TAX WATCH

Regulation of the tax advisory market

The effect of non-regulation and the case for change

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Executive Summary

The UK tax advice market operates with minimal regulation, creating significant risks for both taxpayers and HMRC. Anyone can establish themselves as a tax adviser regardless of qualifications or competence, as illustrated by the R&D tax relief scandal, where 24.4% of claims were fraudulent or erroneous in 2020-21, resulting in over £1 billion in lost tax revenues.

Current state of regulation

Oversight of tax advisers lies primarily with professional bodies (PBs), most focusing on accountancy rather than tax expertise. While approximately two-thirds of tax agents belong to a PB, this system has significant weaknesses. Qualification pathways often require minimal tax knowledge, and monitoring of continuing professional development is inadequate. Professional standards enforcement is weak, hampered by inherent conflicts of interest as PBs attempt to act as both membership organisations and regulators.

'Shadow' tax advisers represent a major concern, operating outside formal oversight by preparing tax returns which taxpayers submit themselves. Using aggressive marketing tactics, they typically focus on tax repayment claims and credits, exploiting HMRC's "process now, check later" approach. These advisers often collect fees upfront and disappear before HMRC identifies issues, leaving taxpayers unrepresented during enquiries or disputes.

International comparisons and lessons

International approaches offer valuable insights for UK reform. Germany's fully regulated model ensures high standards but may restrict market access. The Netherlands and Ireland employ self-regulation through voluntary compliance. Australia provides the most relevant model, with oversight by a dedicated regulatory body combining mandatory registration with robust enforcement powers and effective data sharing.

Key Findings

The investigation reveals significant flaws in the current framework. Professional body oversight is inadequate due to conflicts of interest and inconsistent standards. Sanctions lack strength to deter misconduct, while the absence of mandatory qualifications leaves taxpayers vulnerable. Consumer protections are insufficient, and limited data sharing between HMRC and professional bodies hampers oversight.

Recommendations

The report recommends establishing an independent regulatory body requiring mandatory registration for all tax advisers, with minimum qualification requirements and clear service definitions. The framework would include risk-based compliance checks, real-time monitoring, and enhanced data sharing with HMRC.

The regulator would possess strengthened enforcement powers, including proportional disciplinary measures and meaningful financial penalties, extending to suspension or deregistration of non-compliant practitioners. Consumer protection would be enhanced through clear complaints procedures, whistleblower protections, and improved compensation access.

These reforms would strengthen industry oversight by creating a more robust regulatory environment that protects taxpayers and public revenue while enhancing the professional standing of legitimate tax advisers.

Whilst these recommendations may not be in line with current government thinking on regulation, in their search for economic growth, the evidence provided in this report demonstrates not only the need for regulation of the tax advice industry, but also the potential for reducing the significant economic harms visited on individuals and businesses as a result of poor and misleading advice. This is especially the case because non compliance by taxpayers, facilitated by agents and advisers contribute billions of pounds to the UK’s published tax gap. Effective regulation is not incompatible with economic growth however the latter is defined.

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1. Introduction

1.1 Regulation of Tax Practitioners in the UK: an urgent need for reform

The tax advice market in the UK remains alarmingly unregulated. This allows anyone, regardless of their knowledge or understanding of UK tax law, to establish themselves as a tax adviser and earn fee income from clients entrusting the adviser with their tax affairs. This absence of oversight, both in terms of competence and ethics, is a significant concern, yet one that is poorly understood by both the public and policymakers. Surveys reveal that the majority of the general public[1] and MPs[2] are largely unaware of the lack of regulation governing tax advisers, leading to widespread complacency about the risks this poses and barriers to reform.

1.1.1 Risks and consequences of an unregulated market

The unregulated nature of the tax advice industry creates substantial risks for taxpayers and HMRC alike. Many advisers lack the professional skills or knowledge necessary to provide accurate guidance, while others deliberately exploit the complexity of tax code for profit. Unscrupulous advisers can provide misleading or fraudulent advice, leaving taxpayers vulnerable to significant financial losses if they are discovered to have underpaid tax later.

Taxpayers bear the ultimate responsibility for ensuring the accuracy of their tax returns and can face having to repay the underlying tax with interest and the potential behavioural penalties for errors, even if they have relied on professional advice. This risk is compounded by the complexity of the UK tax system, which drives many individuals and businesses to seek help from tax advisers. Unfortunately, the proliferation of “specialist” advisers who focus solely on tax repayment claims or tax credits has exposed significant weaknesses in HMRC’s “process now, check later” approach. These advisers often disappear having collected their fee upfront before HMRC identifies issues with claims, leaving taxpayers unrepresented for the enquiry or dispute phase. ‘Phoenixism’ where advisers wind up their firm and re-emerge in a different legal form to collect further earnings from dispute resolution casework has been an ongoing issue within the tax adviser community – HMRC have a dedicated Agent Standards team to deal with these cases.

1.1.1.1 Case studies

The following case studies demonstrate how inadequate regulation in the tax advice market has devastated lives. Financially inexperienced individuals were misled by ‘advisers’ operating with minimal oversight, resulting in catastrophic financial losses and severe personal consequences. While victims face ruinous tax demands, interest, and penalties on arrangements they were assured were legitimate, HMRC has prioritised pursuing these victims rather than the scheme architects and promoters. As one victim describes, they are treated as *“low hanging fruit,”* relentlessly pursued while those who designed and profited from these schemes escape accountability. This represents a fundamental failure of the current regulatory system, with victims continuing to suffer years after the initial fraud.

Victim A

Victim A, was a self-described *"low risk investor"* with no financial knowledge or experience of investment strategies, who fell victim to a fraudulent pension scheme advertised in a newspaper. The promoter, who was regulated by the Financial Conduct Authority, sold the scheme held out as being *"HMRC registered compliant scheme"*.

Despite these false assurances, the scheme was declared "dishonest and a fraud on the investors" by a judge in a related case. In response, HMRC has pursued the victim for tax liabilities for over 15 years while taking no action against the scheme promoters, whilst victim blaming for the fraud, saying things like *"if it's too good to be true it probably is and making out we should have known better"*.

The consequences for Victim A have been severe. *"It has completely shattered my life. HMRC have been responsible for my complete breakdown and suicidal thoughts. This has damaged my children and our relationships within the family … My past has been ruined and now HMRC are taking away my future."*

Victim B

Victim B was a professional sportsperson with a *"low risk"* profile, who *"just wanted to invest my career earnings and pension sensibly for my future and for my children"*. They were recommended an FCA regulated adviser specialising in sports professionals. The adviser placed them into what was subsequently described as *"one of the most toxic pensions"* resulting in the complete loss of career earnings. For over a decade, HMRC has pursued the victim while taking no action against the scheme promoters.

The victim describes the personal impact as *"beyond devastating,"* with repeated threats of personal bankruptcy including a bankruptcy petition on Christmas eve. The situation has caused severe family distress, with the victim's wife collapsing after an HMRC meeting and their parents dying *"in distress about this situation … Victims of crime should be treated with compassion and support. Not persecuted like this."*

The ongoing scandal surrounding Research & Development (R&D) tax reliefs exemplifies these systemic failures. Fraudulent and erroneous claims facilitated by rogue advisers have resulted in significant revenue losses and highlight HMRC's inability to respond effectively to emerging abuses.

1.1.1.2 The R&D tax relief scandal

The SME R&D tax relief scheme, intended to spur innovation, has become synonymous with fraud and error. In 2020-21, HMRC estimated £1.04 billion—24.4% of the scheme's total expenditure—was lost to fraud and error. While this proportion decreased to 7.8% (£601 million) in 2023-24, the scandal underscores the damaging role of rogue advisers in facilitating fraudulent claims. Despite intelligence suggesting that private sector investment in R&D was falling, and very substantial claims coming from sectors who were unlikely to be undertaking any qualifying investment, such as the care home sector and hospitality, HMRC has been slow to react and the measures taken to tighten up compliance have proved insufficient. This failure highlights the urgent need for robust regulatory measures to prevent similar abuses in the future.

1.1.1.3 Tax avoidance, evasion, and the tax gap

The persistence of tax avoidance, evasion, and other illicit activities, as evidenced by the R&D scandal, is starkly reflected in the annual tax gap. The tax gap is HMRC's estimate of the theoretical difference between the tax actually collected and the amount that could be collected, adjusted for revenues collected from compliance interventions. In 2022-23, the gap was estimated at nearly £40 billion, equivalent to 5% of total tax liabilities. Of this, £13 billion stemmed from criminal activity, evasion, and avoidance. These figures exclude offshore tax evasion and base erosion by multinational corporations, suggesting that the true scale of the problem is even larger.

1.1.1.4 The Role of Professional Bodies (PBs)

Oversight of tax advisers is primarily delegated to professional bodies (PBs) most of which are focused on accountancy rather than tax-specific expertise. Whilst there is a wide range of PBs that could be interpreted as having responsibility over their members when it relates to taxation, our work has focussed on the seven bodies signed up to the PCRT. Only two of these are tax-specific, the Chartered Institute of Taxation (CIOT) and the Association of Taxation Technicians (ATT), who require specific tax knowledge and experience for membership. Many other PBs have much more limited tax content to their entry and membership requirements, resulting in advisers with insufficient tax knowledge to properly fulfil their duties. The work of all the PBs representing practitioners of UK taxpayer clients do so without any oversight from a parliamentary scrutiny body. While PBs provide some degree of oversight, their effectiveness is inconsistent. As detailed in Part One of this report, membership of a PB does not guarantee competent or ethical advice. However, more troubling are the advisers and promoters who are neither members of PB's nor known to HMRC. These "rogue" or "shadow" advisers exploit the lack of oversight to profit from fraudulent tax claims. Their activities—often marketed aggressively online of via cold calling sales 'leads' in a mass marketing approach—have caused significant harm to taxpayers and undermined public trust in the tax system.

