PROFORMA FOR PRACTISING FEE APPLICATIONS FOR APPROVAL BY THE LSB UNDER SECTION 51 OF THE LEGAL SERVICES ACT 2007

Preamble

Purpose

1. The information in this proforma should be provided by approved regulators when submitting each practising certificate fee (PCF) application to the Legal Services Board (LSB) for approval under section 51 of the Legal Services Act 2007 (the Act). Section 51(2) of the Act limits the application of amounts raised by PCFs to one or more of the permitted purposes set out in section 51(4).

2. The Practising Fee Rules 2016[1] (Rules) restate the permitted purposes in section 51(4), set out the criteria against which the LSB will decide on applications submitted to it for approval and identify the evidence required to satisfy that criteria. The LSB Guidance to Approved Regulators on PCF applications (Guidance) provides more detailed guidance on the criteria and evidence.

3. Approved regulators should consider the Rules and Guidance when completing this proforma. In case of conflict, the Rules and Guidance prevail.

4. This proforma reflects the Rules and Guidance and does not impose new information requirements. Section I sets out the overview and summary information, and II to VI the specific categories of information (with references to the relevant Rules) that approved regulators must provide when submitting a PCF application, to enable the LSB to assess the application, as applicable. Sections VII to VIII allow for the submission of supporting materials and the provision of contact details, respectively.

5. The proforma is intended to ensure all PCF applications are consistent and contain the necessary level of detail, transparency and clarity in compliance with the Rules. The aim is to ensure the PCF application process is more transparent, consistent and less resource intensive for approved regulators and the LSB.

[1] Section 51(3) of the Act requires the LSB to make rules specifying the permitted purposes.

6. The text of section 51 of the Act together with the Rules and Guidance can be found on the LSB's webpages.

7. The approved regulator submitting the proforma takes responsibility for the accuracy and completeness of the information.

8. As set out in the Guidance[2], we would encourage approved regulators to engage in early pre-application discussions with the LSB to discuss any issues arising before the application is submitted.

Confidential or commercially sensitive information

9. If any information submitted as part of the PCF application is considered by the approved regulator to be confidential or commercially sensitive, please indicate this and provide reasons.

[2] Paragraph 18 of the Guidance.

PROFORMA

Introduction: For context, particularly in these unusual times

There are more than 1.8m chartered accountants and students around the world and 186,500 of them are members and students of ICAEW. They are talented, ethical and committed professionals, which is why all of the top 100 Global Brands employ chartered accountants.

ICAEW promotes inclusivity, diversity and fairness. We attract talented individuals into the profession and give them the skills and values they need to build resilient businesses, economies and societies, while ensuring our planet's resources are managed sustainably.

Founded in 1880, we have a long history of serving the public interest and we continue to work with governments, regulators and business leaders around the world. And, as an improvement regulator, we supervise and monitor over 12,000 firms, holding them, and all ICAEW members and students, to the highest standards of professional competency and conduct.

ICAEW is proud to be part of Chartered Accountants Worldwide, a global network of 750,000 members across 190 countries, which promotes the expertise and skills of chartered accountants on a global basis.

We believe that chartered accountancy can be a force for positive change. By sharing our insight, expertise and understanding we can help to create strong economies and a sustainable future for all.

2021 application

Our application is solely in respect of our role as an Approved Regulator under The Legal Services Act 2007, supervising approximately 340 firms.

As our designation as an approved regulator and licensing authority leads to increased competition and a more liberalised market for probate services, we consider that this is consistent with the regulatory objective of improving access to justice.

Coronavirus

Our thoughts are with those individuals and families who have suffered as a result of the virus. ICAEW and its registered firms are committed to providing support where we can.

The Covid-19 crisis has led to real harm. It has also resulted in, sometimes severe, business difficulties including in relation to probate e.g. registering deaths and arranging funerals, document signing, HMRC delays etc. Our registered firms are focussed heavily on providing help to companies and individuals as a priority throughout 2020 and 2021.

Coronavirus is not just a world health emergency; it is an economic one too. The economic impacts are plain to see and emergency provisions are being made worldwide in an attempt to support individuals, business and anyone who advises them. For those running businesses and supporting others, this is taking a lot of their attention.

ICAEW is monitoring the situation closely and collating resources as conditions unfold. www.icaew.com/coronavirus

Reported on our website 22 May 2020 working with ICAEW's partner Oxford Economics, one of the world's foremost advisory firms. Their analytical tools provide an unparalleled ability to forecast economic trends:

'Hopes at the start of this year for steady economic growth have been upended by the coronavirus pandemic. GDP fell by 2% in Q1, the biggest drop since 2009. And with a chunk of the economy in hibernation, output is forecast to shrink a further 14% in Q2, an unprecedented post-war contraction.

