# Report

Paper CLWP 04 03-13

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| Committee | CIPFA/LASAAC Accounting for Schools in Local Authorities Working Party |
| Venue | Robert Street, London and Telephone Conference |
| Date | 14 March 2013 |
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| Subject | Consultation responses analysis and update |

**To report on the responses to the 2013/14 Code of Practice on Local Authority Accounting (the Code) consultation exercise as it relates to accounting for schools and issues that have arisen following the close of the consultation.**

## 1 Introduction and Background

1.1 This report considers the consultation responses[1] to the questions in the Invitation to Comment on Accounting for Schools in Local Government. Appendix A to this report sets out an analysis of the responses received. The Secretariat has made comments on the responses and included its recommendations in the body of the report.

1.2 The Secretariat met with the Department for Education (DfE) to discuss the consultation in July but was not able to meet again following that date until the beginning of October. Following the October meeting the Secretariat received a letter from the DfE which indicated that the Department had concerns over the analysis. On 5 November 2012, the afternoon before CIPFA/LASAAC's meeting to consider the consultation responses a further detailed analysis was sent to CIPFA. This analysis and the covering letter are included at Appendix B.

1.3 In addition responses were sent by four faith groups. An example of these responses is also attached for information at Appendix C– all the responses CIPFA received from faith groups were very similar and therefore only one example is attached. Beyond the broad views given in these communications that the schools were controlled by local authorities there was no technical analysis of the accounting issues raised.

1.4 CIPFA/LASAAC had received all of the information both attached and above and wished to invite the Accounting for Schools Working Party to consider the issues raised and whether this might impact on the analysis included in its Draft Basis of

[1] A number of interested parties best described as professional accounting firms that audit local authorities is abbreviated in this report and the Appendices to "firms".

Conclusions. At CIPFA/LASAAC's November meeting it also decided not to proceed with any changes to the 2013/14 financial statements (at that juncture) until further analysis took place. In addition, CIPFA/LASAAC considered that as the 2014/15 Code was anticipated to adopt IFRS 10 *Consolidated Financial Statements* (which as discussed in previous reports to the Working Party had potentially complex application issues for public sector entities in general and schools in particular) that this work also needed to be completed before it finalised the approach in the Code.

1.5 The Financial Reporting Advisory Board (FRAB) has been kept informed of the consultation analysis, its conclusions, the significant issues raised by the various parties and the potential resultant implications for the Whole of Government Accounts. On 4 October 2012, FRAB recommended that a cross-cutting working group should form to take forward the issue of applying international accounting standards, principally IFRS 10, in the context of public sector schools. The *Government Financial Reporting Working Group in the Context of Public Sector Schools* includes Members of the Working Party.

## 2 Overview of the Responses

*Responses Received*

2.1 Although there has been an increased response rate to the consultation from that of the consultation on non-current schools assets (which had 13 original responses) the Secretariat would note that the response rate is still not particularly high with only 20 or 21 direct responses being provided to the each of the questions on schools (from the total 43 respondents to the consultation on the amendments to the 2013/14 Code). However, significantly encouraging has been that a number of those responses have been from the two relevant audit bodies and a large proportion of the firms that are audit suppliers in England and Wales, which does give wider assurance on the responses, albeit some of the responses from the firms are dissimilar. Appendix A provides a summary for the Working Party of an analysis of issues raised by respondents.

2.2 Working Party Members will note that the responses at Appendix A do not include all the consultation questions included in the ITC. Those questions which raised the issue of adaptation and application of the Code's requirements have been removed as these will need to be considered again once the wider decisions on whether or not the income and expenditure that the schools governing bodies are responsible for should be included in the local authority boundary. The Appendix also includes extracts provided by general commentaries given by respondents to set out the nature of some of the dissenting views for the Working Party.

*Issues Raised*

2.3 The Secretariat is of the view that the consultation process itself did not raise any significant new accounting issues on the control test set out in the Draft Basis of Conclusions of the Working Party under IAS 27 *Consolidated and Separate Financial Statements* and SIC 12 *Consolidation Special Purpose Entities*. A small number of issues were raised by respondents that were not included in the consultation proposals. These include:

- the analysis need not be considered because the schools concerned are not reporting entities (*question 50*),

- the analysis should have progressed to considering whether the schools' governing bodies should be accounted for as associates – this was considered briefly by the Working Party but not considered in great detail as there is no investment to account for (more detail is included in Appendix A) – (*question 51*),

- the non-current asset analysis should have considered issues relating to PFI/IFRIC 12 *Service Concession Arrangements*, and IAS 17 *Leases* /IFRIC 4 *Determining Whether an Arrangement Contains a Lease* – (theoretically this was included in the consultation as this was raised in last year's consultation which was linked to this year's ITC) (*question 52*),

- the accounting treatment of Dedicated Schools Grant (this has been considered by CIPFA/LASAAC) (*question 54*), and

- the potential impact of the adaptation on accounting for the Common Good in Scotland (this issue will need to be referred to the CIPFA/LASAAC Board as a part of its general deliberations on the application of IFRS 10) (*question 51*).

2.4 The Schools Working Party's remit as a sub–group of CIPFA/LASAAC has been to consider the application of the existing standards to accounting for schools as they are currently adopted by the Code. One of the notable issues that arises from these consultation responses is that some of the respondents recognise the accounting tests but are seemingly indicating that the financial statements' need to demonstrate the relationship of the interests between schools, local authorities and central government cannot be accommodated within existing standards. One of the responses that perhaps demonstrates this best is the last one extracted in Appendix A but other authorities made comments about the need to demonstrate to users of the financial statements expenditure on schools.