1.1.1.5 Calls for reform

In response to these myriad issues, the UK government has launched two consultations on 'raising standards in the tax advice market'. The first of these in 2021 focused on the proposal to introduce a requirement for tax advisers to hold professional indemnity insurance and on the definition of tax advice. The government concluded that compulsory indemnity insurance would not be an effective mechanism for raising standards, and so the proposal was not enacted. The second consultation was launched in March 2024 on raising standards in the UK tax advice market, setting out different potential models for regulation, including mandatory membership of professional bodies, a hybrid system involving both professional bodies and HMRC, and the establishment of a new independent regulator.

Experts like Ray McCann, a seasoned tax professional and former President of the CIOT, have questioned these approaches and have highlighted the urgent need to address the presence of rogue advisers. Ray gave the ICAEW annual Hardman lecture in late 2024 on these issues,[3] and continues to advocate for granting HMRC greater powers to monitor and prevent the marketing of tax avoidance schemes in real time. He argues that such measures could significantly mitigate the harm caused by unregulated advisers. Ray has recently been appointed to lead an independent review of the Loan Charge, a controversial mechanism to recover funds from users of disguised remuneration schemes.[4]

TaxWatch believe a better regulated tax profession would reduce the harms done by rogue advisers who cause significant economic harm to both individuals and businesses

1.1.1.6 The current political environment

We note that the there is a lack of political appetite for increasing regulation, and indeed the current Chancellor appears to be calling for less regulation, which the government believes will increase economic growth. However, we believe that this approach is misguided, and that a better regulated tax profession would reduce the harms done by rogue advisers who cause significant economic harm to both individuals and businesses as the case studies in the introduction clearly demonstrated.

1.1.1.7 Improving regulation of the tax advice profession

This report will examine the full range of issues and sets out the case for a new independent regulator capable of improving standards in the industry and limit the scope for tax advisers facilitating tax evasion and illicit crime of their own businesses and those of their clients. We argue that the current regulatory framework for the UK tax advice industry is inadequate to address the risks posed by unregulated advisers, and this undermines the integrity of the UK's broader taxation regime. Without meaningful reform, taxpayers and HMRC will continue to suffer significant financial and reputational harm. Mandatory regulation, enhanced oversight, and real-time monitoring of tax schemes are essential to reducing malpractice and restoring trust in the system.

The report is split into three parts. The first part looks at the roles and responsibilities of professional bodies in the tax advice market, examining the case for mandatory membership of professional bodies as a means of regulating the market. The second part takes a broader look at how tax advice markets are regulated internationally, and also how other similar sectors in the UK are regulated, to identify areas of good practice that may help to steer new regulation in the UK. The final part of the report addresses the recent Government consultation in more detail and sets out recommendations for the future regulation of the tax advice industry in the UK.

2. Part One

2.1 Professional bodies and the tax advice market

Around 85,000 tax advice firms assist 12 million taxpayers in the United Kingdom.[5] Approximately two thirds of tax agents belong to a professional body (PB).[6] Of those tax agents who are affiliated to a professional body, the majority are members of one or more of the seven that subscribe to, and enforce, the code of behaviour known as the Professional Conduct in Relation to Taxation (PCRT).[7] The PCRT represents the industry standard on professional behaviour in tax matters, but is different to HMRC's standards for tax agents.

The seven PCRT PBs are:

- The Association of Accounting Technicians (AAT)
- The Association of Chartered Certified Accountants (ACCA),
- The Institute of Chartered Accountants in England and Wales (ICAEW),
- The Institute of Chartered Accountants of Scotland (ICAS),
- The Society of Trust and Estate Practitioners (STEP)
- The Chartered Institute of Taxation (CIOT)
- The Association of Taxation Technicians (ATT).

The size and scope of the PCRT PBs varies considerably. ACCA is the largest, with approximately 250,000 members worldwide, fewer than half (circa 43%) of which are based in the UK, and annual global income of £219m in 2023. In contrast, the smallest is the ATT with 9,830 members and annual income of £3.75m in 2023.

Professional Body	Operational income	Worldwide membership	UK Membership[8]
ACCA	£219,779,000	247,000	109,625
ICAEW	£130,200,000	169,722	141,009
AAT	£31,367,000	124,000	49,406
ICAS	£20,634,000	23,952	20,660
STEP	£12,946,917	21,000	7,560
CIOT	£10,464,000	19,924	20,000
ATT	£3,735,000	9,830	9,800

Research conducted on behalf of HMRC estimates that around two thirds (68%) of 'tax agents' are members of a PB and that agents with turnover of £60k and above were significantly more likely to be members than those with lower turnover. Just over 50% of agents with turnover of less than £60k were members, whereas 86% of agents with turnover of £60k or above were members.[10] This suggests that at least 30% of agents are not members of PBs. It's important to note that HMRC's statistics include a broader range of PBs than the seven PCRT organisations.

2.2 The case for mandatory membership of a professional body

Without oversight, there is nothing to prevent new organizations from establishing themselves as professional bodies

As part of the recent consultation on raising standards in the tax advisory market one proposal was the introduction of mandatory membership of PBs for those engaging as tax practitioners. Under this approach all tax practitioners 'interacting' with HMRC on behalf of a client taxpayer would be required to be a member of a recognised PB. The PBs would then be responsible for monitoring and enforcing professional standards, including disciplining those who fail to deliver the required quality. The Conservative government that commissioned the consultation viewed this approach as compatible with the objective of raising professional standards and HMRC itself has identified mandatory membership of a professional body as its preferred option for regulating the tax advice market.[11] There was some support from a few of the PBs, although alongside caveats about implementation. Larger PBs such as ICAEW expect that the change would not impact them as many unaffiliated tax practitioners would not (take required steps to) meet their entry requirements.[12] This suggests that the larger PBs expect PBs with less stringent membership requirements to take on the majority of unaffiliated tax practitioners. Their view also furthers the argument that mandatory membership would create a 'race to the bottom' amongst smaller PBs who wish to increase their membership income by attracting unaffiliated tax professionals who would not meet the more stringent requirements of organisations such as ICAEW. The CIOT has also admitted that regulation by PBs would not be a *"silver bullet"*, as better understanding of the problems within the industry is required.[13]

This raises a fundamental concern about mandatory PB membership as a regulatory approach. Without oversight of which bodies can act as regulators for tax practitioners, there is nothing to prevent new organizations from establishing themselves as professional bodies with minimal entry requirements and limited tax expertise. These bodies could offer an 'easy path' to professional recognition while lacking the rigorous standards necessary for competent tax practice. The current framework provides no mechanism for determining which bodies are sufficiently focused on tax to serve as legitimate regulators, nor any standards they must meet. This creates a risk of regulatory arbitrage, where practitioners may seek out the easiest route to qualification, rather than developing genuine expertise. Furthermore there isn't the general awareness of the differences between these bodies amongst taxpayers who have need of help to be compliant with their responsibilities. The barrier to entry for poor quality 'mickey mouse' accreditations would be a major risk giving the illusion of oversight which doesn't exist.

The argument in favour of mandatory membership is based on the assertion that tax practitioners who are members of professional bodies provide better advice than those who are not. Analysis provided by HMRC[14] as part of the consultation, based on random enquiry programmes undertaken by HMRC, broadly supports this assertion. HMRC used data collected from random enquiry programmes into Research & Development (R&D) tax credit schemes, small business Corporation Tax and self-employed with self-assessment. However, it should be noted that the types and degree of non-compliance used in the analysis aren't defined, and there is uncertainty around levels of minor errors compared to deliberate misstatements. Whilst the analysis is interesting, it does not tell us the whole picture.

Amongst claims for R&D tax credits in 2020-21, compliance rates amongst those using affiliated tax practitioners (53%) are similar to those who do not (49%). However, there is a significant difference in the percentage cost of relief incorrectly or fraudulently claimed by those using a non-affiliated agent. 53% of relief claimed by those using a non-affiliated agent was non-compliant, compared to 20% amongst those using affiliated agents.

Levels of non-compliance for Corporation Tax was also lower amongst small businesses with affiliated tax practitioners (22%), compared with non-affiliated (37%). Non-compliance as a percentage of tax liabilities were also significantly higher amongst the non-affiliated (41%), compared to affiliated (14%).

The percentage of cases with non-compliance amongst business taxpayers within self-assessment was similar for both those with an affiliated practitioner (30%) and those with a non-affiliated one (34%). Again, non-compliance as a percentage of the tax liabilities was much lower for those with affiliated practitioners (19%) than with non-affiliated ones (57%).

The evidence suggests that levels of compliance are somewhat higher amongst taxpayers who engage affiliated tax practitioners compared to those who engage non-affiliated tax practitioners. However, the types and degrees of non-compliance in HMRC's data are not defined, so there is no way of discerning between quite minor errors and more significant or deliberate ones. Furthermore, there is still significant non-compliance amongst those who use affiliated practitioners. The use of an affiliated practitioner by no means guarantees compliance; substantial value to the public finances and individual taxpayers is represented by this non-compliance.

The main difference between affiliated and non-affiliated practitioners is in terms of non-compliance as a percentage of tax credits and liabilities, with the costs in lost tax revenues far higher amongst those using non-affiliated practitioners.

The research suggests that, in general, the work of tax practitioners is qualitatively better than that provided by unaffiliated tax practitioners and provides evidence to support the assertion that compliance is higher amongst affiliated tax practitioners than those who are not affiliated. However, this argument alone is not enough to convince us that PBs should be put in charge of regulating the industry, particularly given the levels of non-compliance amongst affiliated tax practitioners.

2.2.1 PB membership requirements

In contrast to unaffiliated tax practitioners, members of PBs are required to adhere to a number of conditions, which include passing formal qualifications and the requirements to undertake Continuing Professional Development (CPD) and hold professional indemnity insurance (PII). They are also subject to (at times very light touch) monitoring and potential review by the PB. Each PB has a complaints process that can lead to sanctions being imposed on members.

Many PBs understandably argue that these requirements lead to higher levels of professional standards amongst tax agents. However, there are issues with each of these requirements that need to be addressed. There are fundamental flaws in the use of PBs as both educators and regulators of the tax practitioner industry. Inherent conflicts of interest exist that undermine the ability of PBs to act independently, when considering professional standards and behaviour of agents. This begins with the PBs role as arbiter of their own membership requirements.

