

AUSTRALIAN ASSOCIATION OF INDEPENDENT EXAMINERS

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Submission on proposed Australian Charities and Not-for-profits Commission Bill 2012

Dear Sir/Madam

We welcome the opportunity of making this submission in relation to the Australian Charities and Not-for-profits Commission Bill 2012 (the *ACNC Bill*).

The Australian Association of Independent Examiners (AAIE) was established in 2008 by registered company auditors who believe there is a real need in Australia to provide a level of financial statement assurance for small and medium-sized not for profit organisations of a kind which falls below that of a professional engagement carried out in accordance with Australian Auditing Standards.

Should independent examinations replace audits?

Definitely not. Rather they should complement the audits and reviews which are referred to in the draft *ACNC Bill*.

However, independent examinations are neither audits or review assignments.

Our members believe that overseas experience has proven that an independent examination is a very useful alternative to a professional audit. It is a process of scrutinising an entity's accounts below the level of a professional audit.

Such a regime has already become popular in the United Kingdom¹, where charities with revenues under £500,000 are able to have an independent examination instead of an audit.

In Australia, the Anglican Diocese of Melbourne² introduced legislation in 2011 to enable smaller parishes to appoint an independent examiner instead of an auditor.

¹ UK Charity Commission reg. CC32: <http://www.charity-commission.gov.uk/publications/cc32.aspx#3>

Audits and Reviews

Section 50-5(1)(b) requires all registered entities to keep financial records that would enable true and fair financial statements to be prepared and audited or reviewed.

To ensure that their records are in fact able to be audited, guidance will be needed from either:

- (a) The ACNC education resources, perhaps by way of checklist, which will provide the entity's governing board the assurance that they have complied with this requirement; or
- (b) A qualified auditor who can provide such assurance to the entity.

We wish to make the following observations concerning the audit and review options provided under the *ACNC Bill*.

The Audit Requirement

A statutory audit of the type foreshadowed in the *ACNC Bill* involves the examination of the financial report of a registered entity by an independent professional auditor holding a practising certificate and covered by professional indemnity insurance.

Under Australian Accounting Standards (AASB) the financial report includes a balance sheet, an income statement, a statement of changes in equity, a cash flow statement, and notes comprising a summary of significant accounting policies and other explanatory notes.

The purpose of an audit is to form a view on whether the information presented in the financial report, taken as a whole, reflects the financial position of the organisation at a given date³, for example: Are details of what is owned and what the organisation owes properly recorded in the balance sheet? Are profits or losses properly assessed?

When examining the financial report, auditor must follow auditing standards which are prescribed by the *Auditing & Assurance Standards Board*⁴ (AuASB).

ACNC Audit requirement is more onerous

Auditors conducting auditing or review assignments under the proposed *ACNC Bill* are required to take account and comply with the 41 standards⁵ promulgated by the AuASB.

² Appendix A: Parishes (Auditors & Independent Examiners) Amendment Bill 2011

³ PriceWaterhouseCoopers: *What is an audit?* www.pwc.com.au/assurance/financial/statements/audit.htm

⁴ This requirement is contained in section 55-45 of the *ACNC Bill*

⁵ See AuASB standards at www.auasb.gov.au/Standards-and-Guidance/Australian-Auditing-Standards-in-Clarity-format.aspx.

In addition to the requirement for an auditor to comply with auditing standards, section 55-40 of the *ACNC Bill* requires that –

- (3) *The auditor must form an opinion about:*
- (a) *whether the financial report is in accordance with this Act; and*
 - (b) *whether the auditor has been given all information, explanation and assistance necessary for the conduct of the audit or review; and*
 - (c) *whether the registered entity has kept financial records sufficient to enable a financial report to be prepared and audited or reviewed; and*
 - (d) *whether the registered entity has kept other records as required by this Act.*

While the *ACNC Bill* does not require an auditor to report on these additional requirements, auditing standards and common sense would dictate that these additional obligations form part of the audit report to the members of the organisation. It is to be hoped that the AuASB will develop audit procedures sufficient for an auditor to form an opinion about whether the registered entity has kept “other records” required by section 50-5(2).

