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HM Revenue
& Customs

Role of professional bodies in the regulation of tax agents

HM Revenue & Customs Research Report 539

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Glossary

Agent Strategy Group (ASG)	One of two forums set up by HMRC as part of the current programme of engaging with agent professional bodies and professional service firms, following a review of agent engagement in 2014. The purpose of ASG is to foster a stronger relationship and greater understanding between HMRC and unrepresented agents. The forum meets quarterly with HMRC.
Anti-Money Laundering (AML) supervision	Certain businesses and individuals in the UK (including accountants, tax advisers, solicitors, auditors and insolvency practices) must register with a supervisory authority to follow AML regulations. Some of the professional bodies included in this research are AML supervisory authorities.
Continuing Professional Development (CPD)	A means of ensuring that members of a particular profession maintain their expertise by keeping up to date with recent developments.
Joint Initiative Strategy Group (JISG)	One of two forums set up by HMRC as part of the current programme of engaging with agent professional bodies and professional service firms, following a review of agent engagement in 2014. JISG's purpose is to strategically address and prioritise issues. The forum meets quarterly with HMRC.
Memorandum of Understanding (MoU) with HMRC	(In this context) a facility for HMRC to inform professional bodies of individual agents that may not be acting professionally.
Office for Professional Body Anti-Money Laundering Supervision (OPBAS)	A new regulator set up by the government to strengthen the UK's anti-money laundering (AML) supervisory regime and ensure the professional body AML supervisors provide consistently high standards of AML supervision. https://www.fca.org.uk/opbas
Practising / non-practising members of professional bodies	Practising members (sometimes referred to as 'licensed members') are those offering services to the public and business; non-practising members are those working for private sector firms (such as accountants, bookkeepers or in payroll) or in the public sector.
Professional body	Professional membership organisations that set standards for behaviour.
Professional Conduct in Relation to Taxation (PCRT)	A standard of practice shared by some of the largest accountancy and tax professional bodies. The PCRT was last updated in November 2016 in response to Government challenge to the professional bodies, made in the 2015 Budget, to take a stronger role in setting professional standards around the facilitation of tax

	avoidance. Key principles contained within the PCRT include those around integrity, professional competence, due care and professional behaviour – also reflected in HMRC’s own standards.
Professional Indemnity Insurance (PII)	Insurance for businesses that give advice or provide a professional service to clients. It can cover compensation claims if a business is sued by a client for making a mistake that leads to financial loss.
Tax agent	An individual who, in the course of business, assists other persons (“clients”) with their tax affairs.

Executive Summary

Background and research objectives

Around three in four businesses use a tax agent to help deal with business taxes, as well as wealthier individuals, self-employed and/or those with more complex tax affairs. Tax agents are third party intermediaries who include accountants, bookkeepers, and tax advisors.

HMRC does not regulate agents; instead the commercial tax services market is self-regulating. Most tax agents (67%¹) are members of professional bodies that set standards for the behaviour expected of their members, such as Professional Conduct in Relation to Taxation (PCRT) which is a standard shared by some of the largest accountancy and tax professional bodies. Professional bodies have the potential to have considerable influence in setting expectations and regulating tax agent-client relationships.

The specific research objectives for this study were to provide an understanding of the following:

- Membership requirements of professional bodies;
- The role of professional bodies;
- How professional bodies assess the adherence of members to the agreed standards, including the use of regulatory frameworks;
- Where professional bodies believe opportunities exist for the profession to enhance its use of regulation or other means to improve standards of tax agents; and
- The relationship between professional bodies and HMRC and maximising the effectiveness of HMRC's support.

Research methods and sample

45-minute qualitative interviews were undertaken with senior officials of 15 professional bodies. Most of the interviewees were qualified in accountancy, or the discipline in which the professional body operated.

Of the fifteen professional bodies participating in the research: eight subscribe to the Professional Conduct in Relation to Taxation (PCRT), including the seven original 'PCRT Bodies' who own the guidance; eleven are Anti-Money Laundering (AML) Supervisors; seven have a Memorandum of Understanding with HMRC covering how it will tell professional bodies of individual members that may not be acting professionally; seven are members of the Joint Initiative Strategy Group (JISG); and eight are members of the Agent Strategy Group (ASG).²

Professional bodies and their membership requirements

The fifteen professional bodies varied considerably in their size and membership profile. Their membership ranged in size from around 1,000 to over half a million members worldwide.

Some had members with a wide range of professional skills, such as: accountancy, taxation, audit, insolvency, investment business, management accounting and payroll, while others were highly focused on

¹ <https://www.gov.uk/government/publications/hm-revenue-and-customs-individuals-small-businesses-and-agents-customer-survey-2016>

² Correct at the point of data collection – March/April 2018

specific disciplines, such as taxation, management accounting, bookkeeping or payroll, or focused on specific types of practice such as small agent practices, or agents that worked primarily with micro businesses.

Most were UK-focused but may have some international members. A couple of professional bodies were internationally focused with links to professional bodies in other countries; they were actively developing their international offer.

Professional titles and levels of membership were not uniform across the professional bodies. Some only had one level of membership, others had a range of different levels which may reflect different types of qualifications or amount of experience. Some professional bodies require members to be practising to retain their level of membership; agents may also be members of a number of different professional bodies.

Requirements for continuing membership varied according to whether the member was in practice (i.e. providing a service to the public or businesses) or whether they were working for private sector businesses (e.g. as accountants, bookkeepers or in payroll) or the public sector. Non-practising members would typically be required to complete an annual return, confirm their Continuing Professional Development (CPD), confirm commitment to the code of conduct and pay their membership fees. Practising members would in addition usually be required to confirm that they had Professional Indemnity Insurance (PII), secure systems and professional cover arrangements in place, compliance with the PCRT (if relevant) and participation in practice reviews conducted by the professional body.

The role of the professional bodies

Professional bodies described their role in varying ways. There were common aspects of their role, each of which were undertaken in different ways and with a different emphasis depending on the size and ethos of the professional body. Typically, the professional bodies said that they: represented members' interests; protected the public; upheld professional standards through codes of conduct and ethics, underpinned by complaints and disciplinary processes; supported members; enhanced members' professional knowledge through monitoring CPD and providing educational and technical advice.

The larger professional bodies were qualification awarding bodies and ran their own examination systems; they were also more likely to be involved in responding to government consultations.

Apart from statutory regulation – AML supervision, for example – professional bodies did not consider that they formally 'regulated' their members. Rather, the majority saw their role as maintaining and enhancing standards through education, with a review process referred to as 'practice assurance' or 'monitoring'. Others were either considering introducing, or enhancing, an existing practice assurance approach, or did not see it as an aspect of their current role.

Adherence to professional standards

Not all the professional bodies reviewed their members for adherence to professional standards. For those that did not, their remit was either of a more educational or advocacy nature, or they believed that as their members would be members of other professional bodies, it was unnecessary for them to have a separate system for assessing whether they were adhering to the agreed standards. However, most had a complaints procedure and most also reviewed whether members were keeping their CPD up to date, which could act as a proxy for ensuring members were adhering to professional standards of conduct.

Where professional bodies were reviewing their members, a distinction was drawn between members in practice and members working in private sector firms or the public sector. Members who were not in practice would generally be required to submit an annual return, confirm they met their CPD requirements and confirm commitment to the professional body's code of conduct / ethics.

Members in practice would generally undergo a more intensive review that may include both desk-based reviews and practice visits. Of the ten professional bodies that conducted practice reviews amongst their members, nine used practice visits, either routinely or on a risk basis.

Selection for a practice review varied across the professional bodies and included: random selection; rolling coverage of all practising members based on date of membership; and risk-approaches using either the AML risk matrix or other criteria such as practice size or the practice client profile (such as a predominance of cash-based clients, or small practices with a handful of high net worth clients). Those conducting rolling coverage of all practising members varied in how regularly these took place, from every three to six years. Professional bodies who took a random or risk-based approach typically reviewed between 5-8% of their practising members per year.

