

## HEADLINES

- To Err is Human
- CABA - A Helping Hand?
- Practice Assurance - 10 Deadly Sins
- The Need for Run-off PII
- AGM - 17 May 2012

**Reports and other documents produced by SPA are available to be viewed or downloaded from the Library of the SPA website, or may be requested as a hard copy from the office for those without this facility.**

**TO ACCESS THE MEMBERS AREA OF THE SPA WEBSITE – ENTER YOUR MEMBERSHIP NUMBER AND YOUR POSTCODE - WITH A SPACE IN THE MIDDLE OF YOUR POSTCODE**

## TO ERR IS HUMAN . . . . .

In the past you, like me, may have broken the law by just exceeding the speed limit, which incurred a fine plus a penalty of 3 points on our licence - criminalising us for a brief period of inattention. Recently a more enlightened attitude has been generally adopted by the police where, to avoid a fine and points, you agree to go on a 'Speed



Awareness Course' at your cost (around £80) – a professionally presented, informative experience which should help avoid repeating the error of your ways!

The equivalent helpful approach found within ICAEW's Practice Assurance (see article on pages 4 & 5) however, does not extend to regulated work – particularly audit - where, over recent years, a plethora of consent orders, fines and costs have been imposed for minor 'no loss' breaches. The volume of paperwork and time progressing these minor complaints is mind boggling - choose to argue your position and ICAEW costs mount plus, if you attend a disciplinary hearing you will need a lawyer – more expense and a huge drain on your time, besides being very stressful.

SPA suggests it would be better to offer first offenders an opportunity to demonstrate within a reasonable period they have corrected procedural breaches, or the option of going on a suitable update course to become better informed about current regulations; if 'offenders' don't get it right second time round they know what to expect!

However, our Institute has seemingly been hell bent on punishing as many 'wrongdoers' as it can as a demonstration to its regulators – the Professional Oversight Board within the Financial Reporting Council – how rigorously it polices

continued overleaf . . .

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our efforts. But the signals sent have been interpreted by POB as a reflection of the poor standard of our work – never mind that our clients, HMRC and Companies House may be happy with our output. Additionally those reading the ‘name and shame’ disciplinary findings may view as criminals practitioners found guilty of minor technical breaches.

This part of our Institute’s regulatory process seems unbalanced with no appropriate legal or technical support offered to members, which leads us on to the second part of this article – if our Institute is unable or unwilling to provide proactive support – is there another body that might? . . .



CABA (Chartered Accountants Benevolent Association) our Institute’s charity, which a few years ago inherited agricultural land worth over £100 million when sold to developers, sits on a balance sheet containing £76M of listed securities.

Following a rapid expansion in its headcount it is clear CABA is looking for ways of supporting ICAEW members. I have just received an extensive programme for 2012 of 74 stress management and other work related courses being held in major cities around England - but is this all that members need? What can CABA provide once we’ve all been on a stress-busting course? Two situations suggest CABA’s financial support would be welcome:

Firstly, retired partners in certain ICAEW practices - many of them small - found themselves liable after many years to plug a ‘Black Hole’ of some £3.1M in a closed ICAEW managed pension scheme (CAESS) to which they had contributed for their employees. This deficit has been demanded in part from former partners, all now in their late seventies, eighties or nineties - several of whom are very ill – an intolerable, stressful event disturbing the peace and finances of their later years. SPA asked CABA whether they could help, but was informed it was ‘not within their remit’.

Secondly, as provided in criminal law and practised in other institutions such as the armed forces and some professions with disciplinary processes, the accused is provided with legal support to guide or defend them. We at ICAEW go without this care. It seems to SPA that CABA could fund a small pool of legal and accounting expertise from its present substantial resources to provide such a service to the future. This could cover disciplinary support or assist practices in distress through a member’s untimely death or long term sickness, and possibly take on the role currently provided by volunteer Support Members.

SPA hopes to maintain a dialogue with CABA in the months ahead to gain a better understanding of its remit and management, including who the Trustees are and how they are appointed, and discuss areas where we think CABA could or should provide help.