**The Secretariat is of the view that none of the issues above significantly changes the analysis in the Draft Basis of conclusions and recommends that no further change is made other than any clarifications of detail.**

## 3 Letter from the Department for Education

*The Impact of the Scheme of Financing for Schools*

3.1 The Secretariat is of the view that the Working Party did consider the issues raised in the control analysis in Annex A attached to the DfE's letter of 5 November 2012 (both provided in Appendix B). Following a meeting with the Department on 28 February 2013 the Secretariat understands that the response received by the Department from its discussions with local authority contacts focussed on the controls that authorities were able to exert through its Scheme of Financing for Schools. The Secretariat is of the view that the Working Party (as a result of its membership and deliberations) was aware of the requirements of local authorities under Schemes. The Working Party acknowledged that this was a complex analysis with a number of indicators of control moving in different directions. However, the analysis focused on the most significant elements of control.

3.2 For example, the Working Party recognised in the analysis that the Scheme of Financing for Schools may contain provision for excess surplus balances to be "clawed back". However, statutory guidance on such schemes issued by the Department for Education indicates that "Any mechanism should have regard to the principle that schools should be moving towards greater autonomy, should not be constrained from making early efficiencies to support their medium-term budgeting in a tighter financial climate, and should not be burdened by bureaucracy. The mechanism should, therefore, be focused on only those schools which have built up significant excessive uncommitted balances and/or where some level of redistribution would support improved provision across a local area."

3.3 As a result the Working Party determined that the key policies in this area related to decisions as to how the funds were spent once they had been received, the provision of funding on its own not being a determinant of control. The Working Party was clear that governing bodies may spend such amounts of their budget shares as they think fit for any purposes of their school in accordance with Section 50 of the Schools Standards and Framework Act 1998. Whether governing bodies needed to follow any particular administrative rules in spending it was not considered as a primary indicator.

*Other Key Operating Policies*

3.4 Other key operating policies that are in the control of governing bodies are that they appoint key management personnel (eg the headteacher) and have overall responsibility for staffing matters within their school. We note that the Governors Guide to the Law (Department for Education May 2012) also sets out that:

"The governing body must exercise its functions with a view to fulfilling a largely strategic role in the running of the school. It should establish the strategic framework by:

- setting aims and objectives for the school;
- adopting policies for achieving those aims and objectives;
- setting targets for achieving those aims and objectives."

**The Secretariat is of the view that based on the current evidence available to the Secretariat the effect of a particular Scheme of Financing for Schools whilst exerting an element of control is not as significant an indicator of control as the governing body's ability to spend the budget as it would see fit for the purposes of the school, particularly in the light of its ability to set its own objectives and being able to appoint key management personnel. The Secretariat would therefore not recommend significant change to the Draft Basis of Conclusions of the Working Party.**

*Intervention Points*

3.5 The Schools Working Party analysis in its basis of conclusions recognised the points at which local authorities might intervene in operation of schools and governing bodies in the consultation paper. At the point of intervention it recognised that the control balance does shift to the local authority and at that time local authorities should consider whether or not they control (in accounting terms) the governing body of the school. However, the Working Party concluded following discussions with the Department (in July last year) that the powers to intervene only exist when they are triggered by particular circumstances.

**The Secretariat would not recommend change in the analysis of the Draft Basis of Conclusions of the Working Party**

*Ability to Make Organisational Changes to the School*

3.6 The Working Party also considered the possibility that control may be exerted over schools' governing bodies by means of the authority's ability to initiate statutory proposals to make organisational changes to schools – see paragraphs 18 -20 of Appendix B of the Invitation to Comment. Except for community schools this power could not be proven to not be exclusive to the authority but was open to be exercised by other bodies. The Department raised this as an issue and is anticipated to respond to CIPFA in due course.

*De Facto Control*

3.7 In the recent discussions with the Department for Education it also raised the issue that de facto control might exist, particularly, for smaller primary schools. The Working Party did consider the issue of de facto control and also considered the possibility that it existed but had no evidence to support this during its debates. De facto control is very difficult to assess and identify and is more explicitly defined under IFRS 10 than in IAS 27. De facto control is also not currently defined in the Code. Most guidance available on de facto control is available for private sector entities and normally refers to an entity that consolidates another entity even though it owns less than 50% of the voting shares. Control does not exist in these circumstances by voting rights or other contractual arrangements. Any analysis of de facto control would first require clear specification of what it would mean in local authority circumstances in the Code. It would then require each local authority to have in depth knowledge about the operation of the decisions of each governing body.

3.8 The Working Party at its last meeting considered that it would not consider de facto control under IAS 27 unless the control decision was inconclusive.

**The Secretariat would recommend that this issue is brought to the attention of the *Government Financial Reporting Working Group in the Context of Public Sector Schools* for its deliberations on IFRS 10.**

## 4 Consequences of the Working Party's Proposals

4.1 The DfE's covering letter set out that there are significant practical application issues for schools – see the letter at Appendix B. The Working Party was aware of these issues and did debate these with concern but at the same time recognising that this was outside of CIPFA/LASAAC's remit. However, to ensure that it was fully informed of the consequential issues the Working Party included a specific question on this in the consultation documents.

4.2 The issues raised by the DfE may be seen in full in the Appendix in summary they comprise:

- Resource implications for the financial reporting consequences for schools;
- Consistency within the sector;
- Regularity, assurance and audit frameworks.

