option but to conclude that the failure to release this material is to protect the organisation from further scrutiny and consequences of their actions.
- 7.9 The committee expresses concern at the evidence from the TPB that the confidential information was used more broadly than to promote tax avoidance schemes through Project North America. Rather, it was used to influence the direction of negotiations to reform international tax systems.
- 7.10 The committee notes that there remain nine investigations underway by the TPB, a continuing investigation being conducted by the Australian Federal Police and ongoing Australian Tax Office discussions with the 'large business five' countries plus two others.
- 7.11 The committee repeats its recommendation directed to PwC in its first report.

Recommendation 1

- 7.12 **The committee recommends that PwC be open and honest with the Australian Parliament and people, and with the international community, by promptly publishing accurate and detailed information about the involvement of PwC partners and personnel (including names and positions) in the breach of confidential government information.**

Engagement of consultants by the APS

- 7.13 The committee acknowledges that consultants will continue to be engaged to provide expertise and other specialist services that the APS cannot be reasonably be expected to retain. However, the committee agrees that there is room for improvement in how the APS manages its engagement of consultants.

Differences in core values must be managed

- 7.14 Consulting firms in Australia owe a primary obligation either to their shareholders, or to their partners, depending on their legal status. Some partners

and employees in consulting firms must adhere to additional standards, for example the APES 110. Officers in the APS are bound by the APS values and code of conduct and must work to achieve the best results for the Australian community and government. Both consultants and APS employees must operate within the law and other professional codes as applicable.

- 7.15 The motivations and values of consulting firms and the APS are different; however, are not necessarily incompatible. In a liberal democratic country like Australia there are a range of actors with different obligations and motivations. Each actor does not need to have the same obligations and motivations to work with the other.
- 7.16 The committee considers that these differences must be managed to ensure that the Australian Government can obtain value for money, maintain confidentiality, gain knowledge, and ensure the public interest is served. The legal structures that the consulting industry operate within, as well as to whom primary obligations are owed, require targeted integrity assurances and management.
- 7.17 The committee notes that the ethical standard that applies to accounting practices, APES 110 (which many consultancy firms claim to be bound by or operate under) has a requirement that professional accountants operate in the public interest.
- 7.18 It is the committee's view that Australian Government contracts must operate to ensure that the values of the respective systems are properly applied in the conduct of contracts supporting consulting works.

Recommendation 2

- 7.19 The committee recommends that the Department of Finance update the Contract Management Guide to require that Australian Government contracts include a clause that states service providers have a duty to act in the public interest when delivering work for the Australian Government.**

APS capability to procure and manage contracts with consultancy firms

- 7.20 The Australian Government relies on consultants to undertake certain necessary work for the APS when the skills are not available internally. There will be times when consultants are needed to investigate a particular issue, carry out a review or assessment to provide independent advice or suggest solutions to assist with APS decision making. Sometimes this work will also be technical and intermittent so there is little justification to retain a full-time employee.
- 7.21 However, the sustained increase in the use of consultants has not been accompanied by an increase in capacity of the APS. The committee finds this concerning.

- 7.22 Contract management is the principal way in which the APS manages the consultants that it engages. This includes planning for the contract, procurement, monitoring performance, managing variations, managing disputes and evaluating the final product or service delivered to ensure it meets the required standard and represents value for money.
- 7.23 The committee strongly agrees that writing a good tender requires deep knowledge of whatever is being consulted on and that the level of capability of the public service directly impacts the quality of the consulting service that the government receives. That said, even the most experienced and diligent APS officer could encounter difficulties in managing contracts with large consultancy firms.
- 7.24 The committee is supportive of and welcomes measures to increase the capacity of the APS. The committee has outlined in this report a range of measures announced, and in some instances, implemented, by the Australian Government to address this issue. For example, Australian Government Consulting (AGC), which is intended to provide in-house consulting services to the APS, and procurement and contract management training. The committee welcomes these efforts; however, it is too early to assess the effectiveness of these measures, and more is needed.
- 7.25 The committee expresses concern at the capacity of AGC to meet the requirements of the APS. With a total capacity of 38 staff at full proposed employment in 2024–25, the scale of works that might be possible will be limited.
- 7.26 The committee notes recent evidence from Senate Estimates hearings that the scale of projects the AGC is currently undertaking is relatively small compared with those contracted to other consulting firms including the Big 4. While a standard sized project for AGC is one that requires three to four people for three to four months, this would be a relatively small project for one of the Big 4 firms.
- 7.27 The committee remains concerned about the APS's lack of capability when it comes to procurement decisions and the effective management of contracts with consulting firms. The committee agrees that the APS's ability should be enhanced in this area.

Recommendation 3

- 7.28 The committee recommends that the Department of Finance improve the training of officials undertaking procurement to ensure that the Australian Public Service is adequately equipped to ensure that value for money is obtained in circumstances where it is deemed necessary to engage consultants.**

Transfer of knowledge from consultants to the APS

- 7.29 As noted earlier, the committee acknowledges that consultants will continue to be engaged to provide expertise and other specialist services that the APS cannot be reasonably be expected to retain.
- 7.30 The committee considers that the transfer of knowledge gained or generated from the conduct of the consultancy must be appropriately factored into the design and conduct of the contract to ensure a continued growth in knowledge in the agency. Further, the transfer of knowledge should be monitored during the progress of the contract, measured, and appropriately reported as a part of the evaluation of the value for money and contract assessment reconciliation.
- 7.31 The way knowledge transfer is achieved may vary on a contract-by-contract basis. The committee is of the view that in many circumstances the best way to achieve adequate knowledge transfer is through the implementation of a 1:1 staffing ratio of consultants to APS staff on each project.
- 7.32 The committee considers that the incorporation of knowledge transfer into the contracts entered into by the APS and consultants will increase the capability of the APS into the future.

Recommendation 4

- 7.33 The committee recommends that the transfer of knowledge from the consultant to the Australian Public Service be factored into the design, management and evaluation of contracts.**

The procurement framework

- 7.34 The committee notes the development of the Commonwealth Resource Management Framework (procurement framework) over the last 10 years, including the introduction of the *Public Governance, Performance and Accountability Act 2013*. The committee also notes that although the Department of Finance is responsible for the stewardship of the procurement framework, it does not have a compliance role in managing Commonwealth procurements.
- 7.35 This report has noted the recent establishment of the Management Advisory Services panel for the engagement of consulting services, and the development of a new Head Agreement which requires a service provider to disclose any adverse findings made by a court, commission, tribunal or any other statutory or professional body regarding the conduct of the service provider. However, the committee is concerned that this system relies on service providers, that is, consultants, to voluntarily disclose any misconduct.
- 7.36 The committee welcomes the development of the Supplier Code of Conduct (Code), which will place a positive duty on suppliers to prevent and discourage breaches of the Code. However, the draft Code does not explicitly require Commonwealth suppliers to act in the public interest or explicitly comply with

the APS Values. Given a Commonwealth supplier, including a consultant, is contracted to assist the Commonwealth fulfil its fundamental obligations to the Australian community, it is unclear why this has been omitted from the draft Code.

- 7.37 Many partners of the Big 4 are subject to APES 110 as they are accountants. The aim of APES 110 is to require compliance with the fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour. The committee considers this might provide a starting point for development of a professional code for consultants. The committee reiterates that professional standard APES 110, which many consultancy firms claim to be bound by or operate under, has a principal which requires its adherents to 'operate in the public interest'.

Recommendation 5

- 7.38 **The committee recommends that the Department of Finance amend the Supplier Code of Conduct to include a requirement for service providers to:**

- **act in the public interest; and**
- **incorporate elements from the professional standard APES 110 that align with public sector values.**

The Department of Finance should also publish guidance to illustrate examples of conduct that are consistent with these values.

Management of conflicts of interest

- 7.39 The committee has examined how conflicts of interest are managed by consulting firms when they arise and is concerned that there are insufficient integrity assurances in place. Adding to the committee's concerns is the advice from the Department of Finance that it does not have access to a list of clients of the consulting firms and is unable to check itself whether a consulting firm might be undertaking work that would put it in a conflicted position. Rather the onus is on the consulting firms to responsibly manage conflicts of interest.
- 7.40 The committee notes the added complexity of managing the conflicts of interest of consulting firms in the Australian market because it is dominated by a small number of very large players, that is the Big 4, who have substantial business interests across the economy.
- 7.41 The committee considers that there should be a clear and consistent definition of what constitutes a conflict of interest, a conflict-of-interest breach, and expectations around the management of conflicts of interest. It is also important that APS staff who manage contracts require consultants to regularly update any conflict declarations to ensure that active disclosure occurs and information is up to date.

Recommendation 6

- 7.42 The committee recommends that the Department of Finance review its guidance on conflicts of interest and provide a clear and consistent definition of what constitutes a conflict of interest, a conflict-of-interest breach, and expectations around the management of conflicts of interest. The guidance should also emphasise that active management of conflicts of interest must be an element of APS project management of the contract.
- 7.43 Further, the committee considers that any conflicts of interest breaches should be held in a central register for use by government entities to promptly identify breaches for new/existing tenders and require government entities to consult the register before considering tenders (and any breaches must be publicly reported).

Recommendation 7

- 7.44 The committee recommends that the Department of Finance develop a central register for conflicts of interest breaches for use by government entities.

AusTender

- 7.45 AusTender should be an important tool for transparency of government expenditure. The committee heard that AusTender is difficult to navigate and a separate website (Love Me Tender) has been established to interpret the information that AusTender can provide. As a tool that public servants rely on to effectively manage their procurement activities, it is concerning that AusTender is not more user-friendly. The committee notes that the Department of Finance is currently working on improvements to AusTender.

Recommendation 8

- 7.46 The committee recommends that the Department of Finance improve the useability of AusTender by including:
- detailed, consistent and meaningful descriptions of contracts;
 - clarity on the nature of contract extensions including links to the original contract notification; and
 - information on any concerns raised in relation to the service provider.

Regulation of the consulting industry

Scrutiny of self-regulated professions and the consulting sector

- 7.47 The regulation and oversight of entities takes a number of forms in the Australian economy, with structures and regulatory agencies that have developed and been reformed over time.
- 7.48 Companies and corporations are managed via Australia's well developed corporate regulatory system. Some professions have oversight provided by a

combination of structures including partnership law and self-regulation standards. These bodies are provided with their standing via a combination of State, Territory and Commonwealth laws.

- 7.49 Consulting firms, that have been at the centre of the committee's considerations, fall very much into the latter category. However, they do not carry the status of a 'profession'. They therefore operate in a grey area of regulation. In considering this question the committee is cognisant of the extraordinary range in scale of consultancies: a consultancy may be a 'mum and dad' small partnership providing local services, through to a multi-national partnership like the Big 4. For this reason, the committee is concerned about how any proposed new regulation might impact different consultants. Any new regulations should therefore be proportionately tailored to the scale of the business.
- 7.50 Accordingly, the committee is proposing a range of measures to deal with the issues that have been brought to light through the conduct of the inquiry.

Partnership structure and size

- 7.51 In Chapter 6 the committee considered evidence that the Big 4 are partnerships rather than incorporated companies, and that this produces transparency deficiencies, insofar as they are not subject to the reporting, compliance, and governance obligations imposed on companies by the *Corporations Act 2001* and are largely outside the jurisdiction of ASIC. Additionally, while the Corporations Regulations 2001 (Cth) limits partnerships of legal practitioners to up to 400 partners, accounting partnerships can have up to 1,000 partners. It is not clear to the committee what the justification is for this difference.
- 7.52 It has become clear that large partnership structures, which operate effectively as corporations, and often as multi-national corporations, are not subject to the same regulatory oversight and declaration requirements as those constituted under a corporate structure.
- 7.53 While there is some rationale for the structures as they exist, for example the requirement for an audit to be signed and certified by a real person, the development of these partnerships has developed well beyond that rationale to the extent that audit is not the majority of work performed. The partnership structure brings with it the rationale that all partners are jointly and severally liable and therefore have an interest in maintaining scrutiny and oversight of operations.
- 7.54 However, the events of the last two years at PwC demonstrate that in organisations of that scale it is simply not possible for a partner to have the level of oversight required to effectively protect their individual interests. Many partners of PwC have learnt that lesson at their own significant cost in the aftermath of that scandal.

- 7.55 Indeed, the committee heard that once a partnership grows beyond 100 partners it becomes difficult for partners to effectively manage their individual interests. In evidence to the Senate Standing Legislation Committee for Economics Estimates hearings, ASIC advised that while partnerships are legislated at a state and territory level, there is effectively no regulatory oversight infrastructure to monitor and provide oversight of partnerships.
- 7.56 It is the committee's view that for organisations of the scale of PwC, KPMG, Deloitte, and EY that this is not acceptable and that reform in this area is required, particularly for partnerships in excess of 100 partners.
- 7.57 In evidence to the committee, Treasury posed questions that should be asked when considering regulation. The committee notes that Treasury has recently issued a discussion paper considering this matter. The committee considers that the evidence to this inquiry demonstrates that the question of these large-scale partnerships is one that needs to be investigated.
- 7.58 The committee has received a great deal of evidence about large partnerships and the failure of their regulatory structures. It is the view of the committee that the question of large partnerships and their regulatory structures should be reviewed. However, the committee has not received enough evidence to make specific recommendations and acknowledges that partnerships over 100 partners also includes large legal organisations.
- 7.59 The committee notes that the Australian Law Reform Commission (ALRC) can make recommendations that government should make or consolidate particular Commonwealth laws, repeal unnecessary laws, work towards uniformity between state and territory laws, or facilitate complementary Commonwealth, state, and territory laws. In that context the committee believes that a review of partnership structures should be undertaken by the ALRC, or other appropriate body.

Recommendation 9

- 7.60 The committee recommends that the government commissions the Australian Law Reform Commission, or other appropriate body, to undertake a review of the legislative frameworks and structures of partnerships in Australia with particular focus on partnerships in excess of 100 partners. The review should make recommendations to provide for appropriate regulatory governance and oversight of structures of this scale.**

Professional standard schemes

- 7.61 The committee considers that for the APS to be assured of the integrity of the consulting services that it procures, improved oversight and regulation of bodies like Chartered Accountants Australian and New Zealand (CA ANZ), CPA Australia, and the Institute of Public Accountants (IPA) is required (these bodies represent chartered accountants, only some of whom are consultants).

- 7.62 The committee is concerned that where Parliaments have given the privilege of self-regulatory structures to professional bodies, such as the above, it is appropriate that there is a level of scrutiny as to how those self-regulatory structures and standards are managed and applied. Professional standards are established and regulated under a series of state, territory and Commonwealth legislation that comes together under the Professional Standards Council.
- 7.63 While the committee acknowledges that this arrangement is a form of regulation which can work effectively, this inquiry has raised questions in relation to the application of some standards systems. Accordingly, the committee is of the view that organisations that operate under those arrangements should report on an annual basis to the Parliament which provides the imprimatur for the standards with the opportunity for parliament to interrogate those annual reports.

Recommendation 10

7.64 The committee recommends that the Australian government:

- **require those organisations that operate professional standards as self-regulatory regimes, to report annually on the operation of those standards to the Joint Standing Committee on Corporations and Financial Services; and**
- **require these same organisations to appear before that committee to provide oversight on the operation of the relevant standard.**

The committee recognises that the Commonwealth government may need to work with state and territory governments to implement this recommendation.

Need for strong and independent regulators

- 7.65 The Committee notes that the revelations that led to the establishment of this inquiry would not have occurred without the diligence and determination of Australia's regulatory bodies. The committee is concerned at the evidence that indicated attempts to influence the progress of investigations and deems any such attempts to be unacceptable. The committee commends the work of the TPB in its work to date and anticipates the outcome of the remaining investigations.
- 7.66 The committee received evidence that unlike professions such as accounting, law, medicine, and engineering, there is no specific registration regime for consultants. This can result in some consultants being subject to no oversight and others being subject to multiple overlapping oversight and regulatory regimes (for example if the person is also a legal practitioner or a registered tax agent). As a result, some standards apply to some consultants, creating an uneven gap in regulation.

- 7.67 As indicated in earlier chapters of the report, provision of consulting services to the Australian Government have approximately trebled every decade since the 1980s. There has however not been the development of parliamentary oversight mechanisms in the same way there has been for capital works projects through the Public Works Committee which is one of the oldest parliamentary committees which was established in 1913.
- 7.68 As a comparison, an analysis of the annual report of the Public Works Committee shows the committee considered projects to the value of \$3.7 billion in 2023. A compilation of data by the committee shows consultancies and services contracts in excess of \$3.0 billion over the same period. While capital works projects considered by the committee require provision of costing to a level of confidence for approval prior to commencement, and approval of any increase in project budget, as well as assessment of projects at completion, consultancies and services have no such parliamentary oversight.
- 7.69 The conduct of IT services contracts has been particularly problematic and infamous for cost overruns, for example, the Parliamentary Expenses Management System (PEMS).
- 7.70 The committee considers that the establishment of a Joint Standing committee of the Parliament with provisions similar to those applied by Joint Standing committee for Public Works would be an appropriate mechanism to provide oversight to this significant public spend.

Recommendation 11

- 7.71 The committee recommends that the Parliament legislate to establish a Joint Standing Committee to review and approve consultancy and services contracts with provisions and thresholds similar to those in the *Public Works Act 1969* but appropriately adjusted to suit the requirements of providing oversight for this significant element of government spending.**

Recommendation 12

- 7.72 The committee recommends that the Senate pass the following order:**

That:

- **there be laid on the table, by the Minister for Finance, biannual statements on expenditure on consultancy contracts which provide for consideration to the value of \$2million or more, by all Australian Public Service departments and agencies;**
- **the statements are due not later than the tenth day after the end of the preceding six-month period commencing 1 January and 1 July;**
- **each report is to include, in relation to each contract, details of the:**
 - **dollar value;**
 - **subject matter;**

- duration;
 - contracting government agency;
 - firm or entity providing the work;
 - an explanation of what the contract is expected to deliver/purpose of the contract;
 - any changes or extensions; and
 - any matters of probity or conflict of interest that have arisen in the conduct of the work.
- each report is to include the total amount of all current consultancy contracts in each agency or department.
 - The order is of continuing effect until the Senate Finance and Public Administration References Committee has reported to the Senate that Recommendation 8 and 11 of this report have been implemented.

Senator the Hon Richard Colbeck
Chair
Liberal Senator for Tasmania

Government Senators' Additional Comments

- 1.1 It was late in the evening of Senate Estimates on the 15th of February 2023 that Tax Practitioners Board (TPB) CEO Michael O'Neill first placed on the public record that '20 or 30 people' at PwC had colluded in the misuse of confidential Australian Government information. Mr O'Neill's admission, which was followed by questions on notice to the (TPB), resulted in the 2 May 2023 release of 144 pages PwC's internal emails.¹ In the almost 18 months since those initial revelations, the consulting sector, and the nature of government engagement with these firms, has faced immense scrutiny. This report documents the wide range of ethical failures within the consulting sector to which the committee has borne witness. It also provides recommendations which are designed to create essential safeguards within government procurement practices, and protect Australian information, interests, and governmental integrity.
- 1.2 The conditions for consultant infiltration of the Australian Public Service (APS) did not occur spontaneously, as the Abbott, Turnbull and Morrison Coalition Governments instituted policies that directly undermined the APS, and by extension, the integrity and security of our government departments and information.² The Coalition instituted an APS average staffing level cap, which undermined the capacity of the APS to undertake even key government functions, and saw a dramatic increase of the use of consultants under Coalition governments.³ Australian Government spending on consultants tripled between 2010 and 2020 to over 1 billion dollars⁴, and under the Morrison Government in 2021-2022 the five largest consultancies amassed \$2 billion in contracts.⁵ This increasing reliance on consulting firms also existed within the context of close personal and professional relationships between consulting firm

¹ Mr Michael O'Neill, CEO, Tax Practitioner's Board, *Committee Hansard*, Senate Economics Legislation Standing Committee, 15 February 2023, pp. 105–106.

