

Raising standards in the tax advice market: strengthening the regulatory framework

Association of Accounting Technicians (AAT)

Date of submission: 29 May 2024

About AAT

- AAT is the UK's leading qualification and professional body for technical accountants and bookkeepers. We have around 51,000 members in over 100 countries, approximately 75,000 students studying our qualifications and over 6,600 Licensed Members.
- Founded in 1980, AAT is a registered charity committed to increasing the availability of high-quality accountancy education and raising professional standards. We advance public education, promote the study of accountancy, prevent crime, and promote and enforce standards of professional conduct for accountants.
- Over 840,000 small businesses are supported by our licensed members to help build the businesses' financial capabilities. AAT also helps businesses of all sizes upskill and train employees to be the business leaders of the future.
- Our suite of qualifications is highly regarded across the profession and open to all. We help school leavers take their first steps in their career as well as thousands of career changers gain and develop new skills to equip them for careers in finance.

Introduction

AAT welcomes the opportunity to respond to this consultation document. AAT fully supports the government's commitment to drive up professional standards, to protect taxpayers, and to increase levels of trust in the tax system. AAT has been actively engaged on this issue for many years and has consistently called for the development of appropriate solutions to raise standards in the tax advisory market through our *Accountable*¹ campaign.

Initially, engagement on raising standards was encompassed under HMRC's Agent Strategy strand of work, dating as far back as to 2012. One aspect of this engagement saw HMRC share a continuum model with an array of interventions ranging from compiling a searchable directory of agents and the creation of kitemark symbols, developing guidance to help inform taxpayers, through to the implementation of full regulation by a government body. There have been opportunities to explore these options through various consultations, discussion documents and workshops that AAT, and the other professional bodies have been actively engaged with.

Throughout this time AAT has maintained that mandating professional body membership would be the most suitable solution to drive up standards amongst tax practitioners, reducing non-compliance, and closing the tax gap.

Whilst AAT has welcomed the various actions that the government has taken to address this issue, as referenced in the consultation paper, much of the action taken to date has been in response to specific issues which have emerged in the market. The length of time that it has taken to reach the point of this consultation has naturally left stakeholders frustrated and meant that consumers have continued to suffer from poor-quality tax advice coming from unaffiliated tax practitioners.

As identified through previous government calls for evidence, under the current partial regulatory framework whilst the majority of tax practitioners are appropriately qualified, acting professionally and ethically and are delivering a good service to their clients, there is a minority who are not. This cohort of tax practitioners may be providing substandard advice and services to their clients with no regulatory oversight, which can lead to a loss of trust and confidence in the profession.

The market urgently needs enhanced professional standards, consistent oversight and greater protection for consumers. As such, the proposal to mandate professional body membership contained in the consultation document, in focussing on the three components of establishing minimum standards, improved

¹ [Make tax advice accountable | AAT](#)

monitoring & effective enforcement action, and better route for customer support represents a proportionate and long overdue solution to deliver on achieving the government's objectives in this space.

Executive summary

- AAT is in complete agreement that the limitations in the partial framework across the tax advice market contribute to all of the issues observed in the consultation document.
- AAT agrees that action taken to strengthen the components referenced in the consultation, (establishing minimum standards, improved monitoring and effective enforcement action, and better routes for customer support) would deliver to the government's objectives around raising standards.
- AAT considers the government's intention to mandate registration for tax practitioners to be an essential step in ensuring the success of any measures to strengthen the current regulatory framework. It will ensure that there is consistency and an adherence to common standards which will help to address the limitations of the current partial regulatory framework.
- AAT considers that the most efficient and effective solution to meet the government's objectives is approach 1 – mandatory membership of a recognised professional body.
- AAT acknowledges that the mandatory membership of a recognised professional body approach is additionally contingent on professional bodies strengthening the regulatory framework to raise standards of existing members who do not meet expected standards. AAT is committed to supporting this.
- As well as having appropriate entry requirements in place, and mechanisms to establish that a tax practitioner has met minimum requirements to practice, AAT considers that there should be a requirement to ensure ongoing competency, skills and knowledge as a critical component of any solution to raising standards. This is achieved by mandating membership of a recognised professional body.
- Like the other Professional Conduct in Relation to Taxation (PCRT) bodies, AAT already has a robust regulatory framework in place to ensure standards of professionalism and maintaining skills and competence as accountants and tax practitioners. AAT committed to working with government on implementing this across the unaffiliated population.

Response to Consultation Questions

Question 1: Do you agree the limitations in the partial framework across the tax advice market contribute to issues observed? Select all that apply.

- **no requirements of technical competence to practice**
- **no general deterrents for dishonest practitioners operating in the market**
- **disjointed monitoring of tax practitioners**
- **variations in the action taken against substandard and unscrupulous tax practitioners**
- **clients being unable to easily assess the competence of a tax practitioner**
- **other (please specify)**

Please give reasons for your answer.

