

The Institute of Chartered Accountants in Australia
Annual Report on Professional Conduct

For the year ended 30 June 2007



The Institute of Chartered Accountants in Australia

The Institute of Chartered Accountants in Australia (the Institute) is the professional body representing Chartered Accountants in Australia. Our reach extends to more than 56,000 of today's and tomorrow's business leaders, representing some 46,000 Chartered Accountants and 10,000 of Australia's best accounting graduates who are currently enrolled in our world class Chartered Accountants postgraduate program.

Our members work in diverse roles across commerce and industry, academia, government, and public practice throughout Australia and in 114 countries around the world.

We aim to lead the profession by delivering visionary leadership projects, setting the benchmark for the highest ethical, professional and educational standards, and enhancing and promoting the Chartered Accountant brand.

We also represent the interests of members to government, industry, academia and the general public by actively engaging our membership and local and international bodies on public policy, government legislation and regulatory issues.

The Institute can leverage advantages for its members as a founding member of the Global Accounting Alliance (GAA), an international accounting coalition formed by the world's premier accounting bodies. With a membership of approximately 700,000, the GAA promotes quality professional services, shares information, and collaborates on international accounting issues.

Established in 1928, the Institute is constituted by Royal Charter. For further information about the Institute, visit charteredaccountants.com.au

Disclaimer:

In exercising its Professional Conduct functions, investigating particular members of the Institute and taking (or not taking) disciplinary action against members, the Institute is NOT certifying or representing that the work done or the opinions given by the member (or by any other members) is correct or of a high or any particular standard. The Institute expressly disclaims all liability for any loss or damage arising from any reliance upon the fact that the Institute has or exercises Professional Conduct functions (either directly or via the Professional Conduct tribunal or appeal tribunal), or exercises them in a particular way, or has investigated particular members and taken (or not taken) disciplinary action against members, or upon any annual reports, overviews, reports on particular members or practices, or other materials produced by the Institute regarding or in connection with its Professional Conduct functions.

All information is current as at September 2007

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A message from the President

The expertise and professionalism of Australian Chartered Accountants is recognised around the globe. We at the Institute have an obligation to ensure that members maintain the highest standards of performance and conduct.

To discharge this responsibility we educate prospective members through our Chartered Accountants Program, require them to undertake continuing education throughout their career and monitor the work of members in public practice through the Quality Review Program. Alongside this, the Professional Conduct function rigorously enforces ethical, technical and professional standards through investigation of complaints and other issues and where appropriate, the imposition of disciplinary sanctions.

Our Professional Conduct processes are transparent and independent, with both senior members and non-members serving on the Professional Conduct and Appeal Tribunals. This report outlines the top-line results of our Professional Conduct investigations during the financial year ending 30 June 2007 and outlines the steps we have taken during the year to ensure the process continues to meet the expectations of regulators and the community.

Please contact the Institute if you would like to know more.

A handwritten signature in black ink, appearing to read 'R. DiMonte', written in a cursive style.

Robert DiMonte FCA
President
The Institute of Chartered Accountants in Australia

Professional Conduct: background and context

Have a Professional Conduct function?

The Institute is committed to enhancing and promoting the reputation and role of Chartered Accountants in Australia. To do so, it sets the highest ethical, technical and professional standards of conduct and performance for current and future members.

The Professional Conduct section is the Institute's disciplinary arm which enforces those standards. It protects the integrity of the Chartered Accountant designation by investigating complaints and other issues relating to members' conduct and, where appropriate, imposing sanctions against those who breach the standards.

The Institute is not a regulator or a court. Its role is to set and maintain high standards among members and ensure that holders of the Chartered Accountant designation conduct themselves properly at all times and do not bring the Institute and thereby its other members into disrepute.

It is necessary for the Institute to call its members to account when issues of concern arise, in order to protect its own reputation and those of its members.

Regulatory framework

There is no single body responsible for regulating the accounting profession in Australia. Those bodies which are involved in the regulation of the various arms of the profession and other activities in which accountants may be engaged appear in the table below.