The Review Requirement

According to the Auditing and Assurance Standards Board a review engagement is a limited assurance engagement – which means it is an engagement where the assurance practitioner’s objective is a reduction in assurance engagement risk to a level that is acceptable in the circumstances of the assurance engagement, but where that risk is greater than for a reasonable assurance engagement, as the basis for a negative form of expression of the assurance practitioner’s conclusion. A limited assurance engagement is commonly referred to as a review⁶.

A review engagement is therefore one which provides a moderate level of assurance that the information subject to review is free of material misstatement and this is expressed in the form of a negative statement that nothing has come to the professional accountant’s attention that causes them to think otherwise. ASRE 2400 is accompanied by a list of some 90 detailed procedures consisting of management enquiry, analytical review and some substantive tests⁷.

Review engagement must be undertaken by the auditor of an entity. This person (or firm) has the following obligations:

1. To comply with the auditing standards 2400, 2405 and 2410 issued by the AuASB.
2. To comply with the duties and responsibilities of a registered company auditor under the Corporations Act.
3. To comply with the ethical, independence and quality control standards of their professional body.
4. To undertake training prior to undertaking review engagements.

⁶ AuASB *Framework for Assurance Engagements* April 2010

⁷ Institute of Chartered Accountants in England & Wales *Alternatives to Audit* Briefing 2.3 page 19

Although not mandatory, an auditor would be unwise not to consider carefully the ten page review engagement checklist produced by CPA Australia⁸

Alternatives to Audit - International

The Institute of Chartered Accountants in England & Wales (ICAEW) has initiated a call for a properly informed international debate led by the International Audit & Assurance Board (IAASB) on the alternatives to audit that professional accountants can provide in relation to financial statements.

Reflecting on past and current developments, a recent report of the Audit & Assurance Faculty of the ICAEW supports the need for a comprehensive reappraisal of alternatives to audit, including not only review and assurance services but also agreed-upon procedures and compilation engagements. In doing so, we also consider other possible priorities. These include: agreeing on internationally consistent *small to medium-sized entity* (SME) financial information; rethinking SME audit; and simply updating existing standards for review and accounts compilation engagements⁹.

The report urges that this debate needs to be accessible to a wide range of people, not just professional accountants and standard setters who are immersed in the technical aspects of these services. It needs to involve people across the business, public policy, regulatory and professional accounting communities with an interest in the quality and reliability of financial information produced by SMEs.

We recommend that the ACNC to ensure that it becomes an active participant in this initiative.

Reluctance of Australian Auditors

It is our experience that most auditors in Australia and elsewhere are reluctant to accept an appointment to a not for profit organisation unless they have some affinity or interest in the entity concerned. Those auditors who have a special interest in the community/NFP sector also face the need to ensure that they can charge sufficient professional fees to cover their practice operating costs which normally include –

- Professional body membership fees and ongoing PD obligations
- Professional indemnity insurance
- Office support costs, such as secretarial, premises,

Furthermore, the ICAA NFP Discussion Group in Melbourne, which is mostly made up of Registered Company Auditors, would be able to confirm that, rightly or wrongly, charity audits are regarded as being in the higher-end risk area of public practice.

⁸ Review Engagement Checklist www.cpaaustralia.com.au/cps/rde/xbcr/cpa-site/Review-engagement-questionnaire.pdf

⁹ ICAEW Audit & Assurance Faculty *Alternatives to Audit* 44pp

Our conclusion is that - as worthy and desirable an audit is for small and medium Australian registered entities, the landscape has changed so significantly over the last two decades – only the larger entities will be able to afford an audit or review complying with Australian Auditing Standards.

Independent Examination

An independent examination is not an audit, or a review, as defined by the AuASB. An independent examination provides an external check on the accounts and, from a UK and AAIE point of view, can be carried out by any person with the relevant ability and experience, except where the gross income exceeds a threshold¹⁰.

It must be recognised and understood that an examination is a less onerous form of scrutiny than an audit¹¹ and provides less assurance in terms of the depth of work which is to be carried out. As does the Charity Commission in the UK, the ACNC in Australia should have an educative role in this regard.

