



25 March 2011

Our ref: ICAEW Rep 35/11

Senior Technical Manager, Regulation & Public Policy
International Federation of Accountants
545 Fifth Avenue, 14th Floor
New York, New York 10017 USA

Dear Sir or Madam

IFAC POSITION PAPER 4: A PUBLIC INTEREST FRAMEWORK FOR THE ACCOUNTANCY PROFESSION

ICAEW is pleased to respond to your request for comments on IFAC's *Position Paper 4: A Public Interest Framework for the Accountancy Profession*.

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

TONY BROMELL

Head of Integrity and Markets

T +44 (0) 1908 546284

E tony.bromell@icaew.com



ICAEW REPRESENTATION

IFAC POSITION PAPER 4: A PUBLIC INTEREST FRAMEWORK FOR THE ACCOUNTANCY PROFESSION

Memorandum of comment submitted in March 2011 by ICAEW, in response to the International Federation of Accountants' *Position Paper 4: A Public Interest Framework for the Accountancy Profession*, published in November 2010.

Contents	Paragraph
Introduction	1
Who we are	2 - 3
Key points	4 - 7
Comments on detailed aspects of the paper	8 - 31

INTRODUCTION

1. ICAEW welcomes the opportunity to comment on *Position Paper 4: A Public Interest Framework for the Accountancy Profession*, published by the International Federation of Accountants.

WHO WE ARE

2. ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, we provide leadership and practical support to over 136,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. We are a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our membership includes numerous audit committee chairs, finance directors and members involved in investment management activities as well as auditors. Members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. We ensure these skills are constantly developed, recognised and valued.

KEY POINTS

4. We welcome IFAC's involvement in considering the public interest from the perspective of the accountancy profession. The concept is key to professional bodies in particular but the use of the term is frequently indiscriminate.
5. ICAEW has a number of thought leadership campaigns, including one which focuses on aspects of the core elements that make markets function: 'Market Foundations'. One of these aspects is the public interest, a phrase prone to overuse and under explanation, which leads to suspicion that it is being used to disguise self-interest. Our work included hosting a debate on the public interest at the 2010 American Accounting Association Ethics Symposium, details of which are available in the public interest section of our website at icaew.com/ethics. Our follow-up work is not yet completed but we will be happy to share our research with you in due course.
6. Overall, we believe the draft position paper makes a number of important points. However, we think it could be improved significantly by:
 - clarifying the perspectives being applied;
 - analysing what acting in the public interest means for the accountancy profession, including addressing accusations of self-interest;
 - using the resulting framework to explain why the chosen criteria are the most appropriate;
 - distinguishing between aims which are ends in themselves, and those which are means to a greater end; and
 - providing a clear explanation of what, if anything, IFAC intends to do differently as a result of the finalisation of this paper.

We look forward to the future evolution of this paper.

7. We comment on these points and on detailed aspects of the paper below, in the order and under the headings in which they appear in the paper.

COMMENTS ON DETAILED ASPECTS OF THE PAPER

Introduction

8. You state that 'all professional organisations must consider the public interest'. That is something of an over-generalisation as it actually covers a wide range of circumstances. For example, some organisations have the public interest included in their constitutions, some regard it as a condition of their continuing existence and some may have little regard for it at all. Some have members who enjoy statutory rights and privileges; others have members who are in open competition with others, depending on their reputations for success. The accountancy profession internationally, through IFAC, has chosen to consider the public interest and it may merit a short discussion as to why it has chosen to do so.
9. IFAC's paper considers the public interest to be 'the common benefit that all citizens share from the services provided by the accountancy profession'. In ICAEW's own work, which has been looking at the concept of the public interest from the viewpoint of society in general, we have taken the view that a detailed definition would be counterproductive as the meaning must be context driven. General concepts such as 'the common benefit' are a perfectly reasonable expression of the notion.
10. However, we believe that two separate issues have been conflated here: what the public interest is and what acting in the public interest from the perspective of the accountancy profession involves. Although there is a discussion on aspects of the profession's responsibilities, we believe it is possible to be more specific in respect of these and thus come up with what acting in the public interest from the perspective of the accountancy profession involves. Distinguishing between the two would help reduce the complexity of the paper and the impression given, perhaps inadvertently, that it is too difficult to pursue further.
11. We suggest, having regard to the cause of the origins of the profession and its current role in society (which the discussion on responsibilities touches on) that these responsibilities could be summarised as:
 - protecting the public;
 - promoting public confidence in the profession; and
 - maintaining and improving conduct and competence of members of the profession.

These are particularly relevant when undertaking activities that are restricted to members of the profession by law or regulation.
12. The paper does not make it clear whether it is intended to be read as primarily discussing what IFAC should do, or its member bodies, or the profession as a whole, or individual accountants. The practical use will be significantly different. For example, individual professional accountants in business might be interested in how they are to interpret their public interest responsibilities in the context of saving tax for the businesses they work for by using a legal expedient.
13. The paper notes that one of the interests of the public that the profession is supposed to protect is the comparability of financial information across borders. This is not an end in itself, but a means to a greater end: such as furthering economic growth through facilitating global capital flows.

Three criteria

14. Despite being called a framework, the three criteria discussed in the paper seem to have just appeared: there is no justification as to why these have been chosen, or which others might have been considered and discarded. There is, for example, generally thought to be a public interest in allowing people to go about their legitimate business, within limits. That might be quite pertinent to a standard-setting body.