Output is falling because of a planned, partial shutdown of the economy, which offers hope that activity can rebound once restrictions are eased. And policy support by the government and the Bank of England to preserve employment, incomes and liquidity will support a recovery.

Nevertheless, the economy is forecast to shrink by 8.3% in 2020, the largest decline since 1921. Although output is expected to rebound by 7.8% next year, the forecast does not see the economy returning to its pre-crisis size until the end of 2021.

The risks are high. Coronavirus could become more virulent and the lockdown extended. A second wave of the virus could trigger another lockdown later in the year. Long-term economic damage could be worse than expected, or policy support could be withdrawn prematurely.

The response to coronavirus has caused government borrowing to balloon. But with gilt yields at historic lows and demand for debt high, financing the deficit should be straightforward. Furthermore, the greater political appetite for higher government borrowing and spending, already evident before coronavirus struck, is likely to be magnified by the pandemic.'

I. Summary and overview
• Please briefly summarise the proposal and state whether the proposal is for an increase, decrease or no change to the PCF relative to the previous year. **No increase in fee is proposed for 2021** • Please state how the current application addresses the matters (if applicable) raised in the LSB's decision letter approving the previous year's PCF application. Excerpt from previous decision letter (matters) **Summary of expectations for next application** • ICAEW to provide additional information on its strategic priorities in the medium term and any associated costs of pursuing its strategy. (Paragraph 17) • ICAEW to provide the LSB with a clear delineation of reserves relating to ICAEW's Probate arm from the wider ICAEW reserves (Paragraph 20) • ICAEW to consider asking additional questions through PCF consultations in the future in the interest of receiving a greater amount of feedback on its fee proposals. (Paragraph 22) • ICAEW to build on its efforts to promote awareness of the consultation and to consider other possible avenues for engaging with the profession on the fee proposals in the interest of receiving a greater amount of feedback (Paragraph 27) • ICAEW to provide either full impact assessments or an explanation of why such assessments were not considered appropriate (Paragraph 35) **Summary re expectations:** **This application, and activity during the year and planned, broadly addresses matters raised in the 2020 approval letter.** **However, a delineation of reserves in the ICAEW Ltd accounts is not possible due to materiality. Saying that, in practice, these reserves are operationally delineated within the total ICAEW reserves i.e. the amount is available as and when required.** **ICAEW will explore as to whether a delineation is possible within the presentation of the ICAEW management accounts, but this report is materially for the membership, student and representative arm of the organisation and not within the control of PSD. The delineation is further explained in paragraph 7.** **ICAEW communicated regularly with firms throughout the year explaining activity, key topics and providing updates of regulatory activities via our website, please see examples from paragraph 9.** **Strategic priorities are set out in paragraph 29.** **ICAEW considered asking further questions as part of its consultation this year (see from paragraph 59 for further information) but decided that, during a Covid-impacted, and a zero or low fee increase year, a wider survey was not appropriate. However, excellent feedback from firms is, as ever, received through our visit/review programme, and annual registration renewals process. During Q1 2020 we**

did not hear of concern about self-financing, fees charged or adverse impacts on any grouping or sub-grouping of firms or within firms.
In relation to the consultation, the LSB suggested that the "current low level of response may indicate that the profession is not properly engaged". We're pleased to share that our communication statistics show that engagement with ICAEW is very good. Examples of our extensive and successful communications are shown from paragraph 9.

- If any pre-application discussion was held with the LSB prior to the submission of this application, please set out what (if any) issues were identified by the LSB and how this application addresses them. **The recent discussion with the LSB on the current and suggested future approach to the PCF application process has helped inform this submission. A draft of the application was sent initially to the LSB and helpful feedback received before formal submission.**

1. Our application is solely in respect of our role as an Approved Regulator under The Legal Services Act 2007, supervising 340 firms.

2. Although the Legal Services Board and this application form uses the term practising fee or practising certificate fee(PCF) this can be read as the range of probate fees/firm fees for ICAEW's annual registration across the licensed and authorised scales. All answers below relate to the ICAEW annual registration fee model (set out in the initial application) and which flexes based on the scale of the firm i.e. larger and more complex firms pay more.

3. Professional Standards'(PS) do not propose an increase to the annual probate registration fees for 2021, this reflects;

• a recognition that Covid-19 has created a severe disruption, recession and resulting financial pressures on the UK's smaller businesses in particular. Covid-19 has also potentially created a lack of resilience in the market which will only be exacerbated by higher regulatory costs,

• a commitment to carefully manage wage and delivery costs i.e. it is unlikely that ICAEW staff will receive a pay increase in 2021 and it is recognised that inflation related to other costs is low. New electronic ways of working, rapidly explored during 2020, are expected to assist in offsetting any cost increases e.g. the required commitment to Legal Choices.

