



# Benefits of Professional Standards Schemes

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# Executive Summary

This report outlines the perspectives of senior practitioners, professional association representatives, and insurance experts on the benefits of professional standards schemes. Participants from five occupational associations with current schemes in place (Law Society of New South Wales, Law Institute of Victoria, Australian Property Institute Valuers, Institute of Public Accountants, and CPA Australia) were asked to share their views on how the scheme's limitation of liability and associated standard setting, risk management, reporting, and complaints handling requirements have raised consumer trust in professions. The researchers also interviewed an insurance law specialist and an insurance broker with knowledge of how professional standards schemes operate and function in practice.

## Key Findings

Interview participants agreed that:

- Professional standards schemes are beneficial because they provide an additional layer of support and security to occupational associations' existing standards frameworks.
- The limitation of liability appears to act as an incentive to settle claims while reducing the risk of runaway claims and avoiding costly and protracted hearings.
- The scheme enhances the associations' professional standards frameworks by promoting a professional ethos and providing a range of practical, educational and reputational benefits for association members to support their ongoing professionalisation.
- Root cause analysis, which was introduced by the Councils in 2019, is an effective additional tool to identify and manage professional risks. Improved education and training programs were the primary identified mechanisms to address risk areas for association members.
- While there are a range of emerging, current and future risks that may affect professionalism, these should not negatively impact the schemes' overall effectiveness.
- Annual reporting processes were beneficial for maintaining accountability and transparency, though it was acknowledged these were time-consuming and costly.
- The relationship between scheme participation and reduced complaints was difficult to quantify, with various factors impacting on the annual number of complaints. Improved public access to complaints processes and documentation of complaint types to develop targeted responses presented as key elements to improve consumer trust in professions.

Overall, participants agreed that the multiple benefits of having a scheme outweigh any associated costs, such as the administrative requirements for maintaining and renewing schemes.

# Introduction

This report, commissioned by the Professional Standards Councils (PSC, hereafter referred to as the Councils) and compiled by the Griffith University Institute for Ethics, Governance and Law (IEGL), examines the beneficial effects that professional standards schemes can have on professional standards and consumer outcomes. The research is part of the Councils' ongoing efforts to better understand the impact of the professional standards regulatory framework, and to guide policy in this area.

Professional standards legislation has progressively been enacted in each Australian state and territory over the past thirty years. Its creation by state and territory governments, and recognition by the Australian Government, was in response to the insurance crisis of the 1990s and early 2000s which saw a sharp increase in the number and size of successful claims against providers of professional services. Insurance premiums consequently rose to levels that became unaffordable for professionals, resulting in a lack of protection for consumers who were entitled to compensation. Insurers were also leaving the market during this period, while some professionals reduced the scope of their offered services.

In 2022, the Councils commissioned and released a report that focused on the effects of professional standards schemes on professional indemnity insurance, professional negligence claims, and consumer complaints (Taylor Fry Pty Ltd, 2022). The report examined three case studies of associations that have professional standards schemes in place (Law Society of NSW, Chartered Accountants Australia and New Zealand, and Australian Property Institute Valuers) and found favourable trends in the quantum and volume of notifications, insurance claims, and complaints against participants of professional standards schemes. Consequent improvements in the cost and availability of professional indemnity insurance were all linked to the successful operation of professional standards schemes (PSC, 2022).

This report builds on this research by capturing the perspectives of occupational associations that have professional standards schemes on the benefits, challenges, and changes that have resulted from having them in place.

## What is a Professional Standards Scheme?

**Professional standards schemes** are legal instruments that oblige participating associations to monitor, enforce, and improve the professional standards of their members. The Professional Standards Councils of each state and territory administer the professional standards legislation, and the relevant Acts authorise the commencement of an approved scheme in their respective jurisdictions. Section 3 of the *Professional Standards Act 1994* (NSW) states that the main purpose of the legislation is to:

- enable the creation of schemes to **limit the civil liability** of professionals and others
- facilitate the improvement of occupational standards of professionals and others
- protect the consumers of the services provided by professionals and others, and
- constitute the Professional Standards Council to supervise the preparation and application of schemes and to assist in the improvement of occupational standards and protection of consumers.

Section 5 of the NSW Act stipulates that the legislation does not apply to liability for damages because of (a) the death of, or personal injury to, a person; (b) any negligence or other fault of a lawyer in acting for a client in a personal injury claim; (c) a breach of trust; and (d) fraud or dishonesty.

The fundamental aim of professional standards legislation is consumer protection, which is achieved through, among other things, the limitation of civil liability for association members. To **participate in a scheme**, associations are required to develop and maintain high-quality professional standards and risk management frameworks and to continuously improve their standards, systems and processes in key areas such as:

- codes of ethics
- codes of practice
- quality management systems
- risk management strategies
- complaint resolution services
- voluntary mediation services
- membership entry standards
- member disciplinary systems, and
- continuing occupational education.

In return for these commitments, the scheme caps the civil liability or damages arising from a single cause of action that professionals who take part in a scheme may be required to pay if a court upholds a claim against them. If proceedings are brought against a participating Scheme member and they are able to show that a) they have the requisite professional indemnity insurance (PII) cover insuring against occupational liability to which the cause of action relates; and b) the amount payable under the insurance policy is not less than the amount of the relevant monetary ceiling specified in the scheme, the applicable Court will limit awarded damages to the relevant monetary ceiling specified in the scheme (LSNSW, 2024).

These mandatory professional indemnity insurance requirements provide consumers with confidence that they have access to compensation up to the limitation of liability cap set by the scheme in the event of a successful negligence claim being made against a participating member.



## Scheme Application Framework

The **Scheme Application Framework** outlines the main requirements for scheme participation and provides guidance for professional associations that want to apply for and/or maintain a scheme.

An association with an approved scheme must meet statutory reporting obligations and show that it regulates its members to improve their professional standards and protect consumers of their professional services. A scheme may be approved for up to 5 years and expires at the end of the approved period. The association may apply for a single one-year extension or new scheme before it ends to operate in continuity with the old scheme.

## Terms of Reference

The researchers conducted eleven interviews with senior representatives and industry experts from five professional associations:

- Law Society of New South Wales (LSNSW)
- Australian Property Institute Valuers (APIV)
- Law Institute of Victoria (LIV)
- Institute of Public Accountants (IPA)
- CPA Australia

The researchers also spoke to an insurance law specialist (Andrew Sharpe), and an insurance broker (Leigh Harper) who both had experience with the operation of schemes and compliance obligations.

The interviews focused on the five key elements that comprise professional standards schemes:

1. limitation of liability in reducing costs of litigation in resolving claims or potential claims;
2. professionalisation of associations and members through scheme participation;
3. effective risk management and harm prevention;
4. improvements in compliance and scheme participation through engagement in the annual reporting process; and
5. use of complaints processes and data to improve risk management.

Semi-structured interviews were conducted on the five topic areas. Interview participants were also asked to provide an overall assessment of the benefits of professional standards schemes and the extent to which they encourage innovative approaches to professional ethics, improve association policies, processes and practices, promote advances in the regulatory capacity of associations, and lead to the development of new risk management strategies.

## Overview of Report

The report is comprised of three main parts. Part 1 summarises participants' perspectives on the various benefits that the schemes provide for professions, associations and their members, consumers and the public. Part 2 outlines the various profession-specific and industry-wide challenges that may affect the effective operation of schemes and negatively impact on professional standards, ethical decision-making, and risk management. Part 3 discusses the key findings and scheme benefits for professional associations, members, and other relevant stakeholders (clients, consumers and the public). The section also analyses the broader implications of the scheme for strengthening ethical, professional and regulatory standards, and concludes that it provides crucial resources for making the overall 'professional integrity system' a more conducive environment to ethical action and protected consumers.

# Part 1: Scheme Benefits

Part 1 outlines the perspectives of senior industry practitioners and insurance experts on the various benefits that professional standards schemes provide for professionals, professional associations, consumers and other relevant stakeholders.

**Table 1** summarises the key points and identified benefits:

Professional Standards Schemes - Benefits	
<b>Limitation of Liability</b>	<ul style="list-style-type: none"> <li>encourages early settlement of claims while reducing the risk of runaway claims</li> <li>assists professions to manage risks more effectively and reduces professions' overall risk profile</li> <li>provides members and clients with greater agency to negotiate positive outcomes for both parties</li> </ul>
<b>Professional Standards and Professionalism</b>	<ul style="list-style-type: none"> <li>scheme requirements further strengthen associations' professional standards and governance frameworks</li> <li>being part of a scheme provides practical and reputational benefits for association members</li> <li>engagement with schemes promotes professionalism by focusing on improved self-regulatory policies and processes. it also promotes the development of a professional identity and ethos through education, training and cpd offerings, robust codes of conduct, and strengthened governance processes</li> </ul>
<b>Risk Management</b>	<ul style="list-style-type: none"> <li>root cause analysis is a useful tool for identifying the sources of ethical and professional risks</li> <li>the scheme's focus on training and cpd as a key risk management tool raises professionalism via improved skills and competencies</li> <li>the scheme also encourages greater awareness of emerging, current and future risks by association members</li> </ul>
<b>Annual Reporting</b>	<ul style="list-style-type: none"> <li>the annual reporting process promotes accountability and transparency by asking associations to record their performance and adherence to scheme requirements</li> <li>while the reporting process can be onerous (see part 2), interview participants deemed it to be beneficial overall</li> </ul>
<b>Complaints Handling</b>	<ul style="list-style-type: none"> <li>while most associations reported that the number of complaints per year is low, they noted that compiling complaints data enables associations to identify key risk areas and implement strategies to mitigate them</li> </ul>

**Table 1:** Benefits of Professional Standards Schemes (Source: Authors)

## 1.1 Limitation of Liability

As outlined in the Introduction, one of the main benefits of professional standards schemes for occupational associations and their members is that they **limit the civil liability** of professionals who take part in them by capping the amount of damages that a court can award to a client if they succeed in a claim (subject to certain exemptions). In general terms, schemes approved under professional standards legislation require participants to hold professional indemnity insurance cover to at least the amount of the liability cap.

This protects consumers in the event a successful claim is made by ensuring that participating professionals are able to meet any damages awarded at or below an awarded claim limit, while also reducing the risk of bankruptcy that would potentially leave the professional unable to pay the claim. Under the scheme, associations are required to provide the Councils with information on claims made against members to ensure that the nature and level of the claims are aligned with their proposed limit of liability.