An examination involves a review of the accounting records kept by the organisation and a comparison of the accounts presented with those records. It also involves a review of the accounts and the consideration of any unusual items or disclosures identified. Verification and vouching procedures only become necessary where significant concerns or doubts arise from procedures, and where satisfactory explanations cannot be obtained from the organisation itself¹².

In the examiner's report, the examiner is only required to provide a statement on specific matters that have come to their attention as a result of the examination procedures undertaken. This is a simpler requirement than that of an audit. An auditor is required to build up a body of evidence to support a positive statement of opinion on the accounts. In particular, an auditor is required to form an opinion as to whether the accounts show a 'true and fair view'.

It is carried about by an individual, called an Independent Examiner, who will:

- look at the financial report of an entity
- gain an understanding of the organisation
- compare the accounts to the books, perform various other checks including analytical procedures and events occurring after the year end
- Record the procedures carried out
- Review the accounting records
- Review the report of those charged with governance
- write an independent report for circulation with the accounts

¹⁰ The Australian Association of Independent Examiners recommends a threshold of \$250,000pa revenue.

¹¹ Refer CC31 Charity Commission (UK) www.charity-commission.gov.uk/Publications/cc31.aspx#c

¹² Refer www.voluntaryworks.org.uk/valuton/FinancialIndependentExamination.asp

An independent examination covers slightly less than a full audit, but is still a very thorough form of scrutiny¹³.

Code of Practice – Independent Examiners in Australia

Our Association has adopted a Code of Conduct, based on the Code of Ethics for members of the Association of Charity Independent Examiners in the UK¹⁴. See Appendix B.

Summary of the differences between Audit and Independent Examination

An audit can only be conducted by a registered company auditor or audit firm by a person who holds a practising certificate from a professional accounting body and is covered by professional indemnity insurance. The other major differences lie in the level of scrutiny and the nature of the report. In summary:

- (1) an independent examiner does not scrutinise a charity's accounts to the same level as an audit.
- (2) an independent examiner, writes a report which gives negative assurance ('no matter has come to my attention ...') rather than positive assurance (a 'true and fair' view).¹⁵

Professional Indemnity Insurance

CPA Australia members who do not earn any income from the provision of pro-bono or voluntary accounting work undertaken in the community can opt-in to a complimentary professional indemnity (PI) policy. This policy is only for members whose expected gross annual income from private and/or honorary accounting services is less than \$7500¹⁶.

This PI financial benefit is obviously available to only a very limited number of auditors in Australia, the rest being obliged to pay expensive premiums for even honorary auditing and review assignments.

Thankfully, most not for profit entities have insurance policies which cover financial risks to which their volunteers are exposed. But not all. The AAIE recommends that independent examiners should undertake their assignments on an honorary basis where their client entity has volunteers insurance which covers their services. Auditors who intend to charge for their

¹³ National Council for Voluntary Organisations: <http://www.ncvo-vol.org.uk/advice-support/funding-finance/financial-management/audit/what-is-an-independent-examination>

¹⁴ Code of Ethics – Association of Charity Independent Examiners - www.acie.org.uk

¹⁵ Association of Charity Independent Examiners (UK) www.acie.org.uk/what_isie.htm

¹⁶ Under CPAA by-laws, it is compulsory that any member offering public accounting services for a fee is indemnified for the provision of their services.

services to entities registered under the *ACNC Bill* should carefully consider their exposure to professional risk and to the penalties for breach of auditing standards refer section 66-45(2) of the *ACNC Bill*.

Public Availability of Financial Reports

Since our members hold practicing certificates from The Institute of Chartered Accountants in Australia and CPA Australia, we support their view that the ability to raise funds from the public is a suitable criteria for requiring public availability of financial statements¹⁷.

As a significant step towards public accountability we applaud the initiative of the *ACNC Bill* to require all registered entities to lodge an annual financial report to the Commission.

The UK's National Council for Voluntary Organisation rightly holds the view that –

Any organisation with charitable status is handling other people's money. The law says that you must therefore produce accounts each year. In almost all cases, those accounts must be scrutinised by someone completely independent of the charity. Independent Examinations are one way of fulfilling this requirement.