² Senator the Hon Katy Gallagher, '[Rebuilding and rebalancing public service critical for Australia's future](#)', *Canberra Times*, 6 May 2024 (accessed 11 June 2024).

³ RMIT ABC Factcheck, '[Promise check: Abolish the average staffing level cap in the Australian Public Service and increase the number of permanent employees](#)', 28 May 2024 (accessed 11 June 2024).

⁴ Consultancy.com.au, '[Federal government spend on big 7 consulting firms tops \\$1 billion](#)', 30 March 2021 (accessed 11 June 2024).

⁵ Tom Burton, '[Consultants banned from public service core work](#)', *Australian Financial Review*, 23 October 2023 (accessed 11 June 2024).

leadership and former Coalition Ministers Josh Frydenberg⁶, Matthias Cormann^{7,8}, and Michael Sukkar.⁹

- 1.3 In contrast, the Albanese Labor Government's first budget removed the Average Staffing Level Cap, indicating a renewed faith in the public service as well as a reduction in expenditure from conversion of over \$800 million over the forward estimates.¹⁰
- 1.4 The Albanese Government has also taken decisive legislative action to address key failures within the consulting sector, both in terms of procurement guidelines and in ensuring that the structure and powers of regulatory bodies are fit for purpose. This includes the TPB's expanded compliance programmes for high-risk practitioners, reforms to promoter penalty laws, enhancements to the Code of Conduct for Tax Practitioners and Tax Regulator Secrecy Laws Review¹¹, as well as the creation of an in-house public service consulting capacity.¹²
- 1.5 The PwC tax leaks scandal, and the wave of ethical failures subsequently exposed at other large consulting and audit firms, has struck at the very core of Australians' faith in the integrity of corporate Australia, and of the way in which such entities engage with government. The Albanese Government has been swift in responding to these emergent issues, and in restoring faith in the integrity of the public service and regulatory bodies, and the appropriateness of relevant legislation. This report builds upon work already undertaken by the Albanese Government in these areas.
- 1.6 This report is comprehensive in its account of historic and present ethical failures facing the consulting sector, and the way in which these failures have presented a clear and significant danger to the integrity, effectiveness and efficiency of the Australian Government and the APS. The recommendations of

⁶ Daniel Ziffer, ['A damning contradiction during questioning of former PwC boss Luke Sayers means plenty more scrutiny is on the horizon'](#), *ABC News Online*, 16 October 2023 (accessed 11 June 2024).

⁷ Mr Luke Sayers, Executive Chairman, Sayers Group, *Committee Hansard*, 12 October 2023, pp. 36, 37.

⁸ Myriam Robin and Mark Di Stefano, ['Luke Sayers who? PwC and the network that wasn't there'](#), *Australian Financial Review*, 18 February 2024 (accessed 11 June 2024).

⁹ Jotham Lian, ['Former PwC accountant joins Tax Practitioners Board'](#), *Accountants Daily*, 16 August 2021 (accessed 11 June 2024).

¹⁰ RMIT ABC Factcheck, ['Promise check: Abolish the average staffing level cap in the Australian Public Service and increase the number of permanent employees'](#), 28 May 2024 (accessed 11 June 2024).

¹¹ The Treasury, [Response to PwC – Tax Regulator Information Gathering Powers Review](#), Consultation Paper (period 3 May–31 May 2024) (accessed 11 June 2024).

¹² Senator the Hon Katy Gallagher, Minister for the Public Service, ['Appointments to the Australian Government in-house consulting'](#), *Media Release*, 4 December 2023 (accessed 11 June 2024).

this report, if implemented, will continue to meaningfully improve the procurement practices of the government, and provide additional assurance that taxpayers money is being spent in ways that are truly of benefit to the Australian people.

- 1.7 Issues of professional accountability, regulatory reform and the inherent pitfalls of partnership structures did not fall within the terms of reference for this inquiry, and as such are not meaningfully addressed by the recommendations of the report. The Parliamentary Joint Committee on Corporations and Financial Services is currently undertaking a separate inquiry which explicitly engages with issues including governance and compliance obligations, firm structure, the scope and power of disciplinary bodies, and the internal management of conflicts of interest. The Parliamentary Joint Committee's report will build upon this report of the Senate Finance and Public Administration References Committee, and move beyond the issue of Government procurement practices to provide recommendations which speak to the fundamental ethical malaise of Big Four Firms, and the importance of addressing structural challenges within the sector.

Senator Deborah O'Neill
Substitute Member
Labor Senator for New South Wales

Senator Louise Pratt
Deputy Chair
Labor Senator for Western Australia

Australian Greens Additional Comments

A Very Public Swindle: Ending the Cost, Conflict and Regulatory Failure in Big Consulting and Rebuilding the Public Sector

Australian Greens' recommendations

- 1.1 The Australian Greens make the following recommendations in relation to the Finance and Public Administration References Committee's report into the management and assurance of integrity by consulting services:

Recommendation 1

The Australian Greens recommend that the Australian Government ensure that:

- PwC (or any of its related entities) should not be permitted to tender for government work until all matters arising from current investigations (eg by the Tax Practitioners Board (TPB), the Australian Federal Police (AFP), the Australian Taxation Office (ATO) and the National Anti-Corruption Commission (NACC) are completed, including investigation of recently surfaced matters related to preparation of responses to Request for Information notices for PwC clients and involvement in Foreign Investment Review Board approval processes.
- further, PwC should not be permitted to contract for government work until it has provided the Linklaters report to the Australian Senate.
- in view of its misdemeanours in the misuse of confidential information, PwC should be excluded from government contracting for 5 years.

Recommendation 2

The Australian Greens recommend that:

- in view of the investigations underway extending back to 2012, any consulting entity led by Mr Luke Sayers should be excluded from Australian Government contracting until those investigations are concluded and any of their implications in relation to Mr Sayers considered and concluded.
- a ban from Australian Government contracts of at least 5 years should apply to any consulting entity led by its previous CEO, Mr Luke Sayers, who held leadership in the years of PwC's confidentiality misdemeanours.

Recommendation 3

The Australian Greens recommend:

- that the Australian Government requires departments and agencies to reduce spending on external consulting services by 15 per cent each year for five years and offset that decline with growth in public sector capacity.
- that employment numbers in the Australian Public Service (APS) grow at least in line with population growth in Australia.

Recommendation 4

The Australian Greens recommend that the Australian Government commit to lifting APS wages at least in line with inflation and improve other employment conditions at least in line with community standards.

Recommendation 5

The Australian Greens recommend that the Australian Government require:

- the Department of Finance to create a Contract Probity Office to exercise central oversight over government procurement, complementing devolved management of procurement.
- that the Contract Probity Office have the power to follow up when contracting failures occur in a department or agency and impose penalties and take regulatory action, modelled on Western Australia's debarment and suspension regime which enables the cancellation of existing contracts.
- that the Commonwealth Procurement Rules be amended to ensure they apply to all corporate Commonwealth entities.
- that either the Joint Committee on Public Accounts and Audit or the Australian National Audit Office conduct an annual review of consulting services in Commonwealth departments and agencies, highlighting systemic and significant issues or failures.

Recommendation 6

The Australian Greens recommend that the Australian Government:

- require entities with government contracts to publish their client lists.
- require consultants undertaking public sector work to avoid any conflict of interest, actual or perceived, and disclose details of any material personal interest in connection with their contract.
- institute stronger investigative and enforcement mechanisms to ensure actual and perceived conflicts of interest are disclosed, investigated, penalised, and appropriately managed.
- ensure that undeclared conflicts of interest should attract a 5-year ban on public sector work.
- ensure that any consulting firm under investigation by a regulatory body must advise the government and cannot tender for new work until it is cleared.
- create a register of banned firms and individuals.

Recommendation 7

The Australian Greens recommend that the Australian Government ensure more effective management of government contracts, with effective costing, control, milestone management and active management of 'land-and-expand' and power and relationship mapping.

Recommendation 8

The Australian Greens recommend that the Australian Government require publication on AusTender the size and reasons for any amendments or variations to a contract.

Recommendation 9

The Australian Greens recommend that AusTender be improved by:

- expanding AusTender disclosure requirements about the nature of work and its purpose.
- requiring publication on AusTender for the reasons for contract termination.
- improving the usability of the AusTender website.

Recommendation 10

The Australian Greens recommend:

- that the Senate agree to an order of continuous effect to require the production of consultant reports, including draft versions that were never finalised, at the completion of each significant contract to ensure greater value for money and transparency.
- that the Senate conduct an annual Estimates process in relation to major consulting contracts, where consultancy firms can be required to appear.

Recommendation 11

The Australian Greens recommend that any entities tendering or contracting to the Australian Government be banned from making political donations (direct, indirect, in-kind, pro-bono or otherwise) in the 12 months before applying for contracts, while an application is being considered, or 12 months after contract obligations have been completed.

Recommendation 12

The Australian Greens recommend that the Australian Government stop the revolving door by enforcing a 1-year cooling-off period for:

- partners in partnerships and/or executives in consulting and other entities that have held a significant contract with government in the last 12 months from commencing in the public service.
- APS Senior Executives commencing with an entity that has contracted to government in the last 12 months in a related form of business.
- senior staff in a Minister's office from commencing with an entity that has contracted to government in the last 12 months.

Recommendation 13

The Australian Greens Recommend that the Australian Government require that:

- the cooling off period for former Ministers and senior staff in the Code of Conduct for Ministers is extended from 18 months to 5 years, with strong enforcement.
- the Australian Public Service Commission to monitor and regularly publish data on the movement of personnel to and from the Australian Public Service and the largest 20 contractors to government.
- there is a review of current arrangements, to ensure that consultants with access to Government departments, including Defence, have appropriate passes and access which do not compromise security and enable land-and-expand.

Recommendation 14

The Australian Greens recommend that the Australian Government:

- amend the *Corporations Act 2001* to lower the maximum number of partners for accountants to 100.
- ensure that the states and territories refer their remaining power to regulate large partnerships to the Commonwealth.
- legislate transparency and reporting requirements for large partnerships as apply to corporations under the *Corporations Act*.
- ban the use of Everett Assignments and that the Government tax the distributions from trusts at the company tax rate of 30 per cent.

Recommendation 15

The Australian Greens recommend that any firm providing audit services in Australia be prevented from providing non-audit services, including when engaging in business with the Australian Government.

Recommendation 16

The Australian Greens recommend that the Australian Government:

- acknowledge that voluntarist and self-regulation has failed in the consulting sector and that enforceable standards are required, including powers of investigation and penalties.
- establish an Independent Regulator for the consulting industry, with an enforceable professional code of conduct, national standards, investigation powers and penalties for breaches.
- consider giving responsibility for regulating professional services in one independent institution, with investigative and enforcement powers.

Recommendation 17

The Australian Greens recommend that the Australian Government:

- require that all consultancy and accounting firms must have the same whistleblower obligations as corporations under the Corporations Act.
- establish a National Whistleblower Commission.

Recommendation 18

The Australian Greens recommend that the use and misuse of legal professional privilege to combat legitimate investigations of consultancy

malpractice should be reviewed and stricter rules and specific protocols be developed to limit misuse.

Recommendation 19

The Australian Greens recommend that greater transparency of confidential tax settlements be provided, and clear protocols be established for their use.

Recommendation 20

The Australian Greens recommend, to ensure robust regulation that is free of actual or perceived conflicts of interest or possible capture:

- that the Australian Government ban partners and former partners of consulting firms and other entities who are in receipt of income from those partnerships or entities, from membership of regulatory and standards setting boards for that industry.
- that the ban extend to anyone who has within the last 6 months received a material benefit, from such an entity;
- and, further, is a former executive officer of a company that is currently regulated by that entity if any of the following apply: the individual is receiving regular and ongoing benefits, or has within the last 6 months received a material benefit, from a company regulated by that entity; or if the individual holds shares in the company.

Recommendation 21

The Australian Greens recommend that the Australian Government ensure robust investigation, and that regulators and investigators be protected from insecurity, political pressure or other forms of threat or constraint while conducting investigations.

Recommendation 22

The Australian Greens recommend that the Senate consider options available to it in relation to KPMG's misleading and incorrect evidence to the inquiry.

Structure of the Australian Green's Additional Comments

1.2 The Additional Comments of the Australian Greens covers the following matters:

- Section 1: Introduction
- Section 2: PwC, Mr Peter Collins and PwC Leadership
- Section 3: A robust public sector working in the public interest
- Section 4: Donations and political capture
- Section 5: Structure and regulation of big consultants
- Section 6: Conclusion.

Section 1: Introduction

1.3 On behalf of the Australian Greens, we thank all the individuals and organisations who participated in this 14-month long inquiry. Thank you to the witnesses that appeared at the 10 days of hearings, to those that provided the 61 submissions, and to all the insiders and whistleblowers who reached out and

bravely told their stories about life in the consulting sector—often at the threat of potential damage to their employment.

Our Additional Comments: Going beyond the committee's report

- 1.4 The Australian Greens thank the committee for the report summarising evidence received through this inquiry, and we thank the committee members who have worked to shine a light on a dark chapter. We also thank the committee secretariat for their very effective work.
- 1.5 Chapters one-to-six of the committee's report provide an accurate account of the large body of evidence received by the committee. We largely concur with the account of this evidence.
- 1.6 While there has been much shared cross-party outrage at evidence we have heard through this inquiry, we hold different views on the necessity, scope and urgency of a response to what we term 'a very public swindle'.
- 1.7 The 12 recommendations set out in chapter 7 of the committee's report offer some steps to address issues raised through this inquiry. **However, the committee's recommendations do not go far enough.** They do not address the magnitude and scope of problems this inquiry has uncovered.
- 1.8 Specifically they do not address the issue of political donations by big consultants, the revolving door in and out of government, the inadequacy of penalties for PwC, the pressing need for structural reform to cap big partnerships' size, and to address conflicts of interest and the opaque nature of big partnerships.
- 1.9 More actions, and more urgent steps, are essential and, as initiators of this inquiry, we offer these Additional Comments to that end.

What went wrong? Our perspective

- 1.10 This inquiry began on 9 March 2023, when the Greens moved a motion to establish an inquiry to pursue the overreliance of the Australian Government on consulting firms, the erosion of the public service, the opaque industry of consulting, and any related matters.
- 1.11 Like many Australians, the Australian Greens have long been aware of the ethical failures, unchecked conflicts of interest, and lack of regulation in the consulting and auditing sector. The scandals in this sector are frequent, global in nature, and many never see the light of day.
- 1.12 The extraordinary expansion of consultants into our public sector over recent years has had dire consequences: it has gifted billions to the Big Four while cannibalising funding for essential public services; it has given too much power to small numbers of influential people who have assiduously and deliberately farmed a tight network of close relationships for personal benefit—across the big end of town and into governments and regulatory bodies. In too many places, a

very profitable network is evident, circulating through revolving doors that spin across the sector. This corrupts our democracy.

- 1.13 PwC is the worst case on many of these counts. But it is far from the only miscreant. A concentric circle of unacceptable behaviours widens out from the initial PwC 'bad apple' scenario that began with Peter Collins' egregious behaviour monetising confidential government information to assist some of the world's biggest multinationals avoid tax and earn millions for PwC.
- 1.14 That circle widened to a much larger and still unknown group in PwC in Australia and internationally, and beyond them, to expose a swag of conflicts of interest, poor governance, ethical failures, state capture and regulatory weakness across the larger consultancy sector and parts of the public institutions that deal with it.
- 1.15 There are many good people in all these organisations who have watched in dismay. Some who are innocent of any wrongdoing have lost income or jobs as the circles of this scandal have rippled outward. Many insiders and whistleblowers have taken great risks.
- 1.16 Others, like those who led PwC through years of ethical failure, have—so far—walked away with large rewards, saying they knew nothing and taking no responsibility.
- 1.17 History tells us that crises of this kind can create momentum and fuel structural reform. It is vital that we, as Churchill put it, understand the past in order to avoid repeating it.
- 1.18 This was our aim in initiating this inquiry: to understand and to remedy the structural and systemic factors that underpin this series of scandals and to ensure proper transparency and governance into the future.

The power and dominance of the Big Four accounting firms

- 1.19 Very large consultancy firms like the Big Four—PwC, KPMG, EY, and Deloitte—are essentially pseudo-corporations. These firms are very large private partnerships not corporations, and as such they lack the accountability, transparency and obligations of other large firms in our economy. Their tax arrangements are unjustifiably different and lesser: they do not pay corporate tax, or payroll tax on partner earnings, their public accountability obligations are meagre, and their obligations to whistleblowers are weak.
- 1.20 Further, the structure of these very large entities and their involvement in audit as well as consultancy creates conflicts of interest that demand proper regulation and governance.
- 1.21 It is time to remedy this. The Big Four accounting firms wield enormous political and economic power in Australia. Between them they earned more than

\$11 billion in revenue in FY23 and together they account for 70 per cent of total revenue earned by the top 100 accounting firms in Australia.¹

- 1.22 They provide a range of services to some of the biggest corporations and wealthiest individuals in Australia. The Big Four audited around 40 per cent of all listed companies between 2012-18, and they audited 90 per cent of the ASX 200 companies over the same period.²
- 1.23 The Big Four CEO's, partners, and leadership are paid very high salaries. For example, Luke Sayers was paid over \$30 million in his 8 years as CEO of PwC between 2012-2020, with a peak of \$4.5 million in 2019.³ The top earning 20 per cent of partners at EY and PwC earn more than \$1.3 million each annually.⁴
- 1.24 Australian governments at both a federal and state/territory level contribute millions to the bottom line of the Big Four even as they corrode the capacity of the public sector and crowd out the public interest. Federal Government contracts make up around 25 per cent of revenue at the Big Four every year.⁵ Over the past decade, the Big Four have received \$8.5 billion in contracts from the Federal Government.⁶
- 1.25 According to recent data, the Australian Government is amongst the highest spenders on consultants in the world.⁷ We are out of line internationally. This must change. The Labor Government has recognised this problem and made a

¹ Data from Edmund Tadros, 'Revealed: Australia's best accounting firms in 2023', [AFR Online](#), 14 November 2023 (accessed 11 June 2024).

² Treasury submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC CFS), Inquiry into Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry (Ethics and Professional Accountability inquiry), *Submission 50*, p. 2.

³ PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 30 June 2023 (received 21 July 2023), p. 20.

⁴ Edmund Tadros, 'One in five EY, PwC partners earns more than \$1.3m', [AFR Online](#), 26 September 2023 (accessed 11 June 2024).

⁵ For example, see evidence provided by Mr Adam Powick, Chief Executive Officer, Deloitte *Committee Hansard*, 17 July 2023, pp. 17, 28–29 and 30. See also EY, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023), p. 4; KPMG, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023), pp. 2–3; PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023), p. 3.

⁶ AusTender data as of May 2024.

⁷ Angus Grigg, Jessica Longbottom, Jonathan Miller and Maddison Connaughton, 'Consulting firm KPMG overcharged Defence while raking in billions of dollars, whistleblowers say', [ABC Online](#), 7 August 2023 (accessed 11 June 2024).

range of commitments. More is needed, and this report sets out our recommendations on the wide range of measures needed.

What went wrong?

1.26 A myriad of scandals have surfaced in relation to the work of consultants and big accounting firms, including:

- conflicts of interest extending from PwC's monetisation of confidential government information about tax to assist large multinationals to multiple others including 'walking both sides of the street' and the heavy use of the revolving door along with many other conflicts;
- structural conflicts of interest that arise from providing both audit and non-audit services to the same entities;
- aggressive 'land and expand' consultant activities: once landed, creating and expanding profitable new or extending existing contracts;
- the active mapping of government departments and relationships to maximise commercial gain;
- inflated invoices to government and billing for hours not worked or work not completed or on time;⁸
- overbudgeting the time and skill of consultants on contracts that are then completed with less time and lower skilled workers;
- many examples of poorly detailed but profitable contract overruns and contract extensions;
- very high rates of consultant profit;
- business models of 'growth at all costs' that drive pursuit of profit and override ethical practice;
- fraudulent schemes involving partners that are not appropriately disclosed or managed;⁹
- weak, untimely or inappropriate actions (including direct pressure) by regulators with effects that advantage big consultants and individuals within them;
- Foxes in the hen house: membership of regulator machinery by those with close association or vested interests in those they regulate (including receipt of income or close personal relationships from those they regulate);
- Exploitative employment relationships that put profit generation and long hours well ahead of decent working conditions, psychological safety at work, and employee well-being.