Regulatory body	Who they regulate
Australian Securities and Investment Commission (ASIC)	Financial planners Company directors Auditors and liquidators – through the Companies Auditors and Liquidators Disciplinary Board (CALDB)
Tax Agents Boards	Tax practitioners
Australian Prudential Regulation Authority (APRA)	Auditors/trustees of superannuation funds Directors and senior managers of Insurance companies
Insolvency Trustee Service Australia (ITSA)	Trustees in bankruptcy

It is important to note that the primary purpose of the Institute's disciplinary process is to protect the reputation of the Institute and the Chartered Accountant designation, rather than to punish individual members. The Institute does not have legal power to order the payment of compensation or any other remedy seeking redress on behalf of the community, nor to punish offenders other than through membership-related sanctions.

Financial and criminal sanctions are the preserve of the regulators and the courts, which have wider powers – such as subpoenaing witnesses and compelling production of written evidence.

However, the Institute investigates members who are the subject of adverse decisions by regulators and the courts, irrespective of whether anyone has lodged a complaint with the Institute. It refers relevant cases to the Professional Conduct Tribunal (PCT) for determination. In accordance with legal advice received by the Institute, its own disciplinary process must wait until the regulatory and court process has been finalised.

The tribunal process

The Institute's disciplinary processes are fair, rigorous and independent. Serious breaches of by-laws and regulations are subject to independent hearings by the Professional Conduct Tribunal (PCT). If the member against whom a finding has been made or the Institute President is dissatisfied with the decision, he/she can appeal to a separate Appeal Tribunal.

Tribunal hearing outcomes are published in the printed and online versions of the Institute's Charter magazine. This helps educate other members as well as demonstrating that the disciplinary process is transparent. In significant cases, the Tribunals may also publish reasons for their decisions.

Both Tribunals must meet strict professional guidelines when hearing cases, including a code of conduct. Under the Institute's by-laws, tribunal members, who are appointed by the Board, comprise both senior members of the Institute and non-members to represent the public interest. Institute members appointed to serve on the Tribunals represent all aspects of the profession, including large, medium and small firms, and members in commerce and academia. When a panel is selected to hear an individual case involving technical issues, care is taken to ensure that at least one panel member has expertise in that particular area of practice or specialisation. Lay representatives were introduced more than 10 years ago, and come from a wide variety of business and professional backgrounds, including lawyers, company directors, stockbrokers and academics.