What entities are 'publicly accountable'?

Recent reforms of the Corporations Act and State incorporated association legislation exempt not for profit entities which have revenue under \$250,000 from preparing a financial report or having it audited. This effectively excuses most nonprofits in Australia from any form of independent scrutiny.

We are of the opinion that not for profit entities fall into three categories in terms of their public accountability –

- (1) those entities which raise funds and donations from the public;
- (2) those entities which receive funds by way of grants and other contributions; and
- (3) those entities which do not raise funds from the public (eg. member associations)

According to accounting standard AASB 1053 the term “public accountability means accountability to those existing and potential resource providers and others external to the entity who make economic decisions but are not in a position to demand reports tailored to meet their particular information needs. The accounting standard goes on to make it clear that

–

A for-profit private sector entity has public accountability if:

- (a) its debt or equity instruments are traded in a public market or it is in the process of issuing such instruments for trading in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local and regional markets); or*

¹⁷ Joint Accounting Bodies submission on the national Cooperative legislation December 2011

(b) it holds assets in a fiduciary capacity for a broad group of outsiders as one of its primary businesses. This is typically the case for banks, credit unions, insurance companies, securities brokers/dealers, mutual funds and investment banks.

Having codified the definition of public accountability for for-profit private sector entities, we recommend that the AASB develop a similar definition for the not-for-profit sector.

Canadian experience – publicly accountable

The *Canada Not for Profit Corporations Act* imposes different financial reporting requirements on not for profit organisations, depending on their status as either a **soliciting** or **non-soliciting** corporation and on the amount of revenue they earn¹⁸.

- High-revenue, soliciting corporations, and non-soliciting corporations with gross annual revenues higher than \$1 million, must be audited.
- Medium-revenue, soliciting corporations may resolve not to be audited, if two thirds of their members approve, and to undertake a review engagement instead (which has a less comprehensive scope of review).
- Low-revenue, soliciting corporations also will require at least a review engagement unless all members resolve not to undertake this process.

United Kingdom – requirements for independent examinations

In England, Scotland, and Wales (and soon Northern Ireland), smaller charities with annual income not exceeding £500,000 and gross assets not exceeding £3,260,000, must have an independent examination.

Charities with an income not exceeding £25,000 are not required by law to have an Independent Examination, but may elect to do so.

Fundraising Registration in Australia

If the fundraising registers of our various States can be believed, there are relatively few not for profit entities which raise funds from the Australian public.

We recommend that the *ACNC Bill* takes account of, and make allowances for, the many thousands of small to medium-sized not for profit entities which do not raise funds from the public. As far as we are aware, no country in the world requires these entities to be subject to an audit conducted under generally accepted auditing standards.

¹⁸ Canada Not for Profit Corporations Act – www.laws.justice.gc.ca/eng/acts/C-7.75/

On the other hand, unless they are DGRs, under the *ACNC Bill*, charities and not for profit organisations in Australia with less than \$250,000 revenue will not be required to have their financial records and annual reports scrutinised by an independent person.

Our Recommendations

We have made a number of observations and recommendations throughout this submission, and have expressed many concerns about the proposed *ACNC Bill*.

Having said that, we strongly support the introduction of the proposed legislation – rather than face the alternative of a delay in the establishment of the ACNC as a statutory authority.

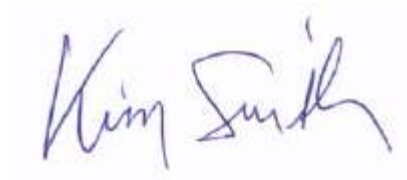
Independent examinations, as an alternative to audits and reviews are a reality in Australia. We therefore wish to summarise the most important changes we would like to see before the *ACNC Bill* is introduced into the Australian Parliament.

We recommend that –

The following entities should not be obligated to have an audit or review in accordance with Australian Auditing Standards pursuant to section 55-40 of the *ACNC Bill* – but rather be required to have an independent examination:

- (A) medium registered entities which raise funds from the public; and
- (B) small registered entities which are deductible gift recipients (DGRs).