- 1.1 AAT is in complete agreement that the limitations in the partial framework across the tax advice market contribute to the issues observed in the consultation document. Aside from the evidence that the government has accumulated through previous calls for evidence, regular feedback from AAT members further reinforces the scale of the impact that the limitations of the current partial framework have had. A recent survey conducted amongst AAT members demonstrated the

widespread discomfort regarding unaffiliated tax practitioners with almost three quarters (75%) expressing concern that consumers were being given poor-quality tax advice in the UK.

“A client came to us after receiving poor accountancy advice which left him owing HMRC tens of thousands of pounds in VAT and on the verge of bankruptcy. His previous accountant advised him that he didn’t need to keep sales records. Without a record of sales made he had no way of knowing which sales he owed VAT on, and which were exempt. As a result, he had to pay VAT on all sales, leading to a tax bill he couldn’t afford. He is in his 60’s and has drawn out his pension in order to clear some of the debt, but that has left him in a position where he can’t now retire. He received really bad advice which has had a devastating impact.”

AAT Licensed Member 2024.

1.2 Taking each of the limitations in turn:

- **no requirements of technical competence to practice**

As referenced in the consultation document, the fact that tax practitioners can enter the market without demonstrating minimum standards of competence is a major concern and is at odds with the government’s aim of raising standards. Without any regulatory measures to prevent this from happening there will continue to be instances, like the countless examples our members and their clients have shared over the years, of damage done to clients of providers of tax advice who simply have limited or no qualifications and experience to do so. Based on the evidence shared by AAT members, it is clear that there currently being no requirements of technical competence to practice has led to a greater incidence of poor advice and damage to clients. This is undermining confidence in the high-quality tax practitioners as well as consuming HMRC resources and widening the tax gap.

- **no general deterrents for dishonest practitioners operating in the market**

At present there are limited deterrents for dishonest practitioners as the safeguards that are provided for those that are regulated members of a professional body are not present for the unaffiliated tax practitioner cohort. Any AAT member discovered to be operating in a way that falls short of our standards of professionalism will be subject to an appropriate sanction, which includes expulsion from membership. For tax practitioners who are unaffiliated there are no such deterrents. AAT recognises that HMRC’s sanctions might partially address this, however, as stated in the consultation document, the sanctions deal with specific transgressions and don’t operate as a general deterrent.

- **disjointed monitoring of tax practitioners**

As referenced, there is little systematic monitoring of, or enforcement action taken against, unaffiliated tax practitioners. This is in stark contrast to the work undertaken by recognised professional accountancy and taxation bodies who strive to maintain high standards of competence and professionalism through training, monitoring and supervision of their respective members. At a recent focus group held with AAT licenced members the existence of what they perceived to be an uneven playing field for tax practitioners was one of their major concerns.

- **variations in the action taken against substandard and unscrupulous tax practitioners**

As already referenced above, members of recognised professional bodies are subject to disciplinary processes and procedures that are supported by appropriate sanctions, activity that is not replicated for those unaffiliated tax practitioners.

- **clients being unable to easily assess the competence of a tax practitioner**

Feedback AAT has received from members and their clients reinforces that this is a critical issue. At its heart is a general lack of awareness and understanding that the market is unregulated. Clients suffer from the misconception that all tax practitioners will be suitably qualified and as such in a lot of instances don't even look to ask those questions at the point of appointing a tax adviser that would help them establish the level of qualification and experience held let alone be in a position to know where they could verify those details should they ask for them.

“Clients think all tax advisers are regulated and are often surprised when they find out professional body membership is not mandatory”

AAT Member 2024



Question 2: Are there other components of a regulatory framework that would support the delivery of these objectives?

- 1.3 The consultation identifies that strengthening three components of the tax advice market regulatory framework would support the government's objectives. AAT agrees that action taken to strengthen those components (establishing minimum standards, improved monitoring and effective enforcement action, and better routes for customer support) would deliver to the government's objectives. Whilst the response to questions later on in the consultation will provide further evidence to support this, there are additional components that the option of mandating professional body membership will deliver.
- 1.4 As well as having appropriate entry requirements in place, and mechanisms to establish that a tax practitioner has met minimum requirements to practice, professional body membership also ensures that the ongoing competency and knowledge is maintained and developed through annual declaration processes, mandatory CPD requirements and practice assurance reviews. AAT considers that this requirement to ensure ongoing competency and knowledge should be a critical component of any solution to raising standards.
- 1.5 In addition to the development of appropriate levels of knowledge and skills, the annual declaration process operated by AAT also ensures that AAT members commit to continuing their adherence to a code of professional ethics, to abide by the professional conduct in relation to taxation (PCRT) guidance, and to having appropriate levels of professional indemnity insurance (PII) and practice continuity cover in place.
- 1.6 This commitment to ongoing levels of professionalism is vital given the rate of change in tax legislation and practice. Moreover, the additional assurances around PII and professional cover arrangements helps to ensure the consistency of service provision ranging from new entrants to the tax advice market through to those who have been operating in the market for many years.

Question 3: Is there anything else that the government should consider?

