



IMPROVING THE STRUCTURE OF THE CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS

ICAEW welcomes the opportunity to comment on the consultation *Improving the Structure of the Code of Ethics for Professional Accountants* published by IESBA on 4 November 2014, a copy of which is available from this [link](#).

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MAJOR POINTS

1. We are supportive of the project and the general thrust of the approach proposed in the consultation paper. We do have some concerns about some of the rationale and detail. These are summarised in the responses to the relevant questions but the key issues are:
 - The enforceability of the code, and the ease by which it can be translated into law and regulation should not be a primary measure of success. The expectation is of a higher standard of behaviour and a different approach to decision making.
 - We should not allow the lines between compliant behaviour and ethical behaviour to become blurred. This may also be an unfortunate by product of rebranding the code as a standard.
 - In determining responsibility for ethics it is important that we do not create a backdrop that allows for 'gaps' in ethical responsibility such as abdication of collective responsibility and scapegoating.
 - IESBA should avoid the temptation to commit to an overly ambitious timetable.

RESPONSES TO SPECIFIC QUESTIONS

Q1: Do you believe that the approach outlined in this Consultation Paper, as reflected in the Illustrative Examples, would be likely to achieve IESBA's objective of making the Code more understandable? If not, why not and what other approaches might be taken?

2. We welcome the commitment to make the code more understandable and aid ease of navigation. We are particularly keen that emphasis on the principles based approach is maintained and clear, and that the threats and safeguards approach can be easily drawn out of the 'requirements' sections. It should also be clear from the 'Purpose' paragraphs what each section is trying to achieve i.e. what the substance of the requirements is.
3. We support the desire to distinguish requirements from wider guidance. It is unhelpful if various requirements that relate to the same issue are found in different locations. IESBA should consider presenting all prohibitions at the beginning of the 'requirements' sections, these being the provisions accountants are most likely to need to refer to continually.
4. We are concerned that some of the application and other explanatory material could hinder navigation and understanding. If the requirements are to be made clearer then the content in these sections could be reduced. This might also help avoid unnecessary repetition of certain material and limit overlap and confusion. For example, 100.010 says that "A professional accountant may be required to resolve a conflict", but after re-ordering, we know that if there is such a conflict, the accountant must resolve it. It may therefore be possible that some of the background material could be included as a foreword to the code, particularly where it does not directly relate to the requirements.
5. A clearer distinction between practical application guidance and further explanation of the requirements would be beneficial. There is a risk that everything that is not 'requirement' might be ignored, and clearly separating out the more practical application guidance from the further explanatory material will not only mitigate this risk but also enhance the usefulness of the code.

Q2: Do you believe that the approach outlined in this Consultation Paper, as reflected in the Illustrative Examples would be likely to make the Code more capable of being adopted into laws and regulations, effectively implemented and consistently applied? If not, why not and what other approaches might be taken?

6. We believe that distinguishing requirements from other guidance will make the Code easier to adopt into law and regulations, and in doing so facilitate enforcement by regulators. However, the Code should be about setting out the right behaviour by professional accountants in the public interest: we are not convinced that ease of enforceability should be a primary purpose of the restructuring.
7. The language and structure of a principles based code by its very nature will not always translate easily into law and regulation. However, this should not necessarily be a measure of success as the expectation is of a higher standard of behaviour and a different approach to decision making.
8. Furthermore different countries will face their own unique challenges in trying to incorporate an international Code into law and regulations.
9. That being said, one area where this may be a desirable objective is independence. There may therefore be an argument for a separate independence section containing all independence requirements (including elements of the current part A and section 200) in one place.

Q3: Do you have any comments on the suggestions as to the numbering and ordering of the content of the Code (including reversing the order of extant Part B and Part C), as set out in paragraph 20 of the Consultation Paper?

10. We are supportive of placing the independence material in separate sections. In particular we believe it would be helpful to split s290 into several sections as changes can result in excessively disruptive renumbering at present.
11. We are also supportive of reversing the order of extant Part B and Part C for the reasons explained in the paper.