Example fees: A fee increase is **not proposed** but it is noted that a 1% increase, for example, adds £1 for every £100 of fees.

	2020 fee	2021 fee	Change
Authorised firm Single principal, 1 office	£357	£357	0
2-5 principals, 1 office	£622	£622	0

Licensed firm Single principal, 1 office	£357	£357	0
10-50 principals, 2-10 offices	£10,099	£10,099	0

4. In 2019, there was an expectation - "all things being equal" - of regular fee increases in future years.
Covid-19 has severely disrupted peoples' lives and families have lost loved ones. This is a tragedy.
We are doing all we can to support our staff, their families, our registered firms and individuals and the wider economy where we can.
The UK and other economies during 2020 have been damaged. It is anticipated that this disruption will continue into future years: At a minimum reflecting the recent and ongoing lock-down impacts, changes to the way firms and individuals operate and government guidance.
ICAEW has been working closely with government departments and has provided extensive Covid-19 information on our website. This information, particularly as to how financial and other help can be accessed, has proved hugely popular (receiving over 1.5m unique page views since its creation) and the feedback has been very good indeed.

ICAEW will do all it can to maintain probate fees at a reasonable and value-add level.

5. Staff and delivery cost increases though, may put pressure on future fees. It is estimated that 2022 and 2023 will see small e.g. 1-2% increase in fees, driven largely by wage and other inflation. A 1% increase on £357 is £3.57, a 1% increase on £622 is £6.22, a 1% increase on £9,999 is £99.99

6. This application provides assurance that matters raised in the 2020 approval letter have been addressed as best as possible.

7. However, the LSB suggested a delineation of reserves, relating to ICAEW's probate arm, from the wider ICAEW reserves would assist for future applications. Probate reserves are identified as c£0.1m of the total £92.1m of ICAEW group reserves i.e. a probate reserve element related to annual operating costs.
Please note: Operating costs do not include the costs associated with building a compensation scheme reserve over time. So a calculation of 3-6 months operating costs as a reserve should not include the annual contribution to the compensation scheme which is to be built over the initial 10 years.
A separation of £0.1m from £92.1m, on the face of the ICAEW Ltd accounts, is not material enough a figure to be possible.
However, this presentational approach should not imply that the reserves are not delineated in practice. The reserve amounts are effectively ring-fenced in relation to probate activities even if not shown in the financial statement presentation.
The reserves are £0.1m as required i.e. representing 3-6 months of operational budget. See budget below. Operating costs of £0.5m for the year. 3 months equates to £125k (rounded to the £0.1m mentioned above).

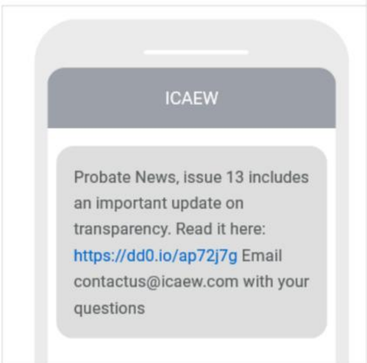
Any small operating surplus reported below, represents a return of initial set-up costs; pays back the original

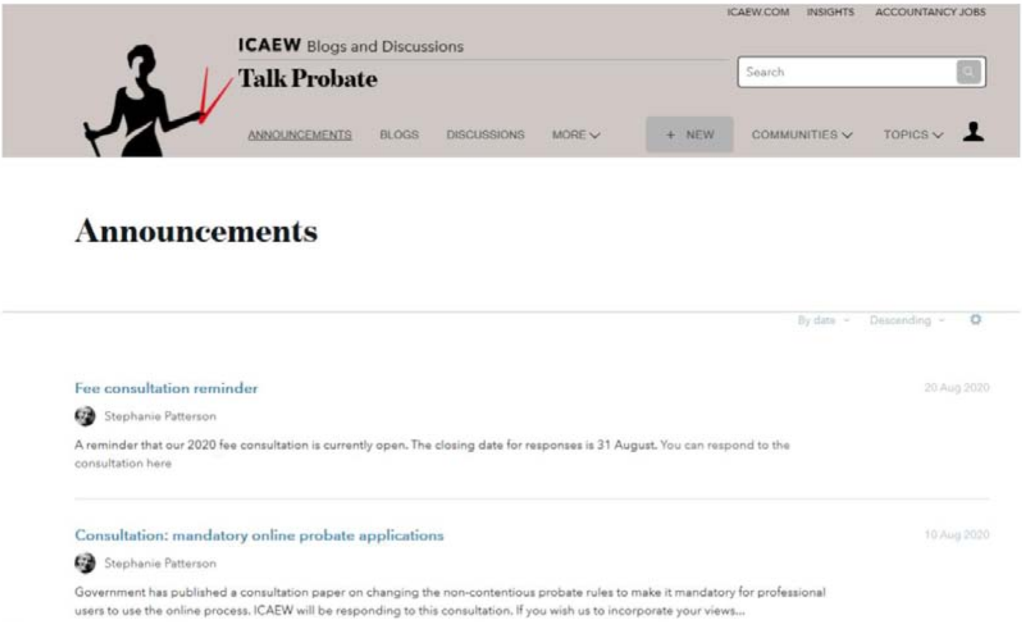
investment costs which were drawn from cash i.e. any such surplus does not create a new net top up to ICAEW reserves, it pays back what has previously been drawn down.