## MATCHMAKER

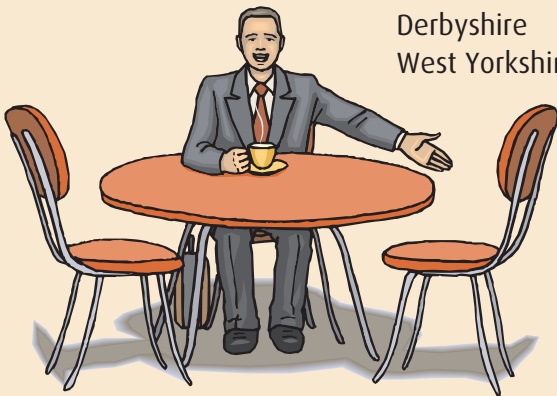
There was a great response to our article in the July Newsletter to match up buyers and sellers within the SPA membership and some 'matches' have been made - below is an update of the current situation. There are more buyers than sellers so if you are coming up to retirement, or have simply had enough and are considering what to do, bear in mind that the goodwill in your practice has value.

### Sellers

Gloucester  
North East

### Buyers

Manchester  
West Midlands  
Cheshire  
Middlesex  
Essex  
Derbyshire  
West Yorkshire



## TAXWISE

**TAX:WISE**

Following an article in our last Newsletter regarding evidence of increased HMRC enquiries – Taxwise have produced a leaflet for clients highlighting the benefits of Fee Protection Insurance.

An example leaflet is enclosed – if you require further copies or information on Taxwise's Small Practice Fee Protection Scheme please call 01455 852550.

## 2012 AGM DAY

**KEEP THE DATE:  
THURSDAY 17 MAY 2012**

Thank you to those regular and loyal attendees of our AGM who made suggestions for 2012. Kate has looked into options for a weekend event but parking restrictions and limited hotel availability on Fridays (due to weddings) have proved difficult, so we have decided to stay with the current tried, tested and successful format of a full day out.

Kate has planned a super day for Thursday 17 May 2012 – so keep the date and full details will be sent with the February/March Newsletter.

## RIP

We were so very sorry to receive the sad news that SPA's oldest member, John Ware, has passed away. Mr Ware, a long standing member of SPA, was 85 years of age and still in practice! To work for over 50 years in practice shows an incomparable dedication and commitment, which is truly remarkable. SPA has sent condolences to Mr Ware's relatives.



Members will have noted, following changes made at the AGM, the appointment to the Steering Committee of David C. Cleaver, Chairman of ICAEW Practice Assurance Committee (PAC). Issues arising from Practice Assurance visits are referred to the PAC to see whether they merit regulatory action or not. David has written this article highlighting issues that should be of interest to you and may help to improve the compliance of your own practice – your feedback would be welcome.



## PRACTICE ASSURANCE HIGHLIGHTS – 95% PASS MUSTER!

I have reviewed our Institute's 'Practice Assurance Report 2009' and 'Practice Assurance Highlights – Review of 2010' and other non-confidential data ([icaew.com/practiceassurance](http://icaew.com/practiceassurance) provides further information).

To remind ourselves, the four Practice Assurance principle based standards are:-

1. Laws, regulations and professional standards
2. Client acceptance and disengagement
3. Competence
4. Quality control

The Quality Assurance Directorate (QAD) reviewers have now completed their first cycle of visits (to all firms) over the last 6 years. These visits enabled QAD to assess and suggest improvements where necessary to the practice. **Where a practice gave an undertaking to make the suggested improvements they MUST ensure this has been honoured as it WILL be followed up by QAD on the second cycle of visits, which have now commenced.** This second cycle has been distilled into 3 categories (depending on the size of the practice):-

1. Reviewer's attendance at practice office, usually 1 day
2. 'Surgery' visit at a convenient location (usually a hotel) where the Reviewer will handle 3-4 interviews per day
3. Telephone 'visit' after pre-visit questionnaire has been completed and submitted

**The following page highlights the most commonly recurring issues arising from PA visits. There are also other problem areas including RI (Responsible Individual) status, signing audit reports when not a registered auditor, practicing certificates and inaccurate Annual Returns.**

**It is also worth highlighting the importance of responding, if asked to do so, to the QAD's closing meeting notes or reports.**

My practice has had a 'surgery' visit and I am very positive about the PA process as it:

- supports our members by providing us with a framework of quality assurance principles
- helps us to assess and develop our practices
- offers practical support and advice

Only a tiny minority of around 5% are referred to the PAC so the vast majority of reviews conclude with a clean bill of health.