For the report, interview participants were asked to consider the role that the limitation of liability plays in reducing costs of litigation in resolving claims or potential claims for all parties – for example, through early settlement of claims, reduced legal costs to parties, certainty for insurers regarding runaway claims, or reduced court filings

### Findings

The findings indicate that there is a relationship between the scheme's limitation of liability and improved outcomes for professionals, associations, and consumers. Amelia Hodge, the then Chief Executive Officer of the APIV, provided the relevant context for the introduction of the first APIV scheme in 2010 by discussing the volatile professional environment for the valuation profession in the 1990s and 2000s, and the impact that it had on the industry. She stated that:

*There were two factors - there was the insurance market, which was probably very uncertain and premiums were increasing, exclusions of cover terms and conditions around cover. We were also changing, so our members probably couldn't maintain any certainty in that regard. And two, some of the clients and some of the insurers were behaving pretty badly. I call it the 'last man standing' claims where the lawyers point out who's got professional insurance, let's go for them. So there was that confluence of factors, but I don't necessarily think it was poor professionalism.*

- Amelia Hodge, API

In the lead up to the commencement of the first APIV scheme, the association looked at other professions with established schemes to see how they could improve the professional and operating environment for members. Amelia Hodge further explained that the implementation of the APIV scheme was highly beneficial as it "naturally raised the professionalism because of the focus on risk management and the focus on standards and consumer protection."

Within this complex environment, the implementation of the APIV scheme therefore played a significant role in raising professional standards that improved consumer confidence in the valuation profession by introducing the limitation of liability (see below).

## Impact of Scheme on Insurance Claims and Limitation of Liability

The question of whether the limitation of liability plays a significant role in reducing the costs of litigation in resolving actual or potential claims was difficult to quantify for the insurance experts that were interviewed for this report due to the unpredictable nature of claim frequencies. However, Andrew Sharpe (insurance law specialist, Meridian Lawyers) asserted that while around 80% of professional indemnity cases settle at mediation, the available evidence suggests that the liability cap has a discernible effect on negotiations:

*Where the caps have in fact impacted is not in decided cases, but in sitting in a mediation room where we have a discussion about whether the cap operates or not. If you've pleaded the cap and they're higher than the cap as it is calculated, there's a presumption that, notwithstanding the lack of decided cases on it, that they will look at the legislation and go: 'well, this is a risk' and advise their clients accordingly. When I do get a good settlement, I'm saying that that probably had something to do with the cap. I can only speculate their reasons; they might have had completely different reasons to come to what I regard as a very good settlement for us, but all I can do is say what arguments I put forward.*

- Andrew Sharpe, Insurance law specialist

He further stated that the limitation of liability appears to encourage the early settlement of claims and reduced court filings, even in cases where litigants are initially seeking to claim above the cap:

*It absolutely does, both anecdotally and logically. I have been in a number of mediations where that must have been biting on the other side and many where I have got a result for the client that to me indicated that it had...I've had a few clients that were well above the cap and those cases all settled below the cap. The proximity to the cap made me think that it was a real factor in that particular mediation.*

- Andrew Sharpe, Insurance law specialist

Aren Pederson, Manager of Scheme Operations at The Law Society of NSW, also noted that "the evidence that we've received from Law Cover in compiling the data for our annual scheme reporting suggests that that scenario is happening."

In addition to reduced court filings, the broader impact of liability caps is reflected in corresponding decreases in insurance claims. Similarly to Amelia Hodge, Andrew Sharpe asserted that there is a direct correlation between the introduction of the APIV scheme in 2010 and the reduction in clients making claims against valuers. This suggests that the reduction is commensurate with both the APIV's risk management framework and the operation of the scheme:

*In the valuation area, the reduction in clients making claims is so significant; it's come from a very high number of clients to a relatively small number of clients. I've seen relatively recent data that shows what the difference is in the number of claims being made. There is clear evidence of how much claims have come down in that area over the years...I like to think the risk management training that we were doing was being heard and I honestly believe the feedback that we got from people who did it and the changes that we saw came hand in hand and was then accelerated by consolidation in the industry, which made that easier to do.*

- Andrew Sharpe, Insurance law specialist

The flexibility of the scheme's limitation of liability requirements also enables associations to amend liability caps in response to industry developments. Andrew Sharpe, who was directly involved in establishing the first APIV scheme, noted that in the leadup to its initial implementation, the cost of insurance premiums was exorbitant for many valuers who were forced to pay them even though "there was virtually no chance of being sued". This led to the introduction of exemptions to caps that were initially set by the highest valuation that professionals did over a 12-month period, while the APIV also changed the scheme to include a new category and associated \$1million cap for low-risk valuations (API, 2025a).

Sheila Kushe, General Manager, Policy at the Australian Property Institute, further explained that expanding the low-risk valuations category enables the APIV to take a dynamic approach to the limitation of liability, which benefits the association and its members:

*The claims and notification data allowed us to have seven and we expanded this to ten. So every time we look to expand the scheme, every time we renew, we're looking at data which can underpin the expansion of the low risk valuation category because our environment is changing. The last time we amended the Scheme in 2021, we did have a new threshold that was based on our actuarial evidence and allowed us to have more favourable thresholds. When we did a comparison between the old and new APIV scheme, some of the thresholds were a reduction in the cap of 50%.*

- Sheila Kushe, API

Finally, Leigh Harper, an insurance broker and the then National Partnership Manager, Pacific at Marsh McLennan, discussed the positive effect that the scheme's limitation of liability has on member conduct. He stated that having a scheme in place may engender a broader shift among association members towards adopting more risk-averse behaviours:

*when you've got a professional standards scheme behind you, it's in your best interest to be able to maintain that cost of insurance and everything else to have a really robust type of risk management protocol in place.*

- Leigh Harper, Insurance broker

## Summary

The interviewed professionals largely agreed that the limitation of liability under the scheme offers a range of benefits for professionals, clients, and consumers. While there is a risk that the scheme may make some consumers lose confidence if there is a cap on what they can recover, Andrew Sharpe stated that the majority have their claim fully paid out under the scheme:

*Consumers benefit more than anyone else. I do think that the professionals benefit in terms of increased risk management which feeds through to lower insurance costs so there's a real benefit there, but consumers benefit through the removal of insurance costs as a driver of increasing fees. Better quality services is obviously a big benefit. If you're a small business, mum and dad type consumer, the nature of the way the caps are selected suggests you don't have too much to fear about a cap coming in and 90% of consumers are being paid out in full. A high focus of the Professional Standards Councils is to make sure that the smaller clients are going to be covered. We're not going to be able to reduce every single client that you come across, but it's a small proportion of clients that are being cut out... so the scheme has created, if you like, a de facto market for negotiated limits of liability.*

- Andrew Sharpe, Insurance law specialist

He further noted that while the scheme itself may not facilitate a fundamental shift in the insurance industry's approach to professional indemnity (see Part 2), insurers have become increasingly aware of the scheme which may facilitate positive changes over time:

*The mere fact of having one won't, but having one which improves the risk management and the culture and over time changes that. I really haven't met with Insurers saying: "oh, great, you've now got this scheme in place, we'll just assume we don't have any more of these large claims and we'll write it as if that past history didn't exist." I have had a bit more traction around talking to insurers when we change the basis of the scheme, which suggests that they are watching what the scheme is doing.*

- Andrew Sharpe, Insurance law specialist

To ensure that association members are fully apprised of the scheme's benefits in obtaining professional indemnity insurance and limiting liability, the APIV has developed its own discretionary trust vehicle and professional indemnity commercial product called PropSec (API, 2025b).

According to Sheila Kushe, PropSec serves APIV members as it is a PII risk vehicle which has stabilised the PII market for them. She also stated that the establishment of PropSec was only possible due to the volumes of historic claims and notification data collected by the APIV Scheme.

## 1.2 Professional Standards and Professionalisation

An association's professional integrity system is comprised of setting and maintaining high ethical and professional standards (goals, values and codes of conduct), monitoring and compliance, and acting in the interests of members, consumers, and the public. In applying for a scheme under the Scheme Application Framework, occupational associations need to demonstrate that they:

1. are an occupational association in accordance with professional standards legislation that **represents the interests** of members of the same occupational group (or related occupational groups in certain states and territories);
2. have professional risk management **strategies in place** for members; and
3. have robust governance processes to **effectively supervise** these strategies and oversee disciplinary arrangements.

Professional standards schemes are also driven by:

- self-regulatory mechanisms that put rules (codes of conduct/ethics, constitutions, charters), policies (accreditation, education, training and CPD, conflict of interest, risk management) and other resources (networking, training modules and professional development webinars, awards/prizes and advocacy platforms) in place for association members;
- co-regulatory arrangements that make an association's professional standards framework amenable to regulatory oversight and professional standards legislation requirements; and
- governance processes that benefit members, promote organisational accountability and transparency by monitoring standards, and ensuring that the association acts in the public interest by promoting high ethical and professional standards.

The schemes, and the professional standards they drive, also play a role in ongoing professionalisation. Interview participants were asked to consider the extent of professionalisation of associations through the ongoing operations of a scheme, including the promotion of a professional ethos, encouraging orientation to public interest, and fostering of professionalism.

## Findings - Professional Standards

The senior association representatives spoke at length about professional standards frameworks and the extent to which the scheme has impacted their operation. As all five examined associations have long-term professional standards schemes in place (ranging from 12 to 29 years), it was at times difficult for the participants to determine whether these frameworks were directly influenced by the scheme's introduction and ongoing implementation, or whether the scheme supports a system that was already largely in place. Nevertheless, all participants agreed that the professional standards frameworks for their associations were robust and that schemes provided an additional layer of security for association members as well as a range of other practical and reputational benefits.

## Impact of Scheme on Professional Standards

According to Bobbie Wan, Head of Regulatory Policy and Strategy at the Law Society of NSW, the association's professional standards framework is directly aimed at supporting its members in a transparent manner and raising awareness of ethical issues that affect Solicitors and other legal professionals. The Professional Support Unit (PSU) enables senior solicitors to provide complimentary and confidential guidance to other solicitors in NSW on a range of matters including costs, regulatory compliance, ethics, and risk areas such as anti-money laundering and counter-terrorism financing (LSNSW, n.d.). Linda Buono, Head of Insights and Engagement at the Law Society of NSW, stated that the scheme has become an integral element of this framework since it was first enacted in 1996:

*Yes, absolutely. And I think that also comes down to our messaging and our co-regulatory functions as well. So when people are engaging with us, they're doing their practising certificate, the Fidelity Fund, their membership; it's all sort of mixed in now. As the younger generations are coming through, it's around messaging and understanding of what that scheme is and it's another thing that comes part and parcel of being a solicitor.*

- Linda Buono, LSNSW

Vicki Stylianou, Group Executive, Advocacy & Professional Standards at the Institute of Public Accountants, similarly explained that the scheme has played an important role in the development of IPA's professional standards framework and the association's ability to implement it nationally:

*One of the big benefits was to set that whole structure up, the whole architecture - not so much for the organisation, but in terms of member regulatory risk compliance and how we looked at that which was very much driven by the professional standards legislation. So I would say that was a huge change. And then that internally drove a lot of different operational behaviours and responses that's still being implemented and adhered to. I would say that was a major benefit, definitely.*

- Vicki Stylianou, IPA

This sentiment was also shared by Sheila Kushe, who pointed out that the first APIV scheme in 2010 spurred the implementation of additional processes and protocols to raise professionalism in the valuation profession. She also emphasised that the scheme plays an important role in the evolution of the association's professional standards framework and ability to respond to industry developments and address emerging, current and future risks:

*We set it up with the evidence-based data we had, but as we've evolved recently, we have been able to use further data to expand to CPV [Certified Practicing Valuer] accreditation and also just put in a new accreditation of valuers, which is CPV Residential. So our scheme has to regulate members within the environment they're operating within and when we renew it next year, we'll be going: what else do we need to expand to and also correct?*

*As a professional association, we always continue to raise standards. As the market changes, we have to change and actually have to understand the macro trends that are affecting the market to then make sure our standards link up with them. Otherwise, we aren't regulating our professional members within the new environment so we have to be dynamic, and what we always talk about is: how do we regulate the modern day professional? We as a professional body have to make sure our standards are flexible and moving forward and that's why one of the strategic pillars is to have future focused standards.*

- Sheila Kushe, API

This process has also engendered a broader cultural shift among association members' willingness to participate in the scheme as the practical and reputational benefits become more apparent:

*After running the scheme for a while, people have seen it as an obligation. However, when we renewed it and they saw the reduction in their cap of 50%, they went: 'I can see the benefits of this.' And as time goes on, the industry accepts it and people are more ok with it - I think they see it as a real sort of flag to be flying in terms of: 'I am backed by professional standards scheme and am a professional', so it's industry recognition as well.*

- Sheila Kushe, API

## Findings - Professionalisation and Professionalism

Professionalisation refers to the ongoing processes of promoting a professional ethos, encouraging orientation to public interest, and fostering professionalism. In turn, these outcomes promote increased trustworthiness, identification of and responsiveness to professional risk, and reduction in risk to consumers.