8. ICAEW carefully considered other possible avenues for engaging with the profession on the fee proposals in the interest of receiving a greater amount of feedback and on engagement levels with registered firms. We therefore communicated regularly with firms throughout the year explaining key topics and providing updates of regulatory activities via our website. The Covid-19 adverse impacts mean that firms are focussed on their customers and helping stabilise or maintain businesses (including their own). It was not considered appropriate to ask extra questions or heavily promote a consultation at this time on fee proposals. However, to ensure that firms had every opportunity to provide feedback, a consultation process was still operated (details are shown below).

9. The LSB suggested that the "current low level of response may indicate that the profession is not properly engaged". We do not agree with this statement. Engagement with ICAEW is considered high with strong open and read rates of probate news, increasing numbers utilising the website and strong attendance at relevant ICAEW related events. Average open rate of our communications is 57% with an engagement rate of 61% - these are the best results we see across all regulated areas. On our website the average number of unique page views per month to our probate web pages is 1,931. Average number of unique page views to the support for accredited firms area is 690.

Example communications





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Announcements

By date Descending

Fee consultation reminder 20 Aug 2020

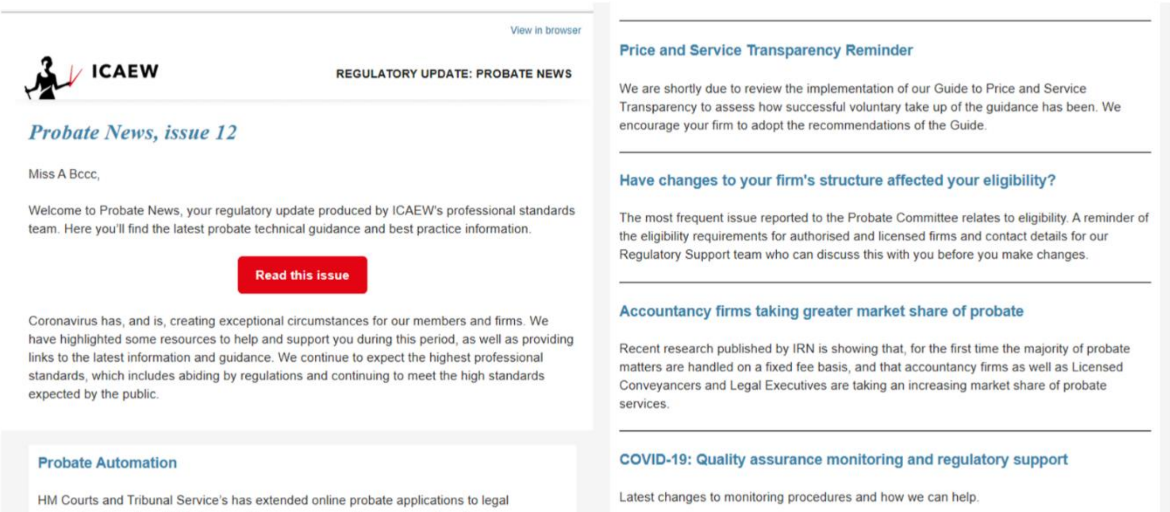
Stephanie Patterson

A reminder that our 2020 fee consultation is currently open. The closing date for responses is 31 August. You can respond to the consultation here

Consultation: mandatory online probate applications 10 Aug 2020

Stephanie Patterson

Government has published a consultation paper on changing the non-contentious probate rules to make it mandatory for professional users to use the online process. ICAEW will be responding to this consultation. If you wish us to incorporate your views...



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ICAEW REGULATORY UPDATE: PROBATE NEWS

Probate News, issue 12

Miss A Bccc,

Welcome to Probate News, your regulatory update produced by ICAEW's professional standards team. Here you'll find the latest probate technical guidance and best practice information.

Read this issue

Coronavirus has, and is, creating exceptional circumstances for our members and firms. We have highlighted some resources to help and support you during this period, as well as providing links to the latest information and guidance. We continue to expect the highest professional standards, which includes abiding by regulations and continuing to meet the high standards expected by the public.