- 1.7 This is addressed in greater detail below, however the government must consider that, whichever model it identifies as its chosen method of strengthening the regulatory framework, there must be an appropriate mechanism in place to manage transition carefully so as to ensure that the delivery of the objectives is not impeded or damaged by the process of moving to that new model.

Question 4: Do you think the government should mandate the approach to registration for tax practitioners who wish to interact with HMRC?

1.8 AAT considers the government's intention to mandate registration for tax practitioners to be an essential step in ensuring the success of any measures to strengthen the current regulatory framework. It will ensure that there is consistency and an adherence to common standards which will help to address the limitations of the current partial regulatory framework.

Question 5: What are your views on the intention to apply the requirement to all tax practitioners who interact in any way with HMRC in a professional capacity?

1.9 AAT supports the application of this requirement to all tax practitioners who interact with HMRC in a professional capacity. The success of any of the proposed measures to drive up professional standards will be reliant on information sharing between HMRC and the professional bodies. With HMRC better able to identify practitioners as a result of requiring registration, where there is evidence of substandard or unscrupulous activity, if HMRC were to share that information with the professional bodies they would be better able to target measures to either remove these practitioners from the market, or ensure improvements are implemented.

Question 6: HMRC currently applies several checks at the point of registration including: whether the tax practitioner has outstanding debt and/or, returns with HMRC, and the status of their AML supervision. Are there additional checks that the government should consider for tax practitioners at the point of registration with HMRC?

- 1.10 At the point of registration, as well as capturing the status of AML supervision, identifying which professional bodies the agents are members of will further help to enable the collaboration between HMRC and the professional bodies in delivering raised standards as described above. Collecting details around business type/status would also be important as it is related to question 7 below.
- 1.11 AAT contends however that one of the critical aspects of this issue is the reference to this activity being carried out at the point of registration. There should be a requirement for this information to be updated as and when any of the criteria change, potentially reinforced by the need for a mandatory cyclical check on the details in order for tax practitioners to continue to be able to interact with HMRC and to access HMRC services.

Question 7: Are there specific criteria or checks HMRC should apply if:

- **an individual, who has previously registered a company with HMRC as a tax practitioner, and attempts to register a new company?**
- **a tax practitioner operating as a sole trader becomes incorporated?**

1.12 Carrying out additional checks under these circumstances would be welcome. Cross-referencing details with the relevant professional body and Companies House to establish the existence of risk criteria relating to corporate status may be an appropriate measure.

Question 8: Which approach do you think would best meet the objectives set out in chapter 4?

Please give reasons for your answer.

- 1.13 AAT considers that the most efficient and effective solution to meet the objectives set out in chapter 4 is approach 1 – mandatory membership of a recognised professional body. The reasons behind that consideration are detailed below as aligned to each of the three objectives identified in chapter 4.
- 1.14 It should be proportionate to the harms observed and the benefits expected - as stated in the consultation document under Section 7, the government considers mandatory membership of a professional body to be the most proportionate to the problems observed and the opportunities afforded – and we agree. This solution is reliant on the development of an existing model, as such two-thirds of the existing market of tax practitioners are already members of recognised professional bodies and will therefore not be unduly burdened by this solution. Similarly, the significant number

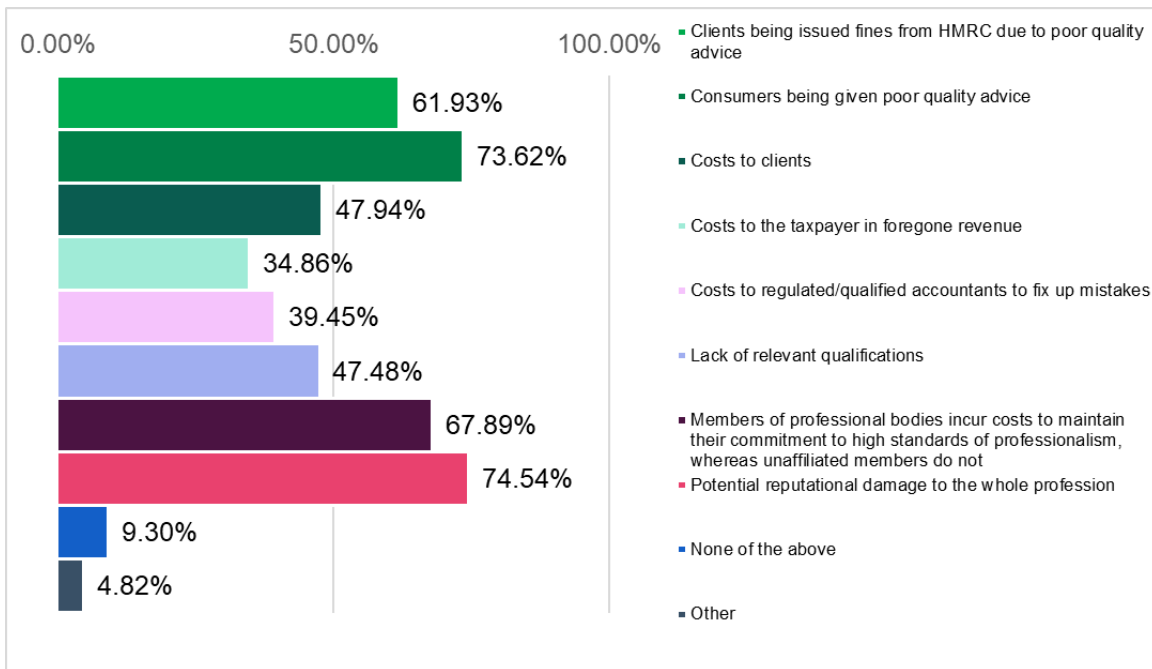
of taxpayer clients served by members of recognised professional membership bodies will not be significantly impacted by this model.