Practice reviews would cover a range of issues, focussing primarily on practice, process and adherence to legislation, for example; the quality of compliance with process and policy would be checked. With practice review visits lasting between half a day and two days, some professional bodies adopted an initial 'light touch' approach, increasing the intensity if issues were identified, whilst others adopted an overall more intensive approach.

Where issues with practice were identified, members were given an action plan and timetable for completion. Successful practice reviews would result in a practice certificate being issued; where issues remained unresolved or there was a refusal to cooperate, disciplinary action may be initiated.

The outcome of any disciplinary action could be a reprimand, fines or expulsion from the professional body. Publication of sanction details varied and included: house magazines / journals; professional body websites; the Taxation Disciplinary Board website; notification of other professional bodies; notification to HMRC; and publication in the press. Some of the professional bodies had concerns about wide publication because of data protection issues.

However, of more concern was that members who were expelled from membership on disciplinary grounds could still legally practice.

Opportunities for enhancing professional standards

The professional bodies recognised that agents can, and do, make errors. However, at present it is difficult to know who makes errors, whether it is agents in practice, those working in the private or public sectors, or agents who are not members of professional bodies. They would like HMRC to assist them by providing information about common errors made and, if possible, which types of agents are making the errors. The professional bodies can then target their information and guidance and adjust their supervisory reviews to focus on these areas.

In terms of regulation, the professional bodies that supervised, or reviewed, their members considered that self-regulation generally worked well, and that statutory supervision was sufficient. A couple of the professional bodies whose current focus was advocacy were considering developing a review system to maintain and enhance standards.

Of greater concern to many of the professional bodies were agents that were not members. While they may be providing a high-quality practice, there was no guarantee of this and the lack of oversight was a concern. Six suggestions were made to bring the 'un-regulated' into a position where they may be supervised:

- A couple of the professional bodies suggested that all agents should be required to be a member of, and supervised by, a professional body, although there were mixed views about this as it could be a restriction on trade;
- There were several suggestions for the introduction of legal protection of titles, such that only those professionals who met certain criteria would be legally allowed to use a specific title; for example, 'professional tax adviser'. There could be unintended consequences, with agents who did not meet the specified criteria, but were providing perfectly adequate services, being unable to practice;

- A public education campaign highlighting the role and importance of professional body supervision was suggested by one professional body, to aid the public and businesses when selecting an agent;
- A couple of the professional bodies were considering whether there were ways in which to bring agents that did not meet their usual criteria into their supervisory process but with a different level of membership;
- One of the professional bodies suggested the development of 'Regulatory Assurance Packages' that could be subscribed to by agents who do not currently meet the criteria for membership but would bring a level of supervision and oversight; and
- A couple of professional bodies suggested that agents who are supervised in some way receive a different level of service from HMRC, or are able to access a greater number of HMRC services on behalf of their clients.

The relationship between HMRC and the professional bodies

Overall, the professional bodies were positive and enthusiastic about the relationship they have with HMRC through the two forums – JISG and ASG – stating that they provided useful opportunities to gain information about HMRC's current thinking and discuss issues arising.

The relationship could be further enhanced if the perceived two-tier nature of the forums were addressed. There was some feeling that by having two forums it conveys a sense of a two-tier relationship, a view that was further exacerbated by some members considering that the forums lacked genuine two-way conversation and with little decision-making they felt like 'talking shops'. A few professional bodies also described a sense of mistrust between HMRC and agents, with a perception that smaller agents were being blamed for the £9 billion pound tax gap – a view that was considered to work against a good working relationship.

Professional bodies raised a number of areas they would like to work on with HMRC to enhance the relationship. These were:

- An update on HMRC's thinking about the supervision of agents who are not currently members of a professional body;
- An opportunity for earlier, greater input into the development of HMRC's new policies, processes and systems as a means of highlighting any potential pitfalls;
- More detailed information about the type of tax errors being made by agents;
- Greater clarity about when information provided by HMRC in the forums can be released to members;
- Longer lead times where HMRC wishes the professional bodies to send information to their members; and
- How HMRC plan to use the Memorandum of Understanding that it has with some of the professional bodies, which allows HMRC to notify them about individual members that may not be acting professionally.

Summary of key findings

Overall, the profession considers that the system of self-regulation of members of professional bodies is working well. Even where professional bodies are not supervising or reviewing members, their complaints process is thought to provide a proxy for ensuring adherence to professional standards.

Of greater concern are practising agents that are not members of any professional body. Agents working in the private or public sector are assumed to be supervised by their employer; agents in practice that are not members of a professional body may be doing exemplary work. But it is recognised that agents do make errors, and it is currently very difficult for professional bodies to identify the most common tax errors that are

being made and the types of agents making them. The professional bodies are keen to work with HMRC to address this.

The professional bodies are keen to continue working with HMRC to maintain and enhance professional standards. While the forums clearly work reasonably well it is also clear that there are certain aspects that limit the value of these opportunities for discussion and decision-making; for example, the sense that some professional bodies are less formally recognised by HMRC than others. There is also a range of practical issues, notably working more closely with HMRC on the development of policies and processes in an earlier and more efficient way that would benefit both HMRC and the profession.

1. Introduction

This section outlines the background, aims, and methodological approach of this research.

1.1 Research Context

HMRC's strategic objectives are threefold: to maximise revenues due and bear down on avoidance and evasion; transform tax and payments for customers; and, to design and deliver a professional, efficient and engaged organisation.³ This includes recognition of the important role of agents:

"We welcome the use of agents to represent customers where they add value in helping their clients to get their affairs right. Agents can play a key role in helping people meet their obligations, while also supporting us in our 'one to many' relationship with customers."⁴

Around three in four businesses use a paid tax agent to help deal with business taxes, as well as wealthier individuals, self-employed and/or those with more complex tax affairs. Tax agents are intermediaries who include accountants, bookkeepers, and tax advisors. Agents potentially have a huge influence on tax efficiency and compliance, and HMRC regularly engages with the profession – often through the professional bodies, which represent thousands of members who themselves represent many more clients. These valued 'one-to-many' relationships effectively inform HMRC changes to policy, product and process; and lead to better-formulated policy design and optimised compliance.

HMRC does not regulate agents; the commercial tax services market is self-regulating. Most paid tax agents (67%⁵) are members of professional bodies that set standards for the behaviour expected of their members, such as Professional Conduct in Relation to Taxation (PCRT) which is a standard shared by some of the largest accountancy and tax professional bodies. The PCRT was last updated in November 2016 in response to Government challenge to the professional bodies, made in the 2015 Budget, to take a stronger role in setting professional standards around the facilitation of tax avoidance. Key principles contained within the PCRT include those around integrity, professional competence, due care and professional behaviour – also reflected in HMRC's own standards.

There are nearly twenty professional bodies operating in the tax agent market; this report describes many of the characteristics of those bodies. HMRC has a longstanding relationship with the professional bodies, whose wide reach into the tax agent market and positive professional influence is valued by HMRC.

Professional bodies have the potential to hold considerable influence in setting and monitoring expectations of tax agents, and regulating tax agent-client relationships.

Key research objectives

HMRC commissioned this research to better understand the functions and regulatory frameworks of the professional bodies for tax agents – how they set and enforce performance standards, and monitor the conduct of their members.

³ <https://www.gov.uk/government/publications/hmrc-strategy>

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629941/HMRC-Strategy.pdf

⁵ <https://www.gov.uk/government/publications/hm-revenue-and-customs-individuals-small-businesses-and-agents-customer-survey-2016>

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- How professional bodies assess the adherence of members to the agreed standards, including the use of regulatory frameworks;
- Where professional bodies believe opportunities exist for the profession to enhance its use of regulation or other means to improve standards of tax agents; and
- The relationship between professional bodies and HMRC and maximising the effectiveness of HMRC's support.