Probate Automation

HM Courts and Tribunal Service's has extended online probate applications to legal

Price and Service Transparency Reminder

We are shortly due to review the implementation of our Guide to Price and Service Transparency to assess how successful voluntary take up of the guidance has been. We encourage your firm to adopt the recommendations of the Guide.

Have changes to your firm's structure affected your eligibility?

The most frequent issue reported to the Probate Committee relates to eligibility. A reminder of the eligibility requirements for authorised and licensed firms and contact details for our Regulatory Support team who can discuss this with you before you make changes.

Accountancy firms taking greater market share of probate

Recent research published by IRN is showing that, for the first time the majority of probate matters are handled on a fixed fee basis, and that accountancy firms as well as Licensed Conveyancers and Legal Executives are taking an increasing market share of probate services.

COVID-19: Quality assurance monitoring and regulatory support

Latest changes to monitoring procedures and how we can help.

10. Due regard has been given to regulatory and equality & diversity impact assessments and no further work, beyond the fee consultation and extensive diversity survey, is planned for 2021.

The Framework Responses, February 2020, ICAEW report - Legal Services Board Diversity Assessment – states ‘ICAEW is committed to diversity in the Chartered Accountancy and legal professions and within ICAEW itself. It believes the professions, and its own organisation, do best when they reflect the society they serve. It is therefore fully supportive of the LSB in its steps to secure better diversity within the supply of legal services to the consumer and believes this equally extends to the supply of accountancy services as well’

The report concludes, ‘Under the Equalities Act 2010 section 149 ICAEW as one of the regulators listed in schedule 19 (as amended) is required to demonstrate due regard to diversity in the conduct of its activities. The information set out above indicates not only how ICAEW is addressing the LSB’s own outcomes in the area of diversity and the diversity objective set out in the Legal Services Act 2007, but also meeting the obligation set out in the Equalities Act.

The changing shape of the market and employment in the UK as well as in the international markets ICAEW services require a greater awareness and appreciation of the role of diversity in modern business and society. The steps ICAEW is taking ensures it is at the forefront of practice in this area and provides the necessary leadership required to the firms and members it regulates.’

In response, as quoted in Legal Futures, the LSB said ‘Institute of Chartered Accountants in England and Wales – had a “comprehensive understanding of their particular regulated community”.’

Enforcement

11. It is pleasing to note that there remain very limited numbers of enforcement proceedings. Unfortunately, this continues to provide a poor basis for any further impact analysis.

12. Progress is being made against the diversity plan and survey:

2021 diversity data is being formulated. It is intended to commence communications as in the previous exercise. Further considerations included;

a) Timing; the pandemic has disrupted the administrative processes of firms and these will take time to be re-asserted and realigned with the new “normality”. This in part depends on the pervasion of the virus. Employee status at March 2021 might itself be in doubt and a survey of this nature might result in employers sending false signals. Currently the gradual abatement of the virus indicates a March reporting should still be practical, but this will continue to be closely monitored and assessed.

b) Whether the exercise should be extended to audit regulated firms in the light of the observations of the FRC in October 2019 regarding the apparent weak amount of diversity monitoring in the accountancy profession

c) Whether a wider voluntary encouragement should be made to accountancy firms as part of the communications exercise

d) How the protected characteristics of maternity and marriage should be addressed and to what end.

e) Whether any staff redundancies and staff movements resulting from COVID related reorganisations, company collapses, and similar disproportionately impact on protected groups.

f) Possible discussion with the LSB on changing the timeframe as the current period is very far from normal.

g) Inclusion of case studies where firms have reported positively on increased diversity resulting from their requirement to report. The key issue here is that whilst we have a 100% reporting compliance, that requirement is just the first step in triggering fresh thinking on improving diversity

h) Whether increased or extant diversity of regulated firms correlates with the diversity of the probate client cohort (and accountancy)

i) The take-up of CPD and progression training courses by different characteristic group.

In many cases the diversity work set out in the February 2020 report continues, as does ICAEW's commitment.

II. Developing the overall budget and application

A. The budget statements and figures and a description of how the overall budget was developed and settled, in particular

- a breakdown and clear description of the budget setting process and how the budget was arrived at, including consultation with the regulatory and representative arms
- evidence that the immediate and medium-term needs have been taken into account, ensuring it has been developed in accordance with business/strategic plans

A description of contingency/reserves arrangements. This must include:

- assurance that reserves are set at an adequate level for the upcoming budget
  Reserves are set at an adequate level for the upcoming budget
- assurance that the impact of high level reserves (if appropriate) have been considered when setting the fee levels. **Reserves have been considered: They are adequate but not at a high level and therefore do not impact the 2021 fee setting (and are not expected to impact 2022 or 2023).**

The background to strategy, operational planning and budget setting

13. Probate planning and budget is a component of the Professional Standards' Department (ICAEW's regulatory arm) detailed process which includes a regularly updated 18-month rolling forecast.