1.27 These are just some of the actions and effects of entities with a huge amount of power, deep political networks, and too little accountability. Many Australians

⁸ Edmund Tadros, 'KPMG accused of inflating Defence invoices, billing for hours never worked', [AFR Online](#), 6 August 2023 (accessed 11 June 2024).

⁹ Simone Fox Koob and Nick McKenzie, 'Deloitte Australia chief executive admits to investing in allegedly fraudulent scheme', [Sydney Morning Herald](#), 16 February 2023 (accessed 11 June 2024).

have been shocked to learn of them, and want to see action to prevent them in the future.

- 1.28 These amount to a large, very public swindle—one that reaches across the public sector and beyond.

Addressing the Swindle: Our Key Recommendations

- 1.29 Our Additional Comments address four domains and recommend a range of essential actions.

PwC

- 1.30 PwC has committed serious misdemeanours and has yet to provide full details of who did what as the scandal within it widened. It has resisted requests for transparency and provision of reports and faces a range of serious investigations that remain underway.
- 1.31 As result, PwC (or any of its related entities) should not be permitted to tender for government work until all matters arising from current investigations (eg by the TPB, the AFP, the ATO, the NACC or the parliament) are completed, including investigation of recently surfaced matters related to preparation of responses to Request for Information notices for their clients and involvement in Foreign Investment Review Board approval processes.
- 1.32 Further, PwC should not be permitted to contract for government work until it has provided the Linklaters report to the Australian Senate.¹⁰ Finally, we recommend that a long term ban from government contracts of at least 5 years should apply to PwC and to any consulting entity led by its previous CEO, Luke Sayers, who held leadership in the years of PwC's misdemeanours.

Rebuild the public sector in the public interest, delivering value for money

- 1.33 The Australian Government must reduce its overdependence on external consultants by ratchetting down annual spending on consultants by 15 per cent a year and offsetting that decline with growth in public sector capacity.
- 1.34 It must rebuild the skills, capability and capacity of the public sector, acting in the public interest, and confining consultancy and outsourcing to genuine specialist and surge demands, excluding their involvement in core functions.
- 1.35 Further the government must clean up procurement by more effectively managing and regulating contracts and contractors, and better governing conflicts of interest and contract failures.

¹⁰ In May 2023, PwC appointed the international law firm, Linklaters, to 'form an independent assessment of what happened in relation to the unacceptable sharing of confidential information by PwC Australia with PwC personnel outside of Australia'. Linklaters handed its report to PwC in late September 2023. See PwC, [Statement on Linklaters' PwC Network Review](#), 27 September 2023 (accessed 11 June 2024).

Ending political donations and political capture

- 1.36 The Big Four consulting firms donated over \$6.6 million to the Australian Labor Party (ALP) and the Liberal-National Coalition (Coalition) between 2013 and 2023.¹¹
- 1.37 We must put a stop to political donations from those who contract to government, including direct, indirect, in-kind and any form of donation.
- 1.38 We must also end attempts at political and economic influence through the use of the revolving door: that is, the recruitment of public officials to their ranks to harvest commercial opportunities, and the reverse: rotating big consulting staff through the public sector (through secondment, contracts and direct employment) to do the same.
- 1.39 The revolving door must be better managed in the face of the power and influence of big consultants and the competitive commercial advantage they cultivate which creates risks of poor value for money, inappropriate privatisation of public work, and risks to security of public agencies including defence.

Structure and Regulation

- 1.40 The concentration of money and power within big consulting and accounting firms in Australia, combined with the opaque partnership structure and a weak regulatory system has given rise to the scandals and cover ups evidenced through this inquiry.
- 1.41 It is time to restructure the rules around big consultants and their regulators. At least four steps are essential.
- 1.42 The size of consultancy and accounting partnerships should be reduced from 1000 to 100. There should be structural separation of audit from non-audit work. Built in conflicts of interest should be prevented by requiring those firms doing audit work to be precluded from doing non-audit work.
- 1.43 Large accountancy and consultancy entities should not be able to shelter behind opaque partnership or other arrangements that enable them to avoid the level of accountability and transparency that Australians expect and most large Australian business entities must provide.
- 1.44 And finally, there is a strong case for an Independent Regulator of the consulting sector which should be established to set, investigate and enforce industry and professional standards. Self-regulation and voluntary self-discipline have failed.
- 1.45 We dedicate these Additional Comments to the courage and foresight of our friend and colleague the late Fraser Brindley, who helped make this inquiry happen.**

¹¹ Australian Electoral Commission (AEC), [Transparency Register](#) (accessed 11 June 2024).

Section 2: PwC, Mr Peter Collins and PwC Leadership

- 1.46 As the committee's report states, the committee has already published two reports focussed on the events brought about by the breach of confidentiality by Mr Collins and PwC which the company monetised to assist large multinational clients to avoid tax and to recruit new clients.¹²
- 1.47 These breaches by Mr Collins have resulted in three regulatory consequences for him to date. The TPB terminated his registration as a tax agent, prohibited him from reapplying for registration for two years. Further, the Australian Securities and Investments Commission, prohibited Mr Collins from working in financial services for 8 years.
- 1.48 The TPB penalty for PwC was a requirement that it provide appropriate training about conflicts of interest to relevant partners and staff on a 6-monthly basis and report on this to the TPB. That is the limit of the penalty to date for PwC, with a much larger penalty for its one-designated to date-'bad apple' Mr Collins. No other partners or leaders in PwC have received a direct penalty.
- 1.49 The committee's previously published inquiry reports deal with the specific issue of PwC's monetising confidential tax information.
- 1.50 However, answers to Senator Barbara Pocock's Questions on Notice provided in late May 2024 (in the final days of this inquiry) reveal a wider set of ATO concerns about PwC behaviour.¹³ Further to the very sparse evidence provided by the ATO to the inquiry on 26 September 2023, we now know that Mr Hirshhorn, ATO Second Commissioner, raised seven areas of concern at his meeting with Mr Luke Sayers, PwC CEO, in August 2019.¹⁴
- 1.51 A number of these had not been previously put on the public record, namely:
- assisting clients in the preparation of responses to Request for Information (RFI) notices for clients where material in those responses was false or misleading to the knowledge of the PwC staff involved;

¹² See the committee report at p. 82. The earlier reports of the committee were titled *PwC: A calculated Breach of Trust* and *PwC: The Coverup Worsens the Crime*, and are available on [the committee's website here](#).

¹³ Australian Taxation Office, answers to questions on notice from a public hearing of the Parliamentary Joint Committee on Corporations and Financial Services, Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry inquiry on 22 April 2024 (received 13 May 2024), pp. 1–2.

¹⁴ Mr Jeremy Hirschhorn, Second Commissioner, Australian Taxation Office, Committee Hansard, 26 September 2023, pp. 24–25 and pp. 28–29; Australian Taxation Office, answers to questions on notice from a public hearing of the Parliamentary Joint Committee on Corporations and Financial Services, Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry inquiry on 22 April 2024 (received 13 May 2024), pp. 1–2.

- involvement in Foreign Investment Review Board approval processes on behalf of clients which, through omission and commission, had the potential to mislead or subvert those processes;
 - cultural issues within the tax practice of PwC, reflected in several senior partners' attitude towards senior management within the firm, as well as the ATO and other regulators;
 - adequacy of PwC's risk structure to call out poor behaviours and practices;
 - in addition, in the conversation Mr Hirschhorn noted potential areas of interest to other regulators including potential breaches of professional duties and potential offshore offences.¹⁵
- 1.52 In the process of conveying these concerns to Mr Sayers in August 2019, Mr Hirschhorn read out 'several representative PwC emails' which had previously been provided to the ATO by PwC.¹⁶
- 1.53 This must have been a memorable experience for Mr Sayers: few Australians will have had a meeting with a Second Commissioner where their internal emails, illustrating potential serious breaches of tax law, are read to them to illustrate and emphasize the seriousness of a range of potential offences. However, Mr Sayers has maintained to this committee and publicly that he has no memory of these emails being drawn to his attention.
- 1.54 To say that this memory failure is plausible is to stretch credibility.
- 1.55 Mr Sayers has not recognised any failures of his leadership at PwC through the period when serious offences in relation to monetising confidential information occurred.
- 1.56 Further, Mr Sayers has not addressed the range of other matters listed above and the full range of behaviours and potential breaches they lay out. Neither has the current leadership of PwC.
- 1.57 A year into this inquiry new information about the scope and content of a wider range of breaches has become public. These have been described as serious by the CEO of ASIC, Mr Longo, and they deserve investigation.¹⁷

¹⁵ Australian Taxation Office, answers to questions on notice from a public hearing of the Parliamentary Joint Committee on Corporations and Financial Services, Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry inquiry on 22 April 2024 (received 13 May 2024), pp. 1–2.

¹⁶ Australian Taxation Office, answers to questions on notice from a public hearing of the Parliamentary Joint Committee on Corporations and Financial Services, Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry inquiry on 22 April 2024 (received 13 May 2024), pp. 1–2.

¹⁷ Mr Joseph Longo, Chair, Australian Securities and Investments Commission, Senate Economics Legislation Committee, *Proof Estimates Hansard*, 4 June 2024, p. 25.

- 1.58 The committee's report lists a range of current investigations into PwC that have yet to report including: a continuing investigation by the Australian Federal Police; ongoing Australian Tax Office discussions with the 'large business five' countries plus two others; and nine continuing and current investigations ongoing by the TPB. In addition, Senator Barbara Pocock has referred the PwC scandal to the National Anti-Corruption Commission (NACC).
- 1.59 PwC has a long way to travel before it can be said to have a clean bill of health, including in relation to the above matters which have recently surfaced and go well beyond the issue of monetising confidential government tax information. In this light we recommend:

Recommendation 1

1.60 The Australian Greens recommend the Australian Government ensure that:

- **PwC (or any of its related entities) should not be permitted to tender for government work until all matters arising from current investigations (eg by the Tax Practitioners Board (TPB), the Australian Federal Police (AFP), the Australian Taxation Office (ATO) and the National Anti-Corruption Commission (NACC) are completed, including investigation of recently surfaced matters related to preparation of responses to Request for Information notices for PwC clients and involvement in Foreign Investment Review Board approval processes.**
- **further, PwC should not be permitted to contract for government work until it has provided the Linklaters report to the Australian Senate.**
- **in view of its misdemeanours in the misuse of confidential information, PwC should be excluded from government contracting for 5 years.**

Recommendation 2

1.61 The Australian Greens recommend that:

- **in view of the investigations underway extending back to 2012, any consulting entity led by Mr Luke Sayers should be excluded from Australian Government contracting until those investigations are concluded and any of their implications in relation to Mr Sayers considered and concluded.**
- **a ban from Australian Government contracts of at least 5 years should apply to any consulting entity led by its previous CEO, Mr Luke Sayers, who held leadership in the years of PwC's confidentiality misdemeanours.**

Section 3: A robust public sector working in the public interest

Revitalise the public service

- 1.62 A rapid increase in government expenditure on outsourcing public work to consultants over the last decade has hollowed out the public service. This has eroded leadership, capability, working conditions, and policymaking capacity. Big consultants have stepped into provision of core strategic, program design and delivery, and advice functions. This has turned skilled public servants, looking to make a career-long contribution to the public interest, into contract managers.
- 1.63 Successive Coalition and ALP Governments have been responsible for this since the 1980s. However, public sector reliance on consultants was particularly exacerbated during the most recent nine years of Coalition government.
- 1.64 In 2015-16, the Abbott Government introduced an APS staffing level cap to artificially keep public service employment growth low—a policy that was in place up until Labor took office in 2022.¹⁸ Over this time, APS employment levels dropped by 7.5 per cent, equivalent to over 12 500 positions.
- 1.65 The 2023 Audit of Employment found that in 2020-21 alone, the Morrison Government spent \$20.8 billion on outsourcing—including contractors, consultants, and external labour hire. This was the equivalent to almost 54 000 public service jobs.¹⁹
- 1.66 This has significantly weakened the ability of departments and agencies to take back work from consulting firms.
- 1.67 The Australia Institute agreed that the Australian Government has become 'overly dependent on consultants to guide and justify its decision-making' and considered that this dependence is 'corrosive to Australian democracy'.²⁰
- 1.68 There are many examples of core public service work that has been outsourced to the private sector, to great detriment.
- Example 1: The Department of Industry, Science, Energy and Resources outsourced the administration and assessment of government grants to a range of external providers.²¹ One of these providers, i4 Connect, was given \$31 million to administer grants to businesses.²² After numerous scandals

¹⁸ Per Capita, *Submission 19*, p. 1

¹⁹ Australian Government, [The Australian Government's report on the Audit of Employment](#), p. 3 (accessed 11 June 2024).

²⁰ The Australia Institute, *Submission 13*, p. 4.

²¹ Community and Public Sector Union (PSU Group), *Submission 6*, pp. 11–12.

²² Australian National Audit Office (ANAO), [Procurement of Delivery Partners for the Entrepreneurs' Programme](#) (accessed 11 June 2024).

and shortcomings with i4 Connect and the Entrepreneur's program more broadly emerged, the work is now being done in-house by the department.²³

- Example 2: McKinsey & Company was awarded a \$6 million contract for net zero modelling over the CSIRO, Australia's national science agency. Instead of consulting public service experts already employed in the field, the Department of Industry, Science, Energy and Resources's decision to contract McKinsey risked leaving the public service stranded without climate change modelling capabilities. This decision was costly and ineffective, with McKinsey's report widely criticised for not including information on how to reach net zero by 2050, which was the goal of the 'Net Zero 2050 plan'.²⁴
- Example 3: The Australian Public Service Commission is currently contracting KPMG to deliver a leadership program for the APS Academy, valued at \$1.3 million over two years.²⁵ KPMG should not be teaching our future public servants about leadership given their history of ethical failings.²⁶

1.69 Putting big consulting firms in charge of core government work undermines quality, integrity, and transparency in government work—whilst creating opportunities for conflicts of interest. There needs to be an end to the overuse of contracting out public service work.

1.70 The Greens acknowledge that there are a limited set of circumstances in which it may be necessary to contract consultants. For example:

- When specialised expertise is required, particularly if it is not value for money to employ these skills inside a government department or agency, as suggested in evidence at a hearing from Professor Andrew Podger, and in the submission made by Professor Marianna Mazzucato and Ms Rosie Collington.²⁷
- When there is a short-term surge in work and no net gain from employing public sector workers to cover the additional workload.²⁸

²³ Australian National Audit Office (ANAO), [Procurement of Delivery Partners for the Entrepreneurs' Programme](#) (accessed 11 June 2024).

²⁴ Hannah Wooton, 'McKinsey advising on net zero modelling limits transparency: Labor', [AFR Online](#), 16 November 2021 (accessed 11 June 2024).

²⁵ Ms Samantha Montenegro, Assistant Commissioner, Enabling Services, Australian Public Service Commission, *Committee Estimates Hansard*, 30 May 2024, pp. 50–51; Aus Tender, [Contract Notice View—CN4030135](#) (both accessed 11 June 2024).

²⁶ Hannah Wooton, 'KPMG accountants cautioned over systemic exam cheating', [AFR Online](#), 13 June 2022 (accessed 11 June 2024).

²⁷ See: Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, pp. 1–2; and Professor Marianna Mazzucato and Rosie Collington, *Submission 7*, p. 4.

²⁸ Kiah, *Submission 23*, p. 9.

- When an external perspective is required, for example an independent review needs to be conducted.²⁹
- 1.71 Reducing the circumstances in which public service work can be outsourced is an important step in rebuilding the public service. The public service is best placed to do most government work because their interests align with the Australian public.
 - 1.72 As Per Capita point out:

...public servants are the 'human machinery' of government and play a crucial role in facilitating the government's constitutional obligations. Their impartiality and professionalism is vital to the efficacy of our constitutionally mandated system of responsible government, and thus they are bound by specific and sometimes onerous, ethical obligations to act in the public interest.³⁰
 - 1.73 Consulting firms on the other hand have no obligations to act in the interest of the public, they are not bound by the APS code of conduct, and they are incentivised to deliver benefits to themselves and their private clients.
 - 1.74 The Community and Public Sector Union (CPSU) warn that consultancies are focused on their own bottom lines and likely make 'recommendations that generate further work for the initial consultant or for a business unit of the same company'.³¹
 - 1.75 Consequently, when governments outsource public services, they become more expensive, they are of a lower quality, and they are harder to manage. It means a big slice of our public money goes straight to private sector profit.
 - 1.76 The Greens urge the government to continue to turn the tide and reverse contracting public service work to consulting firms and to set specific targets for annual reductions from the current high level.
 - 1.77 However, it is not enough just to cut spending on consultants. Unless the cut in spending on consultants is also offset by a commensurate increase in public service employment, it will simply amount to cuts in the public service.
 - 1.78 Australia needs a robust APS that provides public services delivered in the public interest and that provide value for money.
 - 1.79 The APS is crucial in delivering essential services to the community and responding to new and growing areas of public service demand including the climate crisis and the transition to a clean economy and a sustainable future.

²⁹ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, pp. 1–2.

³⁰ Per Capita, *Submission 19*, p. 1.

³¹ Community and Public Sector Union (PSU Group), *Submission 6*, p. 5.

- 1.80 Australia needs a diverse, thriving, secure and innovative public service that can tackle our country's future challenges. This is work that could and should be strategically driven and delivered by a strong, independent, properly resourced public service.
- 1.81 This will only be possible by reducing the spend on consultants and restoring funding to growing the employment and capability of the APS.
- 1.82 Ms Rosie Collington told the committee that this approach has worked overseas. In 2019, Denmark introduced a 50 per cent cut (over three years) on the amount that could be spent on consultants, and concurrently established an in-house public sector consultancy that was then able to do many of the tasks that other government departments had been contracting out to external consultancies.³²

Recommendation 3

1.83 The Australian Greens recommend:

- **that the Australian Government requires departments and agencies to reduce spending on external consulting services by 15 per cent each year for five years and offsetting that decline with growth in public sector capacity.**
 - **that employment numbers in the Australian Public Service (APS) grow at least in line with population growth in Australia.**
- 1.84 When jobs are outsourced, workers are frequently paid less, and are often employed on worse conditions in insecure jobs without career prospects.
- 1.85 APS employees have experienced declining real wages since 2013, due to the Coalition's concerted strategy to hold down APS wages. This is restraining APS capability, with agencies struggling to attract and retain employees in a tight labour market, high turnover in some areas, and critical roles left vacant.
- 1.86 Attracting and retaining high quality public servants is essential to ensure the public service can meet future challenges and serve the complex and diverse needs of the Australian population.
- 1.87 Professor Podger observed that the current remuneration arrangements in the public service are not 'designed to attract, develop and retain the best talent', and pay arrangements do not reflect what the markets require.³³
- 1.88 The Greens urge the government to ensure wage rises for the APS address ten years of declining wages and allow employees to keep up with current and future cost of living increases.

³² Ms Rosie Collington, Researcher, UCL Institute for Innovation and Public Purpose, *Committee Hansard*, 7 June 2023, p. 67.

³³ Professor Andrew Podger AO, Private capacity, *Committee Hansard*, 2 May 2023, p. 7.

- 1.89 This sends a strong message that workers in the public service are valued and respected, while also encouraging wage increases across into the private sector. It also means that the public service will be more able to compete with the private sector for talented workers in the labour market.
- 1.90 If the government is serious about reducing APS reliance on consultants in the long-term, the APS must be strong, it must have the best workers and it must be bigger.

