

# Outsourcing of government made PwC scandal inevitable

By Richard Bardon

International professional services firm PricewaterhouseCoopers (PwC) is deservedly embroiled in a widening scandal, as details continue to emerge of how it used its inside knowledge of Australian tax laws its consulting staff helped develop in 2013-16 to arm its foreign corporate clients with the means to circumvent them the moment they came into effect. The greater scandal, though, is—or ought to be—that it was ever in a position to do so at all. The neoliberal dogma that has pervaded Australian mainstream politics over the past 40 years has seen so many essential functions of government stripped from the Commonwealth Public Service and outsourced to private consultants, that PwC and the rest of the “big four” global accounting firms—KPMG, Ernst & Young (EY) and Deloitte—have almost literally become a law unto themselves, and none more so than PwC.

On 23 January the Tax Practitioners Board (TPB), the national body responsible for registration and regulation of tax agents, [announced in a press release](#) that former PwC Australia partner Peter-John Collins had “been deregistered as a tax agent for integrity breaches” and banned from the industry for two years, as the result of an investigation which media reported had begun the previous October. “The investigation revealed Mr Collins, while a partner of PwC, was part of a confidential consultation by Treasury in a confidential consultation to improve tax laws. This included new rules to stop multinationals avoiding tax by shifting profits from Australia to tax and secrecy havens. Mr Collins made unauthorised disclosures of this confidential law reform information to partners and staff of PwC. ... In addition, the TPB investigation determined that PwC had failed to properly manage conflicts of interest, when this confidential law reform information was shared with partners and staff in their tax practice. PwC breached its obligations under the law and the Code of Professional Conduct.”

The legislation in question was the *Tax Law Amendment (Combating Multinational Tax Avoidance) Act 2015*, commonly known as the “Multinational Anti-Avoidance Law” (MAAL), which then-Treasurer Joe Hockey unveiled in his 2015 budget speech. Perhaps surprisingly given his credentials as a former

investment banker and unabashed corporate flunky who once declared that government’s principal role was to “smooth the way for private enterprise”, Hockey by all accounts was dead-ly serious about clamping down on the hitherto legal but ethically dubious tax avoidance<sup>1</sup> practices by which some multinationals, in particular US information-technology companies, had for years been blatantly avoiding paying any taxes on revenue from their Australia operations. His fatal mistake, however, was that rather than insist Treasury develop the legislation in-house as was customary in the pre-neoliberal era, Hockey instead relied largely upon the advice of a group of “industry experts”.

## Wolves in the sheepfold

Collins’ deregistration by the TPB sparked an inquiry by the Senate Standing Committees on Finance and Public Administration. What their investigation has revealed about PwC’s *modus operandi* handily illustrates the fatal flaw of the policy-by-consultant model: namely, that as with banking, high-rise residential construction, and any other effectively “self-regulated” sector, it is the height of stupidity to expect what is in essence an honour system to work on people who have no sense of honour to begin with.

Hockey commenced development of the MAAL almost immediately the Liberals won government in the September 2013 federal election. “The proposed new Australian tax rules were based on the Organisation for Economic Co-operation and Development’s [OECD] Base Erosion and Profit Shifting (BEPS) project, which was of intense interest to companies worldwide”, the 3 May *Australian Financial Review* reported, and PwC’s Collins signed the first of three confidentiality agreements to join the group advising Treasury on the laws that November. Hockey may as well have commissioned a pack of wolves to build him a sheepfold. “When Treasury provided PwC with a confidential copy of an OECD document, *OECD Discussion Draft—Mandatory disclosure of tax planning schemes—Sept. 2014*”, the *AFR* reported, “PwC’s re-

1. As distinct from the criminal offence of tax evasion, where tax laws are breached outright.

sponse was to form a ‘global team’ to assess the international opportunities with Australian, UK and US partners.” On 2 May the Senate released 144 pages of internal PwC emails, with all names but Collins’ redacted, which showed that he had continued to share confidential information widely through the firm for years, “[providing] a regular flow of information about the government’s secret proposals to introduce the MAAL in January 2016, the Diverted Profits Tax in 2017, and further measures on hybrid structures”.

Since news broke of Collins’ blacklisting, PwC Australia has repeatedly tried to downplay the severity of the incident, with its CEO Tom Seymour (who was its head of tax at the time) claiming first that Collins, who conveniently had by then left the firm, was the only person culpable. When the TPB testified to the Senate Committee that there had in fact been at least 30 people involved, Seymour dismissed this as merely a “perception problem”, stating that an internal investigation had returned “no findings that 30 [PwC] people got the [leaked] information”. After the Senate released the aforementioned 144 pages of emails, which proved that in fact 53 PwC partners had received correspondence about the leaked information, Seymour changed his story again to claim that whilst “six to eight” partners had been “directly involved”, they had all left the company in the meantime; another “30 to 40” had received emails, he said, but were not aware they were based on confidential information. When that didn’t wash either, he changed his story yet again, admitting on 7 May that “there were a number of partners who ... remain in senior roles within our firm who were the recipients of emails which highlighted for example the marketing approach and financial success of the tax advice ... [and] I am one of these partners”—but continued to insist that “these emails did not contain breaches of confidentiality”, and that he and the other aforementioned partners (who as of this writing are yet to be publicly identified) remained unaware of any such breaches at all until alerted to them by an Australian Taxation Office (ATO) regulatory review in 2018.