14. The probate operational planning and regulatory budget are not impacted by the representative arm of ICAEW.

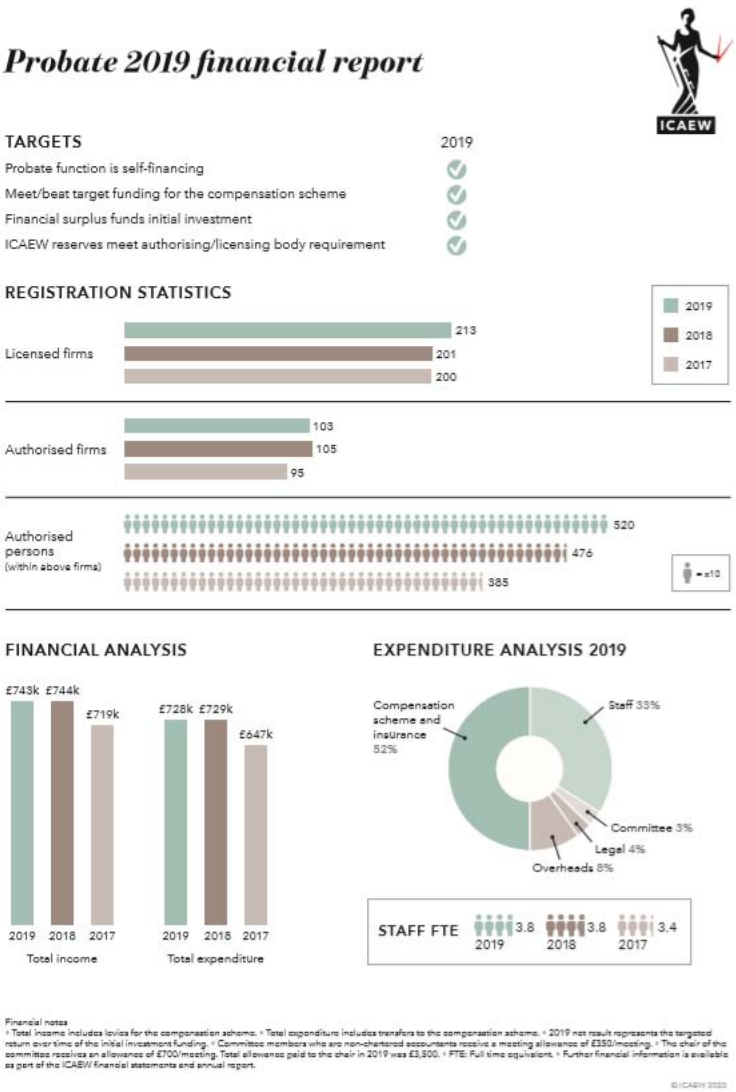
15. The level and value of shared overhead are discussed with the ICAEW Finance Director and COO as part of the ICAEW budget processes. This meeting occurred on 10 September 2020. Overheads are set at an appropriate and value-add level for probate operations. The services and support provided are broad and the cost, as a proportion of total operating cost, is considered low, appropriate and good value.

16. The Professional Standards department is the operational budget owner and is the regulatory arm. The department doesn't produce budget statements for individual regulatory areas as such but the table below, assuming relatively static total numbers of registrations (as seen across the last 18 months) provides details of forecast 2020 results (our 'actual result' as best as is possible forecast at this time) and budget 2021.

17. Operational challenges, needs and risk and opportunity are considered in detail and analysed on a month by month forecast basis. This includes tracking and projection of delivery cost by type including e.g. staffing, legal and committee costs etc. and by function such as visit/review, policy, research and complaint requirements.

18. COVID19 has also impacted the timetable for budget – earlier views required for discussion at the IRB meetings. This early view was then revisited. The estimated 2021 result was materially similar and the IRB updated - this provides further context for a 'zero fee increase' proposal which was shared and discussed at the IRB's August meeting.

See also icaew.com/probate and the annual financial infographic analysis published on the ICAEW website.



Monitoring details are also available on the ICAEW website

Probate monitoring 2019

PROBATE ACCREDITED FIRMS
as @ 31.12.19
Active - 315
Accreditations in the year - 45 (2018 - 40)
Cessations in the year - 34 (2018 - 20)

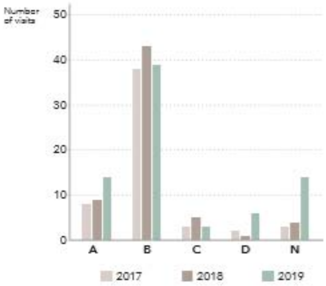
CESSATIONS
No longer requires accreditation / no probate work (16)
Restructured (10)
Moved to another supervisor (6)
Fees (1)
Sole practitioner deceased (1)

VISIT APPROACH
We aim to visit firms within the first 24 months of accreditation, however if they have not done any probate work by that date, we extend the cut off to 30 months. We visited 58 (76.3%) (2018 - 58 (93.6%)) firms within the first 30 months of accreditation.