- 1.15 It should provide additional ways to monitor and enforce minimum standards – AAT, like the other PCRT membership bodies, already subjects its members to minimum standards, monitoring and enforcement action. By mandating that all tax practitioners who interact with HMRC in a professional capacity are required to hold membership of a recognised professional body, the additional monitoring and enforcement of standards will be achieved by virtue of the cohort of unaffiliated tax practitioners being brought under the same supervision. Moreover, as also referenced in the consultation, this model is additionally contingent on professional bodies strengthening the regulatory framework to raise standards of existing members who do not meet expected standards. AAT is committed to ensuring delivery to this additional monitoring and enforcement expectation.
- 1.16 It should remove substandard and unscrupulous taxpayers from the market by either improving their capability or ensuring they exit the market – on the back of disciplinary investigations across 2023, AAT applied sanctions to 82 members, including expulsions, fines, suspension of membership, reprimands and licensing restrictions. AAT published the details pertaining to these activities in its membership magazine, *Accounting Technician*, as well as on the AAT website². As a Professional Body Supervisor for Anti-Money Laundering purposes, AAT has also gained experience in applying statutory requirements to its supervision, investigation and enforcement processes. Aside from the application of sanctions where a concern is raised or through our practice assurance reviews, CPD monitoring or the ongoing suitability assessment processes we have in place, there are numerous opportunities for early interventions and the provision of guidance and support to ensure members address any areas where they are falling short of the expectations of them to demonstrate their ongoing competence and commitment to high standards of professionalism.
- 1.17 It should provide confidence in the quality of tax advice and services that clients receive and ensure that support is available to clients when they want to resolve issues – notwithstanding the fact that there are currently low levels of awareness amongst taxpayers that anyone can provide tax practitioner services without necessarily having a relevant professional qualification, if all tax practitioners were required to maintain membership of a recognised professional body, it would provide assurances around consistency and quality of the services they can expect to receive. Furthermore, as is already the case, when clients encounter a level of service that is unacceptable, there are certain consumer protections in place, such as the requirement for all professional body members to hold suitable levels of professional indemnity insurance.

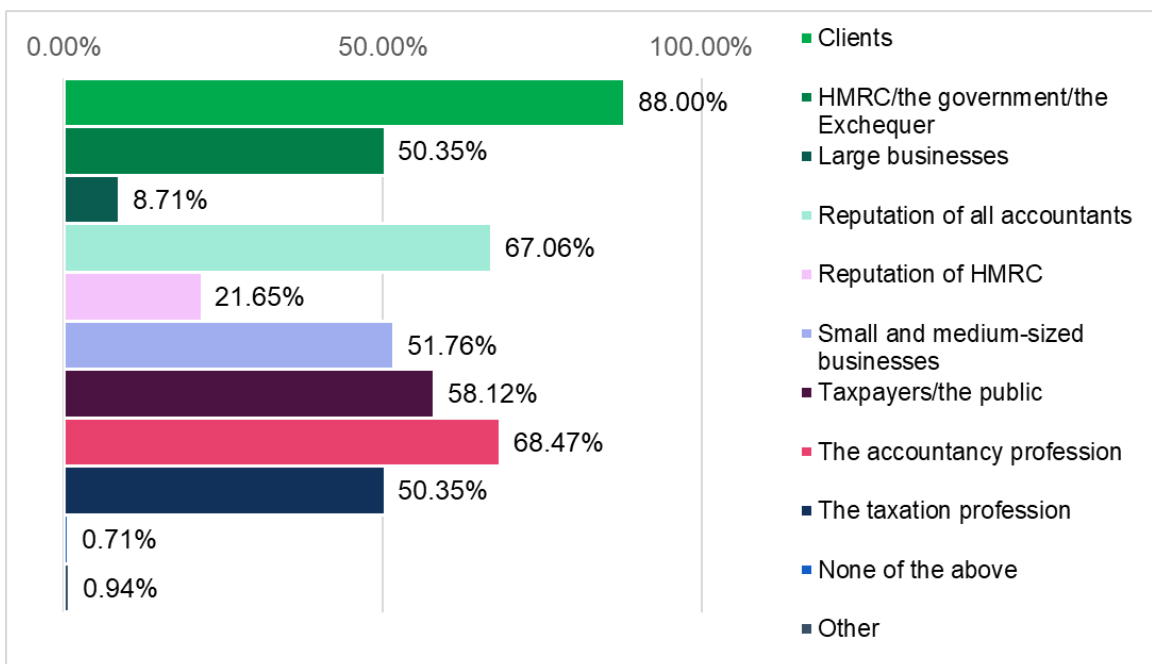
² [Disciplinary outcomes and licensing and AML decisions | AAT](#)

1.18 AAT recently conducted research amongst members to identify their concerns around the impact of unaffiliated tax advisers, the results were as follows:

Which of the following concerns you about unregulated/ unaffiliated tax advisers?



