

Addendum to Agenda Item 7 – Proposed Revisions to APES 330 *Insolvency Services*

As noted in Agenda Paper 7, Technical Staff provided ASIC details of proposed changes to the standard and intended to give a verbal update at the Board meeting.

However, APESB Technical Staff met with ASIC Staff on 19 November 2021 to discuss the proposed changes, and in particular, the first dot point of the final paragraph of Appendix 3 of APES 330 to include '*unless the relevant regulator has failed to uncover a break of duties in respect of the complaint*'. ASIC believe the proposed wording could be misinterpreted that fees could be claimed before a regulator had determined whether a complaint had merit or was unfounded.

Technical Staff and ASIC Staff agreed on the proposed wording set out below, which does not substantively change the context of the amendment. However, it does remove any ambiguity.

As such, Technical Staff propose to now amend the final paragraph of Appendix 3 of APES 330 as marked-up below:

Costs of communicating with Regulators or professional bodies

A **Member in Public Practice** may not claim **Professional Fees** and **Expenses** for time spent communicating with regulators or professional bodies in relation to:

- complaints about the **Member** or the conduct of a particular **Administration** unless the regulator has determined the complaint is unfounded or without merit;
- regulator surveillance, professional audits, ~~or~~ inspection of files, disciplinary actions, or on peer reviews; or
- unsuccessfully defending a breach of the law or applicable professional and ethical standards, subject to any order of the court.

Staff recommendation

Technical Staff recommend the Board consider the outlined amendment to the original proposals in Agenda Item 7.

Author: Jon Reid

Date: 22 November 2021