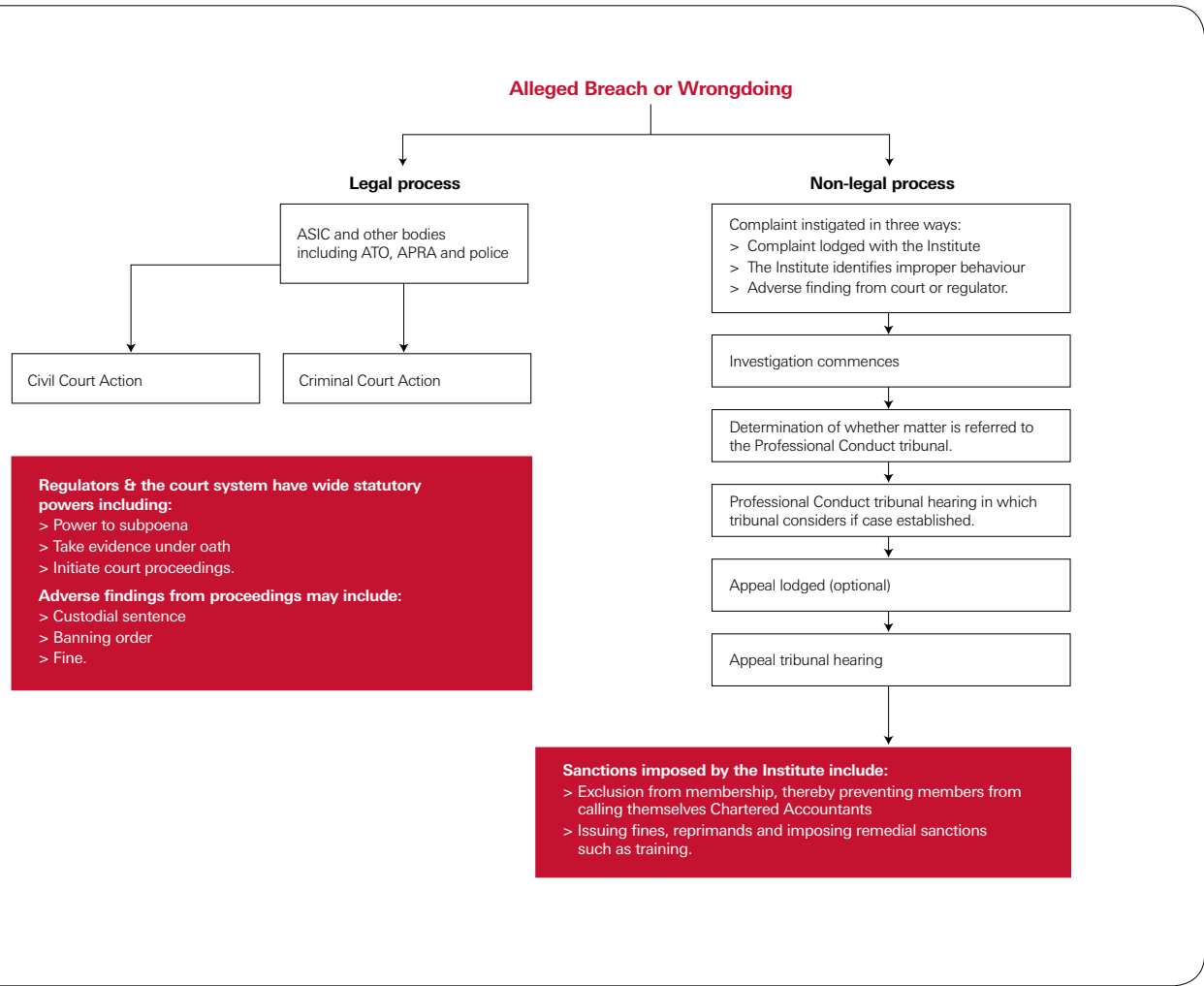
Recent events

Recent high-profile corporate collapses – such as Enron in the United States and HIH Insurance in Australia – focused attention on corporate regulation and governance, resulting in increased regulation which has impacted the accounting profession particularly in areas such as audit quality and independence.

Auditing standards now have the force of law and new oversight bodies have been established, including the Financial Reporting Council (FRC) and the Audit Quality Review Board (AQRB). The professional bodies have also established the Accounting Professional and Ethical Standards Board (APESB), which now has responsibility for setting and reviewing all ethical and other professional standards – apart from technical standards – which members are required to observe.

How does the Professional Conduct function work?

The following diagram shows both the Institute's process and where it fits within the overall legal and regulatory framework.



Types of sanctions

Sanctions are designed to reflect the impact of the member's actions on the reputation of the Institute and its members rather than to punish the individual member. The Professional Conduct Tribunal can impose one or more of a range of sanctions, including:

- > The ultimate sanction is exclusion from membership of the Institute (removing the right to be a Chartered Accountant). This is appropriate if the member has demonstrated that he/she is no longer fit and proper to be a Chartered Accountant, and that his/her continued membership would bring discredit on all other members and the Institute
- > Cancellation of membership for a period of up to five years
- > Withdrawal of the member's right to engage in public practice
- > Imposition of fines of up to \$100,000
- > Reprimands and severe reprimands
- > Imposition of other sanctions such as remedial training or an additional quality review of the member's practice.

Institute's role

Under the Australian professional and regulatory framework any individual can provide accountancy services. A licence is required from a regulatory body to provide certain specific services such as company audits or acting as a tax agent, but a professional membership is not mandatory.

If a member is excluded from membership of the Institute, that individual can no longer use the Chartered Accountant designation but can continue to provide accountancy services. Only action by ASIC or the Tax Agents Board which cancels their registration will prevent members from practising as company auditors, liquidators, or tax agents.