Who do you think is being harmed by the current tax advice market?



Question 9: What are your views of the merits and problems of the 3 potential approaches described in this chapter?

- 1.19 Further to the commentary detailed in 1.13 - 1.17 above, the merits of approach 1 – mandatory membership of a recognised professional body are as follows:
- It is reliant on the development of an existing model
 - It is the most feasible of the three approaches in terms of deliverability
 - It has the least impact on public investment
 - It minimises costs to existing practitioners who currently meet the expected standards of professionalism and competence
 - There is a large number of professional bodies in the market, meaning that there is likely to be choices extended to the unaffiliated tax practitioners whilst ensuring a consistent standard
- 1.20 The problems that might be encountered in relation to approach 1 are as follows:
- It would require a period of transition to ‘onboard’ those tax practitioners who are currently unaffiliated
 - It is reliant on the professional bodies being willing and having the capacity to develop mechanisms to strengthen their respective regulatory frameworks to raise the standards of current members who do not meet expected standards and extend membership to new members
 - There is a risk of inconsistency in the requirements and levels of oversight between professional bodies
- 1.21 With regards to approach 2 – joint HMRC – industry enforcement, the merits are as follows:
- There is a partial reliance on an existing model
 - There would still be market flexibility in terms of the choices available to the unaffiliated tax practitioners
- 1.22 The problems resultant from the implementation of approach 2 are more extensive:
- It would require the development of a new supervisory framework for those tax practitioners supervised by HMRC
 - It is unrealistic to expect HMRC’s resources to be readily able to cope with this increased supervisory and enforcement burden
 - HMRC is not already structured to deliver on a regulatory supervision framework in the way that the professional bodies are
 - The timeframe for implementation is likely to be longer than with approach 1, and as such result in the continuation of the issues surfaced by the current partial regulatory framework for a longer period
 - The development of this approach would require greater public investment than approach 1
 - There is a risk of inconsistency in the requirements and levels of oversight and enforcement between HMRC and the professional bodies which could cause supervisor shopping and, as identified in the consultation document, a race to the bottom
 - Professional body members already perceive there to be an uneven playing field, it is unlikely that this approach would address those long-held views
- 1.23 With regards to approach 3 – Regulation by a government body, the merits are as follows:
- It would provide consistency across the tax advisory market

- It would eventually be effective in delivering to the governments objectives

1.24 The problems with approach 3 are as follows:

- It would require the development of a completely new, tailored model
- There would be a significant lead time required in the development of a new regulatory body and complex transitional arrangements
- There would be significant public investment required in the set up and running costs of a new regulatory body. It is likely to be the most expensive of the three approaches
- As referenced in the consultation document, *'Adding a new regulatory to an already complicated regulatory landscape for tax practice and accountancy may cause confusion'*

Question 10: Are there any other approaches to raising standards the government should consider?

1.25 AAT considers that there are no further approaches to raising standards that the government should consider.

Question 11: Do you think membership with a professional body raises and maintains standards of tax practitioners?

Please give reasons for your answer.

1.26 Yes, AAT is strongly of the view that membership with a professional body raises standards of tax practitioners.

1.27 To some extent the case for this is made above, however in summary the rationale behind the view that AAT has, which has been regularly reinforced through our *Accountable* campaign, identifies that only mandatory professional body membership and supervision can provide consumers with assurance that anyone providing paid-for tax advice and service is:

- appropriately qualified
- regulated by an established professional body which offers support for accountancy and tax agent clients
- required to meet and maintain professional and ethical standards
- required to keep their knowledge and competence on changes in tax legislation and practice up-to-date
- required to hold appropriate levels of professional indemnity insurance cover as protection should anything go wrong

1.28 In addition to these details above, the further benefits delivered by mandatory professional body membership are:

- it represents robust regulation
- there are serious consequences for malpractice (fines and expulsion)
- it improves trust in the profession
- it will aid in closing the tax gap
- it relieves HMRC's compliance burden and associated costs
- it reduces harm to small businesses

Question 12: What is your view of the capacity and capability of professional bodies to undertake greater supervision of tax practitioners?