Recommendation 4

- 1.91 The Australian Greens recommend that the Australian Government commit to lifting APS wages at least in line with inflation and improve other employment conditions at least in line with community standards.**

Clean up procurement

- 1.92 Australian government spending on consultants is among the highest in the world.³⁴
- 1.93 Over the past 10 years, the Australian Government has spent \$8.5 billion on government contracts to the Big Four.³⁵
- 1.94 In the 2021-22 financial year alone, \$1.5 billion was awarded to just four entities: KPMG, Deloitte, PwC, and EY.³⁶ Government consulting is a lucrative industry for the Big Four, with profits from government work comprising around 25 per cent of their total revenue.³⁷
- 1.95 At present, the Labor Government has taken steps to reduce that spend, but it is still spending millions of dollars of public money outsourcing work to big consulting firms with too little transparency or accountability and many gaps in the procurement framework.
- 1.96 The Australian public want and deserve value for money. This is the core rule of the Commonwealth Procurement Rules (CPRs), which are the foundation of

³⁴ Angus Grigg, Jessica Longbottom, Jonathan Miller and Maddison Connaughton, 'Consulting firm KPMG overcharged Defence while raking in billions of dollars, whistleblowers say', [ABC Online](#), 7 August 2023 (accessed 11 June 2024).

³⁵ AusTender data as of May 2024.

³⁶ AusTender data for 2021-22.

³⁷ For example, see evidence provided by Mr Adam Powick, Chief Executive Officer, Deloitte *Committee Hansard*, 17 July 2023, pp. 17, 28–29 and 30. See also EY, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023), p. 4; KPMG, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023), pp. 2–3; PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023), p. 3.

the framework for the procurement of goods and services by the Commonwealth Government.³⁸

- 1.97 Public resources must be used in the most efficient, effective, ethical and economic manner. Many examples gathered through this inquiry suggest that we must put the public interest at the centre of public spending.
- 1.98 Additionally, price is not and should not be the sole factor in considering value for money. Procurements must also consider the ethical conduct of tenderers and suppliers, along with the quality of the goods and services.³⁹
- 1.99 This inquiry has uncovered a suite of ethical failings from the Big Four firms in public work. In addition to PwC's monetisation of confidential Treasury information, we have seen that contracts with the Big Four firms are riddled with conflicts of interest and are frequently extended to reap large profits that do not represent value for money.
- 1.100 Our procurement system is not fit for purpose and needs reform to address these issues.

Lack of central oversight

- 1.101 While the Department of Finance has overview of the Commonwealth Procurement Rules (CPR) and the AusTender system, the devolved framework means that there is a lack of centralised oversight over government procurement, especially when contract management goes wrong. This allows conflicts of interest to thrive and the land-and-expand strategies of the Big Four to flourish.
- 1.102 The Department of Finance oversees the Commonwealth Procurement Framework, but as the framework is devolved, this has resulted in the Department taking an approach that is 'too passive' and 'not adequate'.⁴⁰
- 1.103 Moving the Commonwealth Procurement Framework away from a devolved model is not under consideration.⁴¹ The Department of Finance has said that

³⁸ Australian Government, [Commonwealth Procurement Rules](#), 13 June 2023, p. 3 (accessed 11 June 2024).

³⁹ See: Department of Finance, [Procurement Policy Note—Ethical conduct of tenderers and suppliers](#), 18 January 2024; and Australian Government, [Commonwealth Procurement Rules](#), 13 June 2023, p. 11 (both accessed 11 June 2024).

⁴⁰ Joint Committee of Public Accounts and Audit, *Report 498: 'Commitment issues'—An inquiry into Commonwealth procurement*, August 2023, p. 37.

⁴¹ Department of Finance, answers to questions on notice from a public hearing on 7 June 2023 (received 10 July 2023).

they 'do not hold centralised data of the work various organisations perform for individual departments'.⁴²

- 1.104 Prior to 2017, the Department of Finance had greater oversight over procurement, as agencies were required to report to Finance on procurement outcomes. This was removed in 2017 with the intent to cut red tape.⁴³ However, this has significantly weakened overall management of contracts and oversight of procurement systems.
- 1.105 A more macro-oversight is required above the devolved practice.
- 1.106 As a regulator, the Department of Finance must take better control of the procurement system with greater systemic oversight. Evidence shows that a devolved procurement framework means that, in too many examples, no-one is carrying the can and the size and nature of poor outcomes is obscured.⁴⁴
- 1.107 Another issue with the CPRs is that they do not apply to corporate Commonwealth entities (CCEs) by default.⁴⁵ Only 24 out of 72 CCEs must comply with the rules, meaning that they are not required to disclose any contract information under the rules.⁴⁶
- 1.108 An example of this problem is with a Department of Finance Procurement Policy Note regarding PwC. The note states that PwC Australia has agreed with the Commonwealth that it will temporarily cease new contract engagements with Australian Government entities captured by the Commonwealth Procurement Rules until 1 December 2024.⁴⁷ However, as not all Commonwealth entities need to follow the CPRs, this means that some Commonwealth entities can still sign contracts with PwC.⁴⁸
- 1.109 Further, the absence of stronger systemic oversight of contracting across the public sector obscures an overview of the Big Four activities across the system and systemic responses to misdemeanours.

⁴² Department of Finance, answers to questions on notice from Senator Richard Colbeck, 23 January 2024 (received 19 February 2024), p. 11.

⁴³ Joint Committee of Public Accounts and Audit, *Report 498: 'Commitment issues'—An inquiry into Commonwealth procurement*, August 2023, p. 37.

⁴⁴ See evidence provided by the Department of Finance to the Parliamentary Joint Committee on Corporations and Financial Services, *Committee Hansard*, Monday 22 April 2024, p. 26.

⁴⁵ Joint Committee of Public Accounts and Audit, *Report 498: 'Commitment issues'—An inquiry into Commonwealth procurement*, August 2023, p. 36.

⁴⁶ Centre for Public Integrity, *Submission 58*, p. 35.

⁴⁷ Department of Finance, [Procurement of Goods and Services from PricewaterhouseCoopers](#) (accessed 11 June 2024).

⁴⁸ Department of Finance, answers to written questions on notice from Senator Barbara Pocock, 3 May 2024 (received 24 May 2024), question 60 (unpaginated).

- 1.110 A potential model for Commonwealth reform of these matters could be the Western Australian example, where contracting failures can be managed through the state's debarment and suspension regime, which enables the cancellation of existing contracts.⁴⁹
- 1.111 The Department of Finance should be using the government's considerable market power to ensure that entities contracting with government are subject to strict criteria and ethical benchmarks.
- 1.112 The current approach to procurement is not working. We need stronger oversight and enforcement mechanisms to ensure that consultants are properly managed.
- 1.113 Chapters 2 and 4 of the committee's report provide a good summary of the issues with our procurement framework. While Recommendation 3 of the committee's report is good, it must be expanded through additional reforms.

Recommendation 5

1.114 The Australian Greens recommend that the Australian Government require:

- **the Department of Finance to create a Contract Probity Office to exercise central oversight over government procurement, complementing devolved management of procurement.**
- **that the Contract Probity Office have the power to follow up when contracting failures occur in a department or agency and impose penalties and take regulatory action, modelled on Western Australia's debarment and suspension regime which enables the cancellation of existing contracts.**
- **that the Commonwealth Procurement Rules be amended to ensure they apply to all corporate Commonwealth entities.**
- **that either the Joint Committee on Public Accounts and Audit or the Australian National Audit Office conduct an annual review of consulting services in Commonwealth departments and agencies, highlighting systemic and significant issues or failures.**

Conflicts of interest

- 1.115 Conflicts of interest within the consulting sector are frequent, with both the consulting firms themselves and the public sector having failed to demonstrate that they can adequately identify and manage conflicts of interest.

⁴⁹ See the Western Australian Government, [Debarment Regime: Guide for Western Australian Government agencies](#) (accessed 11 June 2024); and the Community and Public Sector Union (PSU Group), *Submission 6*, p. 15.

- 1.116 Consulting firms often walk both sides of the street, giving advice to government on issues while also advising private clients on the same topics. The larger the client list, the more chance of conflicts of interest.⁵⁰
- 1.117 While the APS Code of Conduct requires public servants to 'take reasonable steps to avoid any conflict of interest (real or apparent) and disclose details of any material personal interest' in connection with their employment, consultants receiving public money are not bound by the same requirements.⁵¹
- 1.118 In the case of PwC, it was a clear conflict of interest for them to help develop government anti-avoidance taxation policy while also advising multinational firms on how best to avoid taxation laws.⁵² In pursuit of profit and new clients, PwC breached confidentiality agreements with Treasury, and earned at least \$2.5 million in profit by monetising this confidential government information.⁵³
- 1.119 Another egregious example is KPMG's involvement in the aged care sector. The firm was paid by the federal government to conduct safety and quality audits of aged care facilities, while a separate division within the firm simultaneously charged providers for advice on audits and accreditation.⁵⁴
- 1.120 A third example is provided by EY and McKinsey's involvement in climate policy. EY advised the Australian Government on its carbon credit policy while simultaneously working with the carbon credit and fossil fuel industries. The firm, which is a member of the oil and gas lobby and audits Santos, insists that there is no conflict of interest between its work for industry and government.⁵⁵
- 1.121 In 2020, EY were employed by the Climate Change Authority to advise on carbon market schemes policy. Their final report concluded that Verra and Gold Standard were 'the leading international offset schemes for governance'. However, EY had previously done unpaid work for Verra and Gold Standard, which was undeclared to the Authority as a potential conflict of interest, because they did not see it as such.⁵⁶

⁵⁰ Community and Public Sector Union (PSU Group), *Submission 6*, p. 5.

⁵¹ Australian Public Service Commission, [APS Code of Conduct](#) (accessed 11 June 2024).

⁵² Community and Public Sector Union (PSU Group), *Submission 6*, p. 5.

⁵³ Senate Finance and Public Administration References Committee, *PwC: A Calculated Breach of Trust*, June 2023.

⁵⁴ Henry Belot, 'KPMG Australia launches internal review after potential conflict-of-interest concerns raised', [Guardian Australia](#), 27 June 2023 (accessed 11 June 2024).

⁵⁵ Henry Belot, 'EY Oceania accused of potential conflict of interest over government contracts on climate policy', [Guardian Australia](#), 24 January 2024 (accessed 11 June 2024).

⁵⁶ See evidence provided by EY, *Committee Hansard*, 18 July 2023, p. 23.

- 1.122 In 2021, McKinsey was awarded a \$6 million contract for net zero modelling over the CSIRO, Australia's national science agency.⁵⁷ The same firm has also advised at least 43 of the 100 largest corporate polluters, including Chevron, BP, Aramco, and Rio Tinto.⁵⁸
- 1.123 McKinsey and EY should not be providing advice to government on climate policy while serving the world's largest polluters. This is a direct conflict of interest.
- 1.124 The Department of Finance is currently developing a Supplier Code of Conduct. This Code of Conduct has draft provisions to place a positive duty on suppliers, including a requirement to actively manage conflicts of interest.⁵⁹ This is a step in the right direction, but it will 'only apply to new contracts' by default.
- 1.125 In contracting with consulting firms, the government should apply a far more expansive view of what constitutes a potential conflict of interest and do what they can to prevent conflicts of interest on this scale reoccurring.
- 1.126 Recommendations 6 and 7 of the committee's report are welcome suggestions, but more must be done. Those recommendations put the onus on the Department of Finance and not on contractors. There must be more active management of conflicts of interest on both sides of contracting arrangements.

Recommendation 6

1.127 The Australian Greens recommend that the Australian Government:

- **require entities with government contracts to publish their client lists.**
- **require consultants undertaking public sector work to avoid any conflict of interest, actual or perceived, and disclose details of any material personal interest in connection with their contract.**
- **instate stronger investigative and enforcement mechanisms to ensure actual and perceived conflicts of interest are disclosed, investigated, penalised, and appropriately managed.**
- **ensure that undeclared conflicts of interest should attract a 5-year ban on public sector work.**
- **ensure that any consulting firm under investigation by a regulatory body must advise the government and cannot tender for new work until it is cleared.**

⁵⁷ CSIRO Staff Association, 'CSIRO staff slam outsourced net-zero modelling', 26 November 2021 (accessed 11 June 2024).

⁵⁸ Michael Forsythe and Walt Bogdanich, 'At McKinsey, Widespread Furor Over Work With Planet's Biggest Polluters', [New York Times](#), 27 October 2021 (accessed 11 June 2024).

⁵⁹ Department of Finance, [Commonwealth Supplier Code of Conduct](#), 27 March 2024 (accessed 11 June 2024).

- **create a register of banned firms and individuals.**

Land and expand

- 1.128 Big consulting firms systematically pursue 'land-and-expand' strategies, where a firm acquires new customers by landing a small contract or a reduced cost contract and then generates further work or expands the contract over time. This is a lucrative strategy with 'back end' profit margins often being very wide.
- 1.129 At least \$444 million worth of work was tacked on to existing government contracts with Australia's top consulting firms in FY21-2022, adding 25 per cent in billings or \$1.2 million a day more.⁶⁰ These extensions are not transparent, are extremely lucrative 'sweet money', and are poorly regulated.
- 1.130 One way these firms pursue the land-and-expand strategy is through power mapping within government departments and agencies. Power maps, or relationship maps, allow the private sector to map who within government departments should be targeted to win more work.⁶¹ A power map is not an organisational chart, but rather a systematic qualitative assessment about the strengths of relationships, and their capability to be farmed for future contractual work.
- 1.131 Despite initially stating on the record that KPMG 'does not engage in "power mapping" or any similar practice', multiple examples were provided to the Committee.⁶²
- 1.132 One of the most egregious examples, a tabled document titled 'Health Infrastructure NSW (HINSW) Workshop Actions', shows a systematic breakdown of how consultants rate and then farm relationships.⁶³ These maps clearly link actions like meeting for coffee or lunch in different parts of the organisation to enable developing a future set of work for KPMG.
- 1.133 Contracts need to be more actively and effectively managed to mitigate the threats posed by the land-and-expand tactics of the Big Four.

Recommendation 7

- 1.134 The Australian Greens recommend that the Australian Government ensure more effective management of government contracts, with effective costing,**

⁶⁰ Ronald Mizen, 'PwC, EY, Deloitte, KPMG book \$444m in contract extensions on government work in 2022-23', [AFR Online](#), 9 August 2023 (accessed 11 June 2024).

⁶¹ Mark Di Stefano, 'Senate inquiry into big four consultancies: KPMG CEO Andrew Yates denies the existence of secret power maps', [AFR Online](#), 10 December 2023 (accessed 11 June 2024).

⁶² See KPMG's response in KPMG, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 25 August 2023), p. 4.

⁶³ KPMG, Health Infrastructure NSW (HINSW) Workshop Actions, 15 May 2023, tabled Senator Barbara Pocock on 9 February 2024.

control, milestone management and active management of 'land-and-expand' and power and relationship mapping.

Recommendation 8

1.135 The Australian Greens recommend that the Australian Government require publication on AusTender the size and reasons for any amendments or variations to a contract.

AusTender

- 1.136 Current procurement disclosure requirements and practices mean that precisely what is purchased with taxpayer dollars is frequently opaque, leaving the government unable to assure the public that they are receiving value for money.⁶⁴
- 1.137 The Commonwealth Procurement Rules require non-corporate Commonwealth entities to report all contracts, including with consultants, above \$10 000 on AusTender.
- 1.138 AusTender is the Australian Government's central online procurement information system, and it needs serious reform. As a tool for tracking government spending, AusTender is difficult to navigate and insufficiently categorises and details contracts. The Department of Finance is responsible for the administration of AusTender and must provide more active oversight and management of the platform.
- 1.139 AusTender provides limited information on each contract. It does not provide a clear picture of expenditure on consultants.⁶⁵
- 1.140 AusTender data needs to be more detailed, properly structured, accessible, and consistent. Contracts are sometimes added months or years after they come into effect due to poor record-keeping practices by some departments.⁶⁶ Reasons for contract termination are not published on AusTender.⁶⁷
- 1.141 When details of contracts are entered into AusTender, a 'consultancy flag' is selected when the primary or main purpose of a contract is to provide consultancy services, which identifies these contracts for reporting purposes. AusTender includes an estimate of the total cost of each contract, but it does not

⁶⁴ Centre for Public Integrity, [Opaque big four contracts increase 1276%](#) (accessed 11 June 2024).

⁶⁵ The Australia Institute, *Submission 13*, p. 15.

⁶⁶ Ronald Mizen, 'Firms' 'land and expand' strategy costing taxpayers \$1.2m a day', [AFR Online](#), 9 August 2023 (accessed 11 June 2024).

⁶⁷ See Department of Finance, answers to questions on notice from a public hearing on 7 June 2023 (received 10 July 2023), answer to question 4 (not paginated).

include details of actual expenditure against a contract once it has been entered into.

1.142 AusTender must be more accessible, detailed, transparent, and robust for there to be a full picture of government spending on procurement.

Recommendation 9

1.143 The Australian Greens recommend that AusTender be improved by:

- **expanding AusTender disclosure requirements about the nature of work and its purpose.**
- **requiring publication on AusTender for the reasons for contract termination.**
- **improving the usability of the AusTender website.**

Value for money

1.144 Government contracts with consultants often do not deliver value for money, but rather result in serious problems of conflicts of interest, overruns, under-delivery, and very costly procurement disasters.

1.145 This is sometimes justified by saying that the public service does not have the in-house expertise for certain projects, and there is a need to bring in private sector experts. While there is a legitimate need for external advice in some situations, consulting firms are too often 'opinions for hire', providing clients the answers that they want.⁶⁸ This overreliance on external advice jeopardises the mandate of the Australian Public Service to provide frank and fearless advice to decision makers.⁶⁹

1.146 Consultants are experts in winning contracts, producing work that suits their clients, and hiding work that does not. Professor Podger summarised the issue best when he said that 'there is a danger, in using consultants, that they will say what they think is wanted in order to get the next job'.⁷⁰ For example, PwC infamously shrunk a very large report outlining the many defects of the illegal Robodebt scheme into an eight-page PowerPoint deck for which PwC invoiced the Department of Human Services around \$1 million.⁷¹ It subsequently repaid this amount in response to community outrage.

⁶⁸ For example, see Hannah Wooton, 'Senators slam EY's 'very unusual' economic modelling', [AFR Online](#), 16 November 2022 (accessed 11 June 2024).

⁶⁹ See APS values set out in Section 10 of the *Public Service Act 1999* (Cth).

⁷⁰ The Australia Institute, *Submission 13*, p. 22.

⁷¹ Julian Bajkowski and Tom Ravlic, 'First robodebt royal commission scalp confirmed at PwC', [The Mandarin](#), 7 July 2023 (accessed 11 June 2024).

- 1.147 Time and time again, we see that contracting consultants does not provide value for money. There are many examples.
- 1.148 KPMG submitted inflated invoices and billed the government for hours never worked.⁷²
- 1.149 Insider sources indicate that profit margins on consulting contracts can be as high as 50-60 per cent. The same work could be done at a more affordable price by the public service.⁷³
- 1.150 Consulting firms receive millions in government contracts to write reports and give advice to departments and agencies but there is no requirement for these outputs to be published or for their work to be scrutinised. In fact, less than 20 per cent of consultant reports are published.⁷⁴ In addition, while the public sector is subject to Estimates hearings, the private sector conveniently is not.
- 1.151 Requiring departments and agencies to publish reports arising from consultants, by default, will improve transparency and allow the public and civil society to interrogate consultants' reports and advice. It will improve the accountability of consultants and governments, ensuring value for public money and advice that is in the public interest.

Recommendation 10

1.152 The Australian Greens recommend:

- **that the Senate agree to an order of continuous effect to require the production of consultant reports, including draft versions that were never finalised, at the completion of each significant contract to ensure greater value for money and transparency.**
- **that the Senate conduct an annual Estimates process in relation to major consulting contracts, where consultancy firms can be required to appear.**

Section 4: Donations and political capture

- 1.153 Consulting firms aggressively use a revolving door of staff as well as make political donations to 'farm' new business opportunities, buy influence, inflate profit margins, access confidential information, and deliver benefits to their private clients.

⁷² Angus Grigg, Jessica Longbottom, Jonathan Miller and Maddison Connaughton, 'Consulting firm KPMG overcharged Defence while raking in billions of dollars, whistleblowers say', [ABC Online](#), 7 August 2023 (accessed 11 June 2024).

