ICAEW REPRESENTATION
100/15

Joint Audit Code of Practice

ICAEW welcomes the opportunity to comment on the Education Funding Agency's and the Skills Funding Agency's consultation on its Joint Audit Code of Practice.

This response of July 2015 has been prepared on behalf of ICAEW by the Public Sector Team of the Professional Standards Department. Our response has been prepared in the short timescales requested by the Agencies. We would have submitted a more considered response if there had been more time available to us.

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the Education Funding Agency (EFA) and the Skills Funding Agency (SFA)'s consultation on the Joint Audit Code of Practice (Code). Our response has been prepared in the short timescales requested by the Agencies. We would have submitted a more considered response if there had been more time available to us.

2. The revised Code is, in our view, a considerable improvement over the previous framework and we note that EFA and SFA have taken on board many of ICAEW's previous informal comments provided in March 2015. In particular, we are pleased to see the alignment of the Code with the Accounts Direction. This has, in our view, helped to provide more clarity in the framework.

3. We do nonetheless, have some additional comments to make on your revised Code and outlined below are our high-level comments and suggested changes to paragraphs within the Code.

MAJOR POINTS

4. There is a lot of narrative within the Code about what reasonable assurance is, but then it states that this is actually not about reasonable assurance (for example, in the Approach section of the example report in Annex D). The Code could usefully cut down on this narrative except to explain that there has been a change in policy and limited assurance is now required (instead of reasonable assurance).

5. The paragraphs in relation to the Individualised Learner Record (ILR) in the Code and in the Annex D need to be more explicit that the responsibility for the information contained within these returns remains with the corporation and its management and is not part of the limited assurance engagement.

6. We noted the reference to the limited assurance conclusion in several places within the Code. Currently, the paragraphs could be misinterpreted to suggest that a more positive conclusion is required. These paragraphs need to clarify that the limited assurance conclusion is a negative conclusion, for example, using words such as, '*nothing has arisen…'* or *'nothing has come to the Reporting Accountant's attention, to suggest that the information is materially misstated'* would be preferable. We have made some recommendations below in relation to wording that could be used.

7. We have noted the Code's references to PN 10, which is useful. However, where paragraphs are taken out of PN 10, it would be useful for them to be fully quoted to avoid misinterpretation or confusion about the requirement.

8. We note in several places that the Code discusses the auditor or reporting accountant using their professional judgement. However, in other places, it then appears to provide advice on what they should do. ICAEW's view is that whilst we appreciate that there is a balance to be struck between requiring consistency of approach between firms; our view is that the Code needs to remain principles-based rather than be too prescriptive.

DETAILED COMMENTS

Section 1: Introduction

9. ICAEW is unclear about the points in Paragraph 6 and in particular the last sentence in relation to who is actually securing the assurance for providers.

10. Paragraphs 8 and 9 refer to JACOP parts 1 and 2. Given that this Code is the new framework, and we understand that JACOP Parts 1 and 2 no longer exist, will reference to these two documents create confusion? Would it perhaps be easier to say that JACOPs 1 and 2 are now superseded by this Code (and provide the date of the new Code).

Section 2: Assurance arrangements for post-16 providers

11. Paragraph 20 states that '*Funding bodies should determine quality assurance arrangements for their own work. These arrangements should be reviewed and accepted by their auditor.*' It would be useful for EFA/SFA to clarify:

11.1. what it means by 'quality assurance arrangements';
11.2. why it is important for the auditor to review and accept them; and
11.3. for what purpose would the auditor be reviewing and accepting them?

Section 4: Audit and Assurance Framework: requirements for auditor/accountant

12. Under paragraph 65, there is reference to 'exception reporting' in relation to 'adequate accounting records'. It appears that there might be a 'not' missing within this sentence. We recommend the following amendment to reflect that this is reporting by exception:

'*the external auditor must report by exception whether, in their opinion, the college corporation has not kept adequate accounting records…*'

13. Paragraphs 66 and 67 refer to the ILRs and the responsibility for the information contained within these rests with the corporation. We recommend the following changes to these paragraphs to provide clarity in relation to this wording:

Paragraph 66: "*They are required to take appropriate action under auditing standards if the statements made are materially inconsistent with the audited financial statements or any information is apparently materially incorrect based on, or materially inconsistent with, their knowledge of the college corporation acquired in the course of performing the audit. They are not required to provide a formal audit opinion on these issues, but to report by exception*.

Paragraph 67: *"The relevant funding body will confirm the value of the main funding grants, generated through the Individualised Learner Record (ILR) returns, to be included as income within the college corporation's annual accounts. The auditor will rely on the assurance provided by the relevant funding body when considering whether income recognised in the accounts from the main funding grants generated through the Individualised Learner Record (ILR) returns is fairly stated. Responsibility for the accuracy of the funding claims remains with management and the corporation."*

14. In ICAEW's informal response, submitted in March 2015, we referred to Fraud in relation to your sections on Materiality and Regularity and we recommended a definition of 'significant fraud'. We note that this definition is now provided under paragraph 71; however it sits there in isolation under the sub-section 'responsibilities regarding the annual accounts' without an explanation of how this relates to the audit. We note that there is a separate section on Fraud later (paragraphs 105 and 106). These paragraphs perhaps need to be linked together.