- 1.29 AAT, like the other PCRT bodies, already has a regulatory framework and resources in place to drive up standards of professionalism and a commitment to maintaining skills and competence as accountants and tax practitioners. It is feasible for AAT to scale up arrangements to take on additional numbers of supervised members and AAT is currently increasing investment into its standards and regulation function to allow this flexibility for the future.
- 1.30 In addition to scaling up, AAT's professional standards and regulatory oversight is overseen by an independent Board as part of AAT's governance infrastructure. The Professional Regulation and Standards Compliance (PRSC) Board's purpose is to *Secure and maintain and develop AAT's high standards in relation to membership eligibility, professional conduct, ethics and disciplinary procedures*. Over the course of 2023 the PRSC Board oversaw a substantial programme of revisions to AAT's Disciplinary and Licensing frameworks. This holistic review resulted in revisions to AAT's disciplinary regulations, licensing regulations and a number of AAT's supporting policies. This independent oversight and supervision is indicative of the rigour to which AAT's supervisory and enforcement activities are held, and is further evidence of the ongoing commitment to ensure that the frameworks are fit for purpose. The PRSC Board is fully aware of the government's plans to raise standards in the tax advice market and will be responsible for any subsequent developments in relation to AAT's role as part of the government's plans.
- 1.31 AAT is also fully committed to working with government on implementing this across the unaffiliated population.

Question 13: What more could the professional bodies do to uphold and raise standards for their members?

- 1.32 AAT conducts practice assurance reviews for approximately 10% of its licensed membership on an annual basis. The selection for these reviews is resultant from AAT's risk-based evaluation of its licensed population, ensuring that those licensed member firms identified as higher risk (whether as a result of factors such as services offered, client profile and detail gathered in the mandatory annual anti-money laundering members' survey, or as a result of insight and intelligence shared by clients, other members, other professional bodies and various regulatory third party and law enforcement organisations) are prioritised for reviews as well as selecting members through less targeted sampling.
- 1.33 The output from the abovementioned activity provides evidence of areas where AAT members require further support and guidance as well as highlighting the areas where risks of non-compliance are greatest. This is a continually evolving framework in response to those emerging trends. Nevertheless, if tax practitioners were all required to maintain membership of a professional body, AAT and the other recognised professional bodies would need to reflect on what additional measures would be required. This may include undertaking a greater number of practice assurance reviews, with greater frequency.
- 1.34 Another critical aspect of professional bodies delivering effectively to this will be increased levels of co-operation and collaboration. AAT, like the other professional bodies, utilises information sharing resources such as the FCA's Shared Intelligence Service for anti-money laundering purposes and participates in various forums in relation to the role fulfilled as a professional body supervisor. The application of similar approaches explicitly in relation to raising standards in the tax advisory market would be an appropriate development.
- 1.35 Although addressed elsewhere in the consultation, there would also be a requirement on professional bodies to explore, either independently or collectively, models for redress/compensation to support clients of professional body members where they have been provided with unsatisfactory or inaccurate service. We consider there are likely to be pros and cons with running alternative dispute resolution services both independently and sector-wide, and would be happy to explore these with government further.

Question 14: What additional costs may professional bodies face if strengthening their supervisory processes?

- 1.36 Dependent upon specific developments implemented as part of the commitment to raising standards for existing members and taking on new members, such as scaling up resources to cater for additional demand as well as undertaking a greater number or regularity of practice assurance reviews, there will be an increase in costs.
- 1.37 Whilst the majority of infrastructure (registration, supervision, investigation and enforcement) is already in place, there will likely be upfront costs to incorporate specific elements the new framework and regulatory policy. There will then be the ongoing costs in operationalising those changes.
- 1.38 It is difficult to identify specific costs at this early stage without further information on what the requirements for 'strengthening the supervisory process' might be. However, reflecting on the increased cost to AAT as a result of fulfilling the role of a professional body supervisor for anti-money laundering purposes, there is an established understanding around the costs involved in administering additional oversight. Whilst there will be some economies of scale, the cost of increasing practice assurance reviews and the follow up activities involved in ensuring members address shortcomings in their compliance, or in relation to the commencement of investigations and disciplinary processes as a result of non-compliance, will represent the biggest areas of increased costs to professional bodies based on AAT's experience.

Question 15: What is the best way to ensure current and new professional bodies maintain high standards?

- 1.39 Despite the initial challenges encountered when the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) was set up, the model of independent oversight in order to hold the professional bodies to account provides oversight and consistency. In response to the HM Treasury consultation on supervisory reform³, AAT indicated a preference for strengthening OPBAS's powers as the most effective way to ensure that the AML supervision was more effective. Adopting a similar model for ensuring professional bodies are held accountable for their roles in raising standards in the tax advice market is worthy of exploration, but it's also critical that duplication is avoided. AAT, and the other PCRT bodies are already regulated by several government agencies.
- 1.40 The professional bodies have indicated that one of the key dimensions of ensuring that the mandatory membership of professional bodies model will be the capacity for information sharing between HMRC and the professional bodies. If HMRC strengthens its agent registration processes as described, it ought to be better able to identify which bodies those members falling short of acceptable standards of service provision are members of. Sharing that detail with the professional bodies will be vital in ensuring that the bodies are able to intervene appropriately in order to either ensure standards are improved or those members are removed from the market.