4.3 The responses to the relevant questions also included more information on the issues already identified by the Working Party. Probably the most significant of these was that if the governing bodies were not within the local authority group boundary then it was less clear what reporting framework they would be included in for Whole of Government Accounts (WGA) purposes. This issue of WGA consolidation is an important issue as there are a significant number of schools governing bodies that would not be in local authority boundaries under the Working Party's analysis. If these move to be consolidated by another body there are likely to be significant resource consequences for that body – as is identified by the DfE letter. In a similar vein, the Working Party has also debated informally that if categories of schools are not within the local authority group boundary then it is possible that a separate reporting framework would be required which they would not be prepared for.

4.4 With regard to other issues of accountability, the production of information for the S521 Statements[2] in England and S52 Statements[3] in Wales were also considered in the consultation paper which had a mixed response from respondents, a significant number of the authorities considering that there would be consequential issues whilst the audit bodies and one of the firms indicating that there would not be.

## 5 Other issues

5.1 The governance arrangements for governing bodies in England have changed under the Schools Governance (England) (Amendment) Regulations 2012 (SI 2012 No. 421) and need to be reflected in any future documentation that the Working Party and CIPFA/LASAAC may wish to issue on the control test. However, these amendments do not change the conclusions on the voting powers of local authorities.

### Recommendations

The CIPFA/LASAAC Working Party is invited to consider the issues above and determine whether:

1) it agrees with the Secretariat that it cannot see any need for significant changes in its control analysis under IAS 27 and SIC 12, subject to further evidence from the DfE in relation to school closure and organisational change.
2) there are any areas it wishes to consider in any more detail
3) it would like bring the de facto control issue to attention of the Government Financial Reporting Working Group in the Context of Public Sector Schools***.***

[2] Section 251 of the Apprenticeships, Skills, Children and Learning Act 2009 (formerly S52)
[3] Section 52 of the Schools Standards and Framework Act 1998

**Accounting for Schools in Local Authorities – Consultation Questions and Responses**

| Question | | Agree | Disagree | No Comment |
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| 50 | Do you agree with the views of the Working Party that governing bodies are entities capable of consideration for consolidation into the local authority boundary? If not, why not? Please give the reason for your response. | 14 (36%)<br>*(67%)* | 7 (18%)<br>*(33%)* | 18 (46%) |
| 51 | Do you agree with the analysis of the Working Party in relation to its views on consolidation or non-consolidation of governing bodies (see Appendix B)? If not, why not? Please set out the reason for your response across the various categories of maintained schools. | 12 (31%)<br>*(60%)* | 8 (20%)<br>*(40%)* | 19 (49%) |
| 52 | Do you agree with the Working Party in relation to its consequential analysis in relation to schools' non-current assets? If not, why not? Please give the reason for your response. | 11 (28%)<br>*(55%)* | 9 (23%)<br>*(45%)* | 19 (49%) |
| 54 | Do you agree with the Working Party's view on the treatment of income and expenditure relating to maintained schools? If not, why not? | 13 (33%)<br>*(62%)* | 8 (21%)<br>*(38%)* | 18 (46%) |
| | | Yes - difficulties exist | No consequential difficulties | No Comment |
| 57 | Do you consider that the conclusions of the Working Party in relation to the non-consolidation of the income and expenditure of the governing bodies of voluntary controlled, voluntary aided and foundation (and foundation special schools in England) gives authorities any consequential difficulties for their accountability for such expenditure, for example, under the duties of the S151 officer of the authority? If so please set out what these issues would be. | 12 (31%) | 3 (8%) | 23 (61%) |

| Comment | Secretariat Response |
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| ***Question 50 – Governing Bodies Capable of Being Treated As Entities*** | |
| One of the firms commented that the bodies may have corporate status and be able to enter into contracts but it commented that the IASB's Framework refers to reporting entities. The firm noted that the governing bodies are certainly not reporting entities in an accounting sense.<br><br>An authority commented that it did not feel that the arguments are conclusive. It commented that it could be argued that to be considered to be an entity under IFRS a body has to have a certainly level of financial independence eg sufficient to require it to produce its own financial reports. | This was an issue on which the working party was very clear in its deliberations last year. The Schools Working Party was aware that the schools governing bodies do not provide formal separately audited accounts in the same manner as a company but many reporting entities do not.<br>It should be noted that the IASB's Conceptual Framework does not stipulate that the reporting entity in the conceptual framework produces year-end financial statements in a manner anticipated by the respondent and refers to general purpose financial statements which are produced by the governing bodies of all schools. The IASB has issued an Exposure Draft[1] on the reporting entity and relevant extracts are included at the end of this Appendix. A reporting entity need not be a legal entity. However, the Secretariat considers that a school governing body could meet the definition of a reporting entity. The draft extract of the IASB consultation on the reporting entity when looking at consolidation does not refer to the need for the entity being consolidated to be a reporting entity.<br><br>However, perhaps more relevant than this is that IAS 27 requires that a parent consolidates an interest in a subsidiary. It does not refer to the consolidation of a subsidiary that is a reporting entity. |
| One of the Scottish authorities commented that SIC 12 application may lead to unintended consequences for the future direction of trust funds, particularly of the Common Good. The authority commented that "we would not want to see the Common Good consolidated directly into the financial | The Secretariat considers that this issue does not relate specifically to the use of the definition of an entity capable of being consolidated (this being addressed already in guidance issued by LASAAC) but of the adaptation proposed in the ITC. |

[1] **IASB Exposure Draft - Conceptual Framework for Financial Reporting The Reporting Entity, July 2010**

