



## **Establishing and maintaining a disciplinary process to the highest ethical standards is fundamentally important to the ongoing integrity of the accounting profession.**

The Institute of Public Accountants (“IPA”) is an Australian professional accounting member body. All IPA members are obliged to observe the standards promulgated by the Accounting Professional & Ethical Standards Board (“APESB”) and in particular APESB standard APES 110 - Code of Ethics for Professional Accountants. This particular standard and all APESB standards are on the APESB web site at [www.apesb.org.au](http://www.apesb.org.au). We also require all our members to meet the standards we set in our Constitution, By-laws and Pronouncements as they are amended from time to time. Where there are cases established of conduct that breaches the APESB Code of Ethics, the IPA Constitution, By-laws or Pronouncements then those cases are referred to the IPA Disciplinary Tribunal for determination.

Members residing overseas are obliged to observe the ethical standards prescribed by the Australian Accounting Professional & Ethical Standards Board standard APES 110 – *Code of Ethics for Professional Accountants* to the extent they are permitted to by the relevant ethical standards prescribed in their residential jurisdiction.

The following information is provided to assist you to understand our investigation and disciplinary process.

### **WHY AM I BEFORE THE DISCIPLINARY TRIBUNAL?**

The reason you have been referred to the Disciplinary Tribunal is that following our investigation of the issues relating to your conduct we have decided that there is sufficient evidence to refer your case to the Tribunal for a determination.

The referral of a complaint to the Disciplinary Tribunal is not a finding of guilt but only a resolution resulting from our investigation that your case needs to be considered by the IPA Disciplinary Tribunal. Should the Tribunal determine that the case has been proven, the Tribunal will impose what it considers to be an appropriate penalty.

The IPA Disciplinary Tribunal is a panel comprising IPA members and other non-accounting professionals; the latter to enhance the independence of the Tribunal. The Tribunal is constituted as a subcommittee of the IPA Board of Directors with members appointed by the Board for fixed terms. The Tribunal is thus independent of the management of IPA.

Under the IPA Constitution a member may have a complaint against them, or, issues of conduct identified by the IPA referred to the Disciplinary Tribunal if sufficient evidence exists of one or more of the following:

- Conviction in a court of law – sub-clause 98(1) of the IPA Constitution;
- Breach of one or more of the provisions of the IPA Constitution, By-laws, any IPA Pronouncement or any other professional or ethical obligation – sub-clause 98(2)(a);
- Failure to observe a proper standard of professional care, skill or competence – sub-clause 98(2)(b) of the IPA Constitution;
- Obtaining permission by improper means – sub-clause 98(2)(c) of the IPA Constitution;

- Ceasing to hold qualifications necessary for membership – subclause 98(2)(d) of the IPA Constitution;
- Become insolvent under administration - sub-clause 98(2)(e) of the IPA Constitution;
- Engaged in conduct that is not in the best interest of the IPA – sub-clause 98(2)(f) of the IPA Constitution;
- Ceases to have capacity at law – sub-clause 98(2)(g) of the IPA Constitution; and/or
- Failing to respond to professional correspondence – sub-clause 98(2)(h) of the IPA Constitution.

## **WHAT PROCESS DOES THE DISCIPLINARY TRIBUNAL FOLLOW?**

We will inform you of the date, time and place of the Tribunal Hearing. You may either appear in person, by teleconference, or, with or without counsel. If you decide to appear at the Tribunal, whether with counsel or not, at least seven days' notice is required.

On the day of the Hearing, the Tribunal determines the order that the complaints against members are to be heard.

If you elect to be present when your case is heard, the IPA Advocate will formally present the information we have in relation to your case. The Tribunal may ask questions of you and/or the Investigations Review Officer and the Investigations Officer and you or your counsel will be given the opportunity to make a statement. If you are not present, you are permitted to submit a written statement which will be considered by the Tribunal.

After hearing the case and listening to your presentation, the Tribunal Chairman will ask you, the Investigations Officer and the Investigations Review Officer to depart the room so that they can consider the information before them.

The Tribunal may:

- find you have breached the IPA Constitution and impose a penalty;
- find you have not breached the IPA Constitution and dismiss the case; or
- defer making a decision on the case until further information can be presented to the Tribunal.

The process at a Tribunal Hearing is inquisitorial, not adversarial. The task of the Tribunal is to establish what has happened by taking documents and statements from you the member and the IPA Advocate. The latter's role is not that of a prosecutor, but to present all the information that has been obtained, seek more information if necessary and to answer questions at the Hearing. Your responses should provide additional information and a context to the information already presented. The Tribunal will make a decision on the balance of probabilities.

The range of penalties the Tribunal can impose are set out in the IPA Constitution at clause 98(3). Those penalties are:

- Forfeiture of membership.
- Suspension of membership.
- Imposing a fine.
- Censure.
- Admonishment.
- Any other penalty deemed appropriate.
- The Tribunal can also recover the costs incurred in holding the Tribunal.
- All Tribunal determinations are published in the IPA Journal "Public Accountant". Where an admonishment is imposed, the name of the member is not published. In all other cases the name is published. The Tribunal may also direct publication of a determination in the media.

## **DO I HAVE TO APPEAR BEFORE THE DISCIPLINARY TRIBUNAL?**

There is no requirement to appear before a Disciplinary Tribunal. However we strongly recommend that you do, either in person or by teleconference, as your presence gives a clear message to the Tribunal that you are taking the case seriously.

If you decide to attend personally or by teleconference you must inform the IPA at least seven days prior to the hearing date. If you elect to attend with legal counsel or other representatives, you must inform the IPA fourteen days prior to the hearing date. Any costs you incur in attending the hearing; including those of any form of counsel assisting will not be covered by the IPA either in part or whole.

Alternatively, you may make a representation to the Tribunal in writing. Failure to respond in any form though may be detrimental to your case.

## **CAN I APPEAL THE DECISION OF THE DISCIPLINARY TRIBUNAL?**

The IPA Constitution, at clauses 108 and 109, provides for members who have had a finding against them by the IPA Disciplinary Tribunal, to appeal the determination within 30 days of being informed of the decision. If you decide to appeal, your notice of appeal is to be forwarded to the Executive Officer, IPA Appeals Tribunal.

The notice of appeal must be in writing; state the grounds of the appeal; whether you intend to appear before the appeals Tribunal and/or be assisted by counsel. You may also include submission/s on such matters as you wish to be considered by the Appeals Tribunal.

It is important to remember that it is up to you to prove to the Appeals Tribunal why the previous determination should be overturned. If your appeal is dismissed by the Appeals Tribunal, you may be required to reimburse the IPA the entire cost of holding the appeal.

## **FURTHER INFORMATION**

Further detail on our investigations and disciplinary process is in Chapter 7 of our By-laws, which, together with the IPA Constitution, is on [publicaccountants.org.au](http://publicaccountants.org.au). Alternatively you can call us at **1800 625 625**.