Question 16: What role could the professional bodies play in supporting the clients of their members?

- 1.41 As detailed in the consultation document, when a tax practitioner who is a member of a recognised professional body falls below the high standards of professionalism expected, and their client suffers as a result, those clients can try to resolve this with the tax practitioner. Where this does not resolve the issue to the client's satisfaction, the client can raise a concern with the professional body for investigation.
- 1.42 As already mentioned, there is a clear need for professional bodies, individually and/or collectively, to explore setting up mechanisms such as alternative dispute resolution schemes, compensation schemes and an ombudsman. AAT is already investigating options in this regard.

³ [Reforming AML and counter-terrorism financing supervision | AAT](#)

Question 17: Should government consider strengthening customer support options beyond the current complaints processes offered by professional bodies?

Please give reasons for your answer.

1.43 Yes, the government should certainly consider what strengthening the current processes might look like. As mentioned above, there is scope for professional bodies to develop enhanced customer support mechanisms. AAT recognises that in doing so this will ensure the delivery of the government's objective around providing confidence in the quality of tax advice and services that clients receive from tax practitioners and ensure that support is available to clients when they want to resolve issues that arise due to the actions taken by their tax practitioner.

Question 18: What role should HMRC/the government play under approach 1: mandatory membership of a recognised professional body?

1.44 For the mandatory membership of a recognised professional body model to work there has to be confidence in the suitability of those professional bodies identified as being 'recognised' to deliver on the government's objectives.

1.45 The consultation references the following elements that any formal oversight would ensure:

- that professional bodies accepted as supervisors for this purpose set sufficiently robust requirements for their members, maintain standards and enforce requirements
- that professional bodies accepted as supervisors continue to maintain the required standards
- that new bodies with lesser standards cannot enter the market or act as shelter for substandard or unscrupulous tax practitioners

Each of the elements listed above require clarity as to what the required standards are. AAT contends that this would best be achieved through a joint endeavour between the professional bodies and the government.

1.46 As identified in AAT's response to the recent HM Treasury consultation on AML supervisory reform⁴, there is clear benefit in ensuring that where there is evidence that a recognised professional body supervisor has failed to uphold appropriate standards that the professional body in question should put in place a programme of activity to improve its performance.

1.47 As referenced at 1.40 above, to further ensure the effectiveness of approach 1, HMRC has to be able to provide information and insight about the performance of the recognised professional body members so that the bodies can take appropriate action to either improve performance or remove those members from the market where necessary. Historically the data sharing arrangements with HMRC have been limited and not particularly timeous. This would need to be strengthened.

Question 19: Do you agree that the requirement should only apply to those who interact with HMRC?

Please give reasons for your answer.

1.48 AAT does not consider this needs to be a binary choice. In the consultation document it states that the government considers the requirement should only apply to those who interact with HMRC in a professional capacity whilst reserving the right to take action to widen the scope to the whole market should problems persist. AAT would support a phased approach, focussing initially on those that interact with HRMC in a professional capacity initially, with plans to then widen the remit to the whole market at a later date.

1.49 It makes sense to focus initially on those who, as it is stated in the consultation, have the most impact on the administration of the tax system, however by not committing to widening the scope to

⁴ [Reforming AML and counter-terrorism financing supervision | AAT](#)

the whole market there will be risks that unscrupulous tax practitioners will exploit loopholes to avoid the mandatory professional body membership requirement. It will also potentially address the wider range of problems that the government has seen in the market.

Question 20: Do you agree that the requirement should only apply to controlling or principals of firms?

- 1.50 Maybe. This is a complex matter when taking the whole sector into account. AAT's Licensing Regulations apply to members actively engaged in offering and/or providing accountancy services to clients as a sole practitioner, in partnership or a body corporate/limited liability partnership comprised in whole or in part of members. The regulations also extend to individuals employed within an entity that fulfils the definition of a firm where there is no level of seniority over the member whereby members of the public would consider that member to be a principal.
- 1.51 Some of the other accountancy bodies will have even more complex structures around their licensing regulations and arrangements. Whilst from an AAT member perspective the requirement only applying to controlling or principals of firms, there may be instances where this would not apply as straightforwardly.
- 1.52 Another consideration as part of this element of the proposal is the potential need for clarity around the definition of a principal. There are various organisational structures to take into account, and similarly establishing clarity around the scope of applicability being restricted to tax practitioner activity.
- 1.53 We consider that this is part of a broader question to resolve regarding systems regulation (requirements of the systems and controls within a firm) and professional regulation (requirements on individuals), and whether or not both a firm and individual require registration. This is something we are currently reviewing, and would be happy to discuss this further with you.

Question 21: Are there any other regulated professions that should be excluded from this requirement?

- 1.54 This issue has been the subject of extensive discussions amongst the PCRT bodies, and the consensus is that members of other regulated professions, such as solicitors, barristers, auditors and financial advisers, if they are providing tax services, should not be excluded from this requirement.

Question 22: How can the government ensure members of regulated professions have high standards in relation to their work providing tax advice or services?