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| statements of the Council". | |
| ***Question 51 - The Control Test Analysis*** | |
| One of the firms commented "As regards control we consider that there is a high level issue flowing from the arguments for creation of academies and free schools are that these are outside local authority control. In our view the discussions on schools moving to academy status support the view that maintained schools are within local authority control.<br>"The separate status of academy schools is recognised through the requirement for them to produce accounts which are subject to audit and which are then consolidated within Whole of Government Accounts.<br>"If the assessment of control is taken under IAS 27 we think the focus should be on the definition of control in the standard. Control is defined as "the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities."<br>If individual schools are given freedom to exercise control over day to day transactions within delegated budgets and authorities have power to step in for governance, academic or financial failings this would indicate to us that ultimate control rests with authorities.<br>"If considering under IAS 27 control tests we would expect the conclusion for these to be within group rather than single entity statements. The conclusion to continue to recognise community schools within single statements is based on a pragmatic view rather than flowing from the standards.<br>"We also note that consideration should be given to the new group standards, IFRS 10,11 12, as it would be unfortunate if different recognition conclusions were reached on application of these standards. In any case it appears wrong for a change in control tests under these new group standards to affect the single entity statements." | The creation of academies and free schools is not directly relevant to the accounting treatment of maintained schools. The accounting treatment for academies as is recognised by this firm has been largely driven by the separate legislative framework that they operate in.<br><br>It is notable as considered by the Working Party that Whole of Government Accounts classifications whilst in many cases using criteria very similar to accounting standards, are nevertheless different from the application of IFRS. The remit of the Schools Working Party and the definition of the local authority group boundary is driven by the application of IAS 27 *Consolidated and Separate Financial Statements* and SIC 12 *Consolidation Special Purpose Entities*. The Draft Basis of Conclusions considered the intervention points for local authorities do not exist until such a point that the local authority is empowered by circumstances to intervene.<br><br>It is recognised that the decision to recognise community and community schools resources in the single entity financial statements of local authorities required an adaptation.<br><br>The consultation was for the 2013/14 Code which was based on IAS 27. The Schools Working Party did consider reports under IFRS 10 but it was recognised that this was at an early stage as the adoption of IFRS 10 and the group accounting standards and any possible adaptations for public sector circumstances could not at that stage be taken into account. This will be considered by CIPFA/LASAAC's developments on the Code and the government financial reporting working group in the context of public sector |

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| | schools. |
| A number of authorities noted that the authority determines the funding for schools.<br><br>One authority noted that the authority bears the risk of loss if the school closes.<br>It also noted that the authority is the employer of voluntary controlled staff. | Funding is not a determinant of control.<br><br>The Working Party did note that the authority was at the risk of loss if the school closed but were not aware that it was a significant risk (see comments in the working party's Draft Basis of Conclusions).<br><br>Although the authority is the employer in a Voluntary Controlled school it is the governing body that has the responsibility for staff per the Basis of Conclusions (and appoints the head teacher). |
| One authority stated it did not agree with the conclusions due to the incidence of interventions and incidence of risk of loss. | If an authority considers that there is a significant risk of loss and frequent interventions then this is likely to be an important factor for the Working Party to consider. However, the authority did not indicate how their analysis differed. This authority noted instead that their position was guided by the ultimate intervention activity available in respect of all maintained school categories. |
| One authority noted that all schools spend as agents of the authority and noted that this would give problems for WGA process. | The issue for WGA is dealt with in the body of the report. This authority is focussing on part of the form of the arrangement in the Schools Standards and Framework Act 1998. However, this Act then permits the governing bodies to spend such amounts of their budget shares as they think fit for any purposes of their school. |
| One Welsh authority commented "There is no 'clear case for control' for any types of schools. Both LA and governing body have powers vested in law; any decisions made by either can be referred to WG by either.<br>If the governing body objects to the LA's proposal for school organisational changes, the decision is referred to Welsh Minister. The note suggests that as the [Welsh Government (WG)] cannot modify the proposal it means the LA has control. We disagree with this view. The WG can decide that the | The Schools Working Party was aware that there was a less clear case of control for Welsh Community and Community Special Schools. The Secretariat notes the authority's comments that there is no case for control in relation to school organisational changes in Wales. |

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| proposal cannot go ahead. The WG can approve a modification but would seek approval of both LA and the governing body. This means the LA has powers to propose changes but does not 'have control over the governing body'.<br>All maintained schools are part of the LA's 'activities' and all meet the 'interests' of the LA therefore the LA should account for all schools' in its accounts rather than exclude some. | |
| An authority commented "If school governing bodies were to be accepted as entities then we agree with the opinions given on whether or not each type of school is a subsidiary.<br>"However the document misses the next step which would be required. Those governing bodies which are not subsidiaries would then need to be assessed as potential associates. We feel that such an analysis would be likely to find that many if not most were associates. Since statute allows LAs to appoint up to 20% of governors, some would automatically qualify on the test of voting rights, but other factors in the relationships (e.g. employing the staff) could bring more into the LA group.<br>"This would result in most LAs throughout the country having to prepare group accounts to include maintained schools."<br><br>A second authority referred to the possibility of a school being an associate and enquired about the impact of IPSAS 7. | The Schools Working Party considered whether or not the schools were associates, albeit briefly. In order for an entity to be an associate, it is not sufficient for the authority to have the power to exercise significant influence; the authority must also be an investor in the entity.<br>The definition is specifically enhanced in the 2012/13 Code to confirm the inclusion of joint ventures where the authority does not share joint control but has significant influence.<br>Investor relationships are not defined in the Code or in IAS 28. However, IPSAS 7 *Accounting for Investments in Associates* provides useful additional guidance.<br>Paragraph 1 of IPSAS 7 specifies that a relevant investment in an associate is one that leads to the holding of an ownership interest in the form of a shareholding or other formal equity structure. Paragraph 3 excludes any other involvement that might be described as an 'investment', such as substantial contributions to construction projects that are nonreciprocal in nature but do not give rise to an ownership interest.<br>It is clear that the authority does not have an investment to recognise. |
| **Question 52 - Consequential Schools' Non – Current Assets Analysis** | |
| One of the audit bodies commented: "We agree with the analysis of the working group. In effect the working group has undertaken the analysis that a body would have to go through and has concluded with a rebuttable proposition that community schools | The Secretariat has no further comments. The Working Party has been aware with concern throughout its debate that its work is likely to have an effect on WGA. The Working Party's remit does not extend to the WGA. However, both by representation at the |