2.2.1.1 Qualifications and obtaining membership in a professional body

To obtain entry, PBs require prospective members to demonstrate knowledge and understanding of particular subjects and skills relevant to their profession. However, the PCRT PBs themselves decide these and incorporate them into their qualifications, together with other entry requirements, which usually include a period of work experience in the industry. Some, although not all, also require the successful completion of work on ethics.[15]

The main concern with this is that many qualifications require little tax knowledge. For example, it is possible to gain ACCA membership by obtaining an undergraduate degree in accounting or finance, combined with three years of practical experience in accountancy, and passing four non-tax modules, in addition to its compulsory Ethics and Professional Skills Module.[16] None of these require any substantive tax knowledge. It is also possible to avoid the study of tax when securing the lower-level qualification required to join the AAT, by first passing the AAT's Level 4 Diploma in Professional Accounting, and then completing three mandatory units, none of which focus on tax, along with two (of the three) non-tax specialist options that are available.[17]

The result of this is that someone who is a member of a PCRT PB may have little tax knowledge but is still be able to put themselves forward as a tax practitioner. In a practical sense there is potentially little to distinguish someone who has no tax qualifications and someone who has a qualification, but little to no tax knowledge. Membership of a PB does not therefore guarantee any specified level of tax knowledge.

2.2.1.2 Continuous Professional Development

Once established as members, professional bodies require agents to undertake Continuous Professional Development (CPD) to keep their knowledge and skills up-to-date. Again, this is no guarantee of any level of tax knowledge, given the various activities that count towards CPD. CPD is an especially important issue for tax practitioners because the rules on taxation are frequently changed by new legislation, case law and guidance, and therefore constant vigilance is required to ensure that knowledge is contemporaneous. Unfortunately, the CPD prescribed by PBs does not ensure this, as they allow non-technical training to count towards CPD requirements. These include the development of soft skills such as communication, leadership, and practice management.[18] All of these are undoubtedly important for career development, however, they in no way guarantee that practitioners' tax knowledge is either sufficient or up to date.

The monitoring of CPD requirements by PBs is also less than rigorous. Members are required to keep records of CPD completed and make this available to PBs on request. Failure to fulfil CPD requirements may lead to disciplinary action against members. However, PB members are unlikely to be audited on their CPD compliance. For example, STEP only audits two per cent of CPD records each year.[19] Members are selected at random and have two months from the date of notification to submit their CPD records. Whilst the other PBs do not publicise their audit processes, the standards set by STEP demonstrate that, as a member, you are highly unlikely to be audited, and should you be chosen you still have two months to prepare and submit documentation. This does not inspire confidence in PBs ability to accurately check their members ongoing tax knowledge. Even when the CPD is being done and it is tax based the onus is on the member to judge its applicability to their role in practice, and whether it is retained knowledge following the hours carried out. There is no mechanism for testing whether the new skills or learnings have been accurately captured.

2.2.1.3 Professional Indemnity Insurance

Professional Indemnity Insurance (PII) is a form of liability insurance purchased by firms that provide professional services to clients. As such, it *"covers the cost of compensating clients for loss or damage resulting from negligent services or advice provided by a business or an individual."*[20]

Each of the seven PCRT professional bodies mandates their practising members to have adequate PII. The PCRT PBs have asserted PII operates in the interest of the public or consumer,[21] protecting them from errors made by their advisers, either through negligence or fraudulent behaviour. As well as protecting advisers against the costs of claims brought against them by clients. This is misleading. PII is designed to protect advisers against the cost of claims brought against them by clients.

The ICAEW states that the rationale for mandating PII for members is *"to provide a baseline level of protection and reassurance to taxpayers that they have a method of redress should they receive incorrect or incomplete advice."*[22] However, the PII system can be costly for taxpayers, who must prove liability through legal processes which can be time-consuming with uncertain outcomes.[23] Even when a tax practitioner has been negligent it is difficult for clients to obtain financial redress. Ultimately, PII exists to protect the tax practitioner, not the client, and the taxpayer remains liable for the accuracy of their tax returns, despite the perceived failures of their adviser. This was recently tested in a First Tier Tribunal case. The Tribunal ruled that reliance on adviser is not a reasonable excuse for failure to comply with tax obligations and penalties should not be mitigated due to reliance on an adviser.[24]

2.2.2 Professional standards and their enforcement

Each of the professional bodies has an extensive set of rules which their members are obliged to follow. The codes of ACCA, AAT, ICAS and ICEAW are based upon the work of the International Ethics Standards Board for Accountants (IESBA), as five fundamental ethical principles of the IESBA's Code were the foundation of the PCRT.[24] The one PCRT PB that does not have a code that refers to 'fundamental principles' is STEP. Nevertheless, its Code of Professional Conduct *"provides a broad set of principles for the conduct of a Member's professional activity"*[26] and its members are bound by the PCRT. The CIOT professional rules and practice guidelines also require members to comply with PCRT, as does the ATT.

However, there are several issues with the enforcement of members' professional responsibilities. Firstly, PB's have no incentive to investigate their members' misconduct, beyond the potential for reputational risk to their 'brand', and are therefore not very strict in their actions, particularly in relation to expelling members. Secondly, there is a conflict of interest as they benefit financially from fines paid by members. As our research also finds, organisations are slow to respond to complaints relating to their members and appear unwilling to sanction those who breach their rules. Thirdly, most PB member are under no obligation to report unprofessional conduct by other PB members. The introduction and enforcement of such requirements would almost certainly entail a sharp increase in the number of complaints made to PBs, requiring additional investigative resources. However, this would undoubtedly increase intelligence around misconduct and other forms of unprofessional behaviour in the tax advice industry. Finally, HMRC rarely make reports of unprofessional behaviour by PB members to their PBs as was confirmed to us by the Head of Agents' Standards team.

2.2.3 Complaints

Each PB has a set of disciplinary measures to be used where members fail to uphold the ethical or professional standards set out. All but the CIOT/ATT conduct investigations into complaints internally, raising serious questions about impartiality. The CIOT/ATT use an independent organisation, the Tax Disciplinary Board (TDB) to investigate complaints against members. Although it should be noted that the TDB is largely funded by the CIOT/ATT.[27]

There are two routes by which a potential breach of ethical rules can lead to an investigation by the PB. One is the receipt of complaints about members; the other is for the PB to actively look for potential breaches of its ethical and professional standards.

In general, the rules of the professional bodies allow the public to complain about breaches of their codes of ethics that occurred at any time and to provide anonymity to the complainant. Their rules also enable each PB to take action against the member even after they have left the organisation.

As part of this research, TaxWatch has submitted nine complaints about the work of six individuals. Complaints related to alleged breaches of professional and ethical standards, and all were supported by written evidence, identifying the specific rules allegedly broken. Three of the individuals were members of two professional bodies (the CIOT and ICAEW). The other three complaints went to the CIOT, ICAS and the ICAEW. The response to our complaints raises questions about the operation of the disciplinary processes of particular professional bodies.

One complaint related to Arthur Lancaster, who is a member of both the ICAEW and CIOT. He is the Director of AML Tax (UK) Limited ("AML"). Complaints were lodged with both PBs in March 2022 and related to a recent judgement by the Upper Tier Tax Tribunal which found that AML had failed to comply with an information notice issued by HMRC. AML was fined £150,000. PCRT rules clearly state that members must comply with information notices issued by HMRC.[28] In addition to the finding, the judgement of the Tribunal described the evidence given by Mr Lancaster as *"seriously misleading", "evasive"* and *"Lacking in candour"*. The Tribunal case also confirmed that AML had been involved in the promotion of marketed tax avoidance schemes, which appears to contravene the "Integrity" requirement of PCRT, which states that:

> *"A member must act honestly in all their dealings with their clients, all tax authorities and other interested parties, and do nothing knowingly or carelessly that might mislead either by commission or omission."*[29]

The PCRT includes provisions such that members should not be involved in tax avoidance schemes. It specifically states members:

> *"…must not create, encourage or promote tax planning arrangements or structures that i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation."*[30]

Despite the evidence provided by TaxWatch, and several follow up emails to check the progress of the complaints, the complaints made to both ICAEW and The Taxation Disciplinary Board (an independent body that runs the complaints and disciplinary scheme for both the CIOT and ATT) remain ongoing and Arthur Lancaster continues to be a member of both PBs.

Of the six complainees made in 2022 and 2023 to ICAEW, CIOT and ICAS, three have been closed with no further action taken, two remain ongoing despite being made over two years ago, and one has very recently resulted in the ejection of the member. This strongly suggests that PBs are not taking appropriate action when complaints are made about serious breaches of PCRT rules. As the AML case shows, even where there is ample evidence of wrongdoing, this does not guarantee that PBs will take action against members.

TaxWatch is particularly perplexed by the delays in the cases that were based upon the comments of a judge in a tax tribunal or a listing by HMRC. As a result, TaxWatch wonders if there is a problem with the resourcing of the disciplinary process or with the attitude of the professional bodies which gain income from the fees of members.

A recent case dealt with by ICAEW's conduct board further highlights both the lack of effective sanctions for significant breaches of PB rules, and the length of time to address complaints.

A recent case decided by ICAEW's Conduct Committee failed to exclude a member, "Mr Wood", despite the member being found *"not to have acted with professional competence across a spell of almost three years"*, when dealing with a client's buy back of shares.

Rather than expulsion, the Conduct Committee decided that Mr Wood should pay a £25,000 fine, together with £31,575 in costs. The tribunal found that five out six allegations were proved against Mr Wood. The allegations proved were that:

> Mr Wood failed to advise the client of the correct tax treatment of the disposal, failed to advise the client that HMRC had refused clearance for the buyback to be classed as capital, was responsible for completing the client's self assessment tax returns incorrectly, including incorrect sale proceeds and incorrectly claiming capital losses. The member also knowingly misled HMRC in representations about whether a clearance application had been made.

Despite these proven allegations, the tribunal did not exclude Mr Wood, but decided a fine, together with remedial training and CPD, including ethical training, were sufficient. According to the Tribunal the financial penalty would serve to both *"uphold standards and act as a deterrent to others"*. This case is yet more evidence that PBs are not incentivised to take sufficient action when members act unprofessionally and unethically.