Given the limited powers of the Institute, its policy – based on legal advice – is to await the completion of an investigation by the statutory body and any subsequent disciplinary or legal action before taking disciplinary action itself.

Results of the Professional Conduct function

2006 – 2007 Results

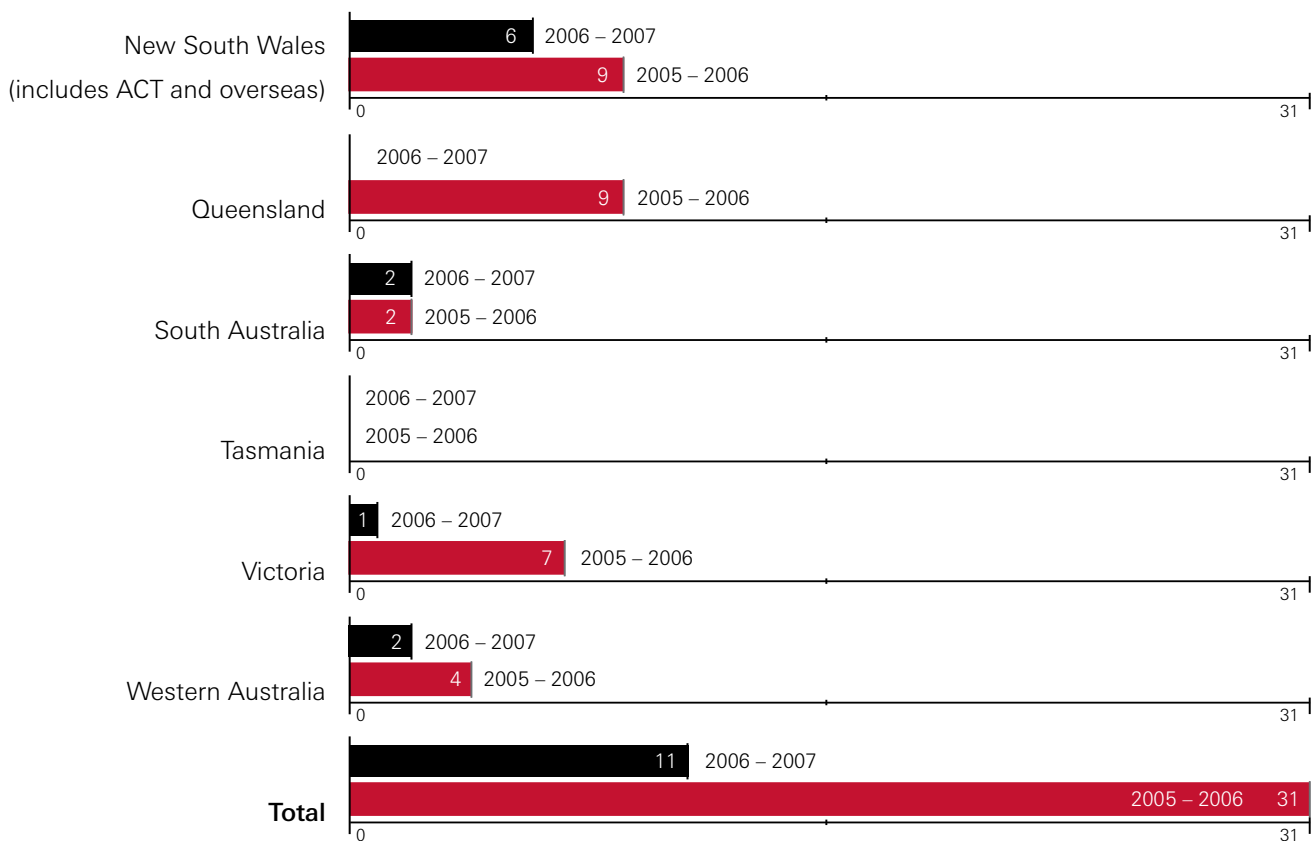
During the year the Professional Conduct team initiated investigations into 317 formal complaints or other issues concerning the conduct of members which came to the Institute's attention, for example as the result of action by regulators or the courts. As a result of these investigations, 11 members were called to appear before the Professional Conduct Tribunal. An additional nine cases were scheduled for hearing in July and early August 2007.