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| should be on balance sheet. However this may need to be considered on a case by case basis depending on the particular circumstances of the schools.<br><br>"The implications for WGA also need to be considered as schools fall within the boundary as being under public sector control. The conclusions of the working party will mean that information on the other types of school will need to be obtained in a different manner." | Working Party and by regular updates, the CIPFA Secretariat are of the view that the relevant bodies have been informed of the debates. |
| An authority commented: "the inclusion or non inclusion of various categories of schools within a local authority's balance sheet can be and will be debated into the future. The arguments put forward in the consultation document do not bring this debate to conclusion; merely swing the pendulum away from the schools' inclusion in the accounts with all the attendant risks of misstatement and confusion." | No comments - other than this is likely to be symptomatic of the difficulties in the accounting for schools non-current assets issue. |
| An authority commented: "Where ownership of the assets resides with the local authority and the assets are not the subject of a finance lease out, they should be recognised on the local authority balance sheet. There is a danger that if an over-simplified approach is taken to exclude all the assets for a particular category of school from the local authority balance sheet that significant values of assets may not be reported on any balance sheet." | It is agreed that authorities need to take individual decisions and potentially the Code might need to include more sophisticated provisions for any assets that the authority owns but which are used by an entity considered not to be within the authority's group boundary. |
| A city council commented that its': "schools estate is 100% PFI, including VC, VA and Foundation. The consultation is light on taking PFI into account. Issues range from control eg is the school an asset controlled under the PFI contract? Does the arrangement change where the local authority is no longer the grantor; and the status of payments to PFI contractor and to/from the school to the Council eg would non-current assets be replaced by debtors representing the payments from the school to finance the PFI contract. The | The Secretariat considers that it would be difficult to meet both control criteria in section 4.3 of the Code for assets not within the local authority boundary. However, this would be an individual decision for the authority. The Secretariat has seen foundation schools under PFI Schemes recognised both on and off balance sheet. This might be an issue for application guidance following the final decisions of CIPFA/LASAAC once it has concluded on the initial control decisions with respect to schools. |

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| status of the PFI grant is also called into question. In summary PFI schools status does not appear to have been fully explored. “ | |
| An authority commented: “Agreed that assets that are 'not within the ownership of LA' should not be recognised in LA balance sheets.<br><br>Disagree that assets owned by LA, 'whose day-to-day use is within control of the governing body' should not be recognised in LA balance sheets'.” | This has been covered in the draft Basis of Conclusions. Ownership on its own is not a basis of determination of asset recognition. |
| An authority commented: “This consultation has not introduced any new issues since the previous consultation, which was deemed inconclusive. We are still unconvinced by the arguments relating to VC school asset.” | Last year’s consultation response rate rendered the consultation inconclusive. However, the Working Party did not have any further evidence to change their arguments on the issue and this has been augmented by the work of the Working Party. |
| One of the firms commented: “As noted above schools should be in or out. If these are regarded as entities it does not seem appropriate to then have separate consideration of accounting recognition for individual elements.<br>We suggest that if schools are excluded from single or group entity statements clarification is required on expenditure incurred on their behalf. In particular the statutory basis for recording subsequent expenditure on school building as REFCUS.” | The Secretariat does not consider that there is an accounting argument to support that all schools should be in or out. The schools are clearly established as different categories under the Act with the organisational arrangements impacting on the accounting treatment, including the constitution of the governing bodies of the schools. However, the commentary provided by the Department for Education on 5 November may support this view. |
| One of the firms commented: ”The working party’s draft basis of conclusions considers whether the governing bodies should be consolidated, but the document does not mention whether it has also considered if non-current assets may need to be recognised under other accounting requirements e.g. IFRIC 4 or IFRIC 12. Paragraph 11 clearly notes that the assets are being used to help LEAs meet their statutory duties, and where most of the funding to the schools comes from the LEAs, there is a risk that IFRICs 4 or 12 might apply. We understand that this issue was in | The Board’s previous separate consultation paper on non-current assets indicated that where an asset is covered by a specific arrangement that might bring it within the auspices of IAS 17 *Leases* or IFRIC 12 Service Concession Arrangements (Sections 4.2 or 4.3 of the Code) it should be considered under these arrangements. However, it would appear difficult on the basis of the Working Party’s current conclusions that a PFI asset for a foundation or a voluntary aided school would meet the control tests or criteria in Section 4.3 of the Code. |