⁷³ Unnamed whistleblower with extensive contract management experience who provided evidence directly to Senator Barbara Pocock.

⁷⁴ Bill Browne, 'How the public is kept in the dark about what consultants tell the government', [Australia Institute](#), 8 May 2023 (accessed 11 June 2024).

Ban political donations

- 1.154 Donations to political parties should not be possible from those who tender for, or receive, government contracts. Such donations are indefensible by any test of probity. Money must not buy, or be perceived to buy, political access and influence. This applies to both direct, indirect, in-kind and pro-bono donations.
- 1.155 Over the past decade, the Big Four consulting firms have donated over \$6.6 million to the ALP and Coalition and received a staggering \$8.5 billion in government contracts, over the same period.⁷⁵ It is no surprise that the Australian Government has become amongst the highest spenders on consultants in the world.⁷⁶
- 1.156 While consulting firms and politicians may be meeting the existing low bar of reporting obligations in relation to such donations, this practice does not pass the pub test. It must stop immediately.
- 1.157 There is widespread support among stakeholders that allowing political donations by entities also bidding for government contracts creates unavoidable conflicts of interest. They are also anti-competitive especially in relation to small and medium sized consultants and service providers.
- 1.158 Research by The Centre for Public Integrity found that donors to political parties were 2.49 times more likely to win procurement contracts than non-donors.⁷⁷ They conclude that donations by the Big Four were 'unrelated to any ideological goal or end sought but are rather focused on currying favour with whoever may be in power and warned that they left the major parties vulnerable to corruption in the form of clientelism, whereby patron-client relations emerge, and political support is exchanged for privileged access to public goods'.⁷⁸
- 1.159 Dr Zirnsak from the Tax Justice Network told the committee 'I have deep concerns about the ability of any entity to have government contracts and at the same time be a political donor. I think that is a conflict of interest'.⁷⁹

⁷⁵ Advice provided by the Parliamentary Library.

⁷⁶ Four Corners, 'Consulting firm KPMG overcharged Defence while raking in billions of dollars, whistleblowers say', [ABC](#), 7 August 2023 (accessed 11 June 2024).

⁷⁷ See the submission made to the Finance and Public Administration Legislation Committee's inquiry into the Electoral Legislation Amendment (Fairer Contracts and Grants) Bill 2023 by the Centre for Public Integrity, *Submission 4*, p. 2.

⁷⁸ The Centre for Public Integrity, *Submission 58*, p. 52.

⁷⁹ Dr Mark Zirnsak, Spokesperson, Tax Justice Network Australia, *Committee Hansard*, 18 July 2024, p. 10

- 1.160 In relation to political donations by consulting firms, Professor Allan Fels said, 'they're an investment to get a return and that makes us very worried about them'.⁸⁰
- 1.161 Consulting firms, especially the Big Four, use donations to gain access to decision makers, secure favours, and wield undue influence over political and tendering decisions. They undermine the integrity of governance.
- 1.162 In the wake of the PwC scandals uncovered in this inquiry, PwC announced that they would 'no longer make political donations ... this includes payments to attend fundraising events, in-kind donations for event hosting/catering and other direct donations'. The then CEO Kristen Stubbins said, 'we recognise that doing away with political donations is the best way of ensuring the highest standards of governance'.⁸¹
- 1.163 This explicit statement from a consulting firm illustrates the perceived and actual conflict of interest associated with making donations to political parties while seeking business from them.
- 1.164 Other major consulting firms gave evidence in the inquiry that although they would not necessarily stop donating to political parties, they would support legislation banning political donations for the sector.
- 1.165 When asked whether they would support legislation banning political donations and leveling the playing field, Mr Larocca CEO of EY said 'Yes' and Mr Yates CEO of KPMG said, 'I think that's something the parliament could consider'.⁸²
- 1.166 Accenture and Boston Consulting Group do not make donations to political parties.⁸³
- 1.167 Support for a ban on political donations extends far beyond stakeholders and some of the key figures in the consulting industry. Research by the Australia Institute shows that three in four Australians (74 per cent) support banning political donations from entities that receive funding from government

⁸⁰ Professor Allan Fels AO, Private Capacity, *Committee Hansard*, 17 July 2023, p. 7.

⁸¹ Josh Butler and Henry Belot, 'PwC announces it will cease donations to political parties as part of attempt to rebuild reputation', [Guardian Australia](#), 10 July 2023 (accessed 11 June 2024).

⁸² See respectively: Mr David Larocca, Oceania Chief Executive Officer and Regional Managing Partner, EY, *Committee Hansard*, 18 July 2023, p. 23; and Mr Andrew Yates, Chief Executive Officer, KPMG Australia, *Committee Hansard*, 27 September 2023, p. 41. 23

⁸³ See: Boston Consulting Group, answers to written questions on notice from Senator Barbara Pocock, 30 June 2023 (received 7 July 2023), question 37; and Accenture, answers to written questions on notice from Senator Barbara Pocock, 29 and 30 June 2023 (received 18 July 2023).

contracts, including 80 per cent of Coalition voters and 70 per cent of Labor voters.⁸⁴

- 1.168 There is widespread agreement that this is important for a healthy democracy. The NSW ICAC has described such use of donations as causing 'serious damage to representative democracy' and the Victorian IBAC has stated that political donations can 'erode public trust in the people and institutions that are relied on to make decisions in the public interest.
- 1.169 It is time to level the playing field for a higher standard of governance. There is no excuse for inaction on this.
- 1.170 The Greens urge the government to immediately legislate a ban on political donations from those who tender or receive government contracts.
- 1.171 We must prevent political donations that could influence the outcome of government contracts and tendering processes.
- 1.172 A ban on political donations is key to restoring public confidence that decisions regarding allocation of government resources are guided by public interest, rather than the interests of donors.
- 1.173 There is no excuse for not making this change to political donations immediately.

Recommendation 11

- 1.174 The Australian Greens recommend that any entities tendering or contracting to the Australian Government be banned from making political donations (direct, indirect, in-kind, pro-bono or otherwise) in the 12 months before applying for contracts, while an application is being considered, or 12 months after contract obligations have been completed.**

Stop the revolving door

- 1.175 The revolving door between government and industry is an insidious, corrosive and corrupting phenomenon. It blurs the lines between the public and private sectors, risking the regulatory capture of public interests. It is used aggressively to generate personal and firm income at the cost of the public interest and value for money. It is on the rise, and it has the potential to increase risks to national security and the integrity of government policy and spending.
- 1.176 This revolving door is one way in which consulting firms seek to influence government, especially in respect of procurement and consultancy work.⁸⁵

⁸⁴ The Australia Institute, [Voters Back Donations Ban for Government Contractors](#), 2023 (accessed 11 June 2024).

⁸⁵ See the submission made to the PJC CFS Ethics and Professional Accountability inquiry by Dr Andy Schmulow, *Submission 68*.

- 1.177 Major conflicts of interest arise from the revolving door between consultants and government departments and even regulators. They enable an exchange of confidential information, cultivation of unfair advantage, and corruption of tendering processes. This can reduce competition and lock out small and medium enterprises from government work.
- 1.178 The revolving door between parliaments and the public sector to some of the largest and most profitable firms in the Australian economy has long been an issue. Ex-employees of big consulting firms like PwC, KPMG, Deloitte and EY appear across the public service and public institutions. Consulting firms strategically recruit ex-public servants. Regulatory capture is enabled by means of this revolving door.
- 1.179 A list of those who pass through this 'revolving door' illustrates how power flows between politics and the Big Four consultancies.⁸⁶ This includes senior public servants who engage in regulation having had many years' experience inside large consultancies which can create long lived loyalties.
- 1.180 It works the other way too, with prominent public servants and politicians moving to the consulting sector. There are no effective penalties when ex-ministers breach regulation of these arrangements.
- 1.181 The revolving door is not limited to upper management. KPMG has hired almost 100 people who previously worked at the Department of Defence over the last five years. Defence is KPMG's largest government client, giving them a staggering \$1.8 billion in government work over the past decade.⁸⁷ This relationship led to KPMG doing work for Defence that was ultimately not needed and billing for work not done.
- 1.182 There are 1,891 staff from the Big Four consulting firms who have a Defence Common Access Card (DCAC), granting them unescorted access to Defence sites.⁸⁸
- 1.183 Defence do not track staff once they leave Defence, and neither does KPMG.⁸⁹ It has become clear through this inquiry and Estimates questioning that no agency or department is centrally responsible for tracking the number of federal

⁸⁶ Peter Gearin and Anton Nilsson, 'The Mandarin and Crikey's 'revolving door' list: How power bleeds between politics and the Big Four', [The Mandarin](#), 15 April 2024 (accessed 11 June 2024).

⁸⁷ Angus Grigg, Jessica Longbottom, Jonathan Miller and Maddison Connaughton, 'Consulting firm KPMG overcharged Defence while raking in billions of dollars, whistleblowers say', [ABC Online](#), 7 August 2023 (accessed 11 June 2024).

⁸⁸ Senate Foreign Affairs, Defence and Trade Legislation Committee, 2023-24 Additional Estimates answer to written question on notice QON 163, p. 1.

⁸⁹ Angus Grigg, Jessica Longbottom, Jonathan Miller and Maddison Connaughton, 'Consulting firm KPMG overcharged Defence while raking in billions of dollars, whistleblowers say', [ABC Online](#), 7 August 2023 (accessed 11 June 2024).

government employees that have moved from the APS into the Big Four, and vice versa.⁹⁰

1.184 There have been some attempts to stop the revolving door.

1.185 Recommendation 10 from NSW Legislative Council's report into the NSW Government's use and management of consulting services recommends that the NSW Government prohibit senior public servants from working for relevant private sector clients and consultants or their representative bodies within six months of leaving the public sector.⁹¹

1.186 In 2023, the Department of Defence introduced a contractor moratorium that prevents the department, for a 12-month period, from engaging ex Defence members or public servants who are now contracting to Defence. This means that, if employees from the Department of Defence choose to leave, they will need to work elsewhere for 12 months before they can come back and work in the Department.⁹²

1.187 While the committee's report briefly touches on the revolving door, it makes no recommendations to close it.

1.188 Hiring ex-government staff poses risks to transparency and integrity. We need effective post-separation employment provisions and transparency measures. Any recommendations to stop the revolving door need to be enforceable and must address movement in both directions. This must extend to staff with security clearances who leave the public sector.

Recommendation 12

1.189 The Australian Greens recommend that the Australian Government stop the revolving door by enforcing a 1-year cooling-off period for:

- **partners in partnerships and/or executives in consulting and other entities that have held a significant contract with government in the last 12 months from commencing in the public service,**
- **APS Senior Executives commencing with an entity that has contracted to government in the last 12 months in a related form of business, and**
- **senior staff in a Minister's office from commencing with an entity that has contracted to government in the last 12 months.**

⁹⁰ See evidence provided by the Department of Finance, *Committee Hansard*, 23 February 2024, p. 74.

⁹¹ Public Accountability and Works Committee, NSW Legislative Council, *NSW Government's use and management of consulting services*, May 2024, p. xiii.

⁹² Mr Matt Yannopoulos PSM, Associate Secretary, Department of Defence Foreign Affairs, Defence and Trade Legislation Committee, *Estimates Hansard*, 25 October 2023, p. 80.

Recommendation 13

1.190 The Australian Greens Recommend that the Australian Government require that:

- **the cooling off period for former Ministers and senior staff in the Code of Conduct for Ministers is extended from 18 months to 5 years, with strong enforcement.**
- **the Australian Public Service Commission to monitor and regularly publish data on the movement of personnel to and from the Australian Public Service and the largest 20 contractors to government.**
- **there is a review of current arrangements, to ensure that consultants with access to Government departments, including Defence, have appropriate passes and access which do not compromise security and enable land-and-expand.**

Section 5: Structure and regulation of big consultants

Cap partnership size and implement requirements

1.191 All four big accounting firms, PwC, KPMG, Deloitte, and EY are structured as partnerships not corporations. Corporations are governed by duties and obligations set out in the *Commonwealth Corporations Act 2001*, whereas partnerships are primarily governed at the state and territory level and their regulatory obligations vary and are meagre. As a result, their operations are opaque and poorly governed.

1.192 One of the only Commonwealth powers of partnership regulation is setting limits on size. The *Corporations Act 2001* allows accounting firms to have up to 1,000 partners, a much higher cap than medical practitioners (50) and pharmaceutical chemists or vets (100).⁹³

1.193 There does not appear to be any historical rationale for these variable partnership caps. When asked why the cap on accounting partnerships was set at 1,000 under the *Corporations Act 2001*, Treasury Official Mr Dickson responded, 'I don't have a conclusive rationale as to what was driving the decision at the time'.⁹⁴

1.194 Many stakeholders involved in this inquiry viewed this cap to be too high, including the government's own Treasury officials.

⁹³ *Corporations Act 2001*.

⁹⁴ Mr Tom Dickson, Assistant Secretary, Corporations Branch, Department of the Treasury, Parliamentary Joint Committee on Corporations and Financial Services, *Committee Hansard*, 22 April 2024, p. 63.

- 1.195 In the Treasury's discussion paper on regulation, they say that the partnership limit 'may be too high in the absence of mandated governance requirements ... or transparency requirements'.⁹⁵
- 1.196 Partners in larger firms of up to 1,000 are not effective or true partnerships, where partners know the people with whom they share liability and decision-making around risk, borrowing, and strategy.
- 1.197 Mr Adam Powick, CEO of Deloitte acknowledged that once a partnership gets above 100 equity partners, it becomes complex to manage.⁹⁶
- 1.198 The PwC tax leaks scandal is case and point. PwC has around 800 partners. The size and complexity of this leadership structure enabled Mr Peter Collins to use confidential government information for the benefit of PwC's private clients undetected by many other partnerships for a long period. For those that did know, the hierarchy of the partner evidently made it difficult to challenge the actions and decisions of those at the top.⁹⁷ The partnership structure made it harder to uncover, investigate, enact penalties, and hold the firm broadly to account.
- 1.199 The Greens recommend the cap on partners for accounting firms be lowered to 100.
- 1.200 A major obstacle in addressing the issues around partnership regulation uncovered in this inquiry is that responsibility for regulating partnerships sits with the states and territories, and the requirements on partnerships are minimal.
- 1.201 Treasury says that 'the formation, operation or winding up of general partnerships is not subject to any active oversight and there is no regulator empowered to intervene in the governance of a general partnership'.⁹⁸
- 1.202 Partnerships are not subject to the same requirements as companies, governed by the *Commonwealth Corporations Act 2001*. Unlike corporations, partnerships are not required to disclose documents, or lodge financial reports with ASIC, they don't have to follow rules around information disclosure associated with listing shares on a stock exchange. They don't pay corporate tax, they are not subject to directors' duties, or required to hold general annual meetings, and they don't have to follow company laws around forming, operating,

⁹⁵ The Treasury, [Response to PwC–Tax Regulator Information Gathering Powers Review, Consultation Paper \(period 3 May–31 May 2024\)](#), p. 13 (accessed 11 June 2024).

⁹⁶ Mr Adam Powick, Chief Executive Officer, Deloitte, *Committee Hansard*, 23 February 2024, p. 52.

⁹⁷ See, for example, Professor Brendan Lyon, *Submission 45*.

⁹⁸ The Treasury, [Response to PwC–Tax Regulator Information Gathering Powers Review, Consultation Paper \(period 3 May–31 May 2024\)](#), p. 40 (accessed 11 June 2024).

restructuring, and growing a business.⁹⁹ Whistleblower obligations are poor or non-existent.

- 1.203 The opaqueness of partnership structures hides much of the activity and power wielded by these firms and their partners.
- 1.204 Partnerships do not pay corporate tax, and profit is taxed as partners' income. This creates opportunities for the use of tax minimisation strategies, in particularly income splitting methods that allow partners to attract lower tax rates and reduce public revenue.
- 1.205 Big four partners and firms are not shy or unskilled in the use of tax minimisation methods, many assign a portion of their income to others to cut their own overall tax bill: 243 partners at PwC, 121 partners at KPMG and 197 partners at EY use Everett assignments to reduce the tax they pay.¹⁰⁰
- 1.206 This minimisation of personal income tax, sets the partners in the big consulting firms apart from other tax payers. It is time for this to change.
- 1.207 Concerns about the culture within the Big Four consulting firms have also been raised throughout this inquiry, in particular in the Switkowski Review into PwC and the Broderick Review into EY.
- 1.208 Many of the cultural and ethical failures within these firms stem from the profit at all costs mentality, the difficulty to speak up and the poor complaints processes – issues that are made worse by the partnership structure.
- 1.209 The Switkowski Review attribute the PwC tax leaks scandals to issues including the lack of independence and external 'voices' within the ultimate governing body and decentralised business model without sufficient visibility of the enterprise view.¹⁰¹
- 1.210 The Broderick Review found that 31 per cent of people at EY Oceania are routinely working 51 or more hours a week, and approximately 11 per cent are routinely working 61 hours or more in a week. The 'growth at all costs' culture also allow for unethical behaviour to go unpunished. The review found that

⁹⁹ See the submission made by the Treasury to the PJC CFS inquiry into Ethics and Professional Accountability inquiry, *Submission 50*, pp. 13 and 14.

¹⁰⁰ PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 10 April 2024), question 123; KPMG, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 10 April 2024), question 124; and EY, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 17 April 2024), question 126.

¹⁰¹ Dr Ziggy Switkowski AO, *Review of Governance, Culture and Accountability at PwC Australia*, August 2023.

15 per cent of people experienced bullying in the last five years and 10 per cent of people experienced sexual harassment in the last five years.¹⁰²

- 1.211 The lack of transparency surrounding the behaviours and activities within partnerships enable poor employment conditions and bullying and harassment to flourish.
- 1.212 Partnerships need a serious structural and regulatory overhaul.
- 1.213 The number and size of partnerships have big implications for our economy and consequently there must be more transparency, accountability, and oversight of partnership activities.
- 1.214 To ensure effective regulation of partnerships, the Greens recommend that the states and territories refer their powers to regulate large partnerships to the Commonwealth and that the Government then use these powers to extend the requirements of corporations to partnerships.

Recommendation 14

1.215 The Australian Greens recommend that the Australian Government:

- **amend the Corporations Act to lower the maximum number of partners for accountants to 100.**
- **ensure that the states and territories refer their remaining power to regulate large partnerships to the Commonwealth.**
- **legislate transparency and reporting requirements for large partnerships as apply to corporations under the Corporations Act.**
- **ban the use of Everett Assignments and that the Government tax the distributions from trusts at the company tax rate of 30 per cent.**

Structural separation of audit from non-audit services

- 1.216 The big accounting firms were originally established to provide audit and accounting services. Since then, their provision of services has expanded to include consulting, tax, financial and legal services. Many of these are far more lucrative than audit.¹⁰³ Currently, on average, 80 per cent of the big four firms' revenue in Australia comes from consulting clients, as opposed to audit clients.¹⁰⁴

¹⁰² Elizabeth Broderick & Co, *Independent Review into Workplace Culture at EY Oceania*, July 2023.

¹⁰³ Edmund Tadros and Hannah Wootton, 'Big four consulting firm data tracker', [AFR Online](#), 16 March 2022 (accessed 11 June 2024).

¹⁰⁴ Mr Channa Wijesinghe, CEO, Accounting Professional and Ethical Standards Board, *Committee Hansard*, 23 February 2024, p. 21.