The length of time it took ICAEW to conclude the case is also a concern. The complaint against Mr Wood was first brought to the attention of ICAEW in 2017. However, the reporting of the allegations was delayed due ongoing consideration between HMRC and the interested parties, which were not concluded until August 2022. Nevertheless, the conduct of Mr Wood throughout the process suggests that this matter could and should have been dealt with far sooner by ICAEW.

The most troubling aspect of the case boils down to the relationship between the client and adviser. Its often hard for tax enforcement to discern whether the client sought out ways to minimise their liability, and recruited the adviser who was prepared to act unethically vs the adviser having orchestrated the arrangements with the client's varying levels of awareness that they are abusive and likely to be challenged by HMRC.

2.2.4 Monitoring members' adherence to PCRT

The degree of monitoring of members' adherence to membership rules, including professional standards, CPD and PII, varies considerably across PBs, leading to an inconsistent approach and undermines calls for PBs to regulate the tax advice industry.

There is no standard compliance check, with each PB varying the degree they undertake them. AAT only monitor 10% of 'normal risk' firms

All PCRT PBs require members to self-report each year and this constitutes the main source of checking and monitoring. Members are required to report certain conditions that might arise – for example, criminal convictions or bankruptcy, but the list of things that professional bodies require to be reported varies significantly. Only ICAS and the ICAEW impose a duty on members to report their own actions or omissions which could make them liable for disciplinary action. Self-reporting is not therefore a reliable way of monitoring adherence to professional standards.

Most PBs conduct checks of their members, based random or risk-based sampling of members for compliance checks. These are either conducted by on-site visits or online/over the telephone. Only ACCA, AAT, ICAS and ICAEW conduct on-site visits or an online examination of documents and the AAT and ICAEW also allow for telephone reviews. In general, visits to physical premises involve larger firms and desktop reviews are reserved for the smallest. STEP does not audit members in the same way, merely reviewing a sample of annual returns to check that CPD is valid. They advised us that their compliance/standards team consists of only four staff members (out of an average number 52.5 staff members in the year ending 31 March 2023). Considering that there are 21,000 members of STEP it is little wonder that they do not conduct compliance checks beyond CPD checks. This raises serious concerns about the amount of effort given by PBs to ensuring high professional standards amongst their members.

During interviews with representatives of each PB (with the exception of CIOT/ATT who refused to be interviewed, responding only to a list of written questions) we asked about monitoring processes and found that there is no industry standard for carrying out compliance checks, with each PB varying in the degree to which they undertake them. For example, AAT tend to conduct compliance monitoring on about 10% of firms they consider to be *"normal risk"*, and more frequently for those considered *"high risk"*. ICAEW base visit frequency on size, as well as risk rating, with large firms being visited each year and small firms every eight years, although this could be reduced to every 4 years for higher risk firms.

In terms of pro-actively looking for potential breaches of rules from information in the public domain, efforts across PBs tend to vary. As our complaints have demonstrated, there is significant information in the public domain that PBs could access and use to monitor compliance and identify members who may have breached rules. These include news reports, HMRC's current list of named tax avoidance schemes, promoters, enablers and suppliers[31] and current list of deliberate tax defaulters[32] as well as the decisions of tax tribunals[33] and other professional bodies. Based on our interviews there are procedures in place to notify PBs when a member has been disciplined by another PB. For example, AAT advised us about online information sharing tools which alert them of disciplinary outcomes for members of other PBs. However, the degree to which this is done appears to vary across PBs and scanning of public sources does not appear to be comprehensive or systematic.

Of the seven PCRT PBs only ICAS and ICAEW[34] impose a duty on members to report suspicions that their fellow members are breaching the rules of the professional body. That said, even those professional bodies which do not make such a demand receive complaints provided by other members voluntarily, as mentioned to TaxWatch by the AAT.[35]

2.2.5 Sanctions

Each PB retains the right to sanction members for breaches of its rules. These may be in the form of censure, suspension, expulsion and financial penalties. They are an important element of the PB's disciplinary armoury, enabling them to expel members for serious breaches and act as a deterrence to rule breaking.

Although it is possible to identify sanctions for breaches of rules for all the PCRT PBs except STEP (as STEP does not publish detailed guidance on its use of sanctions), a comparative analysis of the penalties issued by the PCRT PBs is hampered by the fact they do not share a common sanctioning framework.

Each of the PCRT PB guides on sanctions declares the starting sanction for members who commit the most serious breach of the principle of integrity is expulsion. Unfortunately, the professional bodies provide no more detail and this is important because at least six of the PCRT PBs note expulsion is not a permanent sanction, with one PB declaring it may be as short as 12 months.[36]

Overall, there is a lack of transparency around the sanction regimes of the PBs. Few if any PBs appear to advocate for sanctions that exceed the financial benefit obtained by a negligent or rogue tax adviser.[37] The nearest is the ACCA which states the level of its fines *"will primarily reflect the gravity of the misconduct in question"*, and "any financial benefit obtained by the member".[38] Unfortunately, this approach appears to be limited by the fact it can impose fines of *"up to £50,000"*. The ICAEW also notes a *"penalty based on fee income"* can be appropriate.[39] The Tax Disciplinary Board (TDB), which the independent body used by CIOT and ATT in disciplinary matters, sets out a comprehensive guidance on indicative sanctions for breaches of the rules. However, the maximum fine *"per proven charge"* is currently only £20,000.[40]

One of the main areas where a conflict of interest might arise is in relation to the fines that are levied on members for rule breaches. For some PBs this constitutes a significant revenue stream, raising questions about how a PB, which is responsible for upholding professional standards, can profit from the failure of its members to do so.

As recent research has demonstrated, ICAEW has received more £148 million in penalties and cost recoveries related to breaches by its members since 2015, which they have retained.[41] In their 2023, ACCA, ICAEW and ICAS all report significant levels of income from *"regulation and discipline"*. Whilst this demonstrates that the PBs are willing and able to impose fines for breaches of behaviour it remains a conflict of interest where they profit from such behaviours.

PCRT PBs offer little in terms of redress to clients for poor tax advice. For example, STEP, AAT and ICAS simply advise complainants to consider taking their own legal action to obtain redress.[42] The ICAEW is slightly more consumer-friendly in that it also notes it has the power to issue things like a repayment of fees.

The ACCA can order a member or firm *"to waive or reduce their fees to the complainant where appropriate"*,[43] as well as an order for compensation of up to £1,000 *"to reflect any inconvenience suffered by the complainant as a result of the members' or firms' failure to observe proper standards"*.[44] The TDB, which covers members of CIOT/ATT does not mention the waiving of fees, where a charge of *"Inadequate Professional Service"* is proved, the TDB may award compensation to the complainant, although it is limited to £5,000, and the guidance recognises that at this level, it is unlikely to cover the full losses suffered by the complainant.[45]

Financial sanctions applied to PBs may not therefore act as a strong disincentive to breaches of rules if the financial gains exceed the potential penalties. Compensation payments also do not cover the losses made by complainants.

2.3 Conclusion

This part of the report reveals critical deficiencies in the suitability of professional bodies, adhering to the Professional Conduct in Relation to Taxation (PCRT), to be put in a position to act as a regulator of the tax profession. While membership requirements ensure a foundational knowledge of tax, the wide range of pathways and inconsistent approaches to continuous professional development (CPD) leave room for significant disparities in expertise. Additionally, professional indemnity insurance (PII), while in place, is primarily designed to safeguard practitioners, offering limited and often inaccessible financial protection to clients.

Although data from HMRC shows higher levels of compliance among affiliated practitioners compared to unaffiliated ones, significant levels of non-compliance remain amongst affiliated agents. This is of great concern, given that the enforcement of professional and ethical conduct and handling of complaints remain inconsistent and, at times, ineffective. Sanctions are often too lenient to serve as meaningful deterrents, and there is insufficient proactive monitoring.

Perhaps most concerning is the inherent conflict of interest within these professional bodies. Tasked with both representing their members and regulating their conduct, they face pressures to maintain membership numbers, which can dilute their oversight efforts. This fragmented regulatory environment risks creating a race to the bottom, where competition between bodies compromises standards and accountability.

To truly safeguard the public, there is an urgent need for stronger, independent oversight, potentially through a dedicated external regulatory body, to ensure consistent enforcement of standards and genuine consumer protection in the tax advice industry. The current system, as it stands, falls short of these critical responsibilities.

3. Part Two

This part of the report looks at the regulation of tax advice markets from an international perspective, as well examining how other industries are regulated in the UK. The analysis identifies areas of concern as well as good practice, that may help to guide a regulatory framework in the UK.

3.1 International comparisons of tax industry regulation

The regulation of tax advisers varies globally, ranging from strict professional monopolies to minimal oversight. Understanding these classifications and their practical implications provides valuable insights into how the UK might reform its regulatory framework.

3.1.1 Full regulation

Under full regulation models, only licensed professionals are legally permitted to provide tax advice. Germany provides a good example of full regulation in Europe.

Tax advisory services are strictly regulated under the Tax Consultancy Law. Only licensed professionals can provide tax advice. Admission as a tax professional involves passing rigorous professional exams, maintaining Continuing Professional Development (CPD), and adhering to strict ethical codes. Disciplinary actions are enforced by professional chambers.

The German tax advisory profession is among the most highly qualified in Europe,[46] with the nationwide examination widely regarded as one of the toughest professional qualifications, which ensures high levels of competence across the industry. However, the industry is dominated by large firms. The ‘big four’ accountancy firms have a market share of almost 50%, with the next seven largest firms accounting for another 10%.[47] There is concern that the dominance of larger firms limits competition and raises costs for consumers, which may potentially exclude lower income clients or smaller businesses from accessing professional advice.

3.1.2 Self-regulation or minimal oversight

In self-regulated or minimally regulated models, the profession relies on voluntary compliance with standards set by professional bodies. While cost-effective and flexible, these models often lack uniformity and comprehensive oversight. Examples of self-regulation or minimal oversight include Ireland, The Netherlands and UK, although variations do exist across countries.