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| fact considered by the working party and we suggest that for completeness, the proposed Application Note should address this briefly.” | |
| ***Question 54 – Recognition of Income and Expenditure*** | |
| One authority commented that: “all governing bodies operate within guidelines issued by the Government and are subject to the Council as the immediate parent. That being so, the full range of Council services is best represented by the inclusion of such expenditure and income.” | The income and expenditure would still be represented in the authority’s accounts. However, the full subjective analysis of that income and expenditure would not be. |
| A firm commented: “We agree that, in not consolidating voluntary controlled, voluntary aided and foundation schools, the income and expenditure of those schools should not be recognised in the LEA’s accounts.<br><br>“However, the nature of the LEA’s control over the Dedicated Schools Grant (DSG) paid to those schools raises questions over whether the LEA may be acting as an agent rather than a principal for the grant paid and for the accompanying funding from the Department for Education. The draft report does not discuss this and simply states (paragraph 39) that the grants should be recognised.<br><br>“We understand though that this issue was in fact considered by the working party and we suggest that for completeness, the proposed Application Note should address this briefly.”<br><br>A second firm noted the agency and principal issue should be considered. | CIPFA/LASAAC considered the issue of whether the authority was agent or principal for DSG in June 2011. It concluded that it was principal. This could be considered in any future provisions issued by CIPFA/LASAAC. It is not clear whether the introduction of a national funding formula would change this conclusion. Both issues could be revisited by the Working Party. However, the Code does not make any prescriptions for any other grants made to local authorities. |
| One firm commented “This seems confused to us. Para 106 of ITC says follows responsibilities but it seems incorrect to continue to account for I&E if not accounting for the school.<br>The reference to not accounting for the school but continuing to recognise payroll costs (where teachers are employed by the authority) casts doubt | The drafting was intended to set out the treatment per the latter bullet for schools outside the local authority boundary. There is a difficulty in relation to the accounting treatment for voluntary controlled schools. The authority is clearly legally the employer but it appears from the guidance on the treatment of staff set out in the basis of |

| **Comment** | **Secretariat Response** |
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| as to whether these are part of the authority or not.<br><br>"If it is determined that the school is outside the boundary we would expect DSG to be accounted for either<br>▪ as agent if the local authority has no discretion as to which schools this is paid to<br>▪ as principal with the payment to the school recognised as expenditure (rather than recognising expenditure that the schools incur." | conclusions that the authority does not have the normal significant responsibilities of an employer (ie appointment and dismissal) where accounting control is exerted. |
| One authority commented that "All local authority maintained schools' revenue spending is as agents of the local authority and therefore income, expenditure and unspent balances should form part of the local authority's financial statements. The Section 48 Scheme for Financing Schools promulgated by DfE states that unspent funds belong to the local authority. Furthermore, the timing of the proposed changes, which would require significant changes to current processes and restatement effort, is at odds with what is happening in the schools sector - the majority of schools are converting to academy status and will cease to form part of local authority accounts in any case within the next few years." | The issue of schools as agent of the authority has been considered above. The issue of resource impact is noted with concern. |
| Another authority indicated that the grant was not broken down to this level in the CIES. | For note. |
| A Welsh authority commented that it:<br>"Disagree[s] that individual maintained schools should be treated differently:<br>▪ not a clear case 'for control' or 'no control' of any<br>▪ all maintained schools fall within the 'activities' of LA<br><br>"The argument as put forward means the 'case for control' for a school may change from one year to the next depending on whether the LA has used its 'intervention powers' if the school is 'causing concern'."<br><br>"To ensure consistency, if using the | Control will change with ownership changes in the private sector and this is accommodated in IFRS. Evidence in England indicated that loss of a budget due to intervention is a rare occurrence – there have been no indications yet that this differs in Wales. However, it might be an issue that the Working Party may wish to consider if the schools do drop in and out of control. We have no evidence that intervention is a regular occurrence at this juncture. |

| **Comment** | **Secretariat Response** |
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| 'power' changes the way the expenditure is accounted for, the expenditure should be accounted always as if that 'power' was in place, irrespective whether or not used." | |
| ***Question 57 – Consequential Issues for Accountability*** | |
| ***Authorities noted:*** | |
| The impact of treating various categories of schools differently, particularly where schools might change from being within and outside control in different years depending on intervention powers.<br>It also noted the impact on outturn returns due to the loss of subjective analysis – the authority considered that this was essential for Revenue Support Grant. This subjective information is used extensively within Welsh Government to monitor trends of expenditure. | |
| The S151 officer is responsible for ensuring that the DSG is properly deployed and providing assurance of good financial management in all maintained schools. | |
| The readers of the local authority's financial statements always considered schools information to be included. Consideration needed to be made about how information is or is not included in the financial statements. The authority concurred that there might be an issue around the S151's responsibilities in relation to such expenditure. | |
| It will "still have the reporting requirements to DfE for all maintained schools. If one of these schools closes, the surplus or deficit reverts back to the Council. If this is implemented then we would still need to collect all financial information on schools and then only consolidate the Community Schools which would create significant work." | |
| The proposals would appear to increase the financial reporting workload of LAs considerably. Firstly, the proposals would require each school's status to be assessed, and then the exact responsibility for different types of income and expenditure to be assessed. Secondly, it seems clear that schools other than academies are subsidiaries for the WGA accounts as a whole, and would therefore presumably still need to be included on a line-by-line basis in LAs returns. Then there is the question of RO and QRO returns – since the government is anxious to get a full picture of public sector spending from these returns, it seems unlikely that they would be happy for school pay information to be excluded from these. The additional resources required to report schools differently in the accounts and other returns are not justifiable.<br>There is also the question of public accountability. School governing bodies are not required to produce accounts so if their income and expenditure is not included in LA accounts it would not be fully reported or audited. | |
| The proposed changes to the Code may cause difficulties in relation to the duties of the S151 officer under Section 114 of the Local Government Finance Act 1988. The regulations make specific reference to unlawful expenditure and unlawful entry in the authority's accounts - if some schools' expenditure is excluded from the local authority's accounts it would imply that the S151 officer is not | |