- 1.217 However, unlike other services, the quality of audit is critical to the integrity of our financial system. Audit is a legal requirement of public companies and poor audit quality can undermine economic stability.
- 1.218 Stakeholders told the Committee that there is an inherent conflict of interest arising from allowing a firm to provide both audit and non-audit services. Many witnesses to the inquiry gave such evidence.
- 1.219 The Centre for Public Integrity advised there has been a 'blurring of the line between audit and non-audit consultancy services' and this has led to questions regarding audit quality and independence.¹⁰⁵
- 1.220 Associate Professor Andy Schmulow gave the example that 'audit quality and probity could potentially be sacrificed in order to keep happy clients who offer the potential of more lucrative consulting work.'¹⁰⁶
- 1.221 There are many examples of auditors who provide non-audit consulting services to the same client, which have resulted in conflicting interest and compromised audit quality.
- 1.222 In 2018, EY earned more than \$21 million for a combination of audit and non-audit work from NAB.¹⁰⁷ The same year, EY prepared a prudential report for NAB and failed to advise the regulator of issues with NAB's risk management that it uncovered in the process.
- 1.223 The lack of audit independence leads to conflicts of interest, which undermines audit quality in Australia.
- 1.224 The quality of audit has been declining over the past few years. In 2018-19 ASIC found that one in four audits failed to meet the required standard.
- 1.225 Currently, just over a third of audits fail to meet the standard required, namely, to obtain 'reasonable assurance that the financial report as a whole is free of material misstatement'.¹⁰⁸
- 1.226 The Big Four accounting firms talked about their 'sterile corridor' approach to managing conflicts of interest associated with providing audit and non-audit services. Rolling scandals from the Big Four make it clear that they do not adequately self-regulate or mitigate such structural conflicts of interest.

¹⁰⁵ The Centre for Public Integrity, *Submission 58*, p. 82.

¹⁰⁶ See the submission made by Andy Schmulow to the PJC CFS Ethics and Professional Accountability inquiry, *Submission 68*, p. 3.

¹⁰⁷ Centre for Public Integrity, *Submission 58*.

¹⁰⁸ ASIC, [REP 743 Audit inspection report: 1 July 2021 to 30 June 2022](#), 2022 (accessed 11 June 2024)

- 1.227 Professor Allan Fels told the Committee that 'measures to resolve conflicts in this sector usual work badly in practice, are steadily eroded over time and are poorly enforced by regulators'.¹⁰⁹
- 1.228 Associate Professor Schmulow also critiqued the long history of trusting large accounting firms to manage their own conflicts of interest. He said, 'if you want to build regulatory structures that work, instead of having faith in the ability of people to manage conflicts of interest, why not have faith in people's inability to manage conflicts of interest and design regulation accordingly—design for the worst-case scenario?'.¹¹⁰
- 1.229 The Committee gathered a large body of evidence supporting the idea of structurally separating audit from non-auditing functions in the industry, to help reduce conflicts of interest and safeguard high-quality audits.
- 1.230 This policy is already adopted in many consulting and audit firms – major consulting firms Accenture, Boston Consulting Group and McKinsey do not provide audit services.¹¹¹
- 1.231 The UK Parliament's 2019 report on *The Future of Audit*, concluded that 'a structural break-up would prove more effective in tackling conflicts of interest and providing the professional scepticism needed to deliver high-quality audits'.¹¹²
- 1.232 Professor Fels told the Committee that 'total separation is the clean, clear, sensible solution, and as the current UK situation suggests, the global audit industry is already headed there. It would be wise to go this way from the start here, rather than incur all the costs of a compromise 'solution' which is imperfect, and more likely to encourage audits that do not deal properly with pending corporate collapses'.¹¹³
- 1.233 The Greens agree with Professor Fels. Structural separation is the surest solution to address the inherent conflict of interests that arise when a small group of extremely powerful firms hold a near monopoly over auditing.
- 1.234 Maintaining audit quality is essential to the proper functioning of the economy and financial services, including the public service.

¹⁰⁹ Professor Allan Fels, Private Capacity, *Committee Hansard*, 17 July 2023, p. 2.

¹¹⁰ Professor Allan Fels, Private Capacity, *Committee Hansard*, 17 July 2023, p. 29.

¹¹¹ See the submission made by the Treasury to the PJC CFS Ethics and Professional Accountability inquiry, *Submission 50*, p. 2.

¹¹² UK Parliament, [Split 'Big 4' audit functions from consultancy services, say MPs](#), 2 April 2019 (accessed 11 June 2024).

¹¹³ See the submission made by Professor Allan Fels AO to the PJC CFS Ethics and Professional Accountability inquiry, *Submission 52*, p. 2.

Recommendation 15

1.235 The Australian Greens recommend that any firm providing audit services in Australia be prevented from providing non-audit services, including when engaging in business with the Australian Government.

Independent regulatory authority over consultants

1.236 Practitioners delivering accounting, auditing, and consulting services are subject to a patchwork of professional standards, regulations, and laws. These requirements are 'often applied to individual practitioners (rather than whole firms) and comprise a mix of self-regulation and government regulation.'¹¹⁴

1.237 The Committee heard contradictory and insufficient explanations as to who does what, who is responsible to whom, and whether penalties for non-compliance are enforceable.

1.238 This system creates regulatory gaps and tangled responsibilities.

1.239 Some of the key regulators and standards setters are the Australian Taxation Office (ATO), the Australian Securities and Investments Commission (ASIC), the Tax Practitioners Board (TBP), the Financial Reporting Council (FRC), the Auditing and Assurance Standards Board (AUASB), and the Australian Accounting Standards Board (AASB).

1.240 In February 2024 Estimates, Mr Longo from ASIC said 'it's absolutely the case that we're operating in a modern environment now, where we have these huge consulting firms and professional service firms that provide services across an extraordinary range of activity across jurisdictions...We're a sliver of that activity. Whether that sliver expands is a matter for government, but it is a sliver at the moment.'¹¹⁵

1.241 The level of complication and confusion only serves those with the resources to understand and monitor all of the complexities and to navigate their way around and through a patchwork of overlapping and voluntaristic arrangements.

1.242 In November 2023, Treasurer Jim Chalmers made the announcement that they will be restructuring financial reporting bodies by rolling three bodies including the AUASB, the AASB and the FRC, into a single entity. The goal is to 'make them more efficient, effective and fit for purpose'.¹¹⁶

¹¹⁴ The Treasury, [Response to PwC–Tax Regulator Information Gathering Powers Review, Consultation Paper \(period 3 May–31 May 2024\)](#), p. 15 (accessed 11 June 2024).

¹¹⁵ ASIC Officials, Senate Economics Legislation Committee, *Committee Hansard*, 15 February 2024, p. 30.

¹¹⁶ The Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, 'Streamlining financial reporting architecture', [Media release](#), 21 November 2023 (accessed 11 June 2024).

- 1.243 This proposed change is welcome but is not enough to address the problems with the currently regulatory system for the audit, accounting, and assurance sector.
- 1.244 Conflicts of interest, secrecy, and tax avoidance thrive in regulatory gaps and complexities.
- 1.245 A key issue is that Australia's current regulation of the consulting services is weak and inadequate. It lacks meaningful enforceability and is too opaque.
- 1.246 Instead of a vigorous regulator with enforcement powers, the consulting profession is 'governed' by ethical standards that rely on self-regulation.
- 1.247 The age of self-regulation through multiple bodies dominated by those with an interest in the industry must now end. The long history of failures and scandals both in Australia and abroad have made it clear that big firms cannot be trusted to abide by voluntary rules.
- 1.248 In 2022, more than 1,100 KPMG partners were found to have cheated on internal tests relating to independence rules which included a section on managing conflicts of interest and the separation of roles. This cheating reportedly occurred systematically for at least 5 years. This is a clear breach of standards and internal codes of conduct. However, there have been minimal consequences for the firm in Australia.¹¹⁷
- 1.249 The US accounting regulator – the Public Company Accounting Oversight Board (PCAOB), fined KPMG Netherlands with a \$38 million civil penalty for the offence of exam cheating. The maximum fine Australia's Chartered Accountant Australia and New Zealand (CAANZ), one of Australia's standards setters is \$50 000.¹¹⁸ This is a completely insufficient amount to work as a deterrent for bad behaviour.
- 1.250 Professor Brendan Lyon told the committee that 'unaddressed CEO-level ethics scandals in PwC and KPMG combined with a sustained decline in audit quality by the major accounting firms suggests that professional standards are falling, because self-regulation is failing... Australia is unusual in our continuing reliance on self-regulation of the accounting profession.'¹¹⁹
- 1.251 There is a pressing need for governments to rethink and reset regulation of professional services, in particular consulting services.

¹¹⁷ Edmund Tadros, 'KPMG fined \$615 000 over 'widespread' exam cheating', [AFR Online](#), 16 September 2021 (accessed 11 June 2024).

¹¹⁸ See evidence provided by Mrs Ainslie van Onselen, Chief Executive Officer, Chartered Accountants Australia and New Zealand, to the PJC CFS Ethics and Professional Accountability inquiry, *Committee Hansard*, 5 March 2024.

¹¹⁹ Professor Brendan Lyon, *Submission 45*.

- 1.252 We must do away with self-regulation, create enforceable standards and requirements for professions (individuals and firms), protect the independence and agency of regulators and simplify responsibility for regulation.
- 1.253 Professor Fels indicated to the committee that 'a good case has been made for having a separate regulator. Certainly, self-regulation does not work'.¹²⁰
- 1.254 The Greens call on the government to establish an independent consulting regulator with powers to:
- maintain a register of professional consultants;
 - set standards and a code of practice focusing on ethics and professional conduct;
 - have the capacity to make rulings and impose penalties in relation to breaches; and
 - ensure robust governance of Board members (including that they must be arms-length from the firms they regulate and not receiving income from such firms).
- 1.255 Associate Professor Andy Schmulow suggests that 'to ensure the independence of such an oversight authority, regulated firms should not be permitted to fill board positions or advise to, or be seconded by, such an authority'.¹²¹
- 1.256 When asked if he agreed that anyone who is in receipt of an income from entities like the big four should not be on any professional regulatory body for consultants, Mr Peter De Cure said, 'I agree wholeheartedly with that'.¹²²

Recommendation 16

1.257 The Australian Greens recommend that the Australian Government:

- **acknowledge that voluntarist and self-regulation has failed in the consulting sector and that enforceable standards are required, including powers of investigation and penalties.**
- **establish an Independent Regulator for the consulting industry, with an enforceable professional code of conduct, national standards, investigation powers and penalties for breaches.**
- **consider giving responsibility for regulating professional services in one independent institution, with investigative and enforcement powers.**

¹²⁰ Professor Allan Fels, Private Capacity, *Committee Hansard*, 17 July 2023, p. 7.

¹²¹ Andy Schmulow, *Submission 68*, Parliamentary Joint Committee for Corporations and Financial Services, Inquiry into Ethics and Professional Accountability.

¹²² Mr Peter de Cure, Chair, Tax Practitioners Board, *Committee Proof Hansard*, 9 February 2024, p. 25.

Protect whistleblowers

- 1.258 The committee's report briefly mentions whistleblowers, but it does not make any recommendations in relation to offering them better protections.
- 1.259 Evidence crucial to this inquiry would not have surfaced without the work of whistleblowers such as Professor Brendan Lyon, Tracey Murray, and countless others. Many whistleblowers have brought forward information, seeking anonymity and feeling very frightened, as they did not feel that they could stay silent in good conscience.
- 1.260 Insiders and whistleblowers have assisted this inquiry in innumerable ways and in relation to many matters.
- 1.261 Protecting whistleblowers is about enabling insiders to bring forward evidence and protecting the truth. The ongoing prosecution of whistleblowers in Australia shows that they need much stronger protections across the system. We must do more to protect our whistleblowers, not punish them.
- 1.262 According to Treasury, whistleblower laws may not apply to employees in a partnership like those applying in corporations. As a partnership is not a 'regulated entity' for the purposes of the whistleblower laws in the Corporations Act, partners, employees and suppliers of partnerships are not supported by Commonwealth legislation.¹²³ Voluntary policies and procedures within firms are not robust enough.
- 1.263 Whistleblowers must clearly and unequivocally be protected by law.
- 1.264 However, without an independent National Whistleblower Commission, even the best laws will still leave whistleblowers at an extreme legal and resourcing disadvantage.¹²⁴

Recommendation 17

1.265 The Australian Greens recommend that the Australian Government:

- **require that all consultancy and accounting firms must have the same whistleblower obligations as corporations under the Corporations Act.**
- **establish a National Whistleblower Commission.**

Legal Professional Privilege

- 1.266 PwC consistently hid behind the incorrect application of thousands of legal professional privilege claims to prevent the ATO from accessing potentially

¹²³ The Treasury, [Response to PwC–Tax Regulator Information Gathering Powers Review, Consultation Paper \(period 3 May–31 May 2024\)](#), p. 40 (accessed 11 June 2024).

¹²⁴ Community and Public Sector Union (PSU Group), *Submission 6*, p. 16; Centre for Public Integrity, *Submission 58*, p. 10; see also '[Additional Comments by Senator David Shoebridge](#)' in the Senate Standing Committee on Legal and Constitutional Affairs, *Report of the inquiry into the Public Interest Disclosure Amendment (Review) Bill 2022 [Provisions]* (14 March 2023).

incriminating evidence'.¹²⁵ This has raised serious concerns in organisations like the Law Council about such overuse bringing the legal profession into 'disrepute and diminishing public confidence in the administration of justice'. Noting that there is a review currently underway by the Attorney-General's Department and the Department of Finance, we recommend that the Government consider ways to reduce the overuse of Legal Professional Privilege.

Recommendation 18

1.267 The Australian Greens recommend that the use and misuse of legal professional privilege to combat legitimate investigations of consultancy malpractice should be reviewed and stricter rules and specific protocols be developed to limit misuse.

Confidential Tax Settlements

1.268 PwC was fined \$1.4 million in relation to its misuse of legal professional privilege. ATO's confidential settlement with PwC shaved \$785 400 off the original penalty of \$1.4 million according to the copy of this Settlement Deed provided to the inquiry. This effectively means that in negotiation, in the face of possible 'deep pocketed' legal action, the ATO halved the fine for false legal professional privilege claims.

1.269 ATO's annual report publishes some summary data on confidential settlements. It separates outcomes for different types of entities but does not publish details of specific large settlements of this kind by entity. There is a good argument that making such settlements public, (along with their negotiated settlement amount and their rationale where they have been reduced) would act as a public deterrent to other wrongdoers.

1.270 Professor Graeme Samuels offered some commentary on this process as he gave evidence, saying that he could not 'for the life of me, understand while these settlements are reached privately'¹²⁶.

Recommendation 19

1.271 The Australian Greens recommend that greater transparency of confidential tax settlements be provided, and clear protocols be established for their use.

¹²⁵ Senate Finance and Public Administration References Committee, *PwC: The Cover-up Worsens the Crime*, March 2024, p. 40.

¹²⁶ Professor Graeme Samuel, Parliamentary Joint Committee for Corporations and Financial Services, *Committee Hansard*, 2 November 2023, p. 20.

Government Actors and Minimising the Risk of Capture

- 1.272 This inquiry has exposed inappropriate pressure on the ambit and conduct of the TPB's investigations into Mr Peter Collins and PwC, especially on TPB CEO Mr Michael O'Neill who led the investigation.
- 1.273 Recently released email and internal documents show how, when and to whom this pressure was applied by senior leaders at the ATO, some Treasury officials and the office of Minister Sukkar¹²⁷.
- 1.274 Others within the ATO opposed these inappropriate actions and called out some that denied natural justice or were industrially inappropriate or exhibited poor leadership.
- 1.275 It seems likely that these processes and pressures were also affected by the appointment of two ex-PwC partners to the TPB (a Board of 7). Both were in receipt of trailing/retirement income from PwC while they sat on the Board as it investigated PwC, and the evidence shows that they did not always recuse from themselves from Board discussions involving PwC. In evidence to this inquiry the current Board chair recognised that this was a failure of proper process.
- 1.276 It is important to note that Minister Sukkar's office made the PwC appointments to the TPB and that his office initiated the process of changing the contract terms of the TPB's CEO to make it a non-ongoing contract and remove the right to return to the ATO.
- 1.277 There is copious documentation available arising from responses to Questions on Notice from Senator Barbara Pocock that substantiate these successive multiple efforts to apply pressure to Mr O'Neill.
- 1.278 They include:
- (1) allegations of **bullying and harassment** made by ATO staff (coincidental with the senior ATO Commissioner's expressions of resistance - by letter and in the 1 September 2021 meeting - to Mr O'Neill's investigation). The allegations were not substantiated, lacked evidence and were not even put to Mr O'Neill;
 - (2) the **TPB Board's internal inquiry** into the PwC investigation which reanimated these unsubstantiated bullying and harassment accusations but resulted in a clean bill of health for the TPB in terms of the way it conducted its inquiry into PwC;
 - (3) a prolonged process, led out of Minister Sukkar's office and through Treasury, to change Mr O'Neill's **employment contract** and make it a less secure limited term contract without a right to return to permanent employment in the ATO. Mr O'Neill was not provided with timely information about these processes; indeed

¹²⁷ Department of the Treasury, Answers to Questions taken on Notice, Senator Barbara Pocock, May 2024.

he was deliberately excluded from these contract discussions against the principles of natural justice and fair treatment. Jeremy Moore (A/G Deputy Comm ATOP) critiqued the announcement of this ministerially led contract change, saying that doing so 'before even doing rudimentary consultation with the incumbent could be industrially fraught, appears to lack real leadership and would potentially make the incumbents position untenable'.

- (4) a **workplace assessment** [The Oliver Review] which also reanimated the bullying accusations (still without evidence or Mr O'Neill's knowledge) and yet again did not make any substantive findings against the TPB or Mr O'Neill;
- (5) finally, a **fraud investigation** which examined Mr O'Neill's emails and electronic communications testing for evidence of leaks or inappropriate communication with media. None was found.

- 1.279 While it has been asserted that these processes were not focussed on Mr O'Neill, the documentation makes clear that, in every case, they included a focus on Mr O'Neill either directly or indirectly.
- 1.280 This set of processes unfolded against the background of Mr O'Neill's leadership of the PwC investigation. It is clear that senior Commissioners at the ATO took strong offence at the methods of the TPB in undertaking its investigation. The ATO referred Peter Collins to the TPB but did not support the TPB widening of that investigation to PwC itself in March 2021.
- 1.281 The AFR's Mr Neil Chenoweth reported comments from a senior ATO executive asking at the time 'Is it worth running Peter Collins out for something he did eight years ago?' and suggested that the investigation of PwC was a 'wild goose chase'.¹²⁸ Chenoweth's analysis points to 'sharply different views within the federal bureaucracy about the PwC tax leaks scandal' before it became public in 2023.
- 1.282 The ATO took strong exception to the TPB's attempts to gather and examine data held by the ATO in executing its investigation. When access was denied the TPB turned to other methods to establish its case, and the ATO took exception to this. The level of anger and push back from senior leaders in the ATO is evident in reports of the meeting between ATO Commissioners and the TPB Board on 1 September and in Mr Jordon's letter of 26 September 2021.
- 1.283 Evidence received in the process of this inquiry, including in its closing days, in response to Questions on Notice, raises important questions about the ATO's interactions with the TPB. The TPB inquiry was vigorously resisted through an

¹²⁸ Neil Chenoweth, 'This may not end well for you': The secret war behind the PwC inquiry', [AFR Online](#), 3 June 2024 (accessed 11 June 2024).

inter-agency push back from the ATO's senior leadership, pushback that was particularly focussed upon Mr O'Neill, the TPB's CEO. This is a serious matter.