Yours faithfully

A handwritten signature in blue ink that reads "Kim Smith". The signature is written in a cursive, flowing style.

Kimberly Smith
President
Australian Association of Independent Examiners

Appendix A

Parishes (Auditors and Independent Examiners) Amendment Bill 2011 **relating to the appointment of auditors and independent examiners** **and for other purposes**

BE IT ENACTED by the Archbishop, the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Melbourne in Victoria duly met in Synod according to law as follows:

1. This Act may be cited as the **Parishes Act (Auditors and Independent Examiners) Amendment Act 2011**.
2. This Act comes into operation on the day fixed by the Archbishop in Council.
3. In this Act, the Principal Act means the *Parishes Act 1987*.
4. For section 62 of the Principal Act, substitute new sections 62, 62A, 62B, 62C, 62D, 62E and 62F as follows –
 62. (1) Subsection (2) of this section applies to a financial year of a parish whose total receipts in the financial year immediately preceding that financial year exceed \$250,000.
 - (2) At the annual meeting of the parish in the first mentioned financial year, the electors present must appoint an auditor either to audit or review in accordance with section 62B.
 - (3) If subsection (2) of this section does not apply to a financial year of a parish, at the annual meeting of the parish in that financial year, the electors present must at their option appoint either-
 - (a) an auditor either to audit or review in accordance with section 62B; or
 - (b) an independent examiner.
 - (4) If at any time the position of auditor or independent examiner becomes vacant, the Vestry must appoint an auditor or independent examiner to fill the vacancy.
 - (5) An auditor or independent examiner appointed under this section holds office until the next annual meeting unless in the meantime the auditor or independent examiner –
 - (a) dies;
 - (b) resigns; or
 - (c) is removed by resolution of a special meeting of the electors of the parish called for that purpose on 30 days notice.

- 62A. The auditor must be –
- (a) a registered company auditor under the *Corporations Act 2001*;
 - (b) a firm of registered company auditors under the *Corporations Act 2001*;
 - (c) a person who is a member of CPA Australia or the Institute of Chartered Accountants in Australia; or
 - (d) any other person who is approved by the Registrar under the *Associations Incorporation Act 1981* as an auditor.
- 62B. The auditor must -
- (a) audit or review the accounts of the churchwardens for that financial year in accordance with Australian Auditing Standards made by the Auditing and Assurance Standards Board under the *Corporations Act 2001* ; and
 - (b) report to the Registrar as soon as practicable in a form prescribed by regulations if a matter of material significance has arisen.
- 62C. The independent examiner must be an independent person who is nominated by the churchwardens and whom they reasonably believe has the requisite ability and practical experience to carry out a competent examination of the accounts.
- 62D. The independent examiner must -
- (a) undertake an independent examination of the accounts of the churchwardens of the parish for that financial year in accordance with procedures prescribed by regulations made by Archbishop in Council; and
 - (b) report to the Registrar as soon as practicable in a form prescribed by regulations if a matter of material significance has arisen.
- 62E For the purposes of sections 62B and 62D, a matter of material significance will be taken to have arisen if the person is aware of circumstances that the person has reasonable grounds to suspect may amount to –
- (a) a failure in a significant respect of any of the treasurer, the churchwardens or the Vestry to comply with a provision of this Act;
 - (b) dishonesty or fraud involving a loss of parish funds or a risk of loss of parish funds; or
 - (c) a breach in a significant respect of the terms of any special trust to which property enjoyed by the parish is subject.

62F The Archbishop-in-Council may from time to time make amend or repeal regulations, not inconsistent with the provisions of this Act, for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of sections 62 to 64 (both inclusive) of this Act or which may be necessary or expedient to carry out the objects and purposes of those sections of this Act.