15. As regards the individual criteria themselves, we comment further below. This is one of the areas where having a notion of what acting in the public interest means for the profession as a whole (paragraphs 11 and 12 above) would provide a framework to arrive at the criteria on a logical basis.

Who is the public?

16. We agree that 'the public' includes the widest possible scope of society. While there are inevitably prioritisations to be considered between differing interests, it cannot be acceptable to hide behind a restricted remit without explaining why such a remit has been selected. '.

What are its interests?

17. The paper notes that the interests of the public should be considered as 'all things valued by society'. While not disagreeing with the assertion, this points out the need to consider what values framework is being used, and to take into account, where necessary, of international differences (see further comment in paragraphs 27 and 28 below).

18. A set of examples of responsibilities that professional accountants have is set out in the paper. As with the discussion of the public's interests referred to in paragraph 13 above, these seem to be a combination of ends in themselves and means to an end. Furthermore, they include some responsibilities that would fall to individual accountants and others to professional bodies and/or IFAC.

Consideration of costs and benefits for society as a whole

19. This criterion is clearly important in any element of regulation and standard setting in particular. Standards will be more effective when they are supported by those who are being regulated and it is important to be able to demonstrate, from the perspective of a wider society, that the costs do not exceed the benefits.

20. We agree that costs that need to be taken into account are the net costs to society as a whole, though as noted above there needs to be a values framework to assess costs as this will not always be in direct monetary terms.

21. Indeed, costs to society will often be difficult to attribute a precise value to and we agree with the need for the cost benefit analysis to be proportionate. That does not mean that nothing need be attempted: it is more an issue of the precision necessary in the determination.

Adherence to democratic principles and processes

22. This criterion appears to be about two separate things: the relevance of democracy and the role of set process. The former depends somewhat on who it is that is applying the concept of the public interest. If it is IFAC, clearly democratic principles must prevail given the nature of its constitution. However, this will not necessarily apply to all of IFAC's member bodies, individual professional accountants and/or their firms. As elsewhere in the paper, it would be helpful to clarify to whom the criteria are meant to apply.

23. As regards due process, this is an important means to an end: demonstrating how the decision has been taken to allay suspicion about the motives of those advocating whatever the measure is. However, even the most robust due process can suffer from problems such as group-think, or a box-ticking mentality. It has a second and critical purpose: helping to ensure the 'right' decision has been taken. Due process should never be an end in itself if it gets in the way of that.

24. The discussion on independence seems to be very absolute. Independence is also a means to an end: objectivity. There are many ways of dealing with conflicts of interest and independence is but one of them. We refer you to the threats and safeguards approach included in the IESBA Code of Ethics.
25. Realistically, given the need for boards and committees to be a manageable size, there can never be full representation (particularly having regard to democratic principles) of interested stakeholders. The focus should perhaps be more on ensuring fair and balanced input to the decision-making process, and fair and balanced representation is a means to achieving this.

Respect for cultural and ethical diversity

26. This criterion recognises that there are international cultural differences that need to be 'respected'. These differences are not just national as is illustrated by adherence to the principles of Islamic finance.
27. The criterion could be interpreted in two ways, particularly in the context of IFAC as a standard setter. It could mean that standards need to be set in such a way as to ensure the same result even with different interpretations. Alternatively, it could mean that it needs to be accepted that even international standards will be applied with different effects and results. We assume, having regard to the penultimate paragraph in this section, that the former is intended, but this should be clarified.
28. Reference is made to the need to base interpretation of the public interest on 'universal values'. We have made reference above to the need for a value framework, but it is not made clear what this concept of universal values means. For example, consider 'integrity'. This is a fundamental principle of the IESBA Code of Ethics and at a high level, there is probably a universal understanding that this means doing the right thing. However, drill down further and the right thing could be interpreted quite differently based on local cultural values. Does IFAC propose to evolve what it believes to be a set of universal values? This would be a challenging task but potentially of great interest and use, for example on a cross-professional basis.

IFAC's application of the public interest framework

29. We wholly support the appropriateness of principles-based professional standards as being the most robust and appropriate method of achieving a high quality output. However, in some areas the IFAC standard setting boards appear to be under pressure to move away from this because some regulators and others do not fully support the approach. There is no mention of a role for IFAC in advocating this principles-based approach and other ways that support the public interest, to those who in turn can influence it.
30. Indeed, there is no suggestion that IFAC needs do anything as a result of this paper. We assume the purpose of the paper is to explore the issue in an enquiring manner rather than simply to justify what IFAC already does. There could be a recommendation, for example, that IFAC and the standard setting boards associated with it should discuss what acting in the public interest involves (whether for IFAC, the profession as a whole, or individual accountants, as appropriate) in their own issued documents.

Conclusion

31. The paper concludes by stating that: 'the definitional framework presented in this paper cannot definitively determine what is in the public interest; however it does provide the means to consider the question more systematically and with greater depth.' We agree that the paper is a useful step forward but, as noted above, we do believe that it is possible to produce a more positive outcome by considering further what acting in the public interest means for the accountancy profession.

E tony.bromell@icaew.com

Copyright © ICAEW 2011
All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is reproduced accurately and not used in a misleading context;
- the source of the extract or document, and the copyright of ICAEW, is acknowledged; and
- the title of the document and the reference number (ICAEWRep 35/11) are quoted.

Where third-party copyright material has been identified application for permission must be made to the copyright holder.

icaew.com