Schemes can impact on professionalisation by driving changes in culture, expectations, and established practices. These impacts are most likely to appear during the scheme's adoption and commencement when the association is usually undergoing significant changes as it moves towards becoming a formally recognised professional body. At the same time, promoting and facilitating professionalism is an ongoing task that requires continued attention. The research and interviews showed that even associations with long-established schemes drew strong links from the scheme's operations to ongoing development and consolidation of their professional ethos.

## Culture: Scheme Impacts on Professional Ethos, Identity and Expectations

Interviewees noted several ways that the schemes contributed to professional identity (a professional's sense of themselves as professionals and taking pride in that status), role-based expectations for standards and quality, and narratives that help shape the profession's self-understanding.

For example, Andrew Sharpe stated that the schemes encourage the development of a 'risk culture', a professional ethos that is aware of and responsive to legal, operational and ethical risks:

*Having formal schemes by an entity, such as the scheme administrator that sits as a division of the association, creates a good foundation for a culture of risk management. The scheme itself, by compelling a certain level, and requiring the justification and proof of it, creates a foundation on which a risk culture is built. And in my experience, where I've seen that culture introduced by a new scheme or the renewal of a scheme, I've seen how over the years that particular profession and the culture just sets a ball rolling and the foundation for it that I've seen bring real change about.*

- Andrew Sharpe, Insurance law specialist

Schemes can also help build a broader narrative about being part of a profession, especially one that is capable of effective self-regulation, as Linda Buono observed:

*Do I think something like this scheme is important? Absolutely. We try and do a lot of work around the fact that we are a profession and we are self-regulating and something like this scheme underpins that narrative.*

- Linda Buono, LSNSW

## Reputation: Scheme Impacts on Social Expectations for the Profession

A profession's reputation as trustworthy and socially valuable stems from its existing standards, quality and professionalism. Reputation can therefore function as a rough metric signifying a professional ethos oriented towards the public good. Being widely perceived as reputable, trustworthy and credible also helps professionals hold themselves to the expected standard, both because expectations shape behaviour and because clients will be less likely to demand unethical services. Finally, reputation contributes to each professional's own professional identity; it is easier to take pride in one's professional role when that pride aligns with the wider community's esteem for the profession.

Bobbie Wan highlighted the LSNSW's scheme's role in enhancing the reputation of associations and their members, which in turn raises professionalism and consumer confidence:

*Part of the professional standards scheme is the direct consequences of their expectations on solicitors to maintain a particular standard to hold themselves to. And I think that that reputation of having to hold yourself to a certain standard can only help to make sure that you are diligent in providing your services. There's something to say for allowing practitioners to show in their footers and their signature that they are a member of the Professional Standards Scheme – not only does it send a message about limitation of liability, it also shows that they hold themselves out to a certain standard which they maintain and I think that's a good thing.*

- Bobbie Wan, LSNSW

She concluded that: "In terms of equality, the professional standards scheme is a great thing if it can just help a practitioner carry on the good work that they do."

## Codes: Scheme Role in Driving Ongoing Code Development and Participation

Codes of ethics and codes of conduct (and other guidance resources) can play an important role in professionalism through invoking the aspirations and social goods the profession can deliver, and providing guidance on how those values can be realised practically. However, professions face an ongoing challenge to ensure that their codes are practical, living documents that play a genuine role in members' ethical and professional decision-making. The ongoing development and review of guidance material – especially when these processes make space for members' involvement – is a crucial way of ensuring the codes' practical relevance in a changing world and of driving professionals' ethical reflection on their practices (Breakey, 2021). As some scholars of organisational ethics put it: "A code is nothing, coding is everything" (Kaptein & Wempe, 1998).

Amelia Hodge noted that in addition to contributing to a stronger professional ethos and cultural orientation to public interest among the association's members, both the scheme requirement and APIV's own policy of regularly reviewing its professional standards framework enables the association to meet members' needs and enhance their responsiveness to ethics education, training and adherence to the API code of conduct:

*Because we do review it so regularly – we look at any complaints made, we get feedback from our Members, we have quite a robust committee environment, we have state committees – we get the feedback and listen to what's happening in the market and review our Code of Ethics, our ethics module, our risk management module, and our Code of Conduct. That yearly cycle of review keeps our scheme very robust, and there's member feedback at the start into the draft as well as the member consultation so they are fully aware that it's coming.*

*- Amelia Hodge, API*

## Education: Scheme Role in Promoting Education on Standards and Ethics

Education, especially on ethics and standards, helps drive professionalisation by ensuring a critical mass of members are informed and up-to-date on ongoing issues and new challenges. In her interview, Bobbie Wan discussed the importance of using education, training and continuing professional development (CPD) as a tool for strengthening association members' ethical decision-making and building trust to further raise standards. She explained that the main role of the LSNSW's Professional Support Unit (PSU) "is to educate, that's the heart of it". In addition to providing confidential advice, senior solicitors conduct CPD sessions that comprise one-

hour presentations on a range of topics including (but not limited to) costs, regulatory compliance, ethics, and risk areas such as anti-money laundering and counter-terrorism financing. The PSU also publishes educational articles to support practitioners in a freely available journal called *Ethics and Standards Quarterly*. These measures reflect the LSNSW's broader commitment to raising professional standards through education, encapsulated in Bobbie Wan's comment that, "our motto is that if solicitors know better, they do better and hopefully provide a better service and maintain the high ethical reputation of practitioners.

The scheme also promotes professionalisation through further education. First, the requirement to collate complaints data as part of an association's reporting obligations (see section 1.5) enables professional associations to continually update their members on matters like compliance risks. Second, the utilisation of root cause analysis plays an important role in enhancing association members' risk management literacy. As Katherine Psomas, General Manager of Professional Conduct at CPA Australia, explains:

*It really comes down to education and that's where the root cause analysis comes in handy to have a look at why things are happening the way they are and being able to reach that broader audience, which is always difficult because let's face it, everyone's busy. It just seems to be a way of life now – you reach out as much as you can using a variety of mediums. It's got to be through the webinars, through whichever way that you can, to reach members.*

*- Katherine Psomas, CPA Australia*

## Summary

There was an overall consensus among the interview participants that professional standards schemes play an important role in providing an additional layer of protection for professionals and strengthening the associations' existing standards, policies, processes and outcomes. The interview participants agreed that their representative associations' professional standards frameworks were effective and functioned well to promote ethical conduct and professionalism, and that the scheme consolidates and provides additional assurance that they are functioning as intended. The associations continued to identify a range of ways in which these frameworks could be further improved to raise client and consumer trust in the professions.

## 1.3 Risk Management

Risk management is a fundamental component of professionalism. Corresponding to this, professional standards legislation requires the Councils to consider an association's risk management strategies before approving a professional standards scheme. Associations must detail these strategies for members and how they will be implemented, and annual reporting requirements also oblige associations to detail continuous improvement in the area of risk management. In the context of a scheme, professional risk management refers to operating a system of risk management strategies based on consumer protection and continuous improvement processes. Professional risk management strategies are centered on four key areas:

1. Membership requirements (entry, annual, ongoing, fit and proper person)
2. Continuing occupational education requirements (continuing professional development)
3. Quality management (such as member audits and quality reviews)
4. Risk management required of members (by the association or their firms).

Under the Scheme Application Framework, professional associations are required to have various mechanisms in place as part of their risk management frameworks, including (but not limited to):

- codes (code of ethics, a code of practice, mandatory or voluntary codes)
- consumer risk management mechanisms
- complaint resolution processes
- mediation services
- membership requirements (such as initial, annual or ongoing registration, good fame and character)
- processes for disciplining members
- continuing occupational education
- professional indemnity insurance requirements.

Interview participants were asked to consider how schemes can drive improvements in an association's risk management approach, governance and understanding of their own profession. The provided information should be read in conjunction with the other sections to provide a comprehensive overview of risk management strategies - for example, initiatives to promote professional standards (in the preceding section) also contribute to risk management outcomes.

## Findings

All interview participants stated that risk management strategies comprise an integral aspect of their associations' professional standards frameworks.