In Ireland, as in the UK, tax advisory work is not legally restricted to specific professions, and anyone can set themselves up as a tax adviser without formal qualifications or registration.
As in the UK, most tax advisers in Ireland are members of a professional body, such as Chartered Accountants Ireland (CAI) or the Irish Tax Institute (ITI). The ITI is the only PB dedicated to tax, with members earning the Chartered Tax Adviser (CTA) designation after completing examinations and practical training.[48]

The Netherlands shares characteristics of the Irish and UK systems but has its own unique culture. Although tax advisers are not legally regulated, they are predominantly members of one of two professional bodies, the Dutch Order of Tax Advisers (NOB) and the Register of Tax Advisers (RB), rather than being members of non-tax focused PBs as in the UK and Ireland. Membership of the NOB and RB requires advanced qualifications, adherence to ethical codes, and CPD. There has been a historically close collaboration between professional bodies and the government to support high standards in the industry, but like Ireland and the UK, the reliance on voluntary membership risks leaving significant portions of the market unregulated.[49]

KPMG in the Netherlands was recently embroiled in a scandal relating to cheating on exams and failures in quality control standards. A fine of £25 million was imposed on the firm by the Public Company Accounting Oversight Board (PCAOB), a non-profit corporation established by the US Congress, whose responsibilities include investigating and disciplining registered public accountants for violating rules, laws and professional standards.[50]

Whilst minimal regulation may be suitable to the tax advisory market in the Netherlands and Ireland, where there are only a couple of PBs to regulate activity, the fragmented nature of the PB market means that it would not be as effective in the UK.

3.1.3 Case study - Australia

Australia is unique in having an independent regulator of tax practitioners, the Tax Practitioners Board (TPB). The regulatory framework is based on legislation, the Tax Agent Services Act 2009 (TASA) and supported by Tax Agent Services Regulations. It sets clear requirements for registration, compliance, and disciplinary action. Australia therefore provides an interesting case study to evaluate the effectiveness of an independent regulator of the tax advice industry. While effective in many respects, the Australian system has faced notable criticisms that highlight areas for improvement.

3.1.3.1 Key Features of the Australian system

All tax advisers must register with the TPB. Registration requires applicants to meet specific educational and professional experience criteria, offering multiple pathways to accommodate both technical qualifications and qualified by experience. The TPB enforces a legally binding Code of Professional Conduct, which includes obligations around competence, confidentiality, and fiduciary responsibility. Non-compliance can result in sanctions, ranging from written warnings to deregistration.

The TPB uses data analytics and intelligence-sharing with the Australian Taxation Office (ATO) to identify high-risk practitioners. It handles complaints and self-generated investigations. It also possesses disciplinary powers which include fines, suspensions, and deregistration, which can be pursued through the Federal Court. This stands in stark contrast to the UK, where data sharing between HMRC and PBs is extremely limited.

The Australian system also includes ‘safe harbour’ provisions, where taxpayers are protected from penalties if errors arise from their adviser’s actions, provided they have taken reasonable care to supply accurate information.

3.1.3.2 Criticisms and areas for improvement

Despite its robust framework, the Australian system faces several challenges.

Firstly, it is dependent on ATO for funding. The TPB's operational budget is allocated through the ATO, raising concerns about its independence. Direct government funding would enhance impartiality, allowing the TPB to prioritise its regulatory duties without reliance on ATO negotiations.[51]

There is also a lack of transparency with regards to disciplinary actions. While the TPB can impose sanctions, minor disciplinary measures such as written cautions are not publicly disclosed. This lack of visibility undermines consumer confidence, as taxpayers cannot easily assess the reliability or track records of advisers.

There is also a lack of transparency with regards to disciplinary actions

There are inconsistencies in Continuing Professional Development (CPD) standards. The TPB mandates CPD but allows unassessed activities, such as business ethics seminars, to count toward requirements. This approach risks diluting the rigor of ongoing education, particularly compared to jurisdictions where CPD is subject to formal assessment.

Some stakeholders have raised concerns about the registration process being complex and costly. Registration involves fees and compliance steps that have been criticised as burdensome, particularly for small or sole practitioners. Recent moves to shift from three yearly to annual registration are expected to increase administrative overhead, potentially discouraging compliance.The regulation of tax practitioners includes 'safe harbour' provisions which protect taxpayers from penalties when relying on registered advisers, provided they act in good faith. However, a 2019 review found that these provisions create a "risk-free zone" for some advisers willing to exploit boundaries, encouraging over-claiming and eroding trust in the system.[52]

There is limited direct compensation for clients. Although Professional Indemnity Insurance (PII) is mandatory, clients harmed by adviser misconduct must pursue compensation through separate legal processes. The absence of direct compensation mechanisms creates additional burdens for affected taxpayers.

There is a reliance on civil courts for penalties. Financial penalties for breaches must be pursued through the Federal Court, adding complexity and delays to enforcement. This reliance limits the TPB's capacity to address financial misconduct swiftly.

Challenges remain with unregistered advisers. Despite penalties for unregistered practitioners, enforcement remains a challenge. Unregistered advisers operating "under the radar" continue to pose risks to taxpayers and the integrity of the tax system.

Recent reforms and ongoing discussions have attempted to address these criticisms, including:

- proposals to allocate direct government funding to the TPB, reducing dependency on the ATO
- improving transparency, with calls to make all disciplinary actions publicly available, enabling taxpayers to make informed decisions
- improving safe harbour protections with measures to ensure that advisers are held accountable for over-claiming, without undermining protections for honest taxpayers.

3.1.3.3 PwC scandal

The scandal that engulfed PwC in Australia is an important lesson, highlighting the need for stringent ethical standards within the tax advisory industry.

The case involved the misuse of confidential government information by the firm's former international tax chief, who shared insider details on upcoming tax laws with colleagues to gain commercial advantage. This breach led to approximately $2.5 million in revenue from advising clients on navigating new tax laws before their enactment. The fallout resulted in significant reputational damage, key resignations, and the threat of criminal and corruption investigations. In response, PwC implemented leadership changes, including the resignation of former CEO Tom Seymour, and initiated transparency and reform efforts to rebuild trust and address ethical concerns within the industry. The scandal has led to calls for the separation of auditing and consultancy services and for stronger regulatory measures to prevent conflicts of interest. The Australian government is also considering comprehensive reforms designed to crack down on misconduct by tax advisers, including increased penalties for tax avoidance schemes and expanded tax promoter penalty laws, which are designed to entities that promote unlawful tax schemes.

3.1.3.4 Lessons for the UK

The Australian model demonstrates the benefits of structured oversight but also highlights the importance of:

- Ensuring financial and operational independence for regulatory bodies.
- Establishing clear, consistent, and transparent disciplinary mechanisms.
- Balancing consumer protections, such as safe harbours, with safeguards against exploitation.
- Reducing barriers to compliance while maintaining high professional standards.

By adopting and adapting these lessons, the UK could develop a more effective and equitable regulatory framework for tax advisers. Although some action has already been taken in this area, with the 'operational separation' of consultancy and audit functions in largest four audit firms (Deloitte, EY, KPMG and PwC), improving transparency and accountability,[53] much remains to be done in these areas.

3.2 The regulation of UK Industries

This section examines the ways in which other industries are regulated in the UK, specifically the Financial Conduct Authority (FCA), which regulates the provision of financial services, and the Solicitors Regulation Authority (SRA). It examines the ways in which each organisation approaches the registration, supervision and enforcement of its members and rules.

Whilst different, both regulators offer insight into the strengths and weaknesses of existing regulatory frameworks.

3.2.1 Financial Conduct Authority (FCA)

The Financial Conduct Authority (FCA) oversees the UK's financial services sector. It aims to protect consumers by enhancing market integrity and promoting competition. The FCA supervises around 42,000 firms in the UK.[54] Most firms providing financial services are required to be authorised by or registered with the FCA. It is funded by a levy on authorised and registered firms.

3.2.2 The Solicitors Regulation Authority (SRA)

The Solicitors Regulation Authority (SRA) oversees the regulation of solicitors and law firms in England and Wales, with its objective to increase confidence and trust in legal services. The SRA operates under the oversight of the Legal Services Board and is funded primarily through mandatory fees levied on solicitors and firms. There are currently just over 170,000 practicing solicitors in England and Wales,[55] and over 9,000 solicitor firms, ranging from sole practitioners to large firms.[56] Both regulatory frameworks incorporate authorisation processes, supervision and enforcement powers.

3.2.3 Qualifications and membership

Both the FCA and SRA require a minimum level of training or education to be authorised to provide financial/legal advice. The SRA also requires a minimum period of time in practice to gain professional experience before being admitted as a member. This stands in contrast to the tax advisory industry, where no qualifications or experience are required.

FCA Authorisation is also dependent on the firm or individual demonstrating compliance with the FCA's 'principles of business', covering issues of integrity, skill, care and due diligence, as well as rules and meeting minimum standards of behaviour. For SRA membership to be conveyed, it must be satisfied as to the 'character and suitability' of the individual, which includes checks on criminal and financial conduct.

3.2.4 Ongoing compliance

Both organisations require members to undertake CPD and confirm this in an annual statement. Both also require members or their firms to hold valid professional indemnity insurance.

3.2.5 Supervision, monitoring and enforcement

The SRA and FCA each have significant roles in the supervision of members' behaviour, together with robust powers to investigate and discipline members who fall below the standards set out by their respective rules.

The FCA undertakes supervision of firms and individuals, based on a detailed set of 'threshold conditions', setting out minimum standards of conduct. The FCA examines both the conduct of individual firms, and also the retail and wholesale markets more broadly, using a range of tools to supervise, including attestations – formal statements made by firms that they will take actions required of them, skilled person reviews – which enables the FCA to get a view from a third party regarding the conduct of an firm, and thematic reviews – to assess existing or emerging risks across sectors and markets.