1.2 Sample selection, methodology and fieldwork

45-minute qualitative interviews were undertaken with senior officials of 15 professional bodies. Most of the interviewees were qualified in accountancy, or the discipline in which the professional body operated. Interviews were conducted between 19th March and 4th April 2018.

Of the fifteen professional bodies participating in the research⁶:

- Eight currently subscribe to the Professional Conduct in Relation to Taxation (PCRT)⁷, including the seven original 'PCRT Bodies' who own the guidance;
- Eleven are Anti-Money Laundering (AML) Supervisors⁸;
- Seven have a Memorandum of Understanding with HMRC, which provide a facility for HMRC to inform professional bodies of individual agents that may not be acting professionally;
- Seven are members of the Joint Initiative Strategy Group (JISG); and
- Eight are members of the Agent Strategy Group (ASG).

The qualitative data were managed and analysed using 'Matrix Mapping', an analytical technique that allows the researcher to draw out the range of issues, identifying similarities and differences between the research participants.

1.3 About qualitative research

As this is qualitative research, the prevalence of particular views and experiences cannot and should not be estimated. Rather, the value of qualitative research is in revealing the breadth and nature of the phenomenon under study. Where similarities and differences are apparent, these are reported.

Verbatim interview quotations are used throughout the report to illustrate the findings. They are not attributed to preserve the anonymity of the professional bodies.

⁶ Correct at point of data collection – March/April 2018

⁷ <https://www.gov.uk/government/publications/hmrc-the-standard-for-agents/hmrc-the-standard-for-agents>

⁸ <https://www.gov.uk/anti-money-laundering-registration>

2. Membership of professional bodies

This section details the profile and membership requirements of professional bodies.

2.1 Professional bodies and their focus

The professional bodies participating in the research varied considerably in their size and membership profile. The professional bodies ranged in size from around 1,000 to over half a million members worldwide.

Some had members with a wide range of professional skills, which may include: accountancy, taxation, audit, insolvency, investment business, management accounting and payroll. Others were highly focused on specific disciplines, such as taxation, management accounting, bookkeeping or payroll. Some of the professional bodies do not provide services for agents working in specific disciplines, such as audit, insolvency or investment business as these are specialist areas of work.

There were also professional bodies that specialised in reflecting the interests of small agent practices, or agents that worked primarily with micro businesses – defined by participants as businesses with one employee, such as taxi drivers, window cleaners, contractors working in larger businesses.

'[We] are a one stop shop for tax... so we have a huge amount of involvement at the smaller end... we also have members at the large end...we've got international tax partners... who also deal with tax in the UK.'

'We are purely to do with small practice accountants... We've nothing to do with audits... all that sort of stuff, that's the big boys.'

'[This professional body] focusses on micro practices of high street accountants, so the person working, producing accounts and records for micro businesses... Often they require a lot more support than the larger practice because they don't have the resources to recruit people with certain expertise or they don't have the resources to outsource something and so they do tend to need a lot more support.'

While most of the professional bodies were primarily UK-focused they may also have international members, primarily due to UK members re-locating abroad. There were also a couple of professional bodies that had a specific international focus, had linked up with equivalent professional bodies overseas and were actively developing their international offer.

'Then there are a lot of them [members] who have moved to other countries that are still members but are practising in other countries.'

'Well we are an international body, so we have members in [many] countries with branches throughout the world and we have practising members in the UK and Ireland and one or two other places.'

2.2 Membership requirements

Membership structures across the professional bodies varied considerably. Overall, there were seven different membership levels. Not all professional bodies have the same number of levels; where level 'labels' are the same they do not necessarily have the same membership requirements. The table below shows examples of membership titles and level, in approximate order of status:

Student membership – where the professional body offers a qualification

Affiliate

A member may have passed all the relevant examinations but has not been practising for a sufficient time to warrant full membership

If the member is in practice and wishes to undertake work in specialist areas such as audit or insolvency, then the other members of the firm require Affiliate membership for the member to practice

Associate

A member may have passed certain level exams but would need to pass higher levels before becoming a full member

The member may not have any relevant formal qualifications, but Associate membership reflects that they have been working in the sector for a minimum period. The member is likely to have been practising under supervision

Member (or Full Member in some instances)

A level that usually requires exam passes. There may be one examination level for this level of membership, or this may reflect a first-level examination pass

Membership at this level may also be through another accepted route, which may be a qualification through a different professional body, a relevant university degree, or experience

Membership at this level may require the individual to have been working in the profession for a specified period

May or may not be working under supervision

In one instance, full membership required a foundation degree in the relevant subject, 3 years of practice and at least ten years of management experience

Fellow

More a recognition of their loyalty and advancing in their career

May be by invitation of the professional body only

May be a time-served title, usually requiring 5 -10 years of practice

May require a higher-level qualification, such as a Master's degree

May require demonstration of a significant contribution to the profession

May require a higher number of Continuing Professional Development (CPD) points to retain membership at this level

Chartered

May reflect designation after full qualification by the Chartered bodies

Achievement of a higher-level qualification with the member having an over-arching strategic view of the profession.

Typically, members would graduate through the levels of membership, depending on their interests and abilities.

'So, somebody will come through... if they go through it right the way from the student...they will graduate when they pass the exams and they have to get, demonstrate so much experience and then they become an associate then after five years.'

Some of the professional bodies required members to be currently in practice to retain their membership at the same level.

It was said to be not unusual for members to have memberships with several relevant professional bodies. This was true for members who initially qualified as accountants and now specialise in areas such as taxation, audit or insolvency.

2.3 Requirements for continued membership

The professional bodies distinguished between practising and non-practising members. Practising members – sometimes referred to as ‘licensed members’ – would be those offering services to the public and business; non-practising members would be those working for private sector firms (as accountants, bookkeepers or in payroll) or in the public sector. Requirements for continued membership of the professional body varied.

Non-practising members would in all cases be required to complete an annual return, the content of which varied across the professional bodies. While the specific details of annual returns were not collected as part of this research, some professional bodies mentioned that this would include information on the member’s turnover, client base and confirmation they were registered with the Information Commissioner. Members were also required to confirm they had met their CPD requirements, confirm their commitment to the Code of Conduct and had paid their membership fees.

‘[Members] are required to reconfirm their commitment to a number of things, so commitment to abide by our code of professional ethics, that they have engaged with what is a mandatory CPD requirement... We also have a host of suitability criteria... members have not got into financial difficulty, bankruptcy, criminal convictions, etc.’

Additionally, practising members would also be required to confirm:

- That they had Professional Indemnity Insurance in place;
- Their electronic systems are secure;
- They have professional cover arrangements in place;
- Adherence to the PCRT (if relevant) and / or the professional body’s Code of Ethics;
- Registration with the Information Commissioner’s Office (ICO)⁹;
- Registered for AML regulation¹⁰ where relevant;
- That they will be compliant with General Data Protection Regulation (GDPR)¹¹; and
- Participation in practice assurance reviews (where the professional body conducts these).