According to Vicki Stylianou, the IPA's two-pronged risk management strategy involves profiling the risks of members based on available data and putting in place policies, procedures and other resources to reduce, minimise or better manage risks. The association's scheme also plays an important role in this strategy:

*There's the risk management for the IPA as an organization, and then there's what we call member regulatory risk compliance. Member regulatory risk compliance includes compliance with the Professional Standards Scheme which is fed into and is part of the broader risk management plan and management - we have very comprehensive risk management and risk treatment plans. There's a whole body of work that goes around risk management for the IPA. And there's other risks that deal with members and then the organisation as a whole, which includes broader things like, for example, cybersecurity.*

- Vicki Stylianou, IPA

Andrew Best, Manager of Professional Standards at the Institute of Public Accountants, stated that another fundamental aspect of the IPA's risk management framework involves conducting regular audits and reviews of member conduct and practices. As he put it,

*members in a public facing role or providing professional services to the public need to be doing it in a professional and competent way, so we need to review their practices between three and six years depending on the suite of services that they provide to clients. Our current system is called the Quality Review Program (QRP), which assesses members' activities against a whole range of professional and ethical standards, legislation and of course the IPA by-laws. So, we collect a lot of data from that and profile members in terms of the non-compliances.*

- Andrew Best, IPA

## Impact of Schemes on Risk Management Strategies

As previously outlined, the APIV's risk management framework was developed both as a response to spiraling insurance claims against valuers, and the scheme's requirement to set up robust risk management strategies before it can commence. One of the cornerstones of this framework is the APIV risk management module, which still operates to this day and has played a crucial role in raising professional standards in the valuation industry:

*There is no doubt that the compulsory risk management module that we ran had a significant effect on improving standards, there's no question. Before that, there was nothing of that nature - there might be a risk session a year that you got about twenty people along to - but this was compulsory and everyone had to sit this every three years. It was coupled at the time with a reduction in the number of claims, so you would say that anecdotally that had an effect.*

- Andrew Sharpe, Insurance law specialist

In addition to improving members' professionalism, Andrew Sharpe stated that the scheme had a broader impact on larger firms' approach to risk management:

*I also saw it make a difference that the larger firms that were there in the market at the time actually brought on a risk person. We'd often get the larger firms say to us: 'We want you to come into our office and we want you to give it [risk management module] to us and we want to sit down with you and talk about how you can tailor it to exactly what we do and what issues we've had in the past.' They were actually asking for us to design it for their particular practice and that was all very much driven by the introduction of their professional standards scheme.*

- Andrew Sharpe, Insurance law specialist

Andrew Best also acknowledged that the scheme's risk reporting requirements have played an important role in improving IPA's risk management and governance. After being offered only a 2-year scheme due to identified gaps in their standards frameworks, the IPA overhauled its risk management systems and processes to address them:

*I think it was the turning point for the IPA, I really do. We worked with [redacted] lawyers who had a risk management expert, and I went to the board and said: 'I think it needs to be done at arm's length, I don't want it done internally at all because there's pecuniary interest.' They went through the entire organization and produced this massive list of gaps within the IPA - best thing we ever did. We got it extended for one year and legitimately changed everything. The way that place runs and now is really, really tight and it was a scheme that made us think differently.*

- Andrew Best, IPA

Interview participants were also asked whether **Root Cause Analysis**, which has been applied by the Councils since 2019 as a practical risk management tool, has enabled associations to become better equipped to respond to ongoing systemic issues and identify the underlying risks to consumers. Melissa Read, Head of Professional Standards at CPA Australia, explained how root cause analysis is utilized by CPA Australia to improve risk awareness and identify issues before they become unmanageable:

*The root cause analysis methodology we've adopted is the 'five whys'. Whenever we assess a member in public practice and we identify that they had some findings, we undertake a 'five whys' exercise with that member to get to the root cause. We ensure that despite whatever other change or regulation or compliance issue came up, they would have a process in place to not make a similar non-compliance. The outcome of the five whys then feeds into what we call an insights framework, and that's where we would decide what is the strategic priority here. So, we're definitely trying to get all our members comfortable with the concept and trying to pull a root cause out of each assessment, but we're definitely not having an action for every single one we identify - it would only be where we see a trend or something that we as their professional body can actually influence.*

*In the claims space, we have a professional indemnity partner that our members don't have to choose to be insured with, but if they do, we can meet with that insurer and unpack common or large claims and what may have been the root cause of those. So the insurer would have done a root cause analysis on the claim and then they share that intelligence with us, and we might decide: 'ok, we're seeing a trend here' in claims relating to cybersecurity for instance, 'what can we do about that?'*

- *Melissa Read, CPA Australia*

Adam Awty, Chief Executive Officer of the Law Institute of Victoria, similarly stated that root cause analysis can be used to develop specific strategies for managing risks to reduce insurance claims and promote professionalism:

*We'll have conversations with a regulator and also with our insurer around common causes of a harm that might be happening, or common causes of complaint or insurance claims. And we can go to root cause analysis and consider: 'are there things we can do to intervene on that? Are there behaviours we need to change? What are the risks coming down the pipeline and how do we make sure that the profession is aware of it?'*

- *Adam Awty, LIV*

He further noted that the scheme's risk management and reporting requirements support the LIV's professional standards framework and that risk management is crucial for associations "because that's how we demonstrate value, to provide education opportunities and awareness to the profession of the importance of everything from soft skills to risk management to running your business."

Peter Docherty, Head of Professional Standards and Quality Assurance at the Law Institute of Victoria, also stated that addressing the root causes of emerging and current risks that affect the legal profession (see section 2.5) is a key component of the LIV risk management framework:

*We focus both on current and emerging issues and when we deal with those issues, that provides us with an opportunity to actually look where we're at - for example, when we looked at cybersecurity, both the LPC [Legal Practitioners' Liability Committee] and VLSB [Victorian Legal Services Board] and LIV had already established a working party to meet on a quarterly basis just to talk about cybersecurity issues and cybersecurity breaches. That resulted in the promulgation of some knowledge resources that we make available to our members while also working with the VLSB setting what we will call minimum cybersecurity expectations. The expectations were articulated to stakeholders, particularly being practitioners and private practice, what were considered the minimum standards that they should have in place to actually respond to cybersecurity risks.*

- *Peter Docherty, LIV*

According to Katherine Psomas, another integral component of associations' risk management frameworks (individually and as part of scheme requirements) is the provision of both compulsory and non-compulsory education, training and CPD to raise members' risk awareness and provide resources on how to identify and mitigate them. She stated that the "easiest way" for CPA Australia scheme participants to meet their obligations is the requirement to undertake 120 hours of CPD training and that the added ethics component is "probably the best way that we can get through" to association members. She also noted that in addition to these offerings, CPA Australia has a significant amount of free and accessible material that can assist members in managing risks.

Andrew Best similarly reported that the IPA's updated CPD requirements to cover ethics and business management as well as other related topics on professionalism (such as mental health) directly resulted from a "different way of thinking because of the scheme," which in turn led to an increased level of staff awareness of ethical and professional standards.

While there was a general consensus among the interview participants that the examined associations' risk management frameworks are robust, they also acknowledged that these strategies need to be adaptable to reduce and mitigate emerging, current and future risks. As Vicki Stylianou explained, this is especially important for professions that are currently operating in an uncertain risk environment:

*there's been a lot of work done the last few years, including by the IPA, around restoring trust in the profession - apart from the day-to-day cybersecurity type risks, there is the risk associated with the reputation of the accounting profession. In our risk register, we've got a risk treatment plan and we do a lot of work to try and do everything we can to restore trust in the profession. There's just a lot of uncertainty of what's going to happen, which creates its own risk and we just don't know where it's going to land. And then sometimes the government drags its feet on these things, so that is a risk that we're grappling with and we've got to constantly keep the Members updated on what's going on as they're busy with their day-to-day work.*

- Vicki Stylianou, IPA

Finally, the interviewed professionals discussed whether the scheme helps professionals to better understand consumer harm prevention and make it more central to its activities. Peter Docherty suggested that a balanced approach that focuses on both professional development and consumer protection is the most effective way of mitigating risks in the legal profession:

*When I look at professional standards legislation, I think professional associations were in the past good at delivering on technical competencies but when you look at the root causes of complaints and claims, often it's timeliness, values and a lack of communication - so it's actually getting that balance right, to tell better stories so we can actually articulate the consumer perspective as well as saying good practice means that you're not going to have as many complaints.*

- Peter Docherty, LIV

## Summary

Having a professional standards scheme in place has provided a range of benefits for the examined professional associations by strengthening their existing risk management frameworks, and in some cases playing a critical role in providing the impetus for associations to put policies, processes and frameworks in place to identify, assess and mitigate risks for professionals and consumers.



## 1.4 Annual Reporting Requirements

In order to maintain the operation of a scheme, occupational associations are required to submit an Annual Professional Standards Report (APSR) that outlines their implementation of professional risk management strategies (including consumer protection and improved occupational standards) and compliance with the professional standards legislation.

Under the Scheme Application Framework, the APSR is divided into five main parts:

- A. Highlights* – the association's biggest achievement in occupational standards
- B. Informing consumers* – how the association informs consumers about the scheme
- C. Protecting consumers* – how the scheme standards protect consumers
- D. Redress for consumers* – how consumers are provided with redress
- E. Scheme administration* – how the scheme is administered and other relevant details.

The main purpose of a professional standards scheme's annual reporting requirement is for associations to provide details on the functioning of their professional standards framework including reviews of risk management strategies, risk analysis of new/emerging risks, analysis of complaints and claims data, and member awareness of the scheme and their obligations. Interview participants were therefore asked how compliance and scheme participation are improved through engagement in the annual reporting process, leading to improved professional standards.

### Findings

Peter Docherty and Adam Awty both outlined the detailed process that the LIV undertakes in order to complete the annual reporting process by collecting relevant data and compiling the report after consultation and feedback from scheme practitioners.

The LIV has a tiered layer of reporting that involves reporting on scheme participation on an annual and quarterly basis (five updates provided per year). For the annual report, Peter Docherty works with multiple internal and external stakeholders on the preparation and collection of data for the report. As the LIV works in a co-regulatory environment where there is a complete separation of roles between the regulator and the professional body, the association engages with the VLSB and the LPLC, which is the mandatory insurer for PI insurance for all legal practitioners in Victoria, to collect relevant data for the report.

Adam Awty stated that while there is no contractual or commercial relationship with these statutory bodies, they provide the information "because obviously they see the importance of the scheme". Peter Docherty further added that the association meets with these stakeholders on an ongoing basis "to talk about root cause analysis of claims and complaints, identify if there's any trends and how we actually are responding to them". Once compiled, the report goes to the Audit Risk committee and is approved by the LIV board to be submitted to the PSA.

## Impact of Scheme on Annual Reporting Requirements

The interview participants largely agreed that the scheme's annual reporting requirements were beneficial because it facilitates the timely identification of risk areas and promotes greater accountability, transparency, and stakeholder engagement. According to Peter Docherty, the annual reporting process involves obtaining data from association members to assess how they are implementing scheme requirements in their day-to-day practice in addition to sourcing information from regulators and insurers:

*We actually have an annual verification process where we collect information similar to a survey to do a health check on all our participants and remind them of the professional obligations as it relates to disclosure, consumer complaints and the requirement to notify us. We ask some questions on the risk framework and if they have policies and procedures to actually address some mandatory risks for what we call practice management systems. We also ask questions about insurance and ask our Members to notify us - all those insurance claims are actually managed through the VLSB so while we do not access confidential information from the insurer, we do look at aggregated data so we know the types of complaints to identify if there's trends and if there's emerging issues. So that's really, really important.*

- Peter Docherty, LIV

He further stated that the annual reporting process benefits professions by identifying both the strengths in an associations' professional standards framework, and areas that could be improved:

*It definitely has because it provides questions where a professional association needs to articulate and demonstrate their continuous improvement process. So it's not reporting in the same way year after year, it actually pushes the professional association to talk about issues and some of the challenges. The PSC feedback reports in the past highlighted some areas where they've sought some clarification or may see some areas of improvement. I think it's facilitated some robust discussions on some really good issues, and the scheme application process actually challenges a professional association to step back and put on the consumer hat or the person in the street hat. So it really looks at things like ethical behaviour and independence in a different way and encourages professional associations to look at how consumer complaints are actually assessed and responded to. It highlights the importance about the timeliness of responses.*

- Peter Docherty, LIV

Adam Awty similarly reflected that annual reporting requirements are beneficial because they force organisations to "check where they're at and when the PSC then do their review against the report to identify gaps, it provides the gap analysis from an independent perspective as to where opportunities are to continue to develop and evolve the professionalisation and the standards of the profession".