## The 10 most commonly recurring issues (in no particular order)

### 1. Money Laundering

- not assessing the money laundering risk
- not identifying possible triggers to perform ongoing client due diligence

(see [icaew.com/moneylaundering](http://icaew.com/moneylaundering))

### 2. Clients' Money Regulations – failure to:

- hold bank trust letters
- have an alternate in place
- reconcile the account every 5 weeks
- carry out an annual compliance review

(see [icaew.com/clientmoney](http://icaew.com/clientmoney) –  
Helpsheets PAS1/HS14 and PAS4/HS07)

### 3. PI Insurance

- firms must provide new clients with information about their PII
- PII is also needed for associated businesses

### 4. Data Protection Act Registration

- available from Information Commissioners Office for a fee of £35 pa

### 5. CPD (Continuing Professional Development)

- ensure you are up to date and keep records of CPD including courses attended

### 6. Letters of Engagement/

**Disengagement** - omitting to include:

- the basis on which fees are charged
- the clients right to complain
- name and address of PI Insurance and countries covered

(see [icaew.com/helpsheets](http://icaew.com/helpsheets) PAS2/HS13)

### 7. Statutory accounts (filed at Companies House)

- disclosure errors due to:

- not using accounts software
- not using disclosure checklists
- not carrying out a quality review before the accounts leave the office

### 8. Loans to/from clients

- new rules from 1 January 2011 (ICAEW guidance due)

- loans to/from clients is no longer prohibited

- changes include:

- considering the threats of a loan
- putting safeguards in place

### 9. Registered office nameplates for Limited Company clients

- ensure you display the names of the companies for whom you act as a registered office

### 10. ACR (Annual Compliance Review)

- not essential but highly recommended,

(see [icaew.com/helpsheet](http://icaew.com/helpsheet) PAS4/HS02)



**Arlington** *professional risks*

## **RUN-OFF PROFESSIONAL INDEMNITY INSURANCE**

About 12 years ago I received a telephone call from a very distressed lady saying that she had received a very officious letter from a firm of solicitors claiming that her sole practitioner husband - who had passed away 3 months' previously - had made an error on some work undertaken some 3 years prior to his retirement and that the solicitor's client required £12,000 in restitution.

After visiting her we were able to take the problem out of the hands of the poor lady concerned and involve her late-husband's PI Insurers. They, in turn, instructed their own firm of lawyers to deal with the problem and which was eventually settled at damages of £7,000 approx plus lawyers' etc costs of £4,500.

Both the damages and the costs were paid by the practitioner's PI Insurance as he had the presence of mind to arrange "Run-Off" insurance at the time of his retirement.

Please bear in mind that it is mandatory under the ICAEW PI Regulations that Run-Off cover is maintained for at least 2 years after the cessation of practice, with a recommendation that the cover is maintained for a further 4 years (i.e. 6 years in total). We would recommend that Run-Off should be maintained for 6 years as the Statute of Limitations under law is 6 years.

It is, perhaps, obvious for the necessity of sole practitioners to maintain this cover at the time of retirement, or sale of their practice but multi-partner firms, or even Limited Companies, should be aware of the principles involved.

Sole practitioners are, of course, in an especially vulnerable situation because in the event of their death, without Run-Off cover being in place, their Estate will remain liable for any claims that could be made against them.

On a practical level practitioners should bear in mind that they can only arrange Run-Off cover with the Insurer who is insuring them at the time of their retirement; sale of the practice etc. If you are insured with the SPA Scheme via Arlington, cover can be arranged for a 6 year policy at a one-off premium.

If any SPA member requires more details on the question of Run-Off cover then please phone Chris Green or Stuart Dunn of Arlington Professional Risks on: 01761 463667.

**Chris Green**  
**Arlington Professional Risks**