⁹ <https://ico.org.uk/>

¹⁰ <https://www.gov.uk/guidance/money-laundering-regulations-introduction>

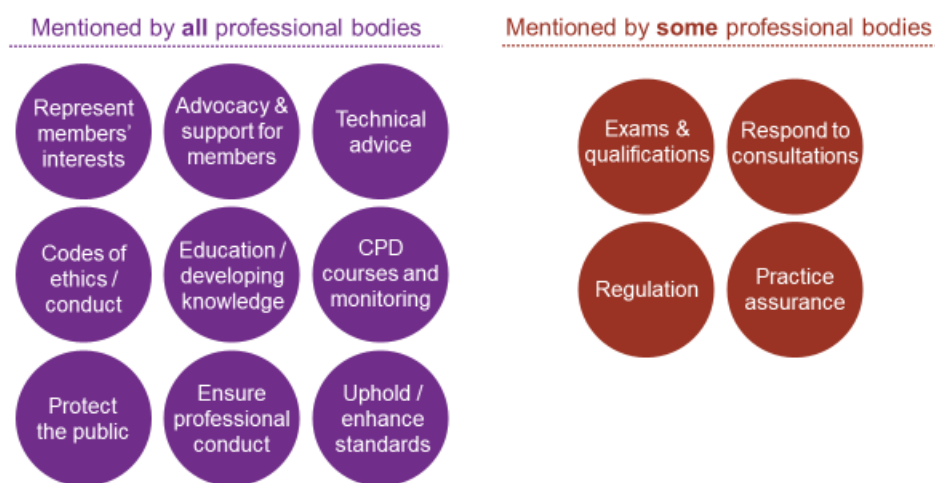
¹¹ GDPR - The GDPR (General Data Protection Regulation) seeks to create a harmonised data protection law framework across the EU. <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

3. The role of professional bodies

This section details how professional bodies described their role

3.1 The role of professional bodies

The professional bodies were asked about how they saw their role in the profession. There were considerable differences in terms of the various aspects they saw as comprising their role, as well as the emphasis they placed on them. These are shown diagrammatically below.



All the professional bodies mentioned that their role included representing their members' interests whilst ensuring that the interests of the public were also protected by working with policy-makers to help develop legislation. This was underpinned by the development of and ensuring commitment to codes of conduct and ethics. Professional conduct would be upheld through complaints and disciplinary processes.

'From our point of view, it's really to ensure good professional conduct by the members, that's really what we're aiming [for] is that they comply with all our standards and rules and regulations.'

While all the professional bodies had their own codes of conduct / ethics, eight subscribe to the Professional Conduct in Relation to Taxation (PCRT), including the seven original 'PCRT Bodies' who own the guidance. Two further professional bodies said that they were considering subscribing to PCRT and were either in discussion, or about to begin discussions with the other professional bodies.

'We're looking to link up with the Professional Conduct in Relation to Taxation group and so I've got a phone call with someone from the Revenue next week to look at how we can start bringing in regulation.'

The remainder did not subscribe to the PCRT for one of three reasons: they had their own code of conduct which was said to be similar to the PCRT; being a specialist professional body, some of the accounting references made the PCRT either not relevant or difficult to comply with; or the PCRT had never been discussed or considered by the professional body.

'PCRT...we did look into that a little while ago. Even though we have our own code of ethics which basically has the same sort of integrity and objectivity, professional conduct, etc, that kind of thing. With regards to how [professional body] could enforce that and how it [would] fit in with our sort of

regulatory framework, there were some difficulties. However we are looking into that again as to whether that is something that we could do because I know that it's high on the agenda of HMRC.'

Professional bodies supported members in various ways, either through advocacy or through developing knowledge. This might be through providing information and guidance on their websites, training courses and helplines. Larger professional bodies also had branch networks which would provide an information and support network.

'There's a technical department which can deal with technical queries from members. There's technical accounting. There's also the tax department who would assist members with their tax queries and there's a practice consulting department where members in practice can – if they have issues or even just managing their practice etc. – they can come to practice consulting who will assist them with any issues that they have.'

'We have websites, we have online help areas, access, dedicated helplines that people can come through, so we also have from an educational point of view online learning platforms that people can access as well.'

Inevitably, there were differences in the level of support provided by the different sized professional bodies. Nevertheless, the smaller professional bodies maintained websites that carried information and guidance and in some cases offered a helpline facility, even if it was not operated by dedicated helpline staff.

Continuing Professional Development (CPD) was also mentioned as a key aspect of ensuring that members kept up to date.

'We have a CPD department in here...but we also have a CPD department that runs courses for members.'

However, the emphasis placed on the various aspects of the role they identified varied across the professional bodies. Some placed considerable emphasis on all aspects, from upholding professional standards through to developing knowledge, whilst others (typically smaller, more specialist professional bodies) focused more on professional conduct or advocacy:

'So in one sense where you have advocacy, so we are here to support and represent our members and in another way to also provide them with independent regulation, so we are not a statutory body as most professional bodies are. We are here though to offer the public a certain sense of quality assurance for our members, so we operate a disciplinary process.'

Some of the professional bodies are qualification awarding bodies – mainly the larger bodies in terms of membership – and set their own examinations.

Some also respond to government consultations:

'We also have a, from a taxation point of view, we have a tax department who'll make comments on any new tax legislation that was coming out or proposing to come out.'

For the professional bodies participating in the research, 'regulation' generally referred to statutory regulation, such as the statutory requirements for Anti-Money Laundering (AML) Supervision, of which eleven of the professional bodies were currently supervisors. Some of the larger professional bodies also referred to their members being regulated by other regulators, depending on the nature of their practice. These included:

- Financial Conduct Authority (FCA) – where members were involved in financial services and investment;
- Financial Reporting Council (FRC) – where members were involved in financial audit;
- Insolvency Service – where members undertook insolvency cases; and
- Law Society and / or Solicitors Regulation Authority (SRA).

Apart from statutory regulation, professional bodies did not consider that they 'regulated' their members:

'I wouldn't have classed us as a regulator before. We obviously oversee our members. They all sign up to professional conduct in relation to taxation (PCRT).'

Rather, the professional bodies saw their role in this respect as providing practice assurance. Not all the professional bodies reviewed the conduct of their members or conducted practice assurance reviews, although a couple that didn't currently do so were considering their introduction. Where practice assurance reviews were a part of the professional body's remit, they were conducted in different ways and with different levels of sophistication and intensity. These will be discussed in detail in the following section.

4. Assessing adherence to agreed standards

This section outlines how professional bodies assess the adherence of members to the agreed standards, including the use of regulatory frameworks.

4.1 Ensuring adherence to professional standards

As discussed in the previous section, not all the professional bodies reviewed their members – their remit was either more of an educational or advocacy nature, or they believed that as their members would be members of other professional bodies it was unnecessary for them to have a separate system for assessing whether they were adhering to the agreed standards. These professional bodies tended to be smaller, or to specialise in particular disciplines.

However, most had a complaints procedure and reviewed whether members were keeping their Continuing Professional Development (CPD) up to date which could act as a proxy for ensuring members were adhering to professional standards of conduct. Neither of these aspects were discussed in any detail during the interviews.

Where professional bodies were reviewing their members, a distinction was drawn between members in practice and members working in private sector firms or the public sector. Members who were not in practice would generally be required to submit an annual return, confirm they met their CPD requirements and confirm commitment to the professional body's code of conduct / ethics.

Confirmation of CPD was usually by self-report, with professional bodies varying in terms of how many CPD 'points' would be required for different categories of membership. If there were any issues that appeared to arise in the annual CPD return, proof would be requested. Others operated a random or risk-based approach to requesting confirmation of CPD points.

'One of the main requirements is continuing professional development... We go out to a sample each year and we ask them to submit their CPD records. If they don't submit those CPD records and if they don't meet our sort of requirements with regards to what they should include then we will pass their details onto a panel of CPD Assessors who will determine the next course of action and that could be disciplinary action because we do expect our members to remain competent.'

As noted in section 2, some of the larger professional bodies organised events and seminars that could contribute to a member's CPD requirements; the stipulation was that CPD points were not gained by attendance only but by contribution of the member to the event – for example, completing activities during sessions, or completing online tests afterwards to demonstrate they remember what the session covered.

Where professional bodies monitored members in practice, the process was usually more extensive.

4.2 Members in practice and practice reviews

Nine of the professional bodies had a formal, mandatory, review process for members in practice and one had a voluntary review scheme, which was described as being akin to the Investors in People scheme. A further professional body would undertake a practice review as part of an AML supervisory visit¹².

¹² The professional bodies that were Anti-Money Laundering supervisors had different approaches to supervision. Some provided information, guidance and helpline facilities to assist members in setting up the correct AML processes. Others would also undertake visits to members to ensure that the AML processes were operating correctly.