- 1.284 None of the five processes described above resulted in any report of wrongdoing, bullying, wrongful behaviour, investigatory overreach or fraudulent interaction with media by Mr O'Neill or officers of the TPB. The documentation of these outcomes is clear.
- 1.285 The proposed change in contract for the CEO, would have worked to make Mr O'Neill's position 'untenable' if Minister Sukkar's office's strategy had not been derailed by the failure to adopt basic human resources processes of consultation, recognise the need for legal change, and the inconvenient fact of an election on May 22 2022. These facts and failures stopped it all in its tracks.
- 1.286 They did not, however, stop the Minister's office from put out a Media Release in March 2022 announcing the contract change, despite the advice received about it.
- 1.287 Effective regulators need freedom from Ministerial interference and confidence that their masters (e.g. the TPB Board) are independent of the interests of those being investigated.
- 1.288 They also need the resources and security to conduct investigations without interagency interference or the withholding of information or data, as well as freedom from unsubstantiated bullying and harassment claims, workplace reviews, fraud or other processes that lack evidence and/or are backed by opponents of an investigation, or its vigor or methods or offer competitive resistance to the use of powers. Such actions can derail or impede an investigation and can offer, in effect, protection to offenders or potential offenders.
- 1.289 In this case, the processes appear to amount to pressure on the PwC investigation and investigators, involved actions potentially by Minister Sukkar's office, senior officers in the ATO, some TPB Board members, and some officers in Treasury.
- 1.290 The documentation available to this inquiry reveals how these actions and relationships, in the context of a flawed regulatory regime and institutional failure worked, or almost worked, to protect PwC.**
- 1.291 They did not stop the penalty for Mr Peter Collins of his loss of tax agent license for 2 years and the requirement that PwC undertake training of its staff.
- 1.292 It is vital that investigations into wrongful behaviour by tax agents, accountants and consultants are free of interference from Ministers, Boards, inter-agency competition, poor leadership or other behaviours that have the effect of slowing or narrowing investigations, protecting wrongdoers or vested interests.

Recommendation 20

1.293 The Australian Greens recommend, to ensure robust regulation that is free of actual or perceived conflicts of interest or possible capture:

- **that the Australian Government ban partners and former partners of consulting firms and other entities who are in receipt of income from those partnerships or entities, from membership of regulatory and standards setting boards for that industry.**
- **that the ban extend to anyone who has within the last 6 months received a material benefit, from such an entity;**
- **and, further, is a former executive officer of a company that is currently regulated by that entity if any of the following apply: the individual is receiving regular and ongoing benefits, or has within the last 6 months received a material benefit, from a company regulated by that entity; or if the individual holds shares in the company.**

Recommendation 21

1.294 The Australian Greens recommend that the Australian Government ensure robust investigation, and that regulators and investigators be protected from insecurity, political pressure or other forms of threat or constraint while conducting investigations.

Section 6: Conclusion

Treatment of the Senate and Parliament

1.295 Throughout this inquiry many witnesses have diligently and helpfully brought forward evidence. We owe a debt not just to the many insiders and whistleblowers who have assisted, but also to the many academics, researchers, civil society organisations and journalists who have investigated events and assisted the Committee and the public to understand them and their implications.

1.296 Alongside these many examples of positive assistance, there have also been examples of disrespectful and unhelpful treatment. For example, as the committee's report shows KPMG provided false evidence about their mapping of relationships in government departments.¹²⁹ Others gave evidence that was simply implausible, including Mr Luke Sayers' memory loss about discussions with senior ATO staff about serious matters of concern including the reading of emails which illustrated these concerns.

¹²⁹ See chapter 5 of the committee's report.

Recommendation 22

1.297 The Australian Greens recommend that the Senate consider options available to it in relation to KPMG's misleading and incorrect evidence to the inquiry.

A Very Public Swindle

- 1.298 This inquiry, initiated by the Australian Greens, has revealed a very public set of swindles. They have shocked the Australian public and its elected representatives across the political spectrum. They should not be allowed to recur. We must use the momentum of this outrage to propel real reform. Australians deserve action.
- 1.299 The Australian Greens look forward to building on the work already underway by the Government to cut back dependence upon consulting services, rebuild a robust public sector and clean up procurement.
- 1.300 We also look forward to discussing and negotiating with the Government substantial and structural reforms to partnerships, professional services, procurement, political donations, and the proper regulation of this sector including the actions and leadership in public regulatory institutions and departments.
- 1.301 The consulting sector has shown that it cannot be left to its own devices or the regulatory status quo.
- 1.302 It should not take a long-running Senate committee inquiry to surface and deal with the bread and butter work of ethical practice in our accounting and consultancy entities.
- 1.303 We need a regulatory system that does the job, setting out clear standards, with strong powers of investigation and meaningful penalties.
- 1.304 And we need a public sector that acts in the public interest, delivering value for money in our essential public services, rather than wasteful—if highly profitable—income for very large, greedy entities that are poorly regulated and lack both transparency and accountability.
- 1.305 While appalling stories of poor leadership, unbelievable claims of memory loss, straightforward corruption, conflict of interest, payments made for work not done, waste, and the failure of public officials, has sold a lot of newspapers through this crisis, it has also imposed a heavy cost on the public interest.
- 1.306 The world of extreme salaries for underperforming executives offering overpriced services better done by a skilled public sector, is a long way from the daily life of farmers, nurses, educators, retail workers and many others whose taxes foot this bill. Many of them are gobsmacked by what they have heard. They are looking for action.
- 1.307 The Australian public will be waiting and watching to see what the Australian Government does next.

Senator Barbara Pocock

Member

Greens Senator for South Australia

Appendix 1

Submissions and additional information

- 1 Department of Social Services
- 2 Deloitte Touche Tohmatsu
- 3 KPMG Australia
- 4 Dr Julia Anaf PhD and Professor Fran Baum AO PhD
- 5 Emeritus Professor James Guthrie AM FCPA, Professor Jane Andrew CPA, and Dr Erin Twyford CA
 - 5.1 Supplementary to submission 5
 - 5.2 Supplementary to submission 5
 - Heather Watson response to submission 5
- 6 Community and Public Sector Union (PSU Group)
- 7 Professor Mariana Mazzucato and Rosie Collington
- 8 Department of Finance
- 9 Dr Adam Lucas
- 10 Tax Practitioners Board
- 11 Department of Health and Aged Care
- 12 Department of Agriculture, Fisheries and Forestry
- 13 Australia Institute
 - 13.1 Supplementary to submission 13
 - Gillespie Economics response to comments made by Australia Institute
- 14 PwC Australia
- 15 Sentenia Consulting
- 16 Department of Home Affairs
- 17 Accounting Professional and Ethical Standards Board
- 18 Confidential
- 19 Per Capita Australia
- 20 Chartered Accountants ANZ
- 21 Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia
 - 21.1 Supplementary to submission 21
 - 21.2 Supplementary to submission 21
- 22 Australian Taxation Office
- 23 Kiah
- 24 EY
- 25 Department of Parliamentary Services

- 26 Australian National Audit Office
- 27 Digital Transformation Agency
- 28 Department of Veterans' Affairs
- 29 Australian Public Service Commission
- 30 Institute of Management Consultants Australia
 - 30.1 Supplementary to submission 30
 - 30.2 Supplementary to submission 30
 - Attachment 1
 - Attachment 2
 - Attachment 3
 - Attachment 4
 - Attachment 5
 - Attachment 6
 - Attachment 7
- 31 Services Australia
- 32 Confidential
- 33 Confidential
- 34 National Disability Insurance Agency
- 35 Department of Education
- 36 Dr Andy Schmulow and Dr Corinne Cortese
- 37 Treasury
- 38 Department of Defence
- 39 Department of Foreign Affairs and Trade
- 40 Icení
- 41 Department of Infrastructure, Transport, Regional Development,
Communications and the Arts
- 42 Confidential
- 43 Confidential
- 44 Ms Raelene Bartlett
 - Attachment 1
 - Attachment 2
- 45 Professor Brendan Lyon
 - Attachment 1
 - KPMG response to submission 45
 - Chartered Accountants Australia and New Zealand (CAANZ) response to
submission 45
 - Heather Watson response to submission 45
- 46 Ethics Advisory Services
- 47 McKinsey Australia

- 48 Boston Consulting Group
- 49 Mr Stuart Hamilton
- 50 Ms Monica Mesch
- 51 Mr Michael Parkinson
- 52 Confidential
 - 52.1 Confidential
- 53 Type 1 Voice
- 54 Dr Damien Williams, Michelle Hornstein
- 55 Confidential
- 56 Confidential
- 57 Mr Mark Warburton
 - 57.1 Supplementary to submission 57
 - BCG response to submission 57
 - Department of Social Services response to submission 57
 - Department of Social Services response to supplementary submission 57.1
- 58 The Centre for Public Integrity
- 59 Confidential
- 60 Confidential
- 61 Business Council of Australia

Corrections to Evidence

- 1 Response to comments made at a public hearing on 2 May 2023 - received from CSIRO on 26 May 2023
- 2 Clarification to evidence given at a public hearing on 26 September 2023 - received from Tax Practitioner Board on 24 October 2023
- 3 Clarification to evidence given at a public hearing 26 September 2023 - received from Treasury on 1 November 2023
- 4 Clarification to evidence given at a public hearing 9 February 2024 - received from PwC on 13 February 2024
- 5 Clarification to evidence given at a public hearing 23 February 2024 - received from Australian Sustainable Finance Institute on 27 February 2024
- 6 Clarification to evidence given at a public hearing 9 February 2024 - received from EY on 28 February 2024

Additional Information

- 1 Collection of articles provided by Tom Ravlic, 25 February 2024
- 2 Collection of articles provided by Tom Ravlic, 15 March 2024

Answer to Question on Notice

- 1 Department of Defence, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 6 April 2023)
- 2 Department of Finance, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 12 April 2023)
- 3 Department of Infrastructure, Transport, Regional Development, Communications and the Arts, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 12 April 2023)
- 4 Department of Industry, Science and Resources, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 17 April 2023)
- 5 Department of Climate Change, Energy, the Environment and Water, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 17 April 2023)
- 6 Department of Infrastructure, Transport, Regional Development, Communication and the Arts, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 18 April 2023)
- 7 Department of Agriculture, Fisheries and Forestry, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 21 April 2023)
- 8 Attorney-General's Department, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 21 April 2023)
- 9 Department of Industry, Science and Resources, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 21 April 2023)
- 10 Attorney-General's Department, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 18 April 2023)
- 11 Department of Infrastructure, Transport, Regional Development, Communication and the Arts, answer to a written question on notice from Senator Barbara Pocock, 23 March 2023 (received 19 April 2023)
- 12 Department of Infrastructure, Transport, Regional Development, Communication and the Arts, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 18 April 2023)
- 13 Department of Foreign Affairs and Trade, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 20 April 2023)
- 14 Department of Finance, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 26 April 2023)
- 15 Department of Foreign Affairs and Trade, answer to a written question on notice from Senator Barbara Pocock, 23 March 2023 (received 26 April 2023)

-
- 16 Department of Social Services, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 24 April 2023)
 - 17 Department of Home Affairs, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 26 April 2023)
 - 18 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 19 April 2023 (received 1 May 2023)
 - 19 Department of Education, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 28 April 2023)
 - 20 Department of Employment and Workplace Relations, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 2 May 2023)
 - 21 Department of Infrastructure, Transport, Regional Development, Communications and the Arts, answer to a written question on notice from Senator Barbara Pocock, 23 March 2023 (received 2 May 2023)
 - 22 Department of Industry, Science and Resources, answer to a written question on notice from Senator Barbara Pocock, 23 March 2023 (received 2 May 2023)
 - 23 Australian Taxation Office, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 3 May 2023)
 - 24 Department of Employment and Workplace Relations, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 28 April 2023)
 - 25 Department of Health and Aged Care, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 8 May 2023)
 - 26 Department of Health and Aged Care, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 12 May 2023)
 - 27 Department of the Prime Minister and Cabinet, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 22 May 2023)
 - 28 Treasury, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 25 May 2023)
 - 29 Treasury, answers to written questions on notice from Senator Barbara Pocock, 23 March 2023 (received 26 May 2023)
 - 30 Community and Public Sector Union (CPSU), answers to questions on notice from a public hearing on 2 May 2023 (received 2 June 2023)
 - 31 The Australia Institute, answers to questions on notice from a public hearing on 2 May 2023 (received 6 June 2023)
 - 32 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 5 May 2023 (received 2 June 2023)

- 33 KPMG, answer to a question on notice from a public hearing on 7 June 2023 (received 28 June 2023)
- 34 Australian Taxation Office, answers to question on notice from a public hearing on 7 June 2023 (received 29 June 2023)
- 35 EY, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023)
- 36 Deloitte, answers to written questions on notice from Senator Barbara Pocock, 28 and 30 June 2023 (received 7 July 2023)
- 37 Boston Consulting Group, answers to written questions on notice from Senator Barbara Pocock, 30 June 2023 (received 7 July 2023)
- 38 Treasury, answers to questions on notice from a public hearing on 7 June 2023 (received 7 July 2023)
- 39 KPMG, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023)
- 40 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 7 July 2023)
- 41 Accenture, answers to written questions on notice from Senator Barbara Pocock, 29 and 30 June 2023 (received 18 July 2023)
- 42 Institute of Management Consultants Australia, answers to questions on notice from a public hearing on 7 June 2023 (received 10 July 2023)
- 43 Department of Finance, answers to questions on notice from a public hearing on 7 June 2023 (received 10 July 2023)
- 44 Treasury, answers to questions on notice from a public hearing on 7 June 2023 (received 14 July 2023)
- 45 KPMG, answers to written questions on notice from Senator Bragg, 14 June 2023 (received 10 July 2023)
- 46 KPMG, answers to questions on notice from a public hearing, 7 June 2023 (received 10 July 2023)
- 47 KPMG, answers to written questions from Senator Barbara Pocock, 28 June 2023 (received 18 July 2023)
- 48 Australian Taxation Office, answers to written questions on notice from Senator Barbara Pocock, 30 June 2023 (received 28 July 2023)
- 49 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 30 June 2023 (received 21 July 2023)
- 50 Tax Practitioners Board, answer to a written question on notice from Senator Barbara Pocock, 5 May 2023 (received 7 August 2023)
- 51 Tax Practitioners Board, answers to questions on notice from a public hearing, 7 June 2023 (received 7 August 2023)

-
- 52 Deloitte, answers to questions on notice from a public hearing on 17 July 2023, and to written questions from Senator Deborah O'Neill (18 July 2023) (received 7 August 2023)
 - 53 KPMG, answers to written questions on notice from Senator Barbara Pocock, 28 June 2023 (received 16 August 2023)
 - 54 McKinsey & Company, answers to written questions on notice from Senator Deborah O'Neill, 18 July 2023 (received 7 August 2023)
 - 55 KPMG, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 25 August 2023)
 - 56 Deloitte, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 29 August 2023)
 - 57 EY, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 31 August 2023)
 - 58 PwC Australia, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 30 August 2023)
 - 59 McKinsey & Company, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 30 August 2023)
 - 60 Accenture, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 29 August 2023)
 - 61 Boston Consulting Group, answers to written questions on notice from Senator Deborah O'Neill, 9 August 2023 (received 31 August 2023)
 - 62 Accenture, answers to questions on notice from a public hearing on 18 July 2023 (received 4 August 2023)
 - 63 KPMG, answers to written questions on notice from Senator Deborah O'Neill, 18 July 2023 (received 20 July 2023)
 - 64 EY, answers to questions on notice from a public hearing on 18 July 2023 (received 1 August 2023)
 - 65 Deloitte, answers to questions on notice from a public hearing on 17 July 2023 (received 7 August 2023)
 - 66 Boston Consulting Group, answers to written questions on notice from from Senator Deborah O'Neill, 8 September 2023 (received 22 September 2023)
 - 67 McKinsey & Company, answers to written questions on notice from Senator Deborah O'Neill, 8 September 2023 (received 22 August 2023)
 - 68 Department of Finance, answer to a written question on notice from Senator Deborah O'Neill, 8 September 2023 (received 25 September 2023)
 - 69 Boston Consulting Group, answers to questions on notice from a public hearing on 26 September 2023 (received 17 October 2023)

- 70 McKinsey & Company, answers to questions on notice from a public hearing on 26 September 2023 (received 19 October 2023)
- 71 Deloitte, answers to written questions on notice from Senator Barbara Pocock, 19 October 2023 (received 20 October 2023)
- 72 KPMG, answers to written questions on notice from Senator Barbara Pocock, 19 October 2023 (received 20 October 2023)
- 73 Boston Consulting Group, answers to written questions on notice from Senator David Pocock, 28 and 29 September 2023 (received 19 October 2023)
- 74 Department of Finance, answers to questions on notice from a public hearing on 27 September 2023 (received 20 October 2023)
- 75 Australian Taxation Office, answer to questions on notice from a public hearing on 26 September (received 24 October 2023)
- 76 Tax Practitioners Board, answers to questions on notice from a public hearing on 26 September 2023 (received 24 October 2023)
- 77 Treasury, answer to a question on notice from a public hearing on 12 October 2023 (received 2 November 2023)
- 78 Professional Standards Authority, answers to questions on notice from a public hearing on 12 October 2023 (received 1 November 2023)
- 79 KPMG Australia, answers to questions on notice from a public hearing on 27 September 2023 (received 24 October 2023)
- 80 PwC Australia, answers to questions on notice from a public hearing on 12 October 2023, and to written questions from Senator Barbara Pocock (16 and 18 October 2023) (received 2 November 2023)
- 81 Australian Securities and Investments Commission, answers to questions on notice from a public hearing on 12 October 2023 (received 9 November 2023)
- 82 Luke Sayers, answers to questions on notice from a public hearing on 12 October 2023, and to written questions from Senator Barbara Pocock (18 October 2023) (received 2 November 2023)
- 83 EY, answers to written questions on notice from Senator Barbara Pocock, 19 October 2023 (received 9 November 2023)
- 84 Treasury, answers to questions on notice from a public hearing on 12 October 2023 (received 15 November 2023)
- 85 Treasury, answer to a question on notice from a public hearing on 12 October 2023 (received 20 November 2023)
- 86 Elizabeth Broderick & Co., answer to a question on notice from a public hearing on 9 November 2023 (received 4 December 2023)
- 87 Treasury, answers to questions on notice from a public hearing on 12 October 2023 (received 11 December 2023)

-
- 88 Treasury, answers to questions on notice from a public hearing on 12 October 2023 (received 13 December 2023)
 - 89 Department of Finance, answer to a written question on notice from Senator Deborah O'Neill, 27 November 2023 (received 13 December 2023)
 - 90 Treasury, answers to questions on notice from a public hearing on 12 October 2023 (received 13 December 2023)
 - 91 Treasury, answers to questions on notice from a public hearing on 12 October 2023 (received 15 December 2023)
 - 92 Boston Consulting Group, answers to written questions on notice from Senator Deborah O'Neill, 27 November 2023 (received 15 December 2023)
 - 93 Sayers Group, answers to written questions on notice from Senator Deborah O'Neill, 27 November 2023 (received 18 December 2023)
 - 94 McKinsey & Company, answers to written questions on notice from Senator Deborah O'Neill, 27 November 2023 (received 18 December 2023)
 - 95 PwC Australia, answers to written questions on notice from Senator Deborah O'Neill, 27 November 2023 (received 19 December 2023)
 - 96 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 11 January 2024 (received 2 February 2024)
 - 97 Department of Finance, answers to written questions on notice from Senator Barbara Pocock, 21 December 2023 (received 1 February 2024)
 - 98 EY, answers to written questions on notice from Senator Barbara Pocock, 11 January 2024 (received 2 February 2024)
 - 99 KPMG, answers to written questions on notice from Senator Deborah O'Neill, 27 November 2023 (received 18 December 2023)
 - 100 KPMG, answers to written questions on notice from Senator Barbara Pocock, 11 January 2024 (received 2 February 2024)
 - 101 Deloitte, answers to written questions on notice from Senator Barbara Pocock, 11 January 2024 (received 2 February 2024)
 - 102 Department of Finance, answers to questions on notice from Senator Richard Colbeck, 23 January 2024 (received 19 February 2024)
 - 103 PwC Australia, answers to questions on notice from a public hearing on 9 February 2024 (received 1 March 2024)
 - 104 KPMG, answers to questions on notice from a public hearing on 9 February 2024 (received 1 March 2024)
 - 105 Scyne Advisory, answers to questions on notice from a public hearing on 9 February 2024 (received 1 March 2024)
 - 106 PwC Australia, answers to written questions on notice from Senator David Pocock, 14 February 2024 (received 6 March 2024)