In contrast, SRA supervision is far less pro-active, based on concerns reported to them either about individuals or firms. A recent example is the SRA case against one of its members, Ashley Hurst of Osborne Clarke LLP, who attempted to restrict the publication of correspondence relating to the former Chancellor of the Exchequer, Nadhim Zahawi's tax affairs.[57] The case was only taken up by the SRA following a complaint made by Dan Neidle of Tax Policy Associates, who was subject to the threat of legal proceedings should he publish the correspondence or discuss its contents. Mr Hurst was fined £50,000 for professional misconduct.

The FCA and SRA have significant enforcement powers where it finds that firms and individuals don't meet their standards. Notably, enforcement powers include the power to withdraw an individual's or firm's authorisation and prohibit an individual from undertaking specific regulated activities, as well as imposing financial penalties and criminal prosecution.[58]

3.2.6 Regulatory failures

Despite the regulatory frameworks in place, significant weaknesses have been exposed in both the SRA and FCA.

The SRA's regulatory approach has notable weaknesses, particularly in its supervision and enforcement. A recent independent review[59] of its handling of the Axiom Ince Limited case revealed critical gaps in its risk assessment and intervention strategies. The SRA failed to identify and act on signs of large-scale fraud, missing an opportunity to uncover significant client fund misappropriations. This highlights systemic weaknesses in the SRA's supervisory processes, including inadequate risk assessments and a lack of due diligence when firms acquire others, especially larger ones.

The independent review also criticised the SRA's approach to high-risk firms, such as "accumulator firms" that expand through acquisitions. Although these firms pose specific risks, the SRA only began systematically monitoring them in 2023, despite several major interventions in previous years. This reactive approach underscores the need for better data-driven risk identification and proactive supervision. The review also identified resource constraints within the SRA, which affected its ability to respond swiftly and comprehensively in complex cases. For example, the delayed full intervention in the Axiom Ince case was partially attributed to resourcing issues, which impeded timely action to protect clients.

The FCA has also come under consistent and severe criticism for its performance as regulator. A recent report by the All Party Parliamentary Group (APPG) on Investment Fraud & Fairer Financial Services[60] found several significant problems with the organisation.

The report highlights numerous failings of the FCA which stem from widespread concerns raised by victims of financial misconduct, whistleblowers, as well as current and former FCA employees. The report finds that the FCA is often perceived as incompetent, failing to meet its consumer protection responsibilities. Criticisms include its slowness in detecting and addressing fraud, a lack of assertiveness in securing redress for victims, and inadequate penalties for wrongdoers.

The FCA's integrity is also questioned. Many believe it has been "captured" by large financial institutions, leading to a reluctance to act against their interests. Others accuse the regulator of dishonesty and a lack of transparency in its decisions and responses to criticism. Testimony also paints a troubling picture of how the FCA mishandles whistleblowers, often failing to protectthem or investigate the evidence they provide adequately. Furthermore, the report notes a general lack of accountability and transparency, with the FCA reportedly obstructing efforts to hold it responsible for its actions.

The FCA's integrity is also questioned... many believe it has been "captured" by large financial institutions, leading to a reluctance to act against their interests

Several systemic issues underpin these criticisms, including cultural problems, conflicts of interest, regulatory capture, and inadequate stakeholder management. Examples include a "revolving door" culture where staff move between the FCA and the financial firms it regulates, and the weakening of proposed consumer protections under industry pressure. Specific instances cited include the watering down of the Consumer Duty, a failure to deliver redress for SME victims of interest rate hedging product mis-selling, and the abandonment of transparency reforms in retail foreign exchange markets.

The report identifies potential conflicts of interest arising from the FCA's funding structure, which relies on an industry levy, and the perception that the regulator prioritises the interests of firms over consumers. It also criticises the FCA's poor use of its powers, waste of resources, and lack of a coherent strategy for addressing international jurisdiction and regulatory perimeter issues.
To address these failings, the report recommends a combination of internal reforms and legislative changes. Internally, the FCA should adopt a "consumer-focused mission", aligning staff incentives with its objectives, and develop better processes for handling whistleblowers and consumer complaints. A specialist department for scam victims is also proposed. Legislatively, the report calls for greater oversight of the FCA, removing its immunity from civil liability, imposing restrictions on staff moving between the FCA and industry, and introducing a statutory Duty of Care to strengthen consumer protection.

The report also raises the possibility of more radical reforms if these measures fail, including restructuring the FCA into a conduct-only regulator and redistributing its other responsibilities to different bodies, and reform of its current funding. The FCA is currently funded by an industry levy, which as the APPG report suggests, give financial institutions leverage in influencing the activities of the FCA. The report recommends that the FCA is funded from the public purse, through an industry levy paid directly to Government, reducing the influence of financial institutions on the FCA.

It suggests that a Royal Commission might be necessary to consider such significant changes. However, the immediate focus is on urgent action to restore confidence in the FCA and prevent further regulatory failures, which risk damaging consumer trust and the reputation of UK financial services. The report urges both the FCA leadership and the government to act decisively, warning that delays could lead to more scandals and a decline in the industry's standing. Periodic independent reviews of the FCA's performance are recommended to ensure accountability and measure the impact of reforms.

3.2.7 Lessons for the regulation of the UK tax advice industry

Analysis of both the SRA and FCA provides valuable insights into the challenges and opportunities for regulating the UK tax advisory industry. The similarities in their regulatory frameworks, which encompasses authorisation, supervision, and enforcement, highlights the importance of comprehensive oversight mechanisms in sectors where poor practices can harm consumers. However, the weaknesses identified in the culture and practices of each reveal potential pitfalls to avoid when designing regulation for the tax advisory sector.

Robust authorisation process requires individuals and firms to demonstrate compliance with principles of integrity and skill across both industries, serving as useful models for setting minimum entry standards. A similar framework for tax advisers could be introduced such that only qualified professionals operate within the industry. However, the FCA's failure to enforce these standards effectively, as seen in high-profile scandals such as the collapse of London Capital & Finance (LCF),[61] demonstrate that qualifications and statements of ethical virtue are not sufficient to ensure compliance with regulatory requirements, and underscores the need for continuous and rigorous monitoring to prevent misconduct.

Supervisory tools such as skilled person and thematic reviews, which the FCA uses to monitor compliance, could also inform tax advisory regulation. These tools provide a structured way to assess risks and ensure firms adhere to expected standards. However, the FCA's inability to address risks promptly highlights the importance of proactive and adaptive supervision. A regulator for tax advisers must remain vigilant to emerging issues and act decisively to mitigate harm.

Enforcement is another critical aspect of regulation. The FCA and SRA both have powers to revoke authorisations, impose penalties, and prosecute misconduct, which are essential for maintaining accountability and deterring unethical behaviour. A similar suite of enforcement tools would be necessary for the tax advisory sector. However, the perceived slowness and inadequacy in using their enforcement powers demonstrate the importance of acting swiftly and decisively against breaches of regulations to maintain trust and confidence in the regulatory framework.

A particular criticism of the FCA relates to its lack of accountability and transparency, with many accusing it of regulatory capture and being unduly influenced by the financial industry it oversees. For tax advisory regulation, safeguards must be implemented to prevent similar conflicts of interest. Transparent decision-making and mechanisms for holding the regulator accountable to the public are crucial. Furthermore, the FCA's mishandling of whistleblowers, including failing to protect them or investigate their evidence adequately, offers a cautionary tale. A tax advisory regulator should establish robust whistleblower protections to encourage reporting of misconduct and ensure these reports are taken seriously.

Both the FCA and SRA are reliant on an industry levy for funding. Whist this has not been raised as a significant issue for the SRA, it has raised concerns about impartiality within the FCA, with critics suggesting this structure gives financial institutions undue leverage over the regulator. Funding a tax advisory regulator through a similar mechanism could create comparable risks. Alternative funding models, such as public financing or levies paid directly to the government, should be considered to minimise industry influence and enhance the regulator's independence.

Cultural issues within the FCA, including accusations of dishonesty and poor stakeholder management, highlight the importance of fostering a transparent and ethical organisational culture in any regulatory body. Additionally, the FCA's broad remit has led to conflicts of interest and difficulties in prioritising its responsibilities, which serves as a warning against overloading a tax advisory regulator with competing objectives. A clear and focused mandate would help avoid these challenges and ensure more effective oversight.

Finally, the FCA's history of delayed or incomplete reforms demonstrates the importance of establishing mechanisms for regular, independent reviews of regulatory performance. Such reviews would help ensure continuous improvement and hold the regulator accountable for its effectiveness. Both the FCA's and SRA's failings illustrate the risks of inertia and the critical need for timely and decisive action to maintain public trust.

While the regulatory framework discussed offer a foundation for understanding how to oversee the tax advisory sector effectively, their failings provide a cautionary roadmap of what to avoid. Regulation of the tax advisory industry must prioritise consumer protection, accountability, and transparency while addressing the systemic weaknesses that have undermined confidence in the FCA and SRA.

4. Part Three

The final part of the report critically examines the Government's latest consultation (2024) and recent proposals for mandatory registration of tax practitioners who interact with HMRC. It then sets out recommendations for the regulation of the UK tax advice industry, based on the findings from the first two parts of the report.

4.1 UK Government consultation on raising standards in the tax advice market

In March 2024, the Government issued a consultation on 'Raising standards in the tax advice market', through strengthening the regulatory framework. It set out three possible approaches to achieving this:

1. Mandatory membership of a recognised professional body
2. Joint HMRC and industry enforcement
3. Regulation by a separate statutory government body

Following the consultation the UK government announced that tax practitioners who 'interact' with HMRC will be required to register with HMRC from April 2026. The UK government also stated its intention to consult in the future on measures to increase HMRC's powers to act against tax practitioners who facilitate taxpayers' non-compliance (during 2025).

This move reflects a consultation undertaken in 2014 by the Canada Revenue Agency (CRA) on the introduction of a system requiring all individuals or firms preparing tax returns for a fee to register with the CRA.

The consultation set out a proposal for the requirement of tax preparers to register with the CRA. The purpose of this was to help CRA to identify preparers and firms that make recurring errors, enabling them to work with them to improve their accuracy and prevent further errors, much like the new rules set out by the UK government. The hope was that this would reduce errors in tax returns, resulting in fewer follow ups from CRA and fewer audits. The CRA suggested a range of approaches it would take in relation to errors, including education, follow-up visits and audits of tax preparers' clients, as well as possible sanctions for repeat offenders, including penalties, periods of monitoring and reporting tax preparers to regulated accounting or legal bodies.