'Of those that are currently registered with us for money laundering and they're the ones that we will go out and visit, that we will go out and do money laundering inspections, we'll check criminality records... we check that yearly to make sure people are still clean, no convictions, not bankrupt, not insolvent. So, there are lots of checks we do on those people.'

There was considerable variation in how the professional bodies that undertook practice reviews selected members and the review processes they used.

Selection of members for practice review may be on a rolling basis, random basis, or using a risk approach.

Risk-based approaches also varied:

- Random selection

'It's random – yes. So, well, to a point it's random. We do 10% spot-check across the board for all our members but, in addition, the ones that are sole practitioners and registered for money laundering, we check all those.'

- Automatic selection of larger firms for more regular review

'And then they're also, as I say, subject to what they call practice assurance. So people or firms are generally inspected once every six years but for larger firms in particular that is generally much more. In fact, you know, with larger firms I think it's annual.'

- The AML risk matrix may be used

'In recent years the money laundering supervising group for the accountancy bodies, the accountancy affinity group have developed a risk module, a risk matrix on money laundering and so we use that really as part of our procedure.'

- Other attributes such as members with a high proportion of cash-based clients, or celebrity clients, or members that only had a very small number of high net worth clients

'We have a risk matrix that we look at, so potentially we focus mainly on firms that are supervised for money laundering by us. So, we will look at history of their client base. The size of the firm, their make-up of their clients, so if they have for example, fifteen percent or more of their income comes from one client it is an inherent risk.'

'...all cash-based clients, or if they're fortunate enough to deal with maybe [people] who are celebrities but that's a high risk...we have persons of exceptional interest like a politician...'

'If you've got celebrities on your books I think there's still a bit of a risk and you need to be a little bit more aware where their money's coming from.'

The practice review methods also varied considerably. Some of the professional bodies adopted the same approach for each selected for review; others initially adopted a light touch approach, increasing the intensiveness of the review depending on where any issues were raised.

'Light touch. Yes. That's the word. Light touch. Yes, I mean, for lower risk I think there is a light touch [approach]. But it, you know, if there were concerns about a firm and the work it's doing it's likely to be much more detailed than that.'

'Well I suppose we'd go from one degree to the other really. So firstly, it's a light touch when we phone them up and then we go in and then should they reveal they're not compliant we give them time to do it and then if they're not compliant then we become quite firm... report them to HMRC.'

Usually, the process would start from an annual return. Following this - and determined by whether there were any risk flags raised by the annual return, together with the risk-based approach that was being used - there may be a desk-based assessment. One of the professional bodies mentioned using a software package that records all their members' client information and raises risk flags based on a risk algorithm. The next step may be a telephone review with the member.

Of the ten professional bodies that had a practice review scheme in place (mandatory or voluntary), nine would also undertake practice visits. In some cases, these would only occur following a telephone review, in others the risk profile meant that a review visit was automatic.

Practice reviews, in all cases, were said to be conducted by senior, experienced, professionals. Review visits could take between one half and two days, depending on the size of firm and complexity of their business. The professional bodies considered that practice visits were *'intensive'* in their coverage and approach.

The overall approach to practice review visits was primarily educational and focused on whether practices had the correct processes in place and that they were being adhered to. The aim was to develop and enhance practices, with action being taken if problems were identified. But the professional bodies were keen to point out that the reviews, whilst intensive, were intended to be supportive rather than disciplinary in approach.

'You will get a visit from a team of our practice reviewers and they are designed to be supportive rather than policemen.'

Coverage of the practice reviews varied across the professional bodies, but generally included inspection of a wide range of policies and practices.

'And a visit typically will last a full day...we don't want to see this as an inspection to look for bad practice. We are looking for good practice...We have a programme and it takes us right through from the make-up of the practice, the training, the staff, the stationery, marketing, the security of the file systems that they use, how they engage with clients, disengage with clients. Issues like ethics, ethical training, complaints procedures, data protection issues. Issues like this that we go through. And we also look at their money laundering policies and procedures.'

The professional bodies mentioned a range of practice aspects that they reviewed:

- Checks for criminality, bankruptcy and insolvency of the practice;
- CPD records;
- Practice staffing and training;
- Software processes, file security, and adherence to data protection requirements;
- Stationery and marketing approaches;
- Client engagement and client engagement letters;
- Complaints procedures;
- Adherence to ethical procedures; and
- Adherence to AML procedures (where relevant).

In some cases, a few client files would be selected for review of procedures and processes, rather than checking the tax calculations.

'...and then we will select client files and review them at random. And it's normally a minimum of five files that they will go through and they are looking to see that those policy and procedures that have been discussed in the earlier part of the visit are actually applied.'

'Our inspectors will look at audit files, look at the quality of them. So, tax isn't regulated to that extent...if our members are doing tax, they'll normally be asked questions about how they do their work, how it's structured, whether they are familiar with our professional conduct laws on tax and make sure that they're applied.'

If there are any issues that need addressing, the member is given an action plan and a timetable. Follow-up may either be a further desk-based review or a re-visit, depending on the nature and severity of issues raised by the practice review. Where practice reviews were satisfactory, a practice licence would be granted.

If the issues are not satisfactorily corrected or there is a refusal to co-operate, then disciplinary processes would be implemented.

'Firstly we would phone them and ask them questions and we would tell them that we're coming to visit them and arrange a convenient time to go and then one of our external assessors goes out and does a report. So they would do a report, come back to us and, should they find that something's not as it should be, we'd then write to them saying that you've got two weeks or three weeks to put these things back in place, so we will come back and check they've done this, and if they haven't or it's still wrong they would lose their right to practice.'

4.3 Misconduct¹³

All of the professional bodies had some form of disciplinary process that could be triggered either by failing to meet the required professional standards following a practice review or through customer complaints. The disciplinary process was often conducted by an independent board of professionals which could impose a variety of sanctions such as a reprimand, fines or expulsion from the professional body and the revocation of a practice licence.

The disciplinary process itself was not discussed in any detail in this research as the processes are detailed on the various professional body's websites. However, the professional bodies were asked if details of any sanctions imposed were published.

The professional bodies had different approaches to publishing details of sanctioned members. Most would publish details in their house magazines and HMRC would be informed. Some would inform the other professional bodies, publish details on their own website or on the website of the Taxation Disciplinary Board. A couple would also publish details in the local press. However, wide publication of sanctioned members was of concern to many of the professional bodies due to data protection issues.

Apart from existing members of the professional bodies who would read about sanctioned members in their house magazines / journals, there were mixed views about the benefits of publication. In part this was because the professional bodies wondered who would notice these, aside from other members of professional bodies; they wondered too if the public would ever see these notices.

'We publish them. They're on our website but who actually looks at those?... If there was a name and shame gallery of sanctioned tax agents on HMRC's website it would have more of an impact... People who are members of ours will tend to look at our website, but if you are not members of ours you won't look at it, so you won't see that that agent's been reprimanded.'

Others thought that publication would have a deterrent effect.

'I think there's probably nothing worse than being an accountant in the town and finding that your local newspaper has reported that you've been fined by your professional body. So these things, I think, do have a deterrent effect...It's the one thing you would want to avoid at all costs, really.'

The professional bodies also expressed concerns about what happens to sanctioned members as they would still be able to operate without being a member of a professional body.

'We tell you off... then you're told off with a fine...and if it's ultimate we can kick you out... At the end of the day people go on about disciplines, fines...major institutes make a big thing about this... reprimand is only viable if it is acted upon.'

'These people can carry on because ultimately if the person is a member there's not that much that [professional body] could potentially do about that at all. Well, if they're holding themselves out for a member, that would be a different matter.'

¹³ The research only focused on misconduct tangentially as the issue discussed was primarily about publication of sanctioned members for misconduct. The professional bodies mentioned that misconduct cases were quite rare and that details of the number of sanctions were available on their websites.

5. Opportunities to enhance professional standards

This section outlines where professional bodies believe opportunities exist for the profession to enhance its use of regulation or other means to improve standards of tax agents.