For Andrew Best, a key benefit of the IPA scheme is that the annual reporting requirements require all members, including those that face or provide services to the public, to complete a questionnaire every year. This process enables the association to collate data on

*everything like turnover insurance claims, suite of services they offer, any issues that they're facing and we use all that data to look for loopholes or angles - when I find a hole, what I'll do is then propose by-laws or something for the board to adopt to shut down that avenue or that opportunity before anyone exercises it.*

- Andrew Best, IPA

Peter Docherty and Adam Awty also highlighted that the process of collecting data from members not only raises their awareness of the scheme and their associated obligations, but also highlights the value of scheme participation:

*I will say definitely, because there's some specific questions in the reporting framework that requires the association to actually talk about what they've done to actually promulgate information, how we communicate the benefits of the schemes, how we promote the obligations of scheme participants, and how we introduce internal risk control elements. We continue to strengthen how we manage our participation records because the risk is unless all the eligible participants in the firm are participating, they may not be able to rely on the limitation liability cap.*

- Peter Docherty, LIV

*We are constantly having conversations with the profession around what it means to be in the scheme – I know we'd have some Members in our organisation that are members purely because they see the value in the scheme, so that in and of itself highlights the awareness of the scheme and that it has currency within a big chunk of the profession around its relevance and its importance for both their own organisation, but also consumer confidence. So I think it's a self-fulfilling prophecy and the scheme is so embedded in the major professions that there's an expectation that you have to be a Member, so therefore the awareness is there.*

- Adam Awty, LIV

Amelia Hodge also identified the annual reporting process as an important and valuable conduit for identifying gaps and other areas for improvement in the APIV professional standards framework. She confirmed that the “whole process of the report that goes to the PSC really helps us take a deep dive into where we can make improvements – it is quite a lot of work but it does force those conversations to see what else is needed and going through the exercise for this year will be hugely beneficial to help us kick start the renewal of the scheme. Sheila Kushe similarly stressed that APIV members’ positive view of the scheme’s benefits was reflected by the fact that in 2021, 97% of members complied with reporting requirements which was a “phenomenal” outcome for the association.

Finally, Peter Docherty stated that the reporting process encourages the uptake of proactive measures (such as workshops on risk management, soft skills development, and mental health resources) to improve the professional standards and wellbeing of members:

*It's encouraging them to take time out to actually look at what are the issues that are keeping them awake at night? And when you start to have those robust discussions, often it comes down to clients and client communication, it's how you can manage conflict. When we're talking about soft skills development, it provides an opportunity for us to examine wellbeing in the profession – suicide and wellbeing issues for lawyers are up there, they're dealing with vicarious trauma of conversations with their clients so it's taking time out to talk about wellbeing. Personal awareness is really, really important.*

- Peter Docherty, LIV

## Summary

Overall, the interview participants agreed that the annual reporting process is beneficial for associations because it provides them with the relevant tools to identify risk areas, improve stakeholder engagement, and maintain transparent and accountable governance processes. They also acknowledged that while the annual reporting process can be costly and time-consuming (see section 2.2), the administrative aspects of applying for and renewing schemes had significantly improved in recent years. They praised the responsiveness of the Councils to feedback from the associations while recommending that the process could be further enhanced to make it more manageable

Vicki Stylianou emphasised that the Councils have “gotten a lot better at streamlining the process – they've worked hard and they've really listened in terms of the administration side of it because that's caused us more issues than the legislation”. Andrew Best similarly noted that while the required time to complete an annual report has been reduced, “it does consume quite a bit of resources,” while Adam Awty reiterated that:

*I think it's an improved process on where it has been over the years. It is still a very time-intensive process, but it's something that we do take seriously in terms of obligations around that. Our commitment is obviously continuing to evolve the elements of the scheme around the consumer protections and compliance. I think it's continued to evolve and improve, but we've got to get the right balance between regulatory reporting, and actually getting regulatory outcomes and better processes within organisations to ensure there's consumer protections as opposed to putting more compliance rigor onto them.*

- Adam Awty, LIV

## 1.5 Complaints Handling

While it is not mandatory in all Australian states, occupational associations are generally required to submit information about their consumer complaints system and handling processes as part of their scheme application and/or renewal. The Scheme Application Framework guidance modules outline that complaints can come from a range of sources, including members' clients and other stakeholders that are concerned about consumer risks or harms (such as representative complaints, anonymous complaints, or complaints about systemic risk). Consumer complaints systems allow associations to identify poor practices that call a practitioner's competence into question and warrant disciplinary action.

Interview participants were asked to discuss how the use of complaints data as part of the scheme administration can be harnessed to improve risk management and professional standards. For example, effective root cause analysis of complaints can lead to effective strategies that result in a reduction in complaints and/or disciplinary actions. This can then enhance the reputation of the association and the Professional Standards Councils as well as increase consumer confidence.

### Findings

The association representatives all stated that complaints handling policies and processes are an integral part of their professional standards frameworks and scheme obligations. For example, CPA Australia's complaints handling policies comprise part of the broader professional standards framework that the association operates under, including its regulatory compliance with the professional standards scheme. In addition to reporting to the Professional Standards Authority, CPA Australia interacts with other regulators such as the International Federation of Accountants (IFAC), Tax Practitioners Board (TPB), Australian Taxation Office (ATO), Financial Reporting Council (FRC) and the Senate. CPA Australia's monitoring of compliance activities includes a CPD Review team that oversees members meeting their ongoing continuing professional development and obligations, and a Best Practice team that oversees members in public practice. The Professional Conduct Unit that is responsible for monitoring complaints and is separate to the other teams to ensure that transparent processes are maintained when referring a member that needs to be reported for further investigation or disciplinary action.

As related by Melissa Read, the main types of complaints that CPA Australia deals with include:

- Internal complaints relating to members not complying with their CPD obligations, members not participating in a CPA Australia Best Practice Program assessment, adverse regulatory findings, and academic misconduct;
- Complaints received from the public regarding the professional care received from a member; and
- complaints received from regulatory bodies.

Assessing the proportions of complaint types and identifying trends across these categories allow professional bodies to specifically target emerging concerns and put measures in place to address them (such as targeted education resources).

## Impact of Scheme on Complaints Handling Processes

Speaking from the perspective of an insurance broker, Leigh Harper observed that complaints data constitutes an important element of scheme compliance because it enables professionals and professional associations to identify the core areas where professionalism is lacking. This can be used to develop policies, processes and practices that are directly aimed at improving professional standards to reduce the number of complaints against professionals. He stated that while claims will never be completely eradicated, associations can

*influence the way that the membership addresses certain types of things and the way they put certain documents together and articulate their advice to their clients so that an insurance company, once they receive a claim, can say: with the documents I've got in front of me, I have X, Y and Z available. If we really analyse that data, what we're hoping is over the next two, three, or four years, we can try to influence the claims outcomes and keep those loss ratios at industry level...if a claim is worth two million and settles for a million instead, that's a lot of premium back into the pool which then enables those increases over time to plateau out or hopefully be nice and flat for the CPA members.*

- Leigh Harper, Insurance broker

Melissa Read also confirmed that the complaints data that is collected as part of the CPA Australia scheme's administration is harnessed to improve the association's risk management and professional standards frameworks. She stated that the association is using the data for two main purposes:

*the first one is making sure we understand where our members need additional support, tools, resources, practical things that would enable ongoing compliance with their requirements, or being able to stay ahead of changing requirements. We know members in public practice are time poor, and we know that the regulations, the standards, the rules change frequently and constantly. So we would be looking for any intelligence there to be determining where we need to enhance what we are providing them practically to help them. It would also inform how we approach assessing and monitoring our members, making sure that we are putting appropriate emphasis on those areas – if there's consistency in a complaint or a subject matter, then we'd be looking to address that across the entire membership.*

- Melissa Read, CPA Australia

Katherine Psomas similarly stated that complaints data enables CPA Australia to identify patterns, predict future trends, and put measures in place to address them:

*When we prepare the reports, we extract data and can see where the trends are going. You're getting a few hundred complaints and when you're getting that kind of volume and you know which are the ones that go forward to investigation, it's reflected in the data. We can monitor: 'oh, there seems to be a bit of an increase in this particular area, is this a matter of concern?' And we look at potentially why those complaints are coming in – has something changed in the environment that would lead to those sorts of complaints? And then I will always liaise with other areas of the business in terms of these complaints. If something comes to my attention that I find concerning, we might prepare some webinars or we might put an updated case study in the public practice program that all Members, if they want to have a practicing certificate, have to go through.*

- Katherine Psomas, CPA Australia

Leigh Harper noted that in addition to "bringing all players of insurance policy out to the front" by identifying the circumstances that may give rise to a claim, complaints data can be used to put practitioner-centered measures in place that are specifically tailored to benefit members by addressing specific risk areas:

*Once we get that data, we disseminate that through all those stakeholders and try and come up with ways that can resonate with the practitioner. When we're looking at complaints data, we're looking at: how did it happen? How can we change it? And part of the Risk Committee meetings that we have with CPA is to have an actual practitioner there so that person can say: 'Hey, this is unrealistic, we're working ten hours a day as it is – what you're suggesting might work from a risk perspective, but it's not feasible.' I think that the complaints data is key to getting down to that granular level and then having a committee that works and actually disseminates and discusses that, and comes up with webinars or articles that can help the wider membership to then control those risk outcomes.*

- Leigh Harper, Insurance broker

At the same time, a number of interview participants acknowledged that the question of whether the scheme has directly influenced and/or reduced the number of complaints was difficult to quantify as they could be attributable to a number of intervening variables. For example, Vicki Stylianou observed that while claims against IPA members have remained steady, there has been a recent rise in industry-wide complaints that can be attributed to a number of factors, including tightened regulations to address misconduct in the accounting profession:

*From what we have seen, the number of complaints have gone up. Our analysis shows that an increasing number of our tax agent members are getting caught for various types of misconduct or get complaints against them. It is possible that they are still doing the same level of breaching but just weren't caught before, but the main reason for the increase is the regulators and because there have been some more complaints from the public.*

- Vicki Stylianou, IPA

Katherine Psomas similarly states that reductions in complaints are attributable to both the success of risk management strategies and increased regulatory oversight. While the reduction "can mean your education is getting through and that there's less reason for complaints," she notes that

*there could be other reasons – as the Tax Practitioners Board started to operate in that space to investigate complaints, our complaints may have gone on a downward curve because there was a statutory body that could actually make decisions that could assist the complainant. Quite often now the client will complain to the TPB and to us at the same time.*

- Katherine Psomas, CPA Australia

Finally, Calla Chau, Deputy Director of Investigations at the Law Society of NSW, pointed out that increases in complaints may actually be attributable to enhanced complaints handling processes that have made it easier for the public to hold solicitors to account by reporting them:

*All complaints are made to the Office of Legal Services Commissioner, so they don't get made to the Law Society; we get referred complaints from them. Over the last couple of years, they've changed their online portal so that you can make complaints directly by filling out a form and it's been easier for people than in the past – maybe it has caused people to make more complaints about different things because it's more accessible.*

- Calla Chau, LSNSW

## Summary

While the causes of fluctuations in complaints data can be difficult to quantify, there was a broad agreement among the interview participants that the scheme can play an important role in reducing claims by enabling stakeholders to collect complaints data and highlight risk areas as part of the annual reporting process, using root cause analysis and other risk management tools to identify patterns and trends, and encouraging professional associations to tailor their professional standards frameworks to address them.