However, the consultation identified many areas of concern, which are particularly relevant to the UK Government's mandate for registration.

Firstly, the requirement to register would potentially increase the administrative burden on tax preparers, particularly as there was already a registration system in place. As in the UK, most legitimate tax preparers will already be registered with the tax authority.

It was unclear from the consultation document whether the term 'tax preparation' included amending previously submitted or disputed return or who (only) deal with tax dispute resolution for clients who submitted their returns and claims themselves or via a former agent. In the UK context, the impact of mandatory registration will depend greatly on the meaning given to ‘interact with HMRC’. If it means filing prepared tax returns and claims and being able to deal with correspondence on the taxpayer’s behalf then this has long been mandatory, as approved tax agents and legitimate advisers will be registered already. Those taking on clients to act for them in disputes also need authorisation to rescind prior agent authorisation.

There is an inherent conflict of interest for HMRC in being the tax collector and undertaking a regulatory role of the tax advice profession

If it seeks to include an adviser preparing the claim or return which is then handed back to the taxpayer to file themselves, it’s difficult to see why advisers who deliberately operate in the shadows in this fashion would suddenly register, particularly as there is no mention of any sanction for advisers continuing to remain unregistered when the requirement has become mandatory. The Canadian consultation proposal also included a provision for a panel within the CRA itself to undertake the redress process where taxpayers encountered problems with tax advisers. However, significant concerns were raised about the lack of independence and suggestions were made for a panel that was independent of the CRA to prevent any conflicts of interest. This is an important point for the UK Government to consider when giving HMRC more powers to act against ‘rogue’ tax advisers. There is an inherent conflict of interest for HMRC in being the tax collector and undertaking a regulatory role of the tax advice profession. HMRC faces an inherent conflict of interest in being both the UK’s tax collector and the regulator of the tax advice profession. As the tax collector, HMRC’s primary objective is to maximize tax compliance and revenue collection. However, as a regulator of the tax advice profession, it would oversee and ensure the impartiality and ethical conduct of tax advisers, who often advocate for taxpayers’ interests. This dual role creates a tension: HMRC’s regulatory decisions could be perceived as biased toward its revenue-raising objectives, undermining trust in its impartiality and creating potential a conflict with tax advisers, eroding confidence in both the tax system and the regulation of tax advice.

The CRA also proposed to publish a list of registered tax preparers. However, some were concerned that taxpayers may misconstrue the nature of the list and assume that those included were given some kind of approval or recognition by CRA as to their competence and integrity, where none was actually being given. There are similar concerns should the UK Government could seek to do the same here as part of an effort to be seen to be ‘doing something’ to help. It is worth noting that HMRC officials have long resisted such a move as registration alone does not guarantee that tax practitioners meet any professional or ethical standards and may even create a false sense of security among taxpayers, who might assume that HMRC’s registration implies some level of endorsement.

Unlike the UK, the consultation proposals were not enacted in Canada, and following the consultation, the CRA said it was *“considering other options that would serve to implement the objectives of the proposed Registration of Tax Preparer Program (RTPP) through existing CRA programs and initiatives at lower costs.”*[62]

4.1.1 Proposal for a new regulatory framework

The UK tax advisory industry plays a critical role in ensuring taxpayer compliance and efficient tax administration. However, the lack of a regulatory framework leads to inconsistencies in

The benefits of proper regulation outweigh the overall costs, including increased growth potential

competence and ethical standards. To address these shortcomings, this proposal advocates for the establishment of a new, independent regulatory body for tax advisers. Drawing from international models, particularly the structured oversight seen in Australia, this regulatory framework aims to balance consumer protection, professional standards, and market accessibility. We appreciate that this recommendation appears to run against the grain of the government's pursuit of economic growth above all other considerations. However, the benefits of proper regulation outweigh the overall costs, including increased growth potential. As both the case studies and the recent Research and development tax relief scandal amply demonstrate, incorrect and deliberately misleading tax advice has significant economic costs for individuals and businesses. These problems would be dramatically reduced by the introduction of proper regulation.

As the first part of this report highlighted, the use of professional bodies as regulators is problematic due to inherent conflicts of interest. Professional bodies derive significant revenue from membership fees and fines, creating a tension between their commercial interests and regulatory obligations. Evidence shows that professional bodies have been slow to address complaints, inconsistent in monitoring their members, and lenient in applying sanctions, often prioritising member retention over robust enforcement.

Alternative approaches to regulation, as set out in the consultation, have significant drawbacks. Mandating membership of professional bodies for tax practitioners risks exacerbating existing deficiencies. The inconsistency of monitoring processes and the infrequency of compliance checks undermine public trust in such a model. Additionally, taxpayers are often left with limited avenues for redress, as professional bodies tend to focus more on protecting their members than consumers. Minimal or self-regulation, as seen in Ireland and the Netherlands, leaves significant portions of the market unregulated, leading to consumer vulnerability and inadequate accountability mechanisms. There are also concerns over the integration of practitioners who are "qualified by experience" into Professional Body membership. These individuals, while often highly skilled, lack formal qualifications, such as passing structured exams combined with time in practice and ongoing Continuing Professional Development (CPD). Including them within professional membership frameworks raises the risk of undercutting those who have invested significant time and resources into formal qualifications.

This dynamic creates a perception of inequity, potentially devaluing the qualifications pathway and disincentivising future entrants from pursuing rigorous training. Moreover, the absence of clear mechanisms to equitably assess and integrate experienced practitioners has complicated the issue. The government's consultation on improving standards did not sufficiently address these complexities, leaving stakeholders divided. Professional Bodies expressed concerns over maintaining quality and consistency, while others emphasised the need to recognize and validate practical expertise. This lack of foresight in addressing the interplay between different qualification routes contributed to an impasse, stalling progress on achieving consensus for reform.

An independent regulator for the tax advice industry would eliminate these conflicts, ensuring impartial oversight and consistent enforcement of standards.

Australia's Tax Practitioners Board (TPB) demonstrates the efficacy of an independent regulatory body. The TPB enforces clear registration requirements, mandates ongoing professional development, and holds disciplinary powers ranging from warnings to de-registration. However, the Australian experience also highlights areas for improvement, such as the need for transparency in disciplinary actions and reducing reliance on funding from government agencies like the Australian Taxation Office. These lessons can inform the design of a UK regulator to enhance both independence and accountability.

4.1.2 A new regulatory body

The proposed independent regulatory body would require all individuals or firms providing tax advisory services to register and meet standardised qualifications and experience criteria. Regulations, which should be set out in legislation, must properly define what the provision of tax advice services covers, such as the provision of tax return, claim and repayment preparation services, as well as tax planning and dispute resolution. This would ensure that only competent professionals enter the industry.

4.1.2.1 Membership and registration

Registration with regulatory body, which would be a requirement for obtaining the right to provide tax advice should be based on a minimum level of qualifications. The current qualifications provided by the ATT and CIOT are well-regarded and offer a comprehensive education on UK tax law. These provide a good basis for use as the minimum levels of qualification required, with the Chartered Taxation Adviser (CTA) qualification being viewed as the gold standard for tax advisers for clients with more complicated affairs. This would mirror the new Solicitors Qualifying Examination (SQE), introduced in 2021 as *"the single rigorous assessment for all aspiring solicitors"*.[63]

Consideration should also be given to alternative routes to registration, including obtaining relevant tertiary qualifications related to tax law. The PBs may still retain this function as overseers of professional qualification standards, without the conflict of interest of also being a regulatory body, whose responsibility would be placed within the new independent regulator.

In addition to qualifications, there should be a minimum period of professional experience in tax. For membership of the CIOT, this currently stands at three years of professional work experience, which appears to be a reasonable amount of time to get a range of experience, as well as time to pass the examinations. Registration should also be dependent on criminal and financial checks to ensure disclosure of any relevant convictions or bankruptcies, as well as ensuring compliance with their own tax affairs.

A critical function of the new regulator would be determining which professional qualifications and bodies meet the required standards for tax practice. The fragmented nature of the current system, with multiple professional bodies of varying quality, highlights the need for strict oversight of professional standards and qualifications. Without such oversight, there is a risk of new bodies emerging that offer easier paths to qualification without ensuring adequate tax expertise.

The regulator should establish and maintain clear criteria for recognising professional qualifications and accrediting professional bodies. Professional bodies seeking to offer tax qualifications would then need to demonstrate that their programs meet these criteria through a formal accreditation process. The regulator would conduct periodic reviews to ensure ongoing compliance and would have the power to revoke accreditation if standards are not maintained.

This oversight would prevent the emergence of PBs offering sub-standard qualifications and ensure that all recognised qualifications genuinely prepare practitioners for competent tax practice. The regulator would maintain a public register of accredited bodies and qualifications, providing transparency for both practitioners and clients about which credentials meet the required standards.

There is a tension between tax professionals who are qualified by experience and those who have obtained professional qualifications

As discussed above, when considering regulation, there is an inherent tension between tax professionals who are qualified by experience and those who have obtained professional qualifications. Grandfathering provisions could be considered for longstanding advisers who have not obtained the required qualifications. However, these should be time-limited and restricted to those who are already working as tax practitioners. It must not become an easier way into the industry, and all new entrants must obtain the relevant professional qualifications, alongside gaining experience in industry or practice. For those without qualifications, a structured accreditation process should be introduced, to avoid undermining professional standards.

These may include a specified number of years of relevant tax experience, together with evidence of the competence of tax practitioners obtained through documentary evidence and checking with HMRC that practitioners have a ‘clean record’ of compliant behaviour when dealing with HMRC. Grandfathering provisions could also include a period of temporary or contingent registration, dependent on certain conditions being met, such as the agreement to undertake additional CPD or training within specified timescales, or successful completion of compliance reviews by the regulator. It should also be made clear to taxpayers engaging with those working within the grandfathering provisions, of their status to ensure transparency.

