



Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements

ICAEW welcomes the opportunity to comment on the *Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements* published by IESBA on 8 September 2017, a copy of which is available from this [link](#).

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MAJOR POINTS

1. We are generally supportive of what IESBA are aiming to achieve here and are not fundamentally opposed to the proposals. However we have some concerns:
2. Our interpretation of the decision making process is firstly to ensure compliance with laws and regulation, then secondly to establish if there is intent to improperly influence. If there is such intent then an inducement should be refused, if not then a professional accountant (PA) would then consider safeguards. If this is the intention behind the proposed guidance then that is not entirely clear from the way it is currently written. We would like to see a greater level of clarity and possibly a step by step flowchart as a supplement.
3. It could be made clearer that the definition of inducement includes non-financial inducements. For example an offer of employment, or offer to reduce fees, or statement that career advancement will be more likely, could all be examples of inducements but the proposed guidance focusses on gifts. Examples of safeguards given in 250.11 (and 340.11) are not as helpful as they could be and are very much geared towards gifts and hospitality whereas. Intent may sometimes be less than overt and the proposals would benefit from some examples to reflect this.
4. Examples of specific safeguards designed to address scenarios where the PA comes across a potential inducement of which they were previously unaware would be useful. For example, a professional accountant may have little knowledge or influence over what a connected party chooses to offer or accept.
5. We believe that cultural differences could merit inclusion in the guidance itself, if only to reinforce the comments made in para 29 of the consultation document that the ethical considerations should be the same. That said culture is significant to a number of concepts in the proposals, not least gifts and hospitality but also connected party.
6. The proposals would benefit from better linking to the fundamental principles and clearer structuring with regards to the accountant as potential inducer and the accountant as potential inducee.
7. Given that the proposed section for practitioners (s340) addresses all inducements, it is unclear that the additional section 420 requirement for auditors is really necessary.

RESPONSES TO SPECIFIC QUESTIONS

Q1: Do respondents support the proposals in Section 250? In particular do respondents support the proposed guidance to determine whether there is an intent to improperly influence behaviour, and how it is articulated in the proposals?

8. Following the definition, for something to be an inducement it appears to require an intention to influence another individual's behaviour. However, the proposals also deal with issues of perception where there is no intent. If the idea is that a trivial and inconsequential gift with no intent presents an acceptable threat then this could be clearer.
9. The guidance in the section on inducements not intended to improperly influence behaviour does not seem to reflect the title of the section.
10. The issue of culture merits further discussion in the guidance itself. Not accepting a gift can in some cultures cause offence, similarly not offering a gift, or offering an inadequate counter-gift can be offensive. A gift should therefore not be disproportionate to the cultural norms such as to constitute an inducement, nor disproportionate to the persons involved. The key point is intention.

11. Some proposed wording could say:

“When considering if a gift might be, or might be perceived to be, an improper inducement, the professional accountant should bear in mind the cultures of the parties involved and their status within all the relevant cultures (not merely their own) when considering whether an inducement is, or might be perceived to be, improper.”

12. Considering safeguards, it is not always possible to do the right thing in the immediacy of a situation and some of the examples in 250.11.A3 would do little to address the perceived threat created by acceptance. For example, and connected to our comments above, the wish to avoid offence may prevail. This may be the correct decision if there is perceived to be no intent to improperly influence. Donating to charity may be acceptable to some but does not in fact necessarily result in a neutral position for the accountant, in fact it may have a positive reputational impact on the accountants business. Furthermore, some inducements cannot be donated (non-cash inducements, particularly personalised or perishable ones).
13. Given the scope of the proposals it would appear that an understanding of them would need to be communicated to connected parties. This should be made clear as it is a significant development. A professional accountant may have little knowledge or influence over what a connected party chooses to offer or accept, which seems to leave very little by way of effective safeguards. The above is especially important when considering inducements prohibited by laws and regulations, the efforts made to distinguish being welcome.
14. The exposure draft refers to ‘close family members’. In a principles based framework an inducement directed towards a wider family member could legitimately impact objectivity. Furthermore cultural differences have an impact not only on the assessment of inducement but also an individual’s concept of ‘close family’ (regardless of how it is defined). We believe the three factors to consider set out in paragraph 250.13 A1 are secondary to whether the professional accountant is actually aware of an inducement.
15. The safeguards available in respect of connected parties are minimal. The professional accountants cannot prevent offer or acceptance or control subsequent behaviour. The only viable safeguard is therefore resignation, which may in itself be disproportionate.
16. 250.4 A1 – Employment opportunities is unduly narrow. We would suggest instead ‘commercial opportunities’ (directly or indirectly, for example by promotion of the accountant). Other examples of non-financial inducements might be helpful (eg. sense of personal value, positive online feedback, introductions).

Q2: Do respondents agree that the proposed provisions relating to inducements for PAPPs should be aligned with the enhanced provisions for PAIBs in proposed Section 250? If so, do respondents agree that the proposals in Section 340 achieve this objective?

17. It makes sense to align the provisions for PAPPs with the provisions for PAIBs. We believe that the proposals in Section 340 achieve this.
18. Whilst in 340.4 the idea of "appeals to friendship and loyalty" and "employment opportunities" are picked up as inducements the proposal then seems to concentrate on gifts. The safeguards outline in in 340.11 are largely ineffective as regards these threats we think the exposure draft could be more useful in addressing this. For example if the culture within the firm is one of client retention then the review safeguard in 340.11 is unlikely to address an issue where an employee feels pressured not to raise issues with the client.

Q3: Do respondents support the restructuring changes and proposed conforming amendments in proposed Sections 420 and 906?

19. Section 340 applies to all client relationships. We support compliance with Section 340, if revised along the lines recommended in this letter, but as proposed a breach of Section 340 (due to the cross reference and the words “in addition to”) would also mean that independence and objectivity is impaired. We do not believe this is necessarily the case. It is possible to have a breach of 340 without this resulting in a breach of independence (and which would also then have to be dealt with in accordance with the breaches provisions), especially if the person breaching the requirements of 340 has nothing to do with the assurance engagement. Clearly the matter may need discussing with the client but we do not believe that clients and audit committees would expect such ethical issues to be raised in the context of independence. Accordingly we recommend that no changes are made to Section 420 and 906.

Q4: Do respondents believe the IESBA should consider a project in the future to achieve further alignment of Sections 402 and 906 with proposed Section 340? If so, please explain why.

20. No. For the reasons given above.