These figures represent a tiny fraction of the many thousands of individual tasks conducted by over 46,000 Chartered Accountants every year. This demonstrates that complaints are rare, but when they do occur they are taken very seriously by the Institute.

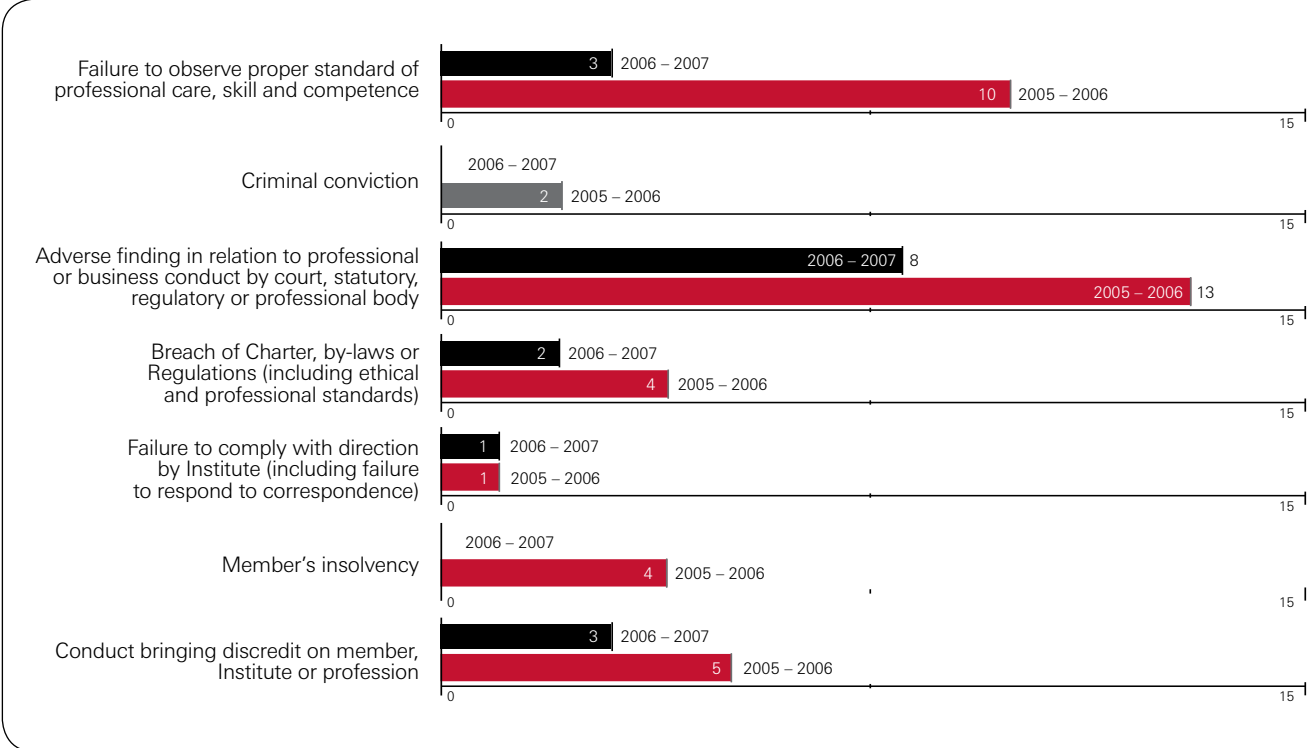
Where the Tribunal finds a case established against a member, a report is published in the Institute's monthly magazine Charter and on the Institute's website. This report includes the member's name, irrespective of whether any sanctions have been imposed.

In addition to ensuring the transparency of the Professional Conduct function, these reports serve as a warning to other members about the need to follow both the letter and the spirit of the Institute's standards.