- 107 KPMG, answers to written questions on notice from Senator David Pocock, 14 February 2024 (received 6 March 2024)
- 108 EY, answers to questions on notice from a public hearing on 9 February 2024 (received 5 March 2024)
- 109 EY, answers to written questions on notice from Senator David Pocock, 14 February 2024 (received 6 March 2024)
- 110 Department of Finance, answers to questions on notice from a public hearing on 23 February 2024 (received 8 March 2024)
- 111 CPA Australia, answers to questions on notice from a public hearing on 23 February 2024 (received 12 March 2024)
- 112 Accounting Professional and Ethical Standards Board, answers to questions on notice from a public hearing on 23 February 2024 (received 12 March 2024)
- 113 Deloitte, answers to questions on notice from a public hearing on 23 February 2024, and answers to written questions on notice from Senator David Pocock, 26 February 2024 (received 13 March 2024)
- 114 Business Council of Australia, answers to questions on notice from a public hearing on 23 February 2024 (received 12 March 2024)
- 115 Institute of Public Accountants, answers to questions on notice from a public hearing on 23 February 2024 (received 12 March 2024)
- 116 EY, answers to written questions on notice from Senator Barbara Pocock, 26 February 2024 (received 13 March 2024)
- 117 Chartered Accountants Australia and New Zealand, answers to questions on notice from a public hearing on 23 February 2024 (received 13 March 2024)
- 118 Australian Taxation Office, answers to questions on notice from a public hearing on 9 February 2024 (received 15 March 2024)
- 119 Tax Practitioners Board, answers to questions on notice from a public hearing on 9 February 2024 (received 25 March 2024)
- 120 Tax Practitioners Board, answer to a written questions on notice from the Senate FPA committee, 5 March 2024 (received 25 March 2024)
- 121 Australian Taxation Office, answer to a question on notice from a public hearing on 9 February 2024 received 25 March 2024)
- 122 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 19 March 2024 (received 2 April 2024)
- 123 PwC Australia, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 10 April 2024)
- 124 KPMG, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 10 April 2024)

- 125 Deloitte, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (receive 10 April 2024)
- 126 EY, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 17 April 2024)
- 127 Department of Finance, answers to written questions on notice from Senator Richard Colbeck, 12 April 2024 (received 24 April 2024)
- 128 KPMG, answers to written questions on notice from Senator Barbara Pocock, 20 March 2024 (received 17 April 2024)
- 129 Department of Finance, answers to written questions on notice from Senator Barbara Pocock, 3 May 2024 (received 24 May 2024)

Correspondence

- 1 Letter from Senator Colbeck, Chair Finance and Public Administration References Committee to UK Public Accounts Committee - September 2023
- 2 Letter from Senator Colbeck, Chair Finance and Public Administration References Committee to US Senate Committee - September 2023
- 3 Letter from Senator Colbeck, Chair Finance and Public Administration References Committee to US House Committee - September 2023
- 4 Correspondence, Finance and Public Administration References Committee and KPMG Australia, power mapping - October 2023
- 5 Correspondence, Finance and Public Administration References Committee and PwC Australia - October - November 2023
- 6 Correspondence, Finance and Public Administration References Committee and Company (Giles) - November 2023
- 7 Chartered Accountants Australia and New Zealand, letter regarding Mr Peter Collins resignation - 27 February 2024
- 8 PwC Australia, Letter to Senator the Hon Richard Colbeck, Chair, Senate Finance and Public Administration References Committee, 21 March 2024
- 9 PwC Australia, Letter regarding an update to Whistleblower compliant relating to the procurement of PwC's Travel Service Provider in 2015, 24 March 2024

Tabled Documents

- 1 Treasury - Letter to correct evidence given at a public hearing on 7 June 2023, received on 7 June 2023
- 2 Institute of Management Consultants Australia - Opening Statement - 7 June 2023
- 3 Tax Practitioners Board - Opening Statement - 7 June 2023

- 4 Submission 43 to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the Regulation of Auditing (28 October 2019), tabled by Senator O'Neill on 17 July 2023
- 5 Deborah O'Neill - 'Gatekeepers turned poachers are a danger to audit integrity', tabled by Senator O'Neill on 17 July 2023
- 6 Correspondence between Mr Chris Jordan AO Commissioner of Taxation and Mr Ian Klug AM Chair Tax Practitioners Board, tabled by Senator O'Neill on 26 September 2023
- 7 Boston Consulting Group - 'What is the Growth Share Matrix?', tabled by Senator O'Neill on 26 September 2023
- 8 Boston Consulting Group - 'Stakeholder management', tabled by Senator O'Neill on 26 September 2023
- 9 Hannah Wooton and Edmund Tadros - 'McKinsey about-face reveals misconduct complaints', tabled by Senator O'Neill on 26 September 2023
- 10 Charles Batchelor - 'Up or out' is part of industry culture', tabled by Senator O'Neill on 26 September 2023
- 11 Ellie Dudley - 'Woke' firms giving 'only Yes side of Indigenous voice debate', say critics', tabled by Senator O'Neill on 27 September 2023
- 12 PwC Australia - Opening Statement - 12 October 2023
- 13 PwC Australia - 'Review of Governance, Culture and Accountability at PwC Australia', tabled by Senator O'Neill on 12 October 2023
- 14 PwC Australia - 'PwC Australia's Commitments to Change', response to the Switkowski review, tabled by Senator O'Neill on 12 October 2023
- 15 PwC Australia - 'Review of Tax Confidentiality Breaches and Related Questions', tabled by Senator O'Neill on 12 October 2023
- 16 Correspondence from Mr Andrew Danks Department of Finance to Mr Thomas Bowden PwC, tabled by Senator O'Neill on 12 October 2023
- 17 PwC Australia - 'Statement on Linklaters' PwC Network review', tabled by Senator O'Neill on 12 October 2023
- 18 PwC Australia - evidence given to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the Regulation of Auditing (December 2019), tabled by Senator O'Neill on 12 October 2023
- 19 Luke Sayers AM - Opening Statement - 12 October 2023
- 20 Statement by Luke Sayers AM, tabled by Senator O'Neill on 12 October 2023
- 21 Professionals Standards Councils - Opening Statement - 12 October 2023
- 22 Australian Securities and Investments Commission - Opening Statement - 12 October 2023

-
- 23 Edmund Tadros - 'Professional regulator blasts 'shocking' delay in KPMG cheating probe', tabled by Senator O'Neill on 12 October 2023
 - 24 Australian Taxation Office - Opening Statement - 9 February 2024
 - 25 PwC Australia - Opening Statement - 9 February 2024
 - 26 'Note 41, Audit and other services provided by PricewaterhouseCoopers, p. 265' - extract from Macquarie Group, Annual Report 2023, tabled by Senator Barbara Pocock on 9 February 2024
 - 27 Scyne Advisory - Opening Statement - 9 February 2024
 - 28 KPMG Australia - Opening Statement - 9 February 2024
 - 29 EY - Opening Statement - 9 February 2024
 - 30 EY - enforceable voluntary undertakings, tabled by Mr David Larocca, EY Oceania Chief Executive Officer and Regional Managing Partner on 9 February 2024
 - 31 Australian Taxation Office - 'Reflections on being a large market tax adviser' and 'Tax in a Transparent World', tabled by Mr Jeremy Hirschhorn, Second Commissioner on 9 February 2024
 - 32 Chartered Accountants Australia and New Zealand - Opening Statement - 23 February 2024
 - 33 Chartered Accountants Australia and New Zealand, Professional Standards Annual Report Australia for financial year ended 30 June 2023, tabled by Ms Vanessa Chapman, CA ANZ Group Executive General Counsel and Corporate Assurance on 23 February 2024
 - 34 Accounting Professional and Ethical Standards Board - Opening Statement and Global three-tier standard setting model - 23 February 2024
 - 35 Mark Di Stefano - 'Inside the Big Four's private Zoom enclave', tabled by Senator O'Neill on 23 February 2024
 - 36 AusTender, Contract Notice CN3696676, Boston Consulting Group to AusTrade, published 1 July 2020, tabled by Senator O'Neill on 23 February 2024
 - 37 Henry Belot - 'Deloitte admits misuse of government information as scandal engulfing PwC widens', tabled by Senator O'Neill on 23 February 2024
 - 38 KPMG, Health Infrastructure NSW (HINSW) Workshop Actions, 15 May 2023, tabled Senator Barbara Pocock on 9 February 2024.

Appendix 2

Public hearings and witnesses

Tuesday, 2 May 2023

Senate Committee Room 2S1

Parliament House

Canberra

Professor Andrew Podger, Private capacity

Emeritus Professor James Guthrie, Private capacity

Professor Jane Andrew, Private capacity

Dr Erin Twyford, Private capacity

Professor Fran Baum, Private capacity

Dr Julia Anaf, Private capacity

Australia Institute

- Mr William (Bill) Browne, Director, Democracy and Accountability Program
- Mr Rod Campbell, Research Director
- Dr Alexia Adhikari, Postdoctoral Research Fellow

Community and Public Sector Union (PSU Group)

- Mr Michael Tull, Assistant National Secretary

Wednesday, 7 June 2023

Senate Committee Room 2S1

Parliament House

Canberra

Institute of Management Consultants Australia

- Mr Peter Westlund, National President and Board Chair
- Mr Michael McLean, National Board Member
- Ms Jenifer Fredrick, Non-Executive Director on the National Board as representative of the ACT Chapter

Department of Finance

- Mr Andrew Danks, Acting Deputy Secretary, Commercial Group
- Mr Gareth Sebar, Acting First Assistant Secretary, Procurement and Insurance Division, Commercial Group

- Mr Grant Lovelock, First Assistant Secretary, Corporate Services Division, Business Enabling Services
- Mr Grant Stevens, Assistant Secretary, Chief Financial Officer, Business Enabling Services

Treasury

- Ms Tarnya Gersbach, Chief Finance Officer, Corporate Division, Corporate & Foreign Investment Group
- Dr Angela Barrett, Chief Operating Officer, Corporate Division, Corporate & Foreign Investment Group
- Ms Roxanne Kelley, Deputy Secretary, Corporate & Foreign Investment Group
- Ms Dianne Brown, Deputy Secretary, Revenue, Small Business and Housing Group
- Mr Marty Robinson, First Assistant Secretary, Corporate and International Tax Division

Australian Taxation Office

- Mr Jeremy Hirschhorn, Second Commissioner, Client Engagement Group
- Ms Clare Gunning, Acting Chief Operating Officer
- Ms Janine Bristow, Chief Financial Officer
- Ms Rebecca Saint, Deputy Commissioner, Public Groups

Tax Practitioners Board

- Mr Michael O'Neill, Secretary and CEO
- Mr Peter de Cure, Chair
- Ms Janette Luu, Assistant Secretary

KPMG Australia

- Mr Andrew Yates, Chief Executive Officer
- Mr Paul Low, National Industry Leader, Infrastructure, Government and Healthcare
- Mr Tony Mulveney, Tax and Legal Risk Management Partner

Ms Rosie Collington, Private capacity

Monday, 17 July 2023

Senate Committee Room 2S3
Parliament House
Canberra

Professor Allan Fels AO, Private capacity

Deloitte Australia

- Mr Adam Powick, CEO

- Mr Tom Imbesi, Chairman
- Mrs Sneza Pelusi, Partner, Chief Risk Officer
- Mr Matthew O'Donnell, Lead Client Service Partner - Australian Federal Government
- Mr Adam Powick, CEO
- Mr Tom Imbesi, Chairman
- Mrs Sneza Pelusi, Partner, Chief Risk Officer
- Mr Matthew O'Donnell, Lead Client Service Partner - Australian Federal Government

Ms Tracey Murray, Private capacity

Professor Brendan Lyon, Private capacity

Tuesday, 18 July 2023

Senate Committee Room 2S3

Parliament House

Canberra

Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia

- Dr Mark Zirnsak

EY

- Mr David Larocca, Oceania CEO & Regional Managing Partner
- Mrs Leigh Walker, Oceania Risk Management and Independence Leader
- Mr Mark Nixon, Oceania Government and Public Sector Consulting Leader
- Mr Scott Grimley, Oceania Tax and Law Leader

Accenture

- Mrs Louise May, Strategy & Consulting Lead, Australia & New Zealand
- Mr John Vidas, Health and Public Service Group Lead, Australia & New Zealand
- Mr Peter Burns, Market Unit Lead, Australia & New Zealand

Tuesday, 26 September 2023

Senate Committee Room 2S1

Parliament House

Canberra

Tax Practitioners Board

- Mr Michael O'Neill, Secretary and CEO
- Mr Peter de Cure, Chair
- Ms Janette Luu, Assistant Secretary

Australian Taxation Office

- Ms Rebecca Saint, Deputy Commissioner, Public Groups
- Mr Bradley Chapman, Deputy Commissioner, Enterprise Strategy and Design
- Mr Andrew Watson, Deputy Commissioner, Individuals and Intermediaries
- Mr Jeremy Hirschhorn, Second Commissioner, Client Engagement Group
- Ms Janine Bristow, Acting Chief Operating Officer
- Mr Nicholas Shizas, Australian Taxation Officer, General Counsel

Boston Consulting Group

- Mr Grant McCabe, Managing Partner for BCG Australia & New Zealand
- Mrs Anna Green, Managing Director and Senior Partner
- Mr Miguel Carrasco, Managing Director and Senior Partner
- Mr Mark Watters, Managing Director and Partner

McKinsey Australia

- Mr Wesley Walden, Managing Partner
- Ms Emma Petherick, Head of People
- Mr Damien Bruce, Senior Partner, Public & Health Sector Leader

Wednesday, 27 September 2023

Senate Committee Room 2S1
Parliament House
Canberra

Department of Finance

- Mr Andrew Jaggers, Deputy Secretary, Commercial Group
- Ms Rachel Antone, Acting First Assistant Secretary, Procurement and Insurance Division
- Mr Gareth Sebar, Assistant Secretary, Procurement and Discretionary Payments Branch

KPMG Australia

- Mr Andrew Yates, Chief Executive Officer
- Mr Marcus McArdle, Risk Management Partner, Audit
- Mr Paul Low, National Industry Leader, Infrastructure, Government and Healthcare

Thursday, 12 October 2023

Senate Committee Room 2S1
Parliament House
Canberra

PwC Australia

- Mr Kevin Burrowes, Chief Executive Officer

- Ms Jan McCahey, Chief Risk and Ethics Leader
- Ms Catherine Walsh, People Leader

Mr Luke Sayers AM, Private capacity

Professional Standards Councils

- Mr John Vines OAM, Chair
- Ms Roxane Marcelle-Shaw, Chief Executive Officer
- Mr Darren Holder, Director, Professional Standards Regulation, Professional Standards Authority

Australian Securities and Investments Commission (ASIC)

- Mr Warren Day, Chief Executive Officer (via videoconference)
- Mr Chris Savundra, Executive Director and General Counsel Legal Services)
- Mr Greg Yanco, Executive Director, Regulation & Supervision
- Ms Kate Metz, Senior Executive Leader, Regulatory Reform & Implementation

Treasury

- Ms Diane Brown, Deputy Secretary, Revenue Group
- Mr Marty Robinson, First Assistant Secretary, Corporate and International Tax Division
- Ms Laura Berger-Thomson, First Assistant Secretary, Personal and Indirect Tax and Charities Division
- Dr Angela Barrett, Chief Operating Officer
- Ms Tarnya Gersbach, Chief Finance Officer
- Ms Deepti Paton, Director, Corporate Conduct and Analysis Unit

Thursday, 9 November 2023

Senate Committee Room 2S1

Parliament House

Canberra

Elizabeth Broderick & Co

- Ms Elizabeth Broderick AO, Principal
- Ms Lisa Pusey, Lead Consultant
- Ms Lisa Ryan, Lead Consultant

Friday, 9 February 2024

Senate Committee Room 2S3

Parliament House

Canberra

Australian Taxation Office

- Mr Jeremy Hirschhorn, Second Commissioner

- Ms Rebecca Saint, Deputy Commissioner, Public Groups
- Mr John Ford, Deputy Commissioner, Fraud and Criminal Behaviour
- Mr Ben Kelly, Deputy Commissioner, Policy, Analysis and Legislation
- Ms Clare Gunning, Deputy Commissioner, ATO Corporate
- Mr Brad Chapman, Deputy Commissioner, Enterprise Strategy and Design
- Ms Fiona Dillon, Chief Tax Counsel
- Mr Nicholas Shizas, General Counsel

Tax Practitioners Board

- Mr Peter de Cure, Chair
- Mr Michael O'Neill, Secretary and CEO
- Ms Debra Anderson, Board Member
- Ms Janette Luu, Assistant Secretary

PwC Australia

- Mr Kevin Burrowes, Chief Executive Officer
- Ms Jan McCahey, Chief Risk Officer

Scyne Advisory

- Mr John Mullen, Chair of Board of Directors
- Mr Richard Gwilym, Managing Partner
- Mrs Sarah Niederle, Chief Risk Officer
- Ms Kate Evans, People Leader
- The Hon. Andrew Greenwood, Chair, Probity, Conflicts and Ethics subcommittee of the Board

KPMG Australia

- Mr Andrew Yates, Chief Executive Officer
- Mr Martin Sheppard, National Chairman
- Mr Paul Low, National Industry Leader, Infrastructure, Government and Healthcare
- Ms Tanya Gilerman, Chief Risk Officer
- Mr Tony Mulveney, Partner, Tax and Legal Risk Management Partner
- Mr Shane O'Sullivan, Partner, Data & Cloud, Data & Cloud Lead for Defence
- Ms Melissa McClusky, Defence Account Lead Partner
- Mr Peter Corcoran, Director

EY

- Mr David Larocca, Oceania CEO & Regional Managing Partner
- Ms Jenelle McMaster, Oceania Deputy CEO & Markets Leader
- Ms Kate Hillman, Oceania People, Place and Culture Leader
- Mrs Leigh Walker, Oceania Risk Management & Independence Leader
- Mr Scott Grimley, Oceania Tax & Law Leader

Friday, 23 February 2024

Senate Committee Room 2S3

Parliament House

Canberra

Chartered Accountants Australia and New Zealand

- Mr John Palermo, Chair
- Mr Tinashe Kamangira, President
- Mrs Ainslie van Onselen, Chief Executive Officer
- Ms Vanessa Chapman, Group Executive General Counsel and Corporate Assurance
- Mr Simon Grant, Group Executive Advocacy and International Development

CPA Australia

- Mr Dale Pinto, President and Chair
- Mr Warren McRae, Deputy President
- Mr Andrew Hunter, Chief Executive Officer
- Ms Elinor Kasapidis, Interim Chief Learning and Innovation Officer

Accounting Professional and Ethical Standards Board

- Ms Nancy Milne OAM, Chairman
- Mr Channa Wijesinghe, Chief Executive Officer

Institute of Public Accountants

- Mr Andrew Conway, Chief Executive Officer
- Mrs Cheryl Mallett, President
- Ms Vicki Stylianou, Group Executive Advocacy & Policy
- Mr Tony Greco, General Manager Technical Policy

Business Council of Australia

- Mr Bran Black, Chief Executive Officer
- Mr Pero Stojanovski, Deputy Chief Economist

Deloitte Australia

- Mr Adam Powick, Chief Executive Officer
- Mr Tom Imbesi, Chairman
- Ms Sneza Pelusi, Chief Risk Officer
- Ms Pip Dexter, Chief People and Purpose Officer

Treasury

- Ms Roxanne Kelley PSM, Deputy Secretary, International & Foreign Investment Group
- Ms Laura Berger-Thomson, First Assistant Secretary, Personal and Indirect Tax and Charities Division

- Mr Richard Maher, Assistant Secretary, Personal and Indirect Tax and Charities Division
- Mr Tom Dickson, Assistant Secretary, Market Conduct and Digital Division
- Dr Angela Barrett, Chief Operating Officer
- Ms Tarnya Gersbach, Chief Finance Officer

Department of Finance

- Mr Andrew Jagers PSM, Deputy Secretary, Commercial Group
- Mr Andrew Danks, First Assistant Secretary, Procurement Division, Commercial Group
- Mr Gareth Sebar, Assistant Secretary, Procurement Policy and Systems, Commercial Group
- Ms Kelly Hoffmeister, Assistant Secretary, Legal and Assurance - Business Enabling Services
- Mr Neil Dawson, Assistant Secretary, Chief Financial Officer Branch - Business Enabling Services