5. In section 24 of the Principal Act-
 - (a) insert after the word ‘audited’ in subsection (1) – ‘or reviewed or independently examined’; and
 - (b) insert after the word ‘audit’ in subsection (2) – ‘or review or independent examination’.
6. In section 59 of the Principal Act, substitute for the words ‘an audited statement of accounts and balance sheet’ – ‘a statement of accounts and balance sheet audited or reviewed or independently examined in accordance with this Act’.
7. In section 63 of the Principal Act –
 - (a) insert after the words ‘the auditors’ wherever appearing in paragraph (c) – ‘or the independent examiner’;
 - (b) insert after the words ‘the auditors’ in paragraph (d) – ‘or the independent examiner’s’; and
 - (c) insert after the words ‘the auditors’ in paragraph (e) – ‘or the independent examiner’s’.
8. In section 64 of the Principal Act, insert after the word ‘auditors’ – ‘or independent examiner’.
9. In section 66 of the Principal Act, insert after the word ‘auditors’ – ‘or independent examiner’.
10. In section 67 of the Principal Act, insert after the word ‘auditors’ – ‘or independent examiner’.
11. In paragraph (j) of schedule 1 of the Principal Act, insert after the word ‘auditors’ – ‘or independent examiner’.

Appendix B

AUSTRALIAN ASSOCIATION OF INDEPENDENT EXAMINERS INC

CODE OF PRACTICE

*Based on the Regulations applicable to members of the
Association of Charity Independent Examiners - UK*

1 The Code

- 1.1 This Code of Conduct (the Code) was established and adopted by the Council of the Australian Association of Independent Examiners (the Association) pursuant to Clause 37 of the Constitution.
- 1.2 This Code is concerned only with members' duties as an Independent Examiner. It does not seek to regulate other work in which members are involved (for example, in relation to non-charitable organisations).

2 Duties and responsibilities - Full Members and Associate Members

- 2.1 All members should:
 - 2.1.1 have a continuing interest in furthering the work of the Association - in particular, in promoting the greater effectiveness of charities in Australia in the achievement of their charitable objects by maintaining high standards of practice and professional conduct when undertaking independent examinations; and
 - 2.1.2 observe and strive diligently to apply:
 - (a) this Code of Practice; and
 - (b) any other Regulations issued by the Association; and
 - 2.1.3 seek to avoid any personal advantage to the detriment of the Association.
- 3.2 This Code of Practice is intended to be complementary to the codes of ethics (or rules of professional conduct) issued by the various accountancy and other professional bodies in Australia. Members holding professional qualifications:
 - 3.2.1 should therefore observe, and strive diligently to apply, the codes of ethics or rules on professional conduct of their professional bodies; and
 - 3.2.2 are not entitled to rely on this Code in the event that it is silent on a particular subject or imposes requirements that are less strict than those imposed by the code of ethics (or equivalent rules on professional conduct) of their professional body(ies).

4 Ethical Principles

- 4.1 **Integrity:** Members should behave with integrity: being honest, truthful and trustworthy.
- 4.2 **Professional Conduct:** Members should adopt a professional approach and conduct themselves with courtesy, tact and consideration towards all with whom they come in contact.
- 4.3 **Confidentiality:** Members should not disclose, or allow to be disclosed, to any third party any information gained (whether about a client or about any other person), except where such disclosure is authorised by the client or other person concerned or is required by legal or regulatory process, or where such information is already in the public domain.
- 4.4 **Independence and Objectivity:** Members should strive for objectivity when making any decisions or giving any opinions. Members should not accept or continue any appointment as an Independent Examiner unless they are demonstrably independent of the entity and its trustees and officers. The objectivity and independence of members mean that they are able to make impartial judgments free from any influences that may arise from personal interests or relationships.
- 4.5 **Competence:** Members should not accept or continue any appointment as an Independent Examiner unless they genuinely believe that they have the requisite skills, knowledge and practical experience to carry out a competent independent examination.
- 4.6 **Performance:** Members should plan, perform and complete their independent examinations with due skill, care, diligence and expedition and with proper regard for the applicable laws, regulations, rules, standards and guidance.