- 1.55 Further to the answer to Question 21 above, the government can ensure that members of regulated professions have high standards by not excluding them from the requirement to be members of recognised professional bodies, and as such ensuring that there is a level playing field across all those tax practitioners and providers of tax advisory services.

Question 23: What are your views of the proposed exclusions?

- 1.56 AAT's view is that there should be no exclusions. However, in recognition of the complexity of extending the scope to include the whole market, as referenced above, there would be merit in rolling this solution out through a phased approach, focussing on those that have the most impact on the administration of the tax system initially before introducing other groups involved in the market.

Question 24: Do you think the following tax practitioners should be in scope of the requirement to become a member of a professional body member? Select all practitioner types you think should be in scope.

- **charities interacting with HMRC on behalf of taxpayers**
- **tax practitioners providing Pro-bono services**
- **promoters and enablers of tax avoidance**

- **overseas/offshore practitioners advising on UK taxation**
- **other (please specify)**

Please give reasons for your answer.

- 1.57 As detailed above, AAT recommends that all tax practitioners should be included within the scope of this proposed approach. As already outlined, AAT considers it would be appropriate to focus initially on those who have the most impact on the administration of the tax system. By including all of the tax practitioner groups referenced in Question 24 the government would help to minimise the risks that unscrupulous tax practitioners will exploit loopholes to avoid the mandatory professional body membership requirement as well as addressing the wider range of problems that the government has seen in the market.
- 1.58 Whilst AAT has previously indicated that the distinction for inclusion should be in relation to those providing paid for tax advisory services, the content within the consultation document identifies appropriate considerations around the provision of pro-bono services that AAT recognises as valid in terms of requiring their inclusion within the scope of the proposal.

Question 25: What could be the consequences of introducing a legal definition of a provider of tax advice and services?

- 1.59 AAT recognises that drafting a legislative definition of a tax practitioner would be beneficial in supporting the implementation of the mandatory professional membership model.
- 1.60 It would provide clarity around the eventual scope of the proposed model. Moreover, the inclusion of the reference to the advice or assistance being given by way of business would appropriately ensure that friends or family are not inadvertently captured by the proposal.

Question 26: What gaps or issues can you see arising because of this definition?

- 1.61 As currently detailed in the consultation document AAT has not identified any gaps or issues, however once the legislative definition has been drafted will review at that stage to consider if there are any gaps or issues at that stage.

Question 27: How could unaffiliated tax practitioners be transitioned into professional body membership?

- 1.62 As identified, there is a need for HMRC and the recognised professional bodies to work together to provide appropriate levels of support in encouraging the unaffiliated tax practitioners to take the necessary steps to become professional body members.
- 1.63 AAT qualifications, and ultimately membership, is attainable regardless of an individual's previous academic achievement background. There are no minimum qualification requirements to start AAT qualifications, and no reason that unaffiliated tax practitioners could not effectively transition to a AATs membership over time.
- 1.64 As part of securing a transition there is potential scope for the recognised professional bodies to consider and explore the development of transitional arrangements that could extend the protections provided by professional body membership whilst requiring adherence to professional standards requirements and regulation. Whilst this would not grant full professional body membership, it would provide additional assurance around compliance with appropriate standards of professionalism whilst the unaffiliated tax practitioners work towards gaining the appropriate qualifications and other membership entry requirements.

Question 28: Should a legacy scheme be adopted?

Please give reasons for your answer.

- 1.65 Maybe, however it's important to recognise that this doesn't solve the problem identified of suitably qualified individuals. It would clearly be impractical to immediately require all unaffiliated tax practitioners to either take up membership or cease to practice. Putting an agreed timeframe in place to allow for qualifications and other provisions to be gained/complied with, would therefore

seem reasonable. However, if the recognised professional bodies were, wither collectively or individually, to develop transition pathway products as described at 1.61 above additionally having a legacy scheme would remove any incentive for the unaffiliated tax practitioners to subscribe to such products.

Question 29: Do you agree a transition period of 3 years would give sufficient time for the market to adapt to the introduction of mandatory professional body members?

Please give reasons for your answer.

1.66 Notwithstanding the point made at 1.64 above, a three-year transition period appears to be reasonable.

Question 30: What future developments would need to be accounted for in implementing mandatory professional body membership?

- 1.67 Implications of the proposed changes in the AML supervisory reform will extend to HMRC in its current role as a default supervisor. This may have additional ramifications on any transition to the mandatory professional body membership model.
- 1.68 Other developments to account for will be the need to conduct a review of those professional bodies identified as having the suitable regulatory frameworks in place to qualify as 'recognised' for the purposes of this model. This will extend to the need for regular reviews of the ongoing suitability of those professional bodies as well as processing representations from other bodies wishing to be included with in the 'recognised' cohort.
- 1.69 Consideration will also need to be given as to how redress mechanisms might work either independently or collectively to ensure consumers know where they can seek redress.

Further Information

For further information on any of the points raised in this response, please contact adam.harper@aat.org.uk