## Part 2: Challenges

Part 1 showed that there was a general consensus among the interview participants that professional standards schemes are beneficial for occupational associations and their members, clients, consumers and other relevant stakeholders. Part 2 outlines some challenges that were identified by the interview participants that may affect the effective operation of a scheme, as well as other issues that negatively impact on ethical and professional standards.

The main challenges that were identified and discussed in the interviews are outlined in **Table 2**:

Challenges	
<b>Insurance markets and limited liability</b>	<ul style="list-style-type: none"> <li>inflexible insurers that do not revise their premiums in response to positive industry changes and/or keep up with consumer expectations for managing risks</li> <li>client knowledge gap on how limited liability operates due to lack of legal precedents/ court cases</li> </ul>
<b>Scheme compliance requirements</b>	<ul style="list-style-type: none"> <li>while all participants emphasised that schemes are beneficial, some noted the significant level of time and cost involved in the annual reporting requirements and the process for renewing schemes</li> </ul>
<b>Stakeholder engagement with Schemes</b>	<ul style="list-style-type: none"> <li>relevant stakeholders (such as clients, consumers, government and regulators) often have limited knowledge about the operation, benefits and compliance requirements of the scheme</li> <li>legal implications of knowledge gaps (e.g. asking association members to breach their scheme obligations)</li> </ul>
<b>Association member engagement with Schemes</b>	<ul style="list-style-type: none"> <li>despite the various tools and resources that associations provide to communicate the benefits of schemes to members, knowledge gaps remain on how to manage risks in their profession</li> <li>impact of recent industry challenges (COVID, economic downturns, job insecurity etc) on the decision-making and mental health of practitioners</li> <li>generational differences that affect some professionals' willingness to comply with scheme requirements</li> </ul>
<b>Impact of emerging, current and future risks</b>	<ul style="list-style-type: none"> <li>participants discussed various issues (such as AI, AML/CTF legislation, industry scandals, and other professional challenges that may affect risk management and the effective operation of the scheme</li> </ul>
<b>Impact of education and training initiatives</b>	<ul style="list-style-type: none"> <li>the voluntary nature of association membership and non-mandatory education and training reduce the willingness for some members to participate in them</li> </ul>

**Table 2:** Challenges that impact on the operation of schemes and professional standards frameworks (Source: Authors).

## 2.1 Insurance Market and Limitation of Liability

Andrew Sharpe suggested that one of the main challenges that professionals face when seeking to limit their liability is the ongoing reluctance of some insurers to revise their premiums in response to positive industry changes and developments. He stated that insurers:

*have been reluctant to take a leap of faith to say: 'we'll reduce our premiums then because we can be confident in the future, things will look better.' They have liked to say: 'well, we're going to have to look at what our claims looked like last year and if what you say about this is right and it does bring down the number of claims we're seeing, then we'll start to reduce our premiums. But we're not going to do it until we see the rubber hit the road.'*

- *Andrew Sharpe, Insurance law specialist*

He further noted that this reluctance may be driven by the fact that there is very little legal precedent for the application of limited liability in court cases, resulting in a knowledge gap for clients in how it functions:

*During mediations, I often get involved in advising my clients in respect of their retainers and I see those clients who try to oust the schemes and we explain to them that you actually can't do that. I always try to negotiate express limitation of liability that actually names the scheme limit and sticks that on as their limit, and the reason I've done that is because there's so little law on the caps being applied and there are some interesting issues that you can have as to whether it applies to a particular matter or not.*

- *Andrew Sharpe, Insurance law specialist*

Amelia Hodge also pointed out that these challenges are not attributable to the scheme itself. Rather, "the challenges are in the insurance market really understanding the benefits of the scheme, and we're constantly reiterating that so I think the challenges are more external rather than internal to the scheme, and it really is just the operating environment" (see also Taylor Fry Pty Ltd, 2022).

Another complicating factor is the fluctuating and often unpredictable nature of claim size and frequency, which can obfuscate a profession's improved risk profile. As Leigh Harper explains,

*A reduction in complaints does not necessarily transcribe into the insurance realm because what we talk about in insurance is frequency of loss, and then the severity of loss. So you may have 100 claims one year and it cost you 1 million, you may have 50 claims the next year and it cost you 5 million because you've got some really, really big claims waiting amongst that. A few years ago now, there was what they were calling hyper claims inflation, which basically spoke to things like expert fees, lawyer fees, every other fee that's associated with defending a civil matter, so that can also come into play.*

*So whilst you might be positively influencing the amount of complaints being made by consumers, just because of the world we're in at the moment, the cost of litigating is increasing and so each claimant was settling for maybe \$20-30,000. Doesn't sound like much, but if you've got a high frequency of those, it adds up.*

- *Leigh Harper, Insurance broker*

Within this uncertain environment, Sheila Kushe acknowledged the Councils' efforts to engage with the insurance industry to address the apparent disconnect between peoples' understanding of the scheme and the insurance market because there "hasn't been that correlation around reduction of premiums if you are a scheme member, so the [Councils] were doing some great advocacy with the insurance market."

Peter Docherty also voiced the concern that while insurers play an important role in building consumer trust, "from a stakeholder perspective, I think the insurance industry have failed to keep up with the expectations of consumers as it relates into how they actually manage risk." He elaborated that:

*In an ideal world, you'd love to be able to demonstrate that professional standards schemes and good risk management actually help deliver more proportionate costed PII. Often, my frustration is that I think the insurance industry does not take a layered approach to policy reporting and root cause analysis and also sharing that experience and those insights back with professionals.*

- *Peter Docherty, LIV*

## 2.2 Scheme Compliance Requirements

While the interview participants emphasised that it was important for associations to meet their compliance obligations to ensure that the scheme's objectives are met and that the benefits of scheme participation outweighed the costs, some noted the significant time and cost that is involved in the annual reporting requirements and the process for renewing schemes.

Vicki Stylianou acknowledged that for the IPA, "it's a lot of effort and work to have the scheme and then to keep applying for a new scheme... we are now three years into a five-year scheme, so we have already started putting together the application for the next scheme." Adam Awty also highlighted that the annual reporting is a "very detailed, time intensive process – you have different levels of information which each organisation may or may not have under their own control and in an organisation like ours [LIV], we rely on some of our partners within our sector to provide us that the data on claims and the context."

Peter Docherty also noted that the timing of the annual report due date by calendar year may make it more difficult

for some associations to meet their annual reporting obligations. He stated that it causes additional workload because some stakeholders are not able to provide some statistics for us for the calendar year and the preparation of reports is also happening in January, February when a lot of people aren't available".

## 2.3 Stakeholder Engagement with Schemes

Another identified challenge was that relevant stakeholders (such as clients, consumers and regulators) often have limited knowledge about the operation and benefits of the scheme. Bobbie Wan suggested that there was not enough information on "how well the scheme is understood by clients of solicitors," while Peter Docherty stated that consumers "sometimes don't understand the language of consumer protection legislation" such as mandatory cost disclosure requirements. Sheila Kushe also asserted that "the one thing we can all do better is client communication - I think that's actually a professional issue and that's something we push through all our training programs."

According to Vicki Stylianou, knowledge gaps regarding the application and operation of schemes and professional standards legislation can also extend to regulators and governments. She stated that senior association representatives have:

*all gone before various parliamentary joint committees, as has the Professional Standards Councils themselves. And I think that some of the parliamentarians were kind of misunderstanding what the legislation even is and does. There's not a great awareness, I think, outside the profession of the existence of the professional standards legislation - even some of the politicians thought that the PSC and the PSA were regulators of some kind, like ASIC. So we were a bit surprised that they just seem to either have not heard of professional standards legislation or were certainly not aware of what it was there to do and how it worked or anything like that.*

- Vicki Stylianou, IPA

Amelia Hodge explained that these knowledge gaps can potentially have adverse consequences for clients and consumers and even lead to potential breaches of the professional standards legislation. She stated that while some clients of association members are "very much across the risk management framework," others are far less aware of associations' scheme responsibilities. She discussed a recent incident during a procurement process where APIV members were asked to contract out of the scheme and its limitations on liability, which is not permitted under the legislation (although exemptions from liability caps may be approved by an occupational association). The incident further highlighted the importance of informing stakeholders of the scheme's application and corresponding obligations.

## 2.4 Association Member Engagement with Schemes

Similarly to the stakeholder engagement challenge, multiple participants noted that despite the various tools and resources that associations provide to communicate the benefits of schemes to members, knowledge gaps remain. Linda Buono stated that, "on the membership side of things, there is little understanding on the scheme and how the scheme works which circles back to that question of: do people just see it as something you do, or is there an expectation that they want more information about it?" Andrew Best also acknowledged that there is "a lot more work we need to do on educating members on how to document their risk management".

Some interviewees also expressed concerns over the impact that recent challenges (such as COVID, economic downturns, and job insecurity) have had on the mental health of practitioners, and how this negatively impacts on the ethical and professional standards of association members. Adam Awty expressed that he felt "concern over people disengaging - I think the world has changed and people are more frustrated, and it could lead to poor practice if someone is just taking a shortcut because everything's just a little bit too hard", Linda Buono also highlighted that the societal cost of living is "impacting people in a really significant way and putting some people at risk of making some poor decisions for short term outcomes," while Vicki Stylianou pointed out that many professionals are "just burned out; a lot of them are just exhausted and we keep hearing that constantly. The regulatory changes are impacting them, but also things like anti-money laundering, there's sustainability, reporting standards that are being implemented and that just created a really, really intense environment".

Some interviewees also noted that generational differences and approaches in professional cohorts may affect the extent to which they are willing to comply with scheme requirements. Katherine Psomas stated that sole practitioners working in rural situations, who are often older, "fall into these traps because they're locked in their ways; they've been doing that job in that one space for fifty years and there's been no education, no fresh blood and potentially no competition so they're the most difficult to reach". Linda Buono similarly found that in the legal profession, "the younger generations are coming through and nearly 50% of our profession is under forty, so the scheme and the professional standards have a very different meaning and context for the more senior members of the profession". She further asserted that in order to ensure that these incoming professionals are fully apprised of the LSNSW scheme's benefits and associated obligations, "we've got to make sure we find a way to speak their language and speak to what is an increasingly younger and female profession, which I think is lending itself to really needing their profession to align with their personal expectations".