5 Independence and objectivity

- 5.1 For the purposes of clause 4.4 of this Code (Independence and Objectivity), members will not normally be able to demonstrate that they are independent of an entity and its trustees and officers if, at the present time (or at any time since the first day of the financial year under examination):
- 5.1.1 they are (or have been):
- (a) whether on a paid or unpaid basis:
 - (1) a trustee, officer or employee of the entity; or
 - (2) involved in a managerial role, in the administration of the entity or in the entity's fundraising or promotional activities; or
 - (b) a major donor (or lender) to, or major beneficiary of (or borrower from), the entity; or
the spouse, civil partner or a close relative, business partner or employee, of any person who falls within a or b above; or
- 5.1.2 they or persons closely connected with them are (or have been):
- (a) reliant on the entity for a significant part of their income, whether:
 - (1) as a provider of goods or services to the entity; or
 - (2) as a beneficiary of the entity's funds or activities; or

- (b) in a joint venture arrangement with the entity that is (or has been) financially significant for all parties involved; or
- 5.2 Members should consider carefully the potential impact on their independence and objectivity if they or persons closely connected with them:
 - 5.2.1 accept from the entity (or from any trustee, officer or employee of the entity) any benefit in the form of hospitality, a gift or the opportunity to obtain goods or services on favourable terms. A member's independence and objectivity should not normally be at risk if the value of such benefits is modest; or
 - 5.2.2 have a close personal or business relationship with any trustee, officer or employee of the entity.
- 5.3 Members should be careful not to allow a person to intimidate them into making unjustifiable or inappropriate decisions.
- 5.4 Members should reflect at regular intervals on the impact of their length of service with any one entity on their ability to be independent and appropriately critical of that entity.

AAIE recognises that the circumstances of some of its members may place limitations on what practically they may be able to do and also that some small charities are fragile organisations which could see such an approach as destabilising. However, it recommends that members give consideration to the subject after ten years of service with any one entity.

6 Accepting new appointments

- 6.1 Members considering whether to accept any new appointment as an Independent Examiner should:
 - 6.1.1 determine the reasons why the charity is appointing an Independent Examiner; and
 - 6.1.2 unless, in the circumstances, it would not be appropriate to do so:
 - (1) request the entity to authorise any existing/previous Independent Examiner to co-operate with his/her potential successor; and
 - (2) write to the existing/previous Independent Examiner and obtain the details of any issues or circumstances (for example, fundamental disagreements, lack of integrity, lack of co-operation and non-payment of fees) that might be relevant to their decision whether to accept or decline the appointment, making oral enquiries if no written reply is forthcoming.
- 6.2 Members receiving authority from a client to co-operate with a potential successor as an Independent Examiner should deal promptly and candidly with any reasonable request for information from their potential successor.

7 Terms of appointment

- 7.1 When members accept any appointment as an Independent Examiner:
 - 7.1.1 the terms of the appointment (including the billing and payment arrangements, if any) should be defined in writing, preferably in the form of an engagement letter; and

- 7.1.2 the entity's trustees or officers should confirm their agreements to those terms in writing.
- 7.2 Members should not accept or continue any appointment as an Independent Examiner if any restrictions are placed on:
 - 7.2.1 their right of access to any of the entity's books, documents and other records (however kept) that they consider it necessary to inspect; or
 - 7.2.2 their entitlement to require such information and explanations from past and present trustees, officers or employees as they consider it necessary to obtain.
- 7.3 Whilst it is the legal duty of the entity's management to supply the above information, members may wish to consider using a letter of representation, on a regular or as-needed basis, to draw the entity's attention to the requirement to provide *all* relevant data. This may be particularly useful where the member has concerns that this duty may not be fully understood by the entity or where the circumstances of the entity are complex or changing.

8 Report of the Independent Examiner

- 8.1 It is the obligation of a member who has accepted appointment as an independent examiner of the financial report of an entity to submit a report to its governing body within a reasonable time following the close of the reporting period to which the report relates. If for some reason a report is not possible, the member should communicate to the governing body, outlining the reasons why a report cannot be completed by the member.

9 Discipline

- 9.1 Any member found to have breached this Code of Practice may be deemed to have acted prejudicially to the interests of the Association and, in accordance with the Constitution, the Council may terminate the membership of any such individual, provided that the individual concerned shall have a right to be heard by Council, accompanied by a friend, before a final decision is made.