5.1 Is there a case for greater supervision or monitoring of professional body members?

When asked whether there is a case for greater supervision, or regular review, of members in practice, the overwhelming view of those professional bodies that currently supervise and review their members was that the profession was already well regulated.

'[There is] already a system of self-regulation for members of a professional body – by and large that works reasonably well.'

While these professional bodies considered that regulation, or supervision, was good for the profession as it helped maintain standards within the profession, there was a feeling that it was becoming excessive, especially for smaller practices. For example, in addition to supervision from professional bodies, some firms are also regulated by multiple agencies (e.g. Financial Conduct Authority, Financial Reporting Council, etc.) and facing further regulation with OPBAS¹⁴ coming on stream.

'[Agents] are supervised and regulated to the point where it is having an adverse effect on them running their business. They have so much they have to abide by – the AML regulations, the GDPR that's coming out soon, the rules and regulations of the professional bodies. It's an awful lot.'

A concern, voiced particularly by the smaller professional bodies, was the potential impact of increasing regulation or supervision by professional bodies, as some members could decide to resign their membership but continue to practice without the safeguards of supervision and monitoring of CPD, Professional Indemnity Insurance (PII) and commitment to codes of practice.

'It doesn't take a genius to sort of think, I'm a member in practice. I pay £200 a year subscription to you, I already pay you £130 to be supervised by Money Laundering, you're now asking me for another £100 [to be supervised by OPBAS]. You know what, I'm just going to resign my membership and then you've lost somebody who does have to comply with PII, CPD and Money Laundering, just to go off into the ether.'

Nevertheless, some of the professional bodies that do not currently review their members' conduct thought that some sort of regulation or supervision would be welcome to maintain and enhance standards.

'I think if everybody was regulated I think you'd get a much better standard, a better overall standard.'

A couple of professional bodies that do not currently supervise, or review their members were actively considering doing so in the future.

'But we have been moving more and more towards the regulatory side of things and that has largely been driven by member desire...there's been a real shift in the sort of thinking of...us as having a

¹⁴ OPBAS – Office for Professional Body Anti-Money Laundering Supervision. <https://www.fca.org.uk/opbas>

greater role in regulating them as opposed to just providing them with services and providing them with advocacy.'

5.2 Practitioners who are not a member of a professional body

While there was some concern expressed about professional bodies that were not routinely supervising their practising members, of greater concern were practitioners that were not members of a professional body at all. The argument put forward was that at least there are complaints processes in place that can act as proxy supervision for members of professional bodies that are not supervised, but practitioners that are not members of professional bodies have no oversight at all.

'We're over-monitoring those that are monitored...but we're not actually thinking about the 10,000 agents out there who aren't monitored by anybody and are sending things to HMRC on behalf of other people. Should we be looking closer at them to be monitored rather than looking at our existing monitored professionals and putting more checks and balances on them?'

It was recognised that practitioners who are not a member of a professional body are not necessarily poor-quality practitioners.

'Even though that person doesn't hold any formal qualifications, it doesn't necessarily mean that they are a bad tax agent, or they are a bad accountant.'

'There are those that are not members of a professional body who are registered tax agents, who have registered correctly for money laundering and they take everything seriously and provide a very good service, but then there are those that haven't.'

Practitioners may have gained their experience in such a way that they are precluded from membership of certain professional bodies because they do not have the correct entry criteria. For example, they may have learned their skills in a private firm or may be ex-HMRC staff who decided to set up their own practice, or they may have considered that the entry requirements for membership are not relevant to their type of practice. In this instance it was mentioned that agents that deal with micro businesses may have considered that there were so few aspects of the professional body's examinations that were relevant to them they decided that formal qualifications were unnecessary.

'We get a lot of ex-HMRC people, they've taken the HMRC exams; they've now gone out, set up their own tax practice...They're never going to take our exams because they've had 20 years' experience in HMRC; they've taken their exams.'

'There are a number of different reasons why individuals don't become members of professional bodies or don't retain the membership. I think a big one, significant barriers to entry that aren't necessarily relevant for a micro practitioner. So, if you look at the requirements to enter [certain professional bodies], the qualifications cover a vast area of things that a micro practitioner would never deal with.'

For very small, often part-time practices, the cost of professional body membership, professional indemnity insurance and other costs associated with supervision may be excessive given their level of income.

Other practitioners however, might not want to be supervised for other reasons – a 'rebellious streak', or wanting to stay 'under the radar', for example.

'Perhaps [non-members have] got a bit of a rebellious streak and they might not necessarily want supervision or regulation.'

'First and foremost, it could be that they want to stay under the radar. It could [be that] they've had disciplinary issues with a professional body and left and are now longer a member.'

Agents that were not members of a professional body – whether doing a good job or not – were of concern on two counts. First, it meant that there was an uneven playing field and agents that were not members of a professional body could undercut those that are members because they do not have the same level of expense in terms of fees for membership, CPD requirements, and professional indemnity insurance.

'So it is, you know, extraordinarily unfair and we've been looking for years and years for something to be done to level up the playing field and to create a quality tax profession.'

Second, there remained a concern that non-member practitioners, despite their best efforts may not be as up to date as they should be.

'Because they don't have the support of our members, they don't have the information that's going out to all our members to keep up to date. They're probably not as concerned with Professional Conduct in Relation to Taxation and professional rules and practice guidelines and, you know, things like that, which we make sure all our members abide by.'

'You could be an accountant, very well qualified, no longer [member of] a professional body and have different ways of keeping up to date, but that's very much down to the initiative of the individual. There is nothing forcing you doing that but, if you are a part of a membership body in terms of protecting the public there's a mechanism for doing.'

5.3 Regulating the unregulated

In considering how to bring un-regulated practitioners into a position where there is a form of oversight, the professional bodies were keen to point out that the profession is very heterogeneous and includes; accountants, audit and insolvency specialists, tax specialists, professionals who specialise in the tax affairs of micro-clients, bookkeepers and payroll specialists. Any form of supervision or oversight should therefore reflect the type of service provided, the nature of the skills each type of practice requires, the relative risk of not meeting agreed standards and the professional's client base. Oversight should not therefore be a 'one-size-fits-all' approach – a view that was also expressed about the PCRT and the difficulties that some professional bodies experienced in considering how to adopt it for themselves (see also section 3.1).

'I don't necessarily believe that there should be a one size fits all approach to it. I think that when you look at a larger practice, that needs to be regulated in a different way to a micro... but I do believe that there needs to be some greater standards enforced amongst tax agents.'

'If you are an accountant that predominantly provides insolvency work... it's a very different supervisory approach to a book keeper who provides very basic book keeping and submits VAT returns... so having a standard approach would be difficult I think.'

While the professional bodies were generally keen for the 'unregulated' to be regulated in some way, they also recognised that if standards were not being met and / or errors were being made, it was currently difficult for them to identify where the problem lay. They had differing opinions about which professionals should be regulated. There was a view that any of the professionals, whether they work in the private or public sector, those with practising certificates or those that are not regulated or overseen by anybody, could be making mistakes.

While it is assumed, for example, that professionals employed in the private or public sector are supervised by their employer, it is also recognised by the professional bodies that any professional can make mistakes irrespective of where they are working.

'If you're saying the tax profession is risky, is that a tax professional who's regulated? Tax professional who's unregulated? Which kind of people is that? Is that people who work for lawyers?... [We are] in the dark that we don't know who it is, so then it makes it very tricky for you to target people they think are risky.'

'I think there needs to be a proper assessment of the sorts of agents who are operating outside of the system.'

'Sometimes people's standards aren't as good as they should be or they're probably not taking as much care as they should. I mean, these are all things that do happen...But I think we could do more to work with HMRC to identify where some of these problem areas are and help our members to improve.'

The professional bodies recognised that it would probably not be logistically or legally possible for HMRC to identify specific agents that were making errors. However, a key suggestion was for HMRC to identify the types of errors being made, and ideally, the types of agents that are making such errors. With this knowledge, the professional bodies would be able to better tailor their educational material and focus more effectively in their supervision of members.

