



# FACT SHEET

## Disclosure of Member Information to Third Parties

As one of the three recognised professional accounting bodies, the IPA has responsibility for the preservation of the ethical and professional standards of its members under the Accounting Professional and Ethical Standards Board (APESB), statutory requirements and under their own constitution.

There is a tension between protecting the reputation of the IPA and its members and between protecting the public from unethical operators. This tension acknowledges the important role of the IPA in the accounting profession; the equal standing of the IPA with other professional accounting bodies and the IPA's responsibility to the public.

A balance must be struck between a member's right to privacy and the public interest in members who have been found to not meet the required ethical standards. A serious breach of the ethical standards may warrant disclosure to a relevant organisation who also has a similar interest in protecting the public.

Some of the relevant organisations that may require disclosure of any serious breach of the ethical standards are:

- (A) ASIC;
- (B) Office of Fair Trading;
- (C) other professional accounting bodies such as:
  - i. Tax Practitioners Board (TPB);
  - ii. CPA Australia; and
  - iii. Chartered Accountants Australia and New Zealand (CAANZ);
- (D) government agencies or police requests.

### **Serious Breach of ethical standards**

Where a serious breach of the APES, IPA Constitution or Code of Conduct has been detected and an adverse finding of the same has been made against a member, the IPA should consider it a duty to inform any relevant organisation that may be affected by the IPA's decision. This is particularly important where the member has been removed from the organisation and where any other professional membership that the member has by virtue of their membership to the IPA would also similarly be affected.

For example, a member who was a Tax Agent by virtue of their membership to the IPA, a registered Tax Agent Association, would no longer be a professional accountant or a Tax Agent if they were removed from the IPA.

Whether this requires a proactive disclosure or merely publication of the decision as per the usual process will depend on the severity of the adverse finding against the member.

# FACT SHEET

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## **Rights as a member**

Members have a right, under the Australian Privacy Principles, to inspect the information held on them and to request its deletion when finishing as a member.

Where an adverse finding has been made against the member, consideration relating to the retention of the data should be given, regarding the statutory obligations of the IPA.

Members should be informed that information relating to any adverse finding against them is going to be disclosed to relevant other authorities as well as published on the IPA website. This is a condition of membership and should not come as a surprise to the member.

## **Disclosure**

(i) Parameters of such disclosures of information;

The disclosure should only relate to any adverse finding against the member. This should not be undertaken lightly and should be done at the end of the disciplinary process after the member has exhausted any appeal rights.

The member should be advised that this information may be disclosed to relevant authorities at the time of the final determination.

Disclosure should be limited to information that is relevant to the conduct of the member and finding of the tribunal.

(ii) Privacy considerations in respect of such disclosures of information;

Consideration should be given as to the nature of the information contained within the adverse finding. Any health or other personal information disclosed during the investigation or disciplinary process should be redacted or otherwise obscured to ensure that the IPA does not breach any legislation or regulations regarding health data.

(iii) Best practice processes for the IPA to follow in relation to such disclosure of information.

- Notification to members that disciplinary outcomes may be communicated with the relevant authorities
- Notification with adverse finding that the decision will be published on the IPA website
- Applications for suppression of member's names where appropriate (currently exists)
- Have a strategy for the deletion of personal information when no longer required.

## **Public Interest**

There is a balance between the competing interests of:

- the protection of the privacy of individuals,
- the importance of the IPA being able to undertake the disclosures to ensure the promotion of relevant standards across the industry,



## FACT SHEET

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- the public interest objectives that are served by the disclosure of unsatisfactory conduct,
- the potential for the disclosure to adversely affect the privacy interests of individuals, and
- the extent to which the disclosure may be inconsistent with an individual's reasonable expectation of privacy.

The public interest in the IPA making a disclosure should be balanced against the public interest in complying with the APPs and public interest in the outcomes of disciplinary matters. It must be shown that those other public interests substantially outweigh affording the individual the privacy. Given the seriousness of conduct that is examined by the Disciplinary Tribunal, protection of consumers and the profession is of a paramount importance and outweighs the risk to an individual member's privacy where a substantial breach of their professional responsibilities has been established.

### **Documents to consider**

- IPA Constitution and By Laws
- Australian Privacy Principle
- Relevant APES standards