These factors can in turn impact association members' level of engagement with the scheme. Adam Awty explains that

*the challenge is that you have different stakeholder groups – some participants highly value the scheme and that secondary layer of protection over and above the PII process, while other Members will actually look at the likelihood of the claim and a claim being over that capped amount and decide the reporting obligations are too difficult.*

- Adam Awty, LIV

## 2.5 Emerging, Current and Future Risks

Another area that was discussed by the interview participants is the impact of emerging, current and future risks on individual professionals and an association's professional standards framework, which could potentially impact on the scheme's operation and necessitate new approaches to mitigate them. These include: artificial intelligence (AI) and other technologies, anti-money laundering and counter-terrorism measures, cybersecurity threats, industry challenges, and association member engagement with risk management strategies.

### Artificial Intelligence (AI)

Artificial Intelligence was identified as the main emerging challenge for professions due to its potentially adverse effect on professionalism. Vicki Stylianou stated that while the IPA had been dealing with technological risks (such as cybersecurity) for a while now, "everyone is grappling with the impact of AI on ethics - what does that mean for professional standards and our risk management and our risk mitigation?" These risks are particularly fraught in the legal industry, with Adam Awty calling it a "macro change to the profession that may change the way legal services are delivered and the way consumers want to access legal services" while Calla Chau highlighted that professional risks were already becoming apparent with lawyers using ChatGPT in their work.

To address this issue, Peter Docherty stated that the LIV views AI "from a risk management perspective, from a practice sustainability initiative, and also from an ethical dilemma issue to encourage practitioners to take an informed response to how they may use AI." Sheila Kushe also asserted that it is "on us an industry body to help our members get comfortable with using AI and embrace it to harness their skills, as opposed to them worrying that it's actually going to make them redundant."

### Anti-money laundering and Counter-terrorism finance legislation (AML/CTF)

The recent amendment of anti-money laundering and counter-terrorism finance (AML/CTF) legislation and proposed reforms to combat financial mismanagement by introducing 'gatekeeper' provisions have also raised some unique challenges for lawyers' professional standards and risk management frameworks. Bobbie Wan explained that while Australia has had AML legislation for quite a while, its proposed application to gatekeeper professions such as lawyers, accountants, real estate professionals, conveyancers and jewelry dealers (commonly referred to as Tranche 2) will introduce new reporting requirements for legal professionals.

While uncertainties remain over how these reforms will impact associations and their members, Peter Docherty indicated that the LIV is already implementing risk management strategies to address the reforms, a process that is further assisted by the scheme's reporting obligations:

*What will that legislation look like? How may it impact legal practitioners? What are the expectations of government and how will the legislation work? We have legislation, but we don't have the rules. So we look at that from risk management perspective and actually start the early education awareness on what the AML/CTF legislation's purpose is and how it applies to designated services. So when we look at the annual reporting cycle, there's a lot of environmental issues focused on current and emerging risks that we actually engage with other stakeholders with.*

- Peter Docherty, LIV

### Cybersecurity

Another technology-based risk area that potentially poses significant challenges for professionals is cybersecurity. As Katherine Psomas explains, professionals may find themselves exposed to a range of cybersecurity threats such as having their emails and bank account details changed, while there has also been a recent increase in professionals misappropriating client data and funds by transferring them into their own or their employer's bank accounts instead of the client's.

Despite the potentially negative implications of technological risks and threats for professionalism, Bobbie Wan asserted that they do not constitute a direct threat to the LSNSW or the operation of the scheme due to the overall robustness of their professional standards framework:

*There's always an element of risk with new technology and we just have to continue to be cognizant of that. The legal profession, unlike other professions, has always had a bit of a safety net in the solicitor conduct rules, and*

*those rules are written broadly enough to apply through a lot of changing circumstances. It's quite a hierarchical profession and supervision is something that is entrenched not just in the law, but in the culture of the profession. With your mandatory CPDs, you've got to have at least one hour dedicated to ethics, professional responsibility and professional practice and there are lots of resources out there to do that.*

- *Bobbie Wan, LSNSW*

## **Industry Challenges**

The interview participants also discussed the impact of various industry upheavals and other challenges on professionalism, and how the associations are addressing them. Vicki Stylianou stated that while the PwC scandal exposed significant flaws in the accounting industry, the complex taxation regulatory environment has added significant pressure on professionals:

*Over 90% of our Members who are scheme participants are also registered tax agents. There's been a lot of changes in the tax space, the Tax Agent Services Act and then the regulator Tax Practitioners Board - a lot of big changes and unhappy members, a lot of uncertainty in terms of the interpretation of the new rules. We've spent a lot of time, as have others, trying to raise the awareness and bring our Members up to speed. Overall, there's so much change going on and so much uncertainty and that's created a lot of risk for members. They're worried about complying with the new tax agent rules, and then they're worried because they have to fulfil the risk management requirements for professional and ethical standards.*

- *Vicki Stylianou, IPA*

Peter Docherty also noted that for the legal profession, industry scandals such as the 'Lawyer X' case and subsequent Royal Commission into police informants not only caused reputational harm to the profession, but also created risk management challenges as associations deal with the ongoing impact of regulatory responses:

*There will be some emerging issues that may look from a reporting perspective that we've done nothing, but some of the policy frameworks are outside our control. For example, Lawyer X, the Royal Commission into police informants were made nearly four years ago. One of the requirements was mandatory reporting - three years later, there's still a lot of debate on if the government will proceed with that recommendation and how that might cause conflict with practitioners that are working across jurisdictions. Another debate that's happened relates to anti-money laundering and counter-terrorism financing proposed legislation and the obligations of lawyers to the courts, which could put a legal practitioner in breach of their professional obligations or their obligations to the court.*

- *Peter Docherty, LIV*

## **2.6 Impact of Education and Training Initiatives**

Finally, some participants stated that the voluntary nature of association membership and non-mandatory education and training (aside from compulsory CPD offerings) may reduce the impetus for some association members to participate in them. As Katherine Psomas points out, this creates a knowledge gap that is challenging to address:

*You can't mandate a lot of these things - with all the regulatory reforms and the PwC inquiry, it's interesting that some members are completely switched on and know what's going on, while a proportion are just completely oblivious to what's happening and how it's going to impact them. How do you reach that portion? Because the ones that are switched on and are listening, they're fine because they're already a little bit concerned, they're watching that space, they're seeing what's happening because they are all things that will affect them in one way or another. Unfortunately, it's the few that don't tune in to what's happening in their environment that you need to reach and they're the ones that are hardest to reach, so it's always going to be difficult.*

- *Katherine Psomas, CPA Australia*

Melissa Read similarly stated that member engagement with education and training offerings is "definitely mixed in terms of whether they can see real value in it or think it's just an exercise we're putting them through," while Andrew Best surmised that "if you market it as just a risk management CPD session, I don't think you get much take up because Members think that they know how to do it anyway, so why turn up?". He suggested that diversifying the sessions to include content that would be viewed beneficially by a broader range of professionals could enhance the willingness of association members to engage with ongoing professionalisation initiatives.

## **Summary**

Part 2 shows that the benefits of professional standards schemes can be impacted by a range of factors that pose significant challenges for professionals, professional associations, clients, consumers and regulators. However, as Part 1 demonstrated, these challenges can be addressed by (1) strengthening existing professional standards and risk management frameworks, and (2) remaining responsive to addressing new, emerging and future risks to enhance the scheme's overall efficacy and improve professional standards and consumer confidence.

# Part 3: Discussion and Key Findings

Parts 1 and 2 showed that professional standards schemes provide a range of benefits (as well as some associated challenges) for professional associations and their members. Part 3 provides an overall assessment of interview participants' perspectives on their association's scheme and will compare the responses to provide an overall assessment on, and analysis of, the role that schemes play in increasing professionalism and raising consumer confidence.

## 3.1 Benefits for Professional Associations

All the examined professional associations have extensive experience with maintaining professional standards schemes, ranging from 12 years (IPA) to 29 years (LSNSW). While the interview participants provided significant insights into the operation and overall efficacy of the scheme, this lengthy history also meant that it was at times difficult for the participants to draw direct correlations between the implementation of schemes and the associations' established professional standards frameworks.

Nevertheless, there was a general consensus that the main benefit of having a scheme in place is that it provides an 'extra layer' of protection, or 'another tool' in the armament, for members and consumers. For the APIV interview participants, the scheme's introduction in 2010 not only played a crucial role in addressing the crisis that adversely impacted professionalism in the valuation industry during this period but led to a consequent drop in insurance claims as the APIV's risk management framework and compulsory ethics module significantly increased member awareness of risk areas and how to mitigate them. Similarly, the IPA's experience with having the duration of their scheme limited by the Councils due to identified gaps in the association's standards framework was highlighted by Andrew Best as a key driver of improved standards. For the LIV's Adam Awty, the scheme provided an important value-adding "hook" to keep people in a voluntary membership system.

Perhaps the most telling insight on scheme benefits for associations came from Andrew Sharpe:

*I think having formal schemes by an entity, such as the scheme administrator that sits as a division of the association, creates a good foundation for a culture of risk management. The scheme itself, by compelling a certain level and requiring the justification and proof of it, creates a foundation on which a risk culture is built.*

- Andrew Sharpe, Insurance law specialist

Organisational culture has long been recognized as a major contributor to outcomes. However, it is notoriously difficult to change, often requiring continual waves of reform that incrementally shift entrenched practices, interactions and mindsets (Schein & Schein, 2019). Andrew Sharpe's above observation illustrates how the ongoing process of scheme membership, including through the activities of risk management, root cause

analysis, annual reporting and complaints handling, can improve knowledge and awareness, habitualize practices and ongoing monitoring, and move ethical, legal and risk-based concerns to front of mind, ultimately leading to a desirable change in organizational mindset.

With this in mind, it is understandable that the associations (and their members) might struggle to disentangle the effects of scheme membership specifically from the effects of other discrete initiatives and broader practices within the profession. A strong professional integrity system does not rely on a single factor, initiative or organisation to deliver consistent, quality outcomes. Instead, good outcomes are secured by a robust and complex network of mutually supporting (and mutually checking) factors (Sampford 2009). The figure of a 'bird's nest' (Sampford et al 2005) describes a high-quality integrity system, with each of the component parts interacting (like twigs in a bird's nest) with the others to build a strong, resilient structure, with built-in redundancies. This is the ideal way for a professional standards scheme to be situated in a healthy **professional integrity system**, as one factor among many that (a) provides its own direct outcomes, (b) interweaves with and mutually supports other factors (such as organisational culture, as noted above), and (c) provides a level of redundancy in the system that can work as a backstop if other measures falter in a particular case.

## 3.2 Benefits for Association Members

Another identified strength of professional standards schemes concerns the recognised benefits that they provide for members. These include a heightened sense of professionalism and professional identity. There is also the role that the scheme can play as a branding or reputational marker, and even as a commercial expectation (such as with property valuers, where for certain valuations, membership of APIV, and therefore participation in its scheme, is an industry expectation).