'I think we could do more to work with HMRC to identify where people are making mistakes... I think we could do more to work with HMRC to identify where these problem areas are and help our members to improve. It's not in our interest as a professional body to have members doing poor work.'

'If [HMRC] could tell us that if you've got some statistical basis to tell us that our members in general are not good at X, Y, Z... then we have the possibility of targeting our education, raising it in visits, maybe putting something in the annual return. We've got options that don't necessarily cost us a great deal of money but can try to do something to address that problem.'

The question then arises about bringing agents who are not currently members of professional bodies under some form of supervision. There were six key suggestions:

- A couple of the professional bodies suggested that all practising agents should be required to be a member of, and supervised by, a professional body.

'Well, I think there are a number of things that could be done. I mean, for a start, you could mandate that anybody providing tax services had to be a member of a specified group of bodies.'

However, there were mixed views about this. It was mentioned that in some countries, membership of a professional body is a requirement to practice. Others felt that this was a restriction on trade and would not be acceptable.

'In the public interest we don't necessarily want to be looking at, or suggesting, that it should be a closed shop and there should only be members of a professional body who should be [providing] tax advice.'

- There were several suggestions for the introduction of legal protection of titles, such that only those agents who met certain criteria would be legally allowed to use a specific title.

'Unfortunately, in the UK...being an accountant even isn't a protected term like anybody can setup a business and call themselves an accountant.'

'You could also have a sort of a legally protected title to distinguish, if you like, a qualified advisor from somebody who wasn't.'

There were some concerns about there being unintended consequences, with agents who did not meet the specified criteria but were providing perfectly adequate services, being unable to practice and being put out of business.

- In light of these concerns, one professional body suggested a public education campaign as an alternative to legal protection of titles. The campaign would highlight the role and importance of professional body supervision to aid the public and businesses when selecting an agent to work with them:

'I can see both sides of the coin, but from a public interest perspective and protecting the public I think generally it would be a good thing [legal protection of titles], but there are perhaps other ways to achieve the same aim so having an educational campaign, making the public aware of the differences between accountants that are part of the professional body and those that aren't.'

- A couple of the professional bodies were considering whether there were ways in which to bring agents that did not meet their usual criteria into their supervisory process but with a different level of membership.

'We are at the moment looking to see if there's any way we could bring probably less risky people in. So, like the ex-HMRC people who've had lots of experience, who've done the FT1 inspector training or whatever.'

'What we've said is we will welcome you on board if you've been in practice for a minimum number of years etc etc. And what we're now doing is we are giving you a home that before you never could have.'

- One of the professional bodies suggested the development of 'Regulatory Assurance Packages' that could be subscribed to by agents who do not currently meet the criteria for membership but would bring a level of supervision and oversight.
- A couple of professional bodies suggested that agents who are supervised in some way receive a different level of service from HMRC, or are able to access a greater number of HMRC services on behalf of their clients.

6. Working with HMRC

This section outlines the views of professional bodies about their relationship with HMRC, and approaches to maximise the effectiveness of HMRC's support.

6.1 Perceptions of the relationship between the professional bodies and HMRC

Discussions about the relationship between the professional bodies and HMRC tended to focus on their interactions in the two forums – Joint Initiative Steering Group (JISG) and Agent Steering Group (ASG). The two forums were set up as part of the current programme of engaging with agent professional bodies and professional service firms, following a review of agent engagement in 2014. JISG's purpose is to strategically address and prioritise issues and the purpose of ASG is to foster a stronger relationship and greater understanding between HMRC and unrepresented agents. Both forums meet quarterly with HMRC.

Overall, there was considerable enthusiasm for forum membership, with JISG members considering that the forum provided a useful opportunity to discuss strategic issues of common interest. Members of both forums also thought that the forums provided useful opportunities to gain information about HMRC's current thinking and discuss issues arising.

There was also a sense that the forums had become increasingly more useful and welcomed open discussion.

'In recent years [HMRC] have gone about [discussion] in a very healthy way...I do give them credit for the way they handle those discussions.'

'They are much more open to listening to the other side of the story...And I think now they're [HMRC] understanding the whole start to finish of what we do with a client. And I think HMRC are understanding better.'

There was universal interest in continuing to work with HMRC on developing and applying professional standards and structures.

However, there were several areas where professional bodies considered that the relationship between them and HMRC could be enhanced:

- ASG members described a perception that having two forums implied a 'two-tier' relationship with HMRC and that some professional bodies' opinions are less valued than others. While HMRC were reported to have said that combining the two groups was logistically very difficult, it was mentioned that there are other forums where all the professional bodies meet.

'It's good that professional bodies get together. There's a perception it is a second tier. There's JISG and ASG and we're not really sure what the difference is apart from the JISG seems to be the larger bodies in terms of membership and then ours tends to be second tier. So, there is a perception there is two levels. Going forward it would be better if those two groups were brought together.'

- Similarly, the overall relationship between the professional bodies on the two forums was not always seen as equal, with some professional bodies expressing concern that not all discussions were equitable. There was also a feeling among some ASG members in particular that discussions were never ending.

'Not convinced it is as two-way as it might be.'

'It's more of a talking shop. We seem to go round and round in circles. Some of the things we are discussing now we discussed four years ago.'

- More generally, there was a view that professional bodies that comprise members not practising as accountants but in other areas of agent practice are also not as formally recognised as others.

'It's taken us an awful long time to be recognised as an agency body... because we are not accountants. It's taken the Revenue a long time to realise that you don't have to be an accountant to still be an agent.'

- Some professional bodies also described a sense of mistrust between HMRC and professional agents, with a perception that smaller agents were being blamed for the £9 billion tax gap. This belief tainted some professional bodies' views of HMRC's efforts to collaborate.

'There is a constant mistrust. So accountants won't go to HMRC [as] they are responsible to their client.'

'If HMRC want to build bridges and build this working relationship they must work more closely with professional bodies and agents and stop blaming everything on them. It might be right that they are blaming it on [agents], but it seems quite a nebulous way of doing things for me to blame it on them and then say, "Right, we need you do work with [us on] making tax digital".'

- Finally, with OPBAS¹⁵ coming on stream, there were some concerns about a two-tier regulatory system being created as there will not be any oversight of HMRC as an AML supervisor. The concerns were two-fold: creating a two-tier regulatory system; and setting a precedent for regulatory systems that are unequal.

The professional bodies, without exception, were keen for the relationship with HMRC to be productive and forward looking. They considered that it is in their interests to look to the future and develop a trusted relationship that both helps HMRC develop its systems and processes and provides an opportunity to discuss openly and equitably issues arising of mutual interest.

6.2 Issues that professional bodies want to discuss with HMRC

In considering the future of the forums that the professional bodies attend with HMRC, there were several issues they would like to discuss that would further enhance the working relationship and help the professional bodies understand HMRC's thinking. These were:

- An update on HMRC's views about regulation, or supervision, of agents that are not currently supervised by a professional body.

'We haven't actually seen the work come out the other side...in terms of regulating the unqualifieds.'

- Greater opportunity to input in new policies, processes or systems that HMRC is considering implementing. The overall view here is that HMRC does not always have a complete understanding of how agents and taxpayers work. By working with the professional bodies earlier in the process, the professional bodies may be able to help HMRC avoid potential problems occurring.

'As a group of stakeholders we need to be involved with policy making at a much earlier stage... Tell us at the beginning and we can help prevent [problems] from happening rather than telling you afterwards about the disaster.'

- The provision of as much information as possible about the most common types of tax errors that are occurring. The professional bodies recognise that it would not be possible to identify individual agents that are making errors, but if it appeared to be members of a particular professional body, that would be useful additional information. Currently, the information that HMRC provides is not

¹⁵ The Office for Professional Body Anti-Money Laundering Supervision (OPBAS) is a new regulator set up by the government to strengthen the UK's anti-money laundering (AML) supervisory regime and ensure the professional body AML supervisors provide consistently high standards of AML supervision.

useful. With a greater understanding of the types of errors occurring, the professional bodies can target their information and guidance.