15. In paragraph 73 (and paragraph 91), there is reference to the limited assurance engagement with an explanation of the type of report. In our view, there could be confusion in relation to the type of statement or conclusion required. There needs to be clarity that a limited assurance engagement will result in a negative conclusion. The last sentence could be amended as follows:

'*…. based on the procedures performed and evidence obtain, nothing has arisen that suggests that information is materially mis-stated.'*

16. We have two points in relation to paragraph 84:

16.1. Firstly, there is a suggestion that the ILRs are outside the scope of the limited assurance engagement. However, in paragraph 86, it appears to bring them back in again. There needs to be clarity in relation to ILRs. As they appear to be out of scope, then the report at Annex D needs to confirm this through a 'limitation of scope' line (see paragraph 26 below).

16.2. In respect of payments to partner organisations, paragraph 84 states that "*the reporting accountant is therefore limited to **ensuring** payments are made in line with any contractual terms and in accordance with the college's financial regulations*". We question whether it is the reporting accountant's role under a limited assurance engagement to **ensure** that payments comply with detailed contractual provisions/financial regulations. Our view is that this is a management responsibility. Materiality must also be taken into account and it would help if this was covered in the self-assessment questionnaire.

17. Under paragraph 87, there appears to be an onus on the reporting accountant to ask for information from the corporation regarding fraud or whistleblowing. In our view, if the corporation has relevant information which could affect the conclusion that the reporting accountant might give on the limited assurance engagement, then it should pass this information to the reporting accountant rather than put the onus on the reporting accountant to ask for it.

18. We are not sure about the relevance of paragraph 93. Is it necessary to discuss previous years. The final sentence in this paragraph does not appear to make sense. It seems to suggest that because there is a higher engagement risk, that reporting accountants are performing a lower level of assurance reporting. Our view would be to delete this paragraph as we do not believe it adds any value to the Code and indeed may cause further confusion.

19. Paragraph 101, under the section on Materiality and Risk, appears to have been taken from PN10. It would perhaps be helpful, if PN10 words are to be used, that they are quoted in their entirety with a reference to PN10 rather than an interpretation of them which could be misunderstood. Similarly, the paragraph prior to this, paragraph 100 needs to include the words from PN10 as materiality is only one of the factors that is considered when considering propriety.

Annex B: Regularity Terms of reference

20. The last paragraph on page 32 is slightly confusing. It would be helpful to make the following amendment outlined in red:

"The reporting accountant accepts that, whether or not the college corporation meets its obligations, there remains an obligation on the reporting accountant to [Skills Funding Agency / Education Funding Agency] to perform its work with reasonable care. The failure by the college corporation to meet its obligations may cause the reporting accountant to modify its conclusion or be unable to provide a conclusion.

21. Under section 5, the liability provisions, the EFA and SFA may wish to be aware that different firms may have varying views in relation to the liability provisions paragraphs and any engagement needs to allow for negotiation and agreement between the relevant parties if they are to stand up in court.

Annex C: Self-assessment questionnaire

22. In our informal response to you in March 2015, under the Solvency and Value for Money part, we outlined that we were '*unclear about how this section of the questionnaire adds to the self-assessment given that all of these questions could be, already have been, covered by other questions. For example the first question on the financial memorandum/funding agreement (Page 14) already includes a question relating to the "due consideration of decisions made over the operation and direction of a college's activities in the context of risks to the college's financial health*". We note that this comment has not been addressed. The page reference in the draft Code is page 38.

23. Similarly, there is a paragraph on termination payments highlighted in our March 2015 response which we believe has not been addressed and is therefore repeated in this response "*corporations shall only make payments to employees on the termination of their employment for the purpose of meeting contractual obligations". There may be examples where corporations agree extra-contractual payments to settle employment claims or make payments above statutory redundancy levels to a member of staff is leaving under a voluntary redundancy agreement. These scenarios should be set out in the Requirement.*'

Annex D: Model Report

24. The first paragraph needs to be revised to reflect that this is now a limited assurance report (in line with our comments in paragraphs 6 and 16 above). We suggest the following amendments:

"In accordance with the terms of our engagement letter dated [x] and further to the requirements of the [financial memorandum with Skills Funding Agency / funding agreement with Education Funding Agency] we have carried out an engagement to obtain limited assurance about whether anything has come to our attention that would suggest that in all material respects the expenditure disbursed and income received by [name of college] during the period [insert the start date of the period for which the annual report and financial statements (annual accounts) have been prepared] to 31 July [20XX] have not been applied to the purposes identified by Parliament and the financial transactions do not conform to the authorities which govern them".

25. The second paragraph in relation to limitation of scope, our view is that this needs to refer to the ILR work (see paragraph 17.1 above). We recommend the following changes:
"The framework that has been applied is set out in the Joint Audit Code of Practice issued jointly by Skills Funding Agency and Education Funding Agency. In line with this framework, our work has specifically not considered income received from the main funding grants generated through the Individualised Learner Record (ILR) returns for which [Skills Funding Agency / Education Funding Agency] has other assurance arrangements in place"