Of the 18 firms that did not receive a visit within 30 months, 7 had not started any probate work, 10 had started to use their accreditation and received a visit within 12 months from engaging in probate work and one firm had a visit within 13 months of starting to use its accreditation.

VISIT NUMBERS
2019: 76 (3.6% of PA visits undertaken)
2018: 62 (2.8%)
2017: 54 (2.4%)

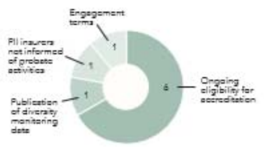
VISIT OUTCOMES



VISIT GRADES
A no instances of non-compliance
B some non-compliance but the firm's responses address the matters raised
C some follow-up action needed
D detailed report to Probate Committee
N firm doesn't have any probate work

% OF VISITS REQUIRING FOLLOW-UP

2019 MATTERS REQUIRING FOLLOW-UP



19. Operational need is considered more formally at each financial re-forecast (three times during the year) and ongoing from a delivery perspective and in discussion with stakeholders.

20. ICAEW's regulatory role is distinct from its representative role. Managed by the Professional Standards department, we act in the public interest by ensuring our members, firms and affiliates are competent and act with integrity. Our role is to:

- authorise and monitor our members, firms and affiliates to undertake work regulated by law to the highest professional standards;
- review and encourage compliance;
- investigate complaints and hold members and firms accountable if they fall short of standards; and
- provide guidance and advice to help with compliance with laws, regulations and professional standards.

All of these activities are reflected in the budget as staff, research and general office e.g. the share of cost of registration, communication, policy, quality assurance, project and investigation staff, external and/or project research, production and design of content and materials for publishing and webinars etc.

21. ICAEW’s probate operations include for example: Application and registration, policy and education, monitoring and conduct. Supported by projects and project management and finance/reporting.

22. ICAEW protects the public interest by making sure our firms, members, students and affiliates maintain the highest standards of professional competency and conduct. ICAEW’s regulatory and disciplinary role is independent of membership activities so we can monitor, support or take steps to ensure change if these standards are not met.

23. Accreditation for probate: Probate work offers firms a real business opportunity. Combining inheritance tax planning and probate services enabling them you to reaffirm their position as a one-stop-shop for business advisory services.

24. ICAEW’s main activities considered and analysed for budget, forecast and actuals:

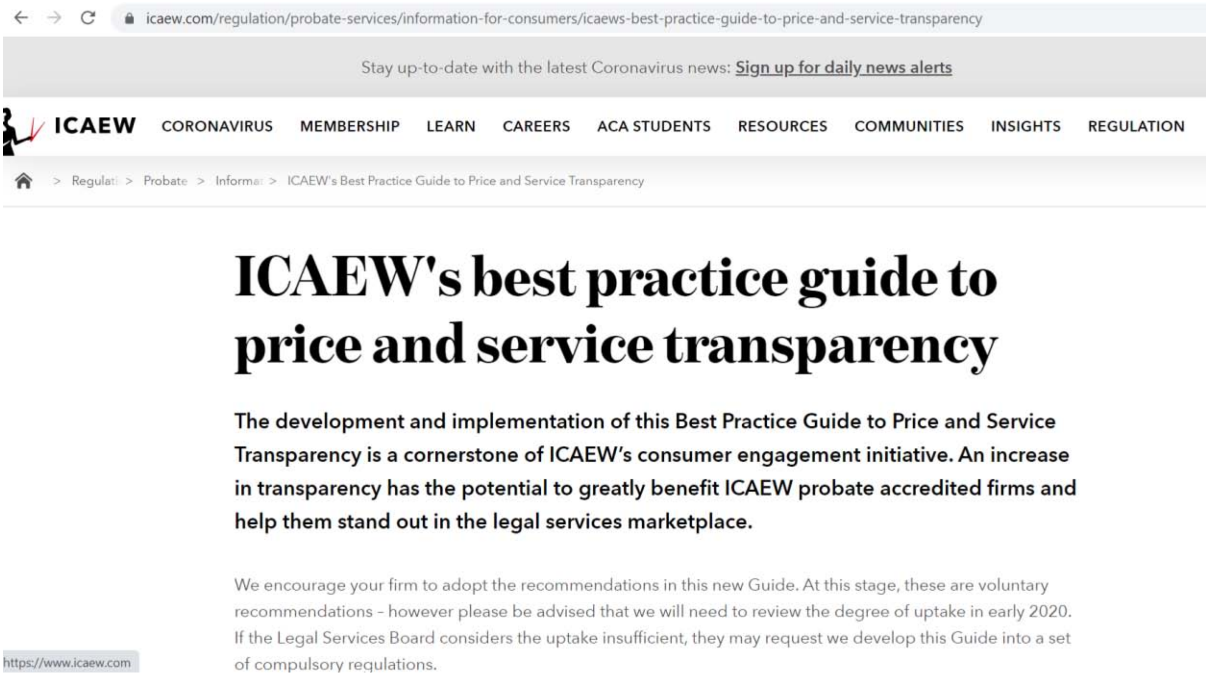
- Application and registration
- Policy and education
- Monitoring
- Conduct
- Projects and other support and administrative functions