| Comment | Secretariat Response |
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| accountable for this expenditure. There may be VAT issues arising if local authority owned assets operated at voluntary aided schools are excluded from local authority balance sheets and practical consequences of excluding certain categories of schools' expenditure from the accounts e.g. in relation to VAT recovery and tax returns. | |
| **An audit body commented** | |
| The conclusions of the working group impact on the financial reporting. However, in our view there is no change to the existing responsibilities of the s151 officer. | |
| **The firms commented** | |
| No, this is a continuation of existing practice. We also note that these schools are required to submit returns to the local authority, including budgets, quarterly monitoring reports and annual results. | |
| We do not consider that this creates any consequential difficulties for the s151 officer. The proposed accounting perhaps brings into focus the contractor/supplier nature of the relationship between the LEA and the school and the need for the LEA to have appropriate “contract management” arrangements in place to monitor the performance of the school and ensuring value for money.<br>However, the LEA and the S151 officer should already have these, or similar, arrangements in place, even if they are described in a different manner.<br>As a general principle, financial reporting does not drive governance arrangements, but reinforces what is already being done - or sometimes shines a light on things that should be, but currently are not being, done. | |
| We cannot see how the S151 officer can be fully accountable for the proper financial management of schools over which the LEA does not exercise control and which are excluded from consolidation. The determination of whether LEAs are acting as agents or principals in passing DSG to non-controlled schools would also help to clarify the accountability of Section 151 officers for school spending. We also believe that there is an urgent need for a stronger financial accounting framework for non-controlled schools to be introduced, particularly in foundation schools where governing bodies and bursars exercise significant powers without any statutory requirement to prepare accounts which demonstrate that they have exercised stewardship over public funds. | |
| We agree that this raises questions on the accountability arrangements. if the authorities S151 officer is considered to be responsible for maintained schools it's difficult to see why they aren't within local authority boundary Our review of schools accounting arrangements has highlighted the importance of improved accountability and governance arrangements in respect of individual schools. | |

**ADDITIONAL COMMENTS MADE BY RESPONDENTS**

An English Authority:

## Code of Practice 2011-12 Consultation Treatment of Non – Current School Assets

The treatment of Voluntary aided and controlled schools assets in the Balance Sheet has been a subject of debate over a number of years and the attempt by the Code to clarify the position is to be welcomed. However, as an authority that has some 51% of primary and 34% of secondary schools being VA or VC schools the County Council's statutory responsibility to secure an education service for the authority's children is dependent upon these arrangements which are almost entirely paid for from public funds there is some concern that these will become off Balance Sheet assets which seems to be the conclusion of the consultation paper.

**With respect to the**

***"The financial statements must be prepared in accordance with their substance and economic reality and not merely their legal form. In determining the substance of a transaction, it is necessary to identify all of the transaction's aspects and implications. A group or series of transactions that achieves or is designed to achieve an overall economic effect should be viewed as a whole."***

The Council's treatment needs to be seen in the context that 51% of primary and 34% of secondary schools are

1. In terms of control and regulation,
   a. The Council controls the level of resource available for the provision of service through the scheme for financing schools.
   b. The Council determines that the school is available for the education of the authority's children.
   c. For VC schools the Council determines the maximum number that can be admitted.
   d. The County Council's policy determines the earliest age for admission, i.e. that a school place is available for any child whose fourth birthday falls after the 1 September should be offered a place if the parent wishes.
   e. The Council has a responsibility to ensure that an appropriate curriculum is provided and has rights to inspect schools to ensure that this is the case. The Council can apply sanctions in terms of withdrawing access to the scheme for financing schools.

2. In terms of the residual interest,
   a. The reality of the situation is that a school is only likely to close as part of some sort of reorganisation process. Where this happens what happens on the ground is that capital receipts are recycled within the whole of the particular scheme. This is largely a matter of simple economics and the effect is that the proceeds from the disposal of the residual interest are reinvested in the education service which the Council is responsible for securing on behalf of the authority's children.
   b. In terms of the exhausting the life of the asset the Council is funding the ongoing maintenance of the assets to ensure that they continue in operation.

3. In reality because of the freedoms allowed to governors in managing schools under the arrangements for managing schools the differences between voluntary and community schools are more apparent than real. However, for clarity the definitions of status are provided below:

a. Community schools are maintained by the Local Authority which owns the property and is the ultimate employer of staff
b. Voluntary Aided schools are owned by a Foundation, usually a Diocese or Religious Order, and which is organised in accordance with the founding Trust Deed, but which is maintained by the Local Authority
c. Voluntary Controlled schools have a character determined by the founding Trust Deed, which is protected in terms of some staffing appointments, Religious Education and Collective Worship, but in which the buildings are normally owned by the trustees but maintained by the Local Authority

4. In terms of whether the Council should include a liability to reflect the future maintenance of the assets our view would be that we should not. Firstly the maintenance is provided for through the schools Asset Management Plan. Secondly revenue funding for maintenance (as for community schools) is delegated to Governors as part of the school budget share and the Council cannot direct funding to particular areas. Given the identical level of delegation to Governors why should the County Council treat one group differently from another. Thirdly it is arguable that through the accrued depreciation, impairment and revaluation adjustments reflected in the balance sheet such a provision already exists although it is currently not reflected as a single figure and would be exceedingly difficult to disentangle without considerable work which would add little to the comprehensibility of the accounts and which could not be completed in time for the sign off deadline.