'[On the basis of information provided] it's very difficult to apply that intelligence to our members and risk-assess them.'

- While some professional bodies welcomed the information provided by HMRC through the forums, they would welcome greater clarity on which items of information can be released to their members and the timetable for doing so.

'It's [forum] good for getting information out but...by the time HMRC say you can release this information it's time for the next ASG meeting. It's out of date and we've not really been able to update our members on anything new.'

- HMRC has established a Memorandum of Understanding (MoU) with several professional bodies which provides a facility to inform the professional body if one of their members is a cause for concern. While it is recognized that the MoU's have only been in place, in some cases for less than a year, the professional bodies did wonder whether they would be used. The issue was highlighted by one professional body who found out that one of their members was being prosecuted by HMRC, but they had not been informed. This may have been to avoid prejudicing the case, but the professional bodies are seeking clarity over how and when the MoU's will be used; and
- Some of the professional bodies mentioned that HMRC requests that information is sent out to their members. They are very happy to do this but request that sufficient lead time is allowed, especially where the membership is large. There were instances where lead times were as short as a week, which makes it logistically very difficult for the professional bodies to put the required processes in place.

Appendix A – Topic Guide

1. Introduction

(3 minutes)

Introduce research, reassure about confidentiality and set the tone of the discussion

- **Warm up and introduction**

- Introduce moderator and Kantar Public
- Research on behalf of HMRC
- Aim of the discussion is to better understand the functions and regulatory frameworks of the professional bodies for tax agents
- This information will be used to consider how the profession might continue to enhance its use of regulation or other means to improve standards of tax agents, supported by HMRC.
- Interview length – 45 minutes
- Research is confidential and voluntary – your personal details will not be shared with HMRC and participation will not affect your current or future relationship with HMRC
- Any questions?

- **Recording**

Ask participant for permission to record, then start recording and confirm consent

- About the respondent
 - Role and responsibilities
 - Professional background (e.g. practising accountant, bookkeeper, etc.)

2. Context – Role and remit of the professional body

(5 minutes)

The aim of this section is to understand the aims, objectives and vision of the professional body. Specifically, the section also explores: where the professional body fits in relation to the tax agent profession; how they are different from other professional bodies in the sector; and their role in member representation and regulation

I would like to start by thinking about your organisation and where it fits in the tax agent sector...

- How would they describe the aims and objectives of the organisation
- What role does the organisation play in the profession
 - Spontaneous and then prompt:
 - Representing members
 - Regulating the profession
 - Protecting the public

- Awarding qualifications
 - Developing members' knowledge by use of information and guidance (e.g. CPD)
- What type of tax professionals would be members of the organisation
- How do they differentiate themselves from other professional bodies in the sector

3. Membership of the professional body

(10 minutes)

The aim of this section is to understand the membership structure and composition of the organisation, whether there are any entry requirements and the services they provide to members.

I would like to ask you about the membership of [professional body]...

- How many members does the organisation have
 - UK only / International
- Do members hold memberships with other professional bodies in the sector
 - If known: how many members; which professional bodies
- Is there a membership structure / are there different levels of membership
 - Obtain a description
 - E.g. Student; Member; Associate; Full; Fellow; etc.
- Are there different requirements for each category of membership (where relevant)
 - What are the requirements
 - E.g. specific qualifications; based on conduct / experience; time in professions; sponsorship; have professional indemnity insurance; etc.?
- Are there any requirements for continuing membership of the [professional body] (other than paying fees)
 - E.g. must be currently practising; proof of CPD; etc.
- Support services available to members (focus on professional services)
 - Examinations
 - CPD
 - Standards; Codes of Practice, etc.
 - Guidance
 - Codes of ethics
- There are some tax agents that are not a member of any professional body
 - Views on why this might be
 - Views on the nature of these tax agents: size; tax specialisms; etc.
 - Effect this has on professional standards within the sector
 - Anything that could be done to bring them into the auspices of a professional body – by the profession? By government?

4. Adherence to professional standards

(10 minutes)

The aim of this section is to:

- *explore the professional standards to which professional bodies require / expect their members to adhere*
- *how professional bodies monitor tax agents' adherence to the professional standards*

- Does the [*professional body*] subscribe to the Professional Conduct in Relation to Taxation (PCRT)

NOTE: there are 7 professional bodies which own the PCRT; others may also subscribe to it

- If [*professional bodies*] does not use / incorporate the PCRT in their Guidance, EXPLORE reasons why not
- Does the [*professional bodies*] monitor their members' activities in any way
 - How do they do this: proactive (e.g. inspections) / reactive (e.g. if a complaint is made)
- FOR PROACTIVE monitoring:
 - What is their approach to monitoring members' activities
 - E.g. random sample; specific types / size of members' organisations; only if a complaint is made; etc.
 - What processes do they use to monitor adherence to standards – e.g.:
 - Self-report – what do they ask
 - Supervision – what do they do
 - Inspection – what do they look at
 - Audit – what do they look at
 - *OBTAIN recent examples of what the professional body does – try to obtain a picture of how thorough the inspection / audit is*
- FOR REACTIVE MONITORING (e.g. self-report):
 - What do they do with the self-reports
 - Are any followed up
 - If followed up, on what basis
- FOR PROACTIVE AND REACTIVE monitoring:
 - How many staff are involved in monitoring tax agents' standards
 - What qualifications / experience do they have
 - How many inspections / audits did the [*professional body*] undertake last year
 - What were the outcomes of the inspections / audits that were carried out
 - Are negative inspections / audits followed up
 - How; when; what happens next
 - What sanctions can they apply
 - E.g. reprimand; fine; disqualification; any others
- Where tax agents are sanctioned, are their details published
 - Where are they shared within the professional body, with other professional bodies or HMRC?
 - What impact does publishing sanctioned tax agents have
 - What happens to sanctioned tax agents once they have been sanctioned
- How would they compare their monitoring of tax agents with other *professional bodies*
 - Compared with other *professional bodies* how would they rate their approach to maintaining standards within the profession

5. Maximising good practice in the profession

(10 minutes)

The aim of this section is to explore how professional bodies might be able to influence practices within the profession

- Taking the profession as a whole is there a case for closer supervision or monitoring of tax agents
- Are there specific issues in the profession that they consider are in need of closer supervision or monitoring
- Do they consider there is a case for further improvement in the standards of tax agent practices
 - Where might improvements be needed
 - E.g. specific types of tax agents
 - E.g. specific areas of taxation
- As a professional body, is there anything they could do to maintain / enhance standards within the profession
 - What would be the most effective way of encouraging the enhancement of professional standards amongst tax agents
 - EXPLORE:
 - EDUCATION of tax agents; what would be the most effective way
 - PERSUASION; how might this be achieved
 - DESIGN; of tax systems that encourage adherence to professional standards
 - CONTROL; of tax agent adherence to standards through supervision, inspection, audits, etc.
 - Is there anything that HMRC could do to support them in maintaining / enhancing standards amongst tax agents
EXPLORE: *where the further support might be needed e.g. in specific types of tax agents or specific areas of taxation*

6. Relationship with HMRC

(5 minutes)

The aim of this section is to explore how professional bodies might continue to work with HMRC in maintaining and enhancing standards amongst tax agents

NOTE: Professional body will either attend the JISG or ASG forum

- When you worked with HMRC before on professional standards, what worked well
 - Anything that worked less well
- Would [*professional body*] want to continue to work with HMRC on developing professional standards and structures for the application of these and regulation of tax agents
 - What would be the key issues they would wish to address
 - What would be the most effective way of addressing these issues

7. Wrap up

(2 minutes)

- Anything else they wish to discuss in relation to how the profession can maintain and enhance the professional standards of tax agents
- Thank and Close