Q4: Do you believe that issuing the provisions in the Code as separate standards or rebranding the Code, for example as International Standards on Ethics, would achieve benefits such as improving the visibility or enforceability of the Code?

12. The lines between principles of behaviour and enforceable standards should not become blurred. Guidance on ethical conduct is primarily about an attitude of mind rather than procedures. It is therefore suited to a principles based code. Re-branding the Code as a standard runs the risk of appearing to move towards a rules-based approach and therefore a tick the box 'compliance' mentality. We are not convinced by the arguments advanced in the paper, as it is not clear to us that the Code currently suffers from its title in terms of application. 'Code' is also a standard term amongst professional bodies.
13. The ethical requirements addressed in the fundamental principles should not be framed in terms of their enforceability as this could result in behaviour becoming focussed on mere "legalistic" compliance.
14. There is some benefit to transparency for the Code to be split into a number of separate documents to facilitate small changes and the publicity thereof.
15. There may also be benefit in publishing separate independence standards for audit and review engagements.

Q5: Do you believe that the suggestions as to use of language, as reflected in the Illustrative Examples, are helpful? If not, why not?

16. We support the proposals regarding use of language.
17. However, we think it important to ensure that stakeholders are comfortable with phrases currently used. For example, the UK Financial Reporting Council, rightly in our view, has expunged references to 'audit client' as this gives a false message about the relationship between auditor and the entity being audited.

Q6: Do you consider it is necessary to clarify responsibility in the Code? If so, do you consider that the illustrative approach to responsibility is an appropriate means to enhance the usability and enforceability of the Code? If not, what other approach would you recommend?

18. We agree that it is helpful to clarify responsibility in the Code to the extent that a firm should have a mechanism for allocating responsibility. However the draft wording could be interpreted to imply that a specific person would take on the whole responsibility on behalf of the firm, which we do not believe is intended, nor is it desirable or practical.
19. In determining responsibilities for various requirements, it is important that those responsible for doing so avoid an abdication of individual responsibility for ethical behaviour. However it is not the role of the Code to create scapegoats should regulatory intervention be required. Collective responsibility at a senior level should be emphasised, as well as ensuring that there are no 'gaps' in responsibility.
20. It would be impractical for an international code to go further than what we believe is intended and be itself specific as to who should do what regardless of the circumstances, as those circumstances in each organisation will be too variable.

Q7: Do you find the examples of responsible individuals illustrated in paragraph 33 useful?

21. The examples reflect the intent that different people might be responsible for different things. In that sense they are useful, though they could arguably be included in an FAQ or off-Code guidance.

Q8: Do you have any comments on the suggestions for an electronic version of the Code, including which aspects might be particularly helpful in practice?

22. We are supportive of the introduction of an electronic code but it will need to be clear which the official version is. If it is to be the electronic version this will make it easier for member bodies that adopt a largely unadulterated version of the Code, in English. However such usage may be limited: there is great potential for discrepancies arising between the IESBA Code and member body codes due to the varying time lags resulting from individual update processes for various reasons.
23. That said, a properly linked version is a useful reference tool, and may encourage many bodies to adopt the code directly.
24. A filtered version (showing requirements for particular types of accountant or type of work) would add to the usefulness.
25. In terms of the cross-referencing, it would be helpful to move the cross references, making it clearer to what they relate. For example the cross reference at the end of 100.005 relates to the whole paragraph not just section (e), but it appears at the end of (e). The destination cross reference could appear against the relevant sub-heading to allow it to be quickly identified.
26. These points may be less problematic in an easily navigable electronic version.

Q9: Do you have any comments on the indicative timeline described in Section VIII of this Paper?

27. We would urge IESBA to co-ordinate timing of the restructuring of the Code and other projects. It is unhelpful for member bodies and their members to have to change the code frequently with other revisions to the existing version before this restructuring is finalised.
28. The indicative timeline appears ambitious. It would be better that the exposure draft showing the restructure included all likely changes, even if this means a deferral for some months.

Q10: Do you have any other comments on the matters set out in the Consultation Paper?

29. While clarity as to defined, described, and section specific uses of wording are welcome, the distinction between 'defined' and 'described' words seems over complex.