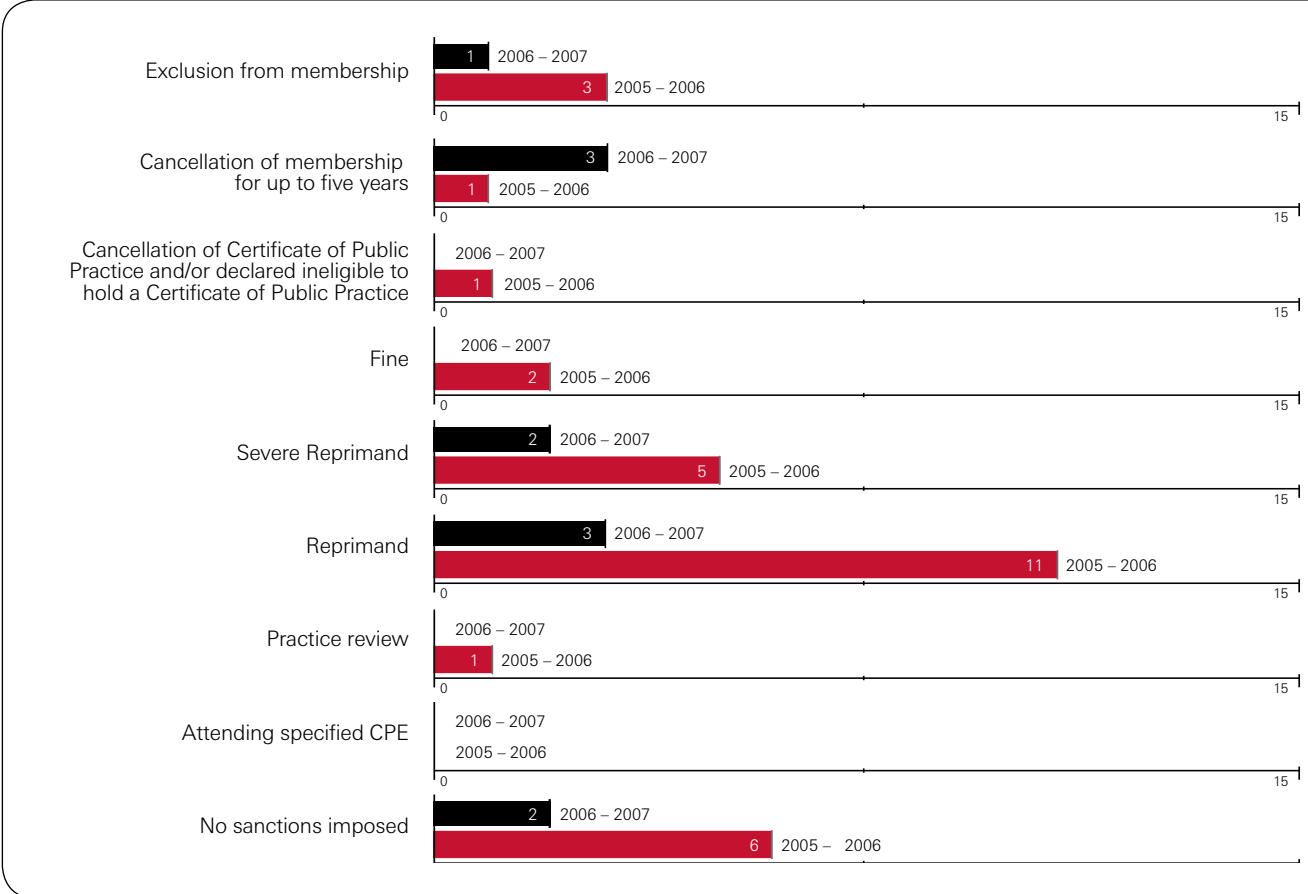
Case heard



Nature of allegations



Sanctions imposed



Appeal Tribunal

During the year, the Appeal Tribunal heard four appeals against decisions made by the Professional Conduct Tribunal during 2006 – 2007. In two cases, the Appeal Tribunal set aside the determination of the Professional Conduct Tribunal that one of the allegations against the member had been established. In one case the Appeal Tribunal affirmed all of the sanctions imposed by the Professional Conduct Tribunal. In the other cases the Appeal Tribunal ordered some variations to the sanctions that were imposed by the Professional Conduct Tribunal.