As *AFR* columnist Joe Aston noted 7 May, however, “None of this works logically. PwC’s tax practice developed innovative tax avoidance schemes before the design or timing of multinational anti-avoidance laws was public. PwC then engaged in highly co-ordinated international marketing of those schemes. When treasurer Joe Hockey unveiled the legislation with the 2015 budget, *PwC sent out pitches for its scheme to circumvent the legislation to [14] US clients on budget night!* [Emphasis added.] ... Unfortunately for Seymour, a critical ingredient of plausible deniability is plausibility, and those PwC partners—himself included—have none. They are global experts in tax law. MAAL was, far and away, the single biggest issue in their professional universe at the time. They all knew Collins was advising Treasury. Where did they think the inputs for their MAAL inoculation schemes were coming from when the legislation still wasn’t public? Tarot cards?”

### Will government act?

Even the most corporate-friendly of media and economic policy commentators—including John Roskam, senior fellow and former executive director (2005-22) of radical neoliberal think tank the Institute of Public Affairs, in his own 4 May *AFR* column—have agreed with Aston’s assessment. Privately, at least, PwC’s global management apparently agree too, and have since forced Seymour to resign, hoping no doubt that the scandal will die along with his career.

New South Wales Labor Senator Deborah O’Neill, an inquiry participant whose questions to the TPB forced the release of the PwC emails, appears determined that it will not.

**FINANCIAL REVIEW**

## The inside story of PwC’s tax scandal

The consultancy is facing one of the biggest crises in its history following revelations that dozens of PwC operatives used confidential updates on government tax plans to drum up new clients. This is how it happened.

Neil Chenoweth and Edmund Tadros

May 6, 2023 - 3:17pm

**P**wC Australia chief executive Tom Seymour was sitting next to the company’s international tax chief Peter Collins in 2015 when he told a Senate inquiry that none of the big four firms’ 5000 employees had acted improperly.



*AFR* coverage of the PwC scandal, showing Peter-John Collins and Tom Seymour at the tax inquiry. Global leaders of PwC were flown in on 15 May to run damage-control. Photo: Screenshot

On 15 May PwC’s global leaders, who have flown into Australia to run damage-control, announced yet another internal (but this time “independent”) review of its operations, to be headed by former Telstra CEO and favourite government/corporate “safe pair of hands” Ziggy Switkowski, in an attempt to stave off a potential criminal investigation—but said that only a summary of its recommendations would be made public. “That confirms this is an inside job. They are still not coming clean”, O’Neill told the *AFR* the following day. “That the release of the information will be controlled by PwC shows ... the review does not have any credibility.” She told the *AFR* that in future Senate hearings she would be asking the TPB and ATO to identify as many of the PwC staff involved, along with “the companies that sought to make use of the information PwC stole from taxpayers”, as was possible without impinging upon any ongoing criminal investigations. The same article reported that NSW Liberal Sen. Andrew Bragg, a former financial sector lobbyist who lately seems intent upon reinventing himself as a crusader for corporate accountability, wants to expand an existing inquiry into corporate regulator the Australian Securities and Investments Commission (ASIC) by the Parliamentary Joint Committee on Corporations and Financial Services (of which he is a member, and O’Neill the chair) to look at the matter. “ASIC is responsible for audit and accounting arrangements”, he said, adding that besides the specific case of PwC, “I’m worried that there’s been a culture of non-compliance generally in corporate law in Australia because of ASIC’s failed regulatory approach.” The Greens are also up for the fight, with Sen. Barbara Pocock denouncing PwC’s latest pretence of accountability as “totally inappropriate for what is needed ... like putting someone who’s been charged with corruption in charge of their own trial”.

The response thus far from the top of the Albanese government, however, does not bode well for the prospects of meaningful change. When Collins’ perfidy was revealed in January, Treasurer Jim Chalmers called it a “shocking breach of trust”, pronounced himself “absolutely furious, absolutely ropeable”, and according to the *AFR* “vowed to implement recommendations effectively ignored by the previous Coalition government to beef up the powers of the Tax Practitioners Board (TPB) to police the nation’s tax advisors”. Flash-

ing his neoliberal underwear, however, Chalmers went on to elaborate that the reason for his outrage was that “as a government that *wants to be consultative where we can*, it puts that sort of consultation at risk. It *puts the quality of economic decision-making and policymaking at risk as well*” (emphasis added). On 4 May he told media in Canberra that “I am already taking steps to try and fix this situation and if more steps are necessary, I will take them too”, but gave no indication as to what they might be. Troublingly, reporting by ABC News business editor Ian Verrender on 16 May suggests that Chalmers will probably content himself with implementing whatever recommendations the PwC-run Switkowski review sees fit to make.

In reality, “consultation” with the likes of PwC is precise-

ly the reason that “the quality of economic decision-making and policymaking” has gone to the dogs in recent decades—especially in Australia, where the company reportedly made a whopping \$537 million from federal government contracts in the 2021-22 financial year alone, consulting on everything from taxation to defence, while Verrender reports that the Morrison government that year “spent \$20.8 billion on external advisers, effectively outsourcing more than a third of public service operations”. PwC’s misconduct is ample demonstration that the outsourcing model is fundamentally flawed, and should be scrapped forthwith—starting, at a minimum, with banning PwC immediately from all future government contracts, and prosecuting Collins and all other guilty parties to the fullest extent of the law.