Last but certainly not least, there is the added security and downward pressure on insurance premiums that comes with the limitation of liability, which provides a straightforward benefit for association members. This is perhaps the most material benefit for individual professionals, as can be seen in the way it functions as an ongoing incentive for (especially in a voluntary membership context like the LIV) joining associations that operate professional standards schemes.

### 3.3 Benefits for Clients, Consumers and the Public

Interviewees largely agreed that professional associations and the professional standards schemes play an important role in improving outcomes for clients and consumers (in addition to the benefit of downward pressure on insurance costs, which are typically passed on to consumers). One way of evaluating these improvements is by analysing the various 'tasks' that have to be successfully navigated to achieve socially desirable outcomes (such as ethical decision-making practices). The various practices required by Councils processes can contribute resources which make the professional's successful ethical action – and therefore the consumer's quality outcome – more likely to occur.

Building on the influential work of moral psychologist James Rest (1992), a typical list of the stages or tasks of ethical decision-making is set out in Table 3.

Stages of Ethical Decision-making	
<b>Awareness</b>	<ul style="list-style-type: none"> <li>ethical agents need to recognize cases or factors (and 'red flags') where ethical decision-making is required</li> </ul>
<b>Reasoning</b>	<ul style="list-style-type: none"> <li>ethical agents need to understand their options, gauge the ethical desirability of each alternative, and reason their way to a justifiable judgement on the appropriate way forward</li> </ul>
<b>Decision-making</b>	<ul style="list-style-type: none"> <li>ethical agents need to be motivated to decide to perform the correct moral action (sometimes in the face of considerable temptations and pressures not to do so)</li> </ul>
<b>Action</b>	<ul style="list-style-type: none"> <li>ethical agents need to have the capabilities (including traits like courage and patience) to act when required on the basis of their decision and must possess – especially in the context of professional services – the competence and expertise to do so successfully</li> </ul>
<b>Recording and review</b>	<ul style="list-style-type: none"> <li>ethical agents need to be able to give an account of their reasoning and action to others and also to reflect on their experiences in order to learn from mistakes and establish practices that lead to increasingly good outcomes in future cases.</li> </ul>

**Table 3:** Stages of ethical decision-making (Source: Rogers & Breakey 2023)

Rest's crucial insight was that these different tasks require *different* capabilities for success, meaning that it is not just possible but likely in any given instance for an ethical agent to fail to secure a good outcome because – while they successfully completed several of the key tasks – they nevertheless failed to overcome one key hurdle.

Rest was a psychologist, so his natural focus was on the internal psychological resources (for example, attentiveness, experience, moral motivations, courage) that individual – and even isolated – ethical agents could bring to bear to navigate these several tasks. But this is not the way that most ethical decision-making occurs. Instead, decisions are made in groups, institutions and organisations, all of which can provide resources and affordances that improve the capabilities of individuals within them to navigate these distinct tasks (Breakey, 2017).

The interview findings show the many ways that the requirements mandated and practices encouraged by schemes – directly for professional associations and derivatively for their members – provide resources and practices that help in each of these distinct tasks.

## Awareness

- Raised salience and awareness of 'red flags' and areas requiring careful navigation provided by complaints handling information and processes
- Root cause analysis can show issues of wellbeing (like stress, substance abuse, and over-work) that negatively impact a professional's ability to recognize and respond to ethical challenges

## Reasoning

- Improved knowledge of alternatives and ethical dangers through root cause analysis
- Ongoing, inclusive processes around the ethical code that ensure its continuing connection to current challenges and the feasibility of its requirements

## Decision-making

- Involvement in revision processes for the code of ethics that increase code legitimacy (see Breakey, 2021)
- Heightened professional identity as a motivation for professional ethics, as well as changed organisational culture to a focus on risk
- A sense of quid-pro-quo where clear material benefits (in the form of limited liability provided by the scheme) come in return for raised standards and accountability – mirroring the common 'contractualist' justification for special professional obligations (see McGraw, 2004)

## Action

- Building capabilities like soft skills (communication skills, expectation management) through targeted education and CPD on problems illuminated by prior complaints analysis
- Root cause analysis and complaints data can also help professionals more carefully judge when they might be moving into areas that require specialized expertise that they do not possess.

## Recording and Review

- Review practices prompted and formalized by annual reporting requirements ensuring recording, reflection and review are prioritized.

In these ways, the Councils' processes, and the professional associations involvement in them, provide crucial resources that make the overall professional integrity system a more conducive environment to ethical action and protected consumers. One way of picturing this is to see that a significant amount of the tasks (information gathering, skills developing, recording practices) that would be required by risk-responsive, ethical agents are being facilitated and mandated by the Councils' processes. Rather than an individual professional or association being suddenly faced with an unanticipated ethical or risk-based challenge, where their own initiative and conscientiousness are called upon to work through all the demands of the above five tasks, the individual professional and the larger association have already been required to build the resources, share the knowledge and develop the capabilities required to navigate to a good outcome. Naturally, this does not guarantee desirable outcomes in every case, but along with other integrity system elements, the Councils' processes help ensure that decision-makers are well-equipped to navigate ethical and risk-based challenges.

Regulatory and reporting tasks were also raised in the context of professionals being overwhelmed in their workloads, with impacts on their wellbeing – making potential improvements here a worthy consideration, insofar as work overload can be a driver of ethical problems (Sampford et al., 2024).

Again, these potential improvements can be understood in the context of the ethical decision-making tasks noted above. Better informed clients (see Sampford et al 2024) can act confidently in knowing where they are offered protections and what the professionals will and will not be able to do: this can assist in both Decision-making and Action tasks. So too, professionals over-burdened with reporting and regulatory requirements can lead to wellbeing impacts that can impact on awareness and decision-making tasks.

## Concluding Summary

This report has provided an in-depth examination of practitioners' perspectives on the benefits of professional standards schemes. The results show that there was a clear consensus among the interview participants that participating in schemes provided professional associations with a range of benefits that enhanced their existing ethical, professional and regulatory standards frameworks. In addition to promoting professionalism and ongoing professionalisation, improving consumer outcomes by limiting liability while incentivising the settlement of claims, and building public trust by maintaining high ethical and professional standards, schemes provide a range of reputational benefits for associations and their members. While participants acknowledged the schemes' significant demands, such as in terms of compliance obligations, these costs were consistently outweighed by the schemes' beneficial impacts on risk management, monitoring, and continuing professional development.

By foregrounding the views and insights of senior association representatives, lawyers, and insurers on the operation of schemes in various contexts, the report provides a timely and valuable analysis of how the schemes function in practice, the multiple types of benefits they facilitate, the various challenges that can potentially impede their effectiveness, and what areas can be enhanced to strengthen their overall efficacy.

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## Appendix A: List of Interview Participants

Name	Position (at time of interview)	Company/Professional Association
<b>Awty, Adam</b>	Chief Executive Officer	Law Institute of Victoria (LIV)
<b>Best, Andrew</b>	Manager, Professional Standards	Institute of Public Accountants (IPA)
<b>Buono, Linda</b>	Head of Insights and Engagement	Law Society of New South Wales (LSNSW)
<b>Chau, Calla</b>	Deputy Director, Investigations	Law Society of New South Wales (LSNSW)
<b>Docherty, Peter</b>	Head of Professional Standards and Quality Assurance	Law Institute of Victoria (LIV)
<b>Harper, Leigh</b>	National Partnership Manager, Pacific	Marsh McLennan
<b>Hodge, Amelia</b>	Chief Executive Officer	Australian Property Institute (API)
<b>Kushe, Sheila</b>	General Manager, Policy	Australian Property Institute (API)
<b>Pedersen, Aren</b>	Manager, Scheme Operations	Law Society of New South Wales (LSNSW)
<b>Psomas, Katherine</b>	General Manager, Professional Conduct	CPA Australia
<b>Read, Melissa</b>	Head of Professional Standards	CPA Australia
<b>Sharpe, Andrew</b>	Insurance Law Specialist	Meridian Lawyers
<b>Stylianou, Vicki</b>	Group Executive, Advocacy & Professional Standards	Institute of Public Accountants (IPA)
<b>Wan, Bobbie</b>	Head of Regulatory Policy and Strategy	Law Society of New South Wales (LSNSW)

## Appendix B: Further Information on Examined Associations' Schemes

The current scheme documents for the LSNSW, LIV, API, IPA and CPA Australia professional standards schemes can be accessed here:

Professional Standards Councils. (n.d.). Current Scheme Documents.

<https://www.psc.gov.au/professional-standards-schemes/scheme-documents>

Further information on the schemes can also be found on the associations' websites:

### Law Society of New South Wales (LSNSW)

The first LSNSW scheme commenced in 1996. The current scheme commenced in November 2024 and is due for renewal in 2029.

The Law Society of NSW. (2024). Frequently Asked Questions.

[https://www.lawsociety.com.au/sites/default/files/2024-09/LS4543\\_SCH\\_Scheme2024\\_FAQ\\_Web\\_2024-09-06.pdf](https://www.lawsociety.com.au/sites/default/files/2024-09/LS4543_SCH_Scheme2024_FAQ_Web_2024-09-06.pdf)

The Law Society of NSW. (2025). Professional Standards Scheme.

<https://www.lawsociety.com.au/practising-law-in-NSW/working-as-a-solicitor-in-NSW/scheme>

### Law Institute of Victoria Ltd (LIV)

The first LIV scheme commenced in 2010. The current scheme commenced in July 2022 and is due for renewal in 2027.

Law Institute of Victoria. (2025). Professional Standards Scheme.

[https://www.liv.asn.au/web/content/policy\\_professional\\_standards/professional-standards-scheme/faq](https://www.liv.asn.au/web/content/policy_professional_standards/professional-standards-scheme/faq)

### Australian Property Institute Valuers Ltd (APIV)

The first APIV scheme commenced in 2010. The current scheme commenced in September 2021 and is due for renewal in 2026.

Australian Property Institute Valuers. (n.d.). APIV General Information, Benefits, and Obligations.

<https://www.api.org.au/products-services/apiv/apiv-general-information-benefits-and-obligations/>

Australian Property Institute Valuers (n.d.). APIV FAQs.

<https://www.api.org.au/products-services/apiv/apiv-faqs/>

### Institute of Public Accountants Ltd (IPA)

The first IPA scheme commenced in 2013. The current scheme commenced in January 2022 and is due for renewal in 2026.

Institute of Public Accountants. (2024). 2022 - 2026 Professional Standards Scheme.

<https://www.publicaccountants.org.au/membership/ppc/professional-standards-scheme>

### CPA Australia Ltd

The first CPA Australia scheme commenced in 1997. The current scheme commenced on 21 August 2025 and is due for renewal in 2030.

CPA Australia. (2025). Professional Standards Scheme.

<https://www.cpaaustralia.com.au/public-practice/your-public-practice-firm/professional-standards-scheme>

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