Financial

In the financial year ending 30 June 2007, the Institute's revenue from Professional Conduct activities was \$13,400 comprising fines and disciplinary recoveries imposed by the Tribunals. Total expenses incurred including carrying out investigations of matters not referred to the Tribunals totalled \$397,632. This included all personnel, professional and general office expenses.

Other activities and achievements during 2006 – 2007

The role of the Institute's Professional Conduct section is to protect the integrity of the Chartered Accountant designation. The process is under constant review to ensure it satisfies the requirements of procedural fairness, and meets community expectations and those of Institute members, in addition to meeting or exceeding global best practice.

Over recent years a number of enhancements have been made to the process to ensure it continues to meet these expectations and to assist members to understand and meet their obligations.

During the last year

- > The Institute benchmarked its professional conduct activities internationally with those of other major accountancy bodies, with particular reference to the United Kingdom. Taking into account differences in the regulatory and professional frameworks we found that our processes met or exceeded global best practice
- > The Institute monitored legislative developments in the United Kingdom regarding oversight of the auditing profession
- > The Institute adopted the Code of Ethics issued by the Accounting Professional and Ethical Standards Board (APESB) with appropriate amendments to recognise the Australian environment. This replaced the Code of Professional Conduct and is binding on the members. The Institute's Professional Conduct section will actively seek to ensure that members respect both the letter and spirit of the Code
- > A dispute resolution toolkit, developed with funds from the Professional Standards Council with the aim of assisting members to minimise and resolve disputes with clients has been available on the Institute website since October 2006

- > Additional educational information has been made available to members through eBulletin articles, the Institute website and the widely read Charter magazine which now boasts a readership of more than 46,000.

Fit for the Future

- > The Institute continued to monitor the complaints procedure, register and track all complaints and identify key learnings to assist members avoid situations where they may find themselves subject to a complaint or an enquiry by the Institute
- > Several additional members - including non-accountants - from a variety of professional backgrounds were appointed to the Professional Conduct Tribunal (PCT). Their appointment reflects the changing nature of the accounting profession and the need to draw on a diverse range of talent
- > Two PCT members were promoted to the Appeals Tribunal. Their breadth of knowledge and experience of the process will make a valuable contribution to hearings conducted by the Tribunal
- > The Institute met with the Chairs of the Tribunals who reported a significant improvement in the quality of presentations made by Institute representatives and noted an increase in the Institute's engagement in debate, leading to better outcomes in Tribunal decisions.

Leadership

- > The Financial Reporting Council (FRC) completed its review of the accounting bodies' professional conduct processes, especially as they related to the audit function, concluding that the processes were effective and appropriate to meet the bodies' role and responsibilities in this area
- > The Institute adhered to the principles of natural justice, the Institute by-laws and the law itself
- > The Institute continued dialogue with both its members and ASIC, raising concerns about the processes that lead to referrals to the CALDB and those regarding entry into enforceable undertakings. These matters will be pursued further in 2007 / 2008

Moving into 2007 – 2008

During the 2007 – 2008 year, the Institute will continue to monitor the effectiveness and transparency of its disciplinary procedures. It has also committed to a range of other activities designed to further enhance the Professional Conduct function including:

- > Sharing relevant information on disciplinary processes, issues and trends with its counterparts in the Global Accounting Alliance (GAA)
- > Ensuring that it meets its obligations under the *IFAC Statement of Membership SMO 6: Investigation and Discipline*
- > Working with a variety of regulators and stakeholders to ensure that the overall regulatory and professional framework continues to meet the needs of business and the broader community.

Glossary of abbreviations

Abbreviations or acronyms	Name
AQRB	Audit Quality Review Board
ASIC	Australian Securities and Investment Commission
ATO	Australian Tax Office
APRA	Australian Prudential Regulation Authority
APESB	Accounting Professional and Ethical Standards Board
FRC	Financial Reporting Council
GAA	Global Accounting Alliance
IFAC	International Federation of Accountants
ITSA	Insolvency and Trustee Service Australia
SMO	Statement of membership obligations

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