



PROPOSED CHANGES TO PART C OF THE CODE ADDRESSING PRESENTATION OF INFORMATION AND PRESSURE TO BREACH THE FUNDAMENTAL PRINCIPLES

ICAEW welcomes the opportunity to comment on the exposure draft *Proposed Changes to Part C of the Code Addressing Presentation of Information and Pressure to Breach the Fundamental Principles* published by IESBA on 24 November 2014, a copy of which is available from this [link](#).

This ICAEW response of 14 April 2015 reflects consultation with the Ethics Standards Committee.

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MAJOR POINTS

Request for General Comments

1. There is potential ambiguity around the concept of “fair and honest” financial information, which may also be a more difficult concept when dealing with, for example, summary financial information.
2. It is not clear how far a PAIB would need to go to protect him/herself when preparing financial information, particularly where the intended audience or intended use is unclear.
3. We disagree with the suggestion that routine pressures don’t create ethical threats.
4. We welcome the clearer guidance on the stages of ethical resolution preceding resignation, where a PAIB is under pressure to breach the fundamental principles.

RESPONSES TO SPECIFIC QUESTIONS

Proposed Revised Section 320

Q1: Is the enhanced guidance on applying the “fair and honest” principle in Section 320 helpful?

5. We are not aware that our members, professional conduct arm, or other regulators, have indicated a deficiency in the existing s320. That said, the changes are not unreasonable and the helpful lists of examples are a welcome addition.
6. However the extended guidance draws attention to potential ambiguity around the concept of ‘fair and honest’. It would seem to align closely with the fundamental principle of integrity (to be straightforward and honest) but also with financial reporting concepts such as ‘true and fair’ under UK GAAP and ‘fair presentation’ under IFRS. Is it intended that these concepts complement, replace or exist entirely independently from one another. This is not clear. Nor are the consequences of the potential overlap.
7. “Fair and honest” presentation may also be a more difficult concept when dealing with, for example, summary financial information which might not be designed to show a true and fair view. Sometimes information needs to be heavily summarised for legitimate purposes in a clearly understood context.
8. The concept of substance over form may merit a mention as there may be occasions where ‘fair and honest’ presentation may not result in the information being in accordance with the relevant reporting framework. There are examples in accounting frameworks of ‘true and fair’ overrides to ensure that the economic substance of a transaction or item is reflected.

Q2: . In particular, do respondents support the guidance in paragraph 320.3 addressing the issue of misuse of discretion in a manner that is intended to mislead? If not, please explain why. Are there any other considerations relating to this issue that should be addressed in Section 320?

9. As mentioned above the inclusion of examples is helpful and there may be many more that could be usefully included. For example, the difficulties presented by the use of questionable fair value information, in a context where there may be significant assumptions, judgements and inherent imprecision.

Q3: Paragraph 320.4 provides guidance as to what PAIBs are expected to do ethically in order to prepare or present fairly and honestly information that does not have to comply with a relevant reporting framework. Is this guidance sufficient? If not, what further guidance could Section 320 usefully provide?

10. The judgements as to whether something is fair and honest should take into account context and intended use, including the awareness of the intended user of any limitations in the information.
11. Recognising that information could be taken out of context, how far, if at all, should PAIBs be expected to go to find out what the information will be used for, or caveat the information they prepare? How might a member demonstrate that their judgements as to the likely context and intended use (if as yet unclear) were reasonable? What about a situation where a PAIB is preparing fair and honest information but are oblivious to (or don't agree with) the context in which it is being used, for example, an internal message subsequently transmitted externally. It might be more reasonable to expect information to be caveated if it is being transmitted externally rather than internally. The extended guidance does not appear to tackle these questions, and there may be interactions with domestic laws of negligence where a user has relied on information as being "fair and honest", along with an expectation that a PAIB should seek to protect him/herself in the same way that they would under law.

Q4: Do respondents agree that where a PAIB relies on the work of others, the PAIB should be required to take reasonable steps to be satisfied that such work enables the PAIB to comply with the overarching principle in paragraph 320.2?

12. Yes.

Q5: Do respondents agree with the guidance proposed in paragraphs 320.6 and 320.7 regarding disassociation with misleading information? Are there other actions that could be specified?

13. The guidance in 320.6 and 320.7 is useful and the suggestion that there are stages of disassociation with misleading information before resignation is welcome. However, there are many ways in which a member's name might become associated with a piece of work, this could be via inclusion in an email chain, as a contributor to a report, by providing a response to an ad hoc query, or explicitly naming oneself as author or preparer. How might the degree of responsibility for disassociation vary, if at all? The PAIB may also be ignorant of their association, in contrast to agreement or acquiescence on their part.

Proposed Section 370

Q6: Do respondents agree with the overarching requirements in paragraphs 370.1 and 370.2?

14. The two overarching principles could be argued to be implicit in the existing code anyway, and the draft seems longer than necessary with the inclusion of too many examples. We would suggest that PAIBs are largely capable of spotting when they are being pressurised to be unethical.

Q7: Are the illustrative examples of types of pressure that could result in a breach of the fundamental principles in paragraph 370.4 helpful?

15. Yes.

Q8: Is it sufficiently clear that Section 370 addresses pressure that could result in a breach of fundamental principles, as opposed to the routine pressures that exist in the workplace? In particular, does paragraph 370.5 provide sufficient guidance to assist the PAIB in making that distinction? If not, what other considerations should the PAIB take into account?

16. Simply because a pressure is routine does not necessarily mean that it is not a threat to objectivity. For example, 'pressure to meet a reporting deadline' is a prime example of a potential threat to objectivity; therefore it is not clear why 370.3 excludes such pressures. The constant presence of multiple 'routine' pressures over a period of time may well impair one's judgement significantly.

Q9: Do respondents find the guidance in paragraph 370.6 on responding to pressure that would result in a breach of the fundamental principles helpful? Are there other actions that should be considered?

- 17.** The suggestion that there are stages of resolution before resignation is welcome; this has been one of the few criticisms of the existing Part C that we have received. There should be some recognition in the guidance of the fact that the personal/financial consequences for the individual, and the safeguards available to them, may vary depending on seniority.

Q10: Are the references to other sections of Part C of the Code, in paragraph 370.9, helpful?

- 18.** Yes.