In view of these factors it is my professional opinion that under the substance over form principle the assets relating to VR/VC schools should remain on the County Council's balance sheet. This is consistent with our previous treatment of such assets which was also determined under the substance over form principle via FRS5.

**A WELSH AUTHORITY**

**Accounting for Schools in Local Government in Wales**

The proposals for Accounting for Schools will have a major impact on this Welsh Authority's accounts as 19 of our total school stock of 68 will be excluded from the Balance Sheet.

Our concerns regarding the proposals are as follows:

1) The effect that the different accounting treatment of revenue expenditure relating to schools from being consolidated in the Comprehensive Income & Expenditure Statement (CIES) to being recognised as Third Party Payments may have on the Welsh Government Revenue Settlement
2) Our interpretation of paragraph 39 of Appendix B to the ITC is that each school would need to prepare its own financial statements for the purpose of proper stewardship of public funds and for inclusion in the Whole of Government Accounts (WGA). Although foundation schools currently undertake this function, is this a practical proposition for small voluntary aided and controlled schools? The requirement for individual school accounts to be prepared would result in additional financial/administrative burden being placed on either the Authority or the schools themselves.
3) There are certain anomalies within our school stock which seem to mitigate against a wholesale application of this proposal. For example a new Primary school was built in the authority to replace a former Community Junior and

Infants school and a Charitable Trust Infants school, the new school built wholly with LA funds on LA land is classed as 'Voluntary Controlled' and therefore would now be excluded from CCBC balance sheet.

4) Arrangements will be required to ensure that there are effective accountability and governance arrangements for schools excluded from LA accounts.
5) If the Schools are outside the LA boundary then all capital spend would be treated as REFCUS which would distort the Education & Children's Services net cost of Services in the CIES to the extent that any capital spend is not grant funded.
6) The statutory reporting requirements of schools' balances at the year-end are a matter of legal interpretation and therefore a matter for each individual authority. This could lead to inconsistent treatment of schools' balances within LA accounts and hence WGA, definitive guidance is required.
7) Further clarification is required re paragraph 102 of the ITC and 9.1.2.16 of Chapter Nine Group Accounts referring to 'the single entity financial statements are also defined as including the income, expenditure, assets, liabilities, reserves and cash flows of the schools' governing bodies within the control of the local authority' – is this to include Schools' Funds as these are currently not included in the LA financial statements. If these were to be included there would need to be much more detail of these Funds and full external audit.

**ONE OF THE FIRMS**

**Accounting for Schools**

This is a very complex area and we would be pleased to discuss this directly with CIPFA to fully explore our thoughts on this issue.

We consider that all maintained schools should be accounted for through local government accounts, either as part of single entity accounts or consolidated as part of group accounts.

A key factor in our conclusion is that discussions on the reasons for creation of academies and free schools is that these are outside local authority control which suggests maintained schools are within local authority control. Further maintained schools do not produce their own accounts whereas academies have to produce their own accounts.

We welcome the detailed work performed to date through the Working Group. In particular we welcome the view that individual schools are capable of being considered as entities. We consider it important that all activities and balances of a school are accounted for together, either as part of LG accounts or the preparation of separate accounts for the school. We suggest that more consideration is given to whether these entities are within the single entity boundary.

If it is decided that these are separate entities and that control should be determined using control criteria in IAS 27 and SIC 12 we believe that any schools recognised under these tests should be consolidated within group accounts rather than being accounted for as part of single entity accounts.

In forming a conclusion based on these standards we suggest that more consideration should be given to the power that local authorities have over maintained schools operating within delegated budgets.

Irrespective of the conclusions on accounting recognition we consider that CIPFA should consider working to improve the overall accountability and governance arrangements for schools through preparation of accounts recognising all of their activities. We note here that if some maintained schools are not accounted for through local authority accounts that arrangements will be required to ensure that these can be properly recognised within Whole of Government Accounts.

**Exposure Draft - Conceptual Framework for Financial Reporting The Reporting Entity July 2010**

RE4 Identifying a reporting entity in a specific situation requires consideration of the boundary of the economic activities that are being conducted, have been conducted or will be conducted. The existence of a legal entity is neither necessary nor sufficient to identify a reporting entity. A reporting entity can include more than one entity or it can be a portion of a single entity.

RE5 A single legal entity that conducts economic activities and does not control any other entity is likely to qualify as a reporting entity. Most, if not all, legal entities have the potential to be reporting entities. However, a single legal entity may not qualify as a reporting entity if, for example, its economic activities are commingled with the economic activities of another entity and there is no basis for objectively distinguishing their activities. In some jurisdictions, there may be questions about whether those entities are separate entities under the law.

RE6 A portion of an entity could qualify as a reporting entity if the economic activities of that portion can be distinguished objectively from the rest of the entity and financial information about that portion of the entity has the potential to be useful in making decisions about providing resources to that portion of the entity. For example, a potential equity investor could be considering a purchase of a branch or division of an entity.

Consolidated Financial Statements

RE7 An entity controls another entity when it has the power to direct the activities of that other entity to generate benefits for (or limit losses to) itself.