Firms should also need to be registered. Those seeking registration would need to prove they are registered as a legal entity in the UK. Each firm would be required to designate a compliance officer responsible for ensuring adherence to regulatory standards. Transparency in ownership and management structures would also be necessary, particularly for partnerships or multi-disciplinary practices.

Once registered, individuals and firms must adhere to ongoing requirements in terms of both ethical behaviour and professional standards. Practitioners would be required to undertake Continuing Professional Development (CPD) annually. This would include a focus on technical tax updates and ethics, with CPD activities subject to formal assessment to ensure their relevance and application. Practitioners must also maintain adequate professional indemnity insurance (PII) to cover potential claims arising from negligence or misconduct.

A legally binding code of conduct would emphasise competence, confidentiality, and ethical behaviour while explicitly prohibiting participation in aggressive tax avoidance schemes. Compliance with a legally binding code of conduct would be mandatory, encompassing principles of integrity, objectivity, professional competence, and confidentiality. Advisers would be explicitly prohibited from participating in aggressive tax avoidance schemes or exploiting legislative loopholes.

Firms would need to implement structured training programs to keep staff informed of regulatory and technical changes. An annual compliance report would be required, detailing adherence to standards such as CPD completion rates and PII coverage. Firms handling client funds or sensitive data would also be required to implement systems that ensure transparency, protect client money, and clearly outline fees and service agreements.

The registration process would begin with an online application, supported by evidence of qualifications, PII policies, and relevant professional experience. Registration renewal would occur annually, requiring practitioners to reaffirm compliance with regulatory standards by submitting updated CPD records and evidence of PII. Risk-based audits would also be conducted periodically to verify adherence to these standards.

4.1.2.2 Supervision and monitoring

Establishing a robust framework for supervising and monitoring tax practitioners is critical for maintaining high standards of competence, ethics, and consumer protection. Drawing on the experiences of Australia's Tax Practitioners Board (TPB), the UK's Solicitors Regulation Authority (SRA), and the Financial Conduct Authority (FCA), this section outlines best practices for supervision and highlights lessons learned from past regulatory failings to ensure these mistakes are not repeated.

Effective supervision starts with a risk-based approach, focusing resources on high-risk practitioners and areas prone to abuse. The TPB employs data analytics and collaborates with the Australian Taxation Office (ATO) to identify practitioners associated with fraudulent claims or systemic non-compliance. Similarly, the FCA uses thematic reviews and skilled person reviews to address sector-wide risks.

Despite these tools, failings in both systems underscore the need for improvement. The FCA's delayed response to the London Capital & Finance (LCF) scandal demonstrated the dangers of failing to identify and mitigate risks promptly, which resulted in significant consumer harm. Similarly, the SRA's inadequate risk assessments in the Axiom Ince Limited case allowed large-scale client fund misappropriations to occur unchecked.

To avoid these pitfalls, the new tax regulator should implement advanced risk assessment tools and leverage data analytics to monitor systemic trends. Pro-active monitoring, through real-time systems, should prioritise addressing emerging risks before they escalate. Regular market-wide reviews would further enhance the ability to identify vulnerabilities in the tax advisory industry. These are vital to avoid large scale problems, such as those encountered in the R&D relief scandal.

A strong regulatory framework requires consistent and transparent monitoring practices. Both the TPB and FCA emphasise ongoing compliance checks, including mandatory Continuing Professional Development (CPD) requirements. However, inconsistencies have undermined these efforts. The TPB, for instance, has faced criticism for allowing unassessed CPD activities, such as general business ethics seminars, to count toward compliance, diluting the rigor of ongoing education. The FCA mandates adherence to threshold conditions but has been criticised for uneven enforcement.

The SRA's reliance on complaints and self-reporting has proven inadequate, as demonstrated in its response to the Axiom case. To address these shortcomings, the new regulator must standardise CPD requirements, emphasising technical tax knowledge and making CPD activities formally assessed. It should also conduct regular audits, both random and risk-based, to verify compliance with CPD, ethical standards, and professional indemnity insurance (PII) requirements. Transparency in monitoring outcomes, achieved through publishing results, would build public trust and accountability.

4.1.2.3 Robust complaints mechanism

A clear and accessible complaints process is essential for identifying misconduct and enforcing standards. The TPB has been criticised for a lack of transparency in handling minor disciplinary actions, while the FCA and SRA have faced scrutiny for slow responses and inadequate support for victims of misconduct.

To address these issues, the new regulator must streamline its complaints process, ensuring clear timelines for resolution. Protections for whistleblowers should be a priority, encouraging practitioners to report unethical behaviour without fear of retaliation. By tracking and analysing complaints, the regulator can identify systemic issues and adapt its supervisory strategies to respond effectively to emerging risks.

The regulator should also ensure easy and secure routes for whistleblowing and robust protection for whistleblowers, which have too often been ignored or left unprotected when making complaints to regulators in the UK and elsewhere.

4.1.2.4 Using technology for enhanced supervision

Technology offers significant potential for improving supervision and monitoring. Both the TPB and FCA have used technology to identify risks, but their efforts have been inconsistent. The TPB, for example, employs analytics to flag high-risk practitioners, while the FCA relies on data to detect misconduct. However, neither regulator has fully exploited the capabilities of modern tools.

The new regulator should adopt advanced analytics and artificial intelligence to identify patterns of fraud or negligence among tax advisers. Real-time monitoring systems, developed in collaboration with HMRC, could track compliance and flag potential breaches. Integrating public data sources, such as tribunal decisions and HMRC's lists of named defaulters, would further strengthen the regulator's ability to detect and address misconduct proactively.

4.1.2.5 Enforcement

Effective enforcement of codes of conduct is essential for maintaining the integrity and trustworthiness of the tax advisory profession. Drawing lessons from the experiences of the Australian Tax Practitioners Board (TPB), the Solicitors Regulation Authority (SRA), and the Financial Conduct Authority (FCA), this section outlines best practices for enforcement. It identifies the disciplinary tools available to regulators, examines past enforcement failures, and proposes solutions for the new UK tax advisory regulator to adopt.

4.1.2.6 Establishing proportional and transparent disciplinary tools

A successful enforcement framework requires a range of disciplinary tools that can address misconduct proportionally to its severity. As part one and two of this report have demonstrated both the PBs as well as TPB, SRA, and FCA have mechanisms for imposing sanctions, including fines, suspensions, and de-registrations. However, in many cases, these tools have not been applied effectively, largely because of lack of incentive to impose sanctions, resulting in a lenient approach in imposing fines that do not reflect the gravity of the misconduct.

The new UK regulator should establish a suite of sanctions that escalate based on the severity of the breach. Minor infractions might warrant formal warnings or mandatory retraining, while serious violations should lead to substantial fines, suspension, or deregistration. Importantly, the financial penalties must be proportional to the financial harm caused by the practitioner’s misconduct to act as a meaningful deterrent alongside intelligence being passed to HMRC’s compliance investigation functions for civil or criminal action where appropriate. By implementing a clear and transparent framework for sanctions, the new regulator can ensure fairness and public confidence in its enforcement actions.

4.1.2.7 Ensuring timeliness in enforcement

One of the most critical failings of existing regulators has been the lack of timeliness in enforcement actions, amply demonstrated by the complaints made to PBs in the UK. Lengthy delays have allowed misconduct to continue, reducing the deterrent effect and increasing harm to clients.

The new regulator must prioritise swift enforcement to prevent prolonged harm to taxpayers and uphold the credibility of its disciplinary framework. This could involve streamlining internal processes to expedite investigations and, where necessary, establishing fast-track procedures for clear-cut cases of misconduct. The regulator should also minimise reliance on external bodies for enforcement, granting it the authority to impose penalties directly without requiring court involvement in all cases.

4.1.2.8 Enhancing accountability

Transparency is a cornerstone of effective enforcement, yet it has been inconsistently applied by existing regulators. For example, the FCA has been accused of a lack of transparency in its decision-making processes, contributing to perceptions of regulatory capture.

The new regulator should address these failings by committing to comprehensive public disclosure of all disciplinary actions. This would include publishing details of the nature of the breach, the sanctions imposed, and the rationale for the decision. Publicising these outcomes would enhance accountability and act as a deterrent to other practitioners, while also enabling consumers to make informed decisions when selecting tax advisers.

4.1.2.9 Balancing consumer protection and practitioner fairness

Effective enforcement must balance the need to protect consumers with ensuring fairness to practitioners. PBs in the UK, as well as the SRA and FCA have faced criticism for perceived conflicts of interest in their enforcement processes, particularly when decisions appear to prioritise institutional reputation over consumer protection. By separating out regulation of practicing members from the promotion of the sector and training done by the current PBs this would be less of an issue for the new regulator.

To further minimiser this issue, the new regulator must adopt a robust governance framework that ensures impartiality and consistency in enforcement. This could involve creating an independent disciplinary panel to adjudicate cases, separate from the regulator’s operational and policy teams. By incorporating external experts and consumer representatives into the disciplinary process, the regulator can enhance fairness and objectivity in its decisions.

4.1.2.10 Acting against repeat offenders

One area where existing regulators have struggled is addressing repeat offenders. For instance, the TPB and FCA have faced challenges in monitoring practitioners who commit multiple infractions, often failing to impose escalating penalties. The TPB has also been criticised for inadequately tracking deregistered practitioners who re-enter the profession through loopholes.

The new regulator should implement a robust system for tracking disciplinary history and escalating sanctions for repeat offenses. Practitioners who have been suspended or deregistered should be subject to enhanced scrutiny if they reapply for registration. Furthermore, the regulator should establish a centralised database to monitor and share information on disciplinary actions across jurisdictions, preventing practitioners from exploiting gaps in oversight.

4.2 Conclusion

The establishment of an independent regulatory body represents the most effective solution for reforming the UK tax advisory industry. By incorporating the strengths of international models, particularly Australia, and addressing weaknesses inherent in professional body-led or self-regulation frameworks, this approach ensures a balanced and equitable system. With its emphasis on competence, ethics, and consumer protection, the proposed body would enhance both the integrity of the tax advisory profession and public trust in the UK’s tax system.

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