25. An example processes under the application activity
The application process includes: When should our firm apply for ICAEW accreditation to conduct probate work?; How do we know whether to apply to become an authorised licensed firm?; How to apply to become an authorised firm for probate services; How to apply to become a licensed firm for probate services; Probate qualification criteria (Guidance for ICAEW members and non-members who wish to apply to become authorised to undertake probate work); Probate affiliates; Fees; DBS checks; Professional indemnity insurance; Determining applications and Further support.

26. Further support also includes how ICAEW probate-accredited firms are making a success of this area; Sole Practitioner Huw Roberts: Building a probate practice; Authorisation for probate has changed the nature of Huw Roberts’s business; Curo Chartered Accountants: Tax talks - Personal tax work is a base for moving into probate, the West Midlands firm found; Ward Williams: Client choice. Offering different levels of service is helping Ward Williams build its probate work; Raffingers: Thinking ahead. Firms taking on probate services need to be planning for long-term growth; Kreston Reeves: Early adopters and client case studies. One of the first firms to be licenced by ICAEW explain their approach and future targets. And, Future practitioner probate workshop, slides from the workshop are available: Mike Dyer provides two case studies regarding how to approach the probate market, how to set up the service and the issues encountered. A breakdown of what you need to know when it comes to regulation including: The application process and benefits of obtaining a licence, How to obtain a licence – what does the training consist of?, QAD – preparing for a visit and what to expect.

27. Parallel and project type activities such as “ICAEW's best practice guide to price and service transparency” are a key part of achieving immediate and medium-term **strategic goals**. Such initiatives are largely driven by

our existing team ‘staff costs’ and an expected cost of operations each year – these initiatives and improvement activities do not stop, they are a core component of what we do.


icaew.com/regulation/probate-services/information-for-consumers/icaews-best-practice-guide-to-price-and-service-transparency

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ICAEW CORONAVIRUS MEMBERSHIP LEARN CAREERS ACA STUDENTS RESOURCES COMMUNITIES INSIGHTS REGULATION

> Regulati > Probate > Informat > ICAEW's Best Practice Guide to Price and Service Transparency

ICAEW's best practice guide to price and service transparency

The development and implementation of this Best Practice Guide to Price and Service Transparency is a cornerstone of ICAEW's consumer engagement initiative. An increase in transparency has the potential to greatly benefit ICAEW probate accredited firms and help them stand out in the legal services marketplace.

We encourage your firm to adopt the recommendations in this new Guide. At this stage, these are voluntary recommendations - however please be advised that we will need to review the degree of uptake in early 2020. If the Legal Services Board considers the uptake insufficient, they may request we develop this Guide into a set of compulsory regulations.

https://www.icaew.com

Budget setting process

28. The forecast and annual budget carefully considers probate related operations and activities, is produced by an expert management accountant and verified by the PS Director of Finance. This is to ensure, for example, that strategic priorities, regulatory commitments, synergies, risks and mitigating actions, experience from current year operations and future commitments (including project plans) are taken into account.

29. The operational planning and budget considers and plans for activities related to **regulatory strategy and objectives** (as per ICAEW’s policy statement on probate and ABS Regulation):

- Promoting the public interest and protecting and promoting the interests of consumers
- Improving access to justice
- Promoting competition in the provision of services
- Encouraging an independent, strong, diverse, and effective legal profession
- Increasing public understanding of the citizen’s legal rights and duties
- Promoting and maintaining adherence to the professional principles and supporting the rule of law
- Better regulation principles

- Proportionality
- Consistency
- Targeted and proportionate approach

30. Reserves are as per ICAEW policy, as agreed with ICAEW senior financial leadership, and confirmed and reviewed by the PS Director of Finance.

31. Operational financial reserves are considered adequate, and not higher than required, and therefore do not impact the fee proposal i.e. 2020 results are not expected to exceed expectation and create further/higher than required reserves.

32. Probate operations are a minor element of PSD's and ICAEW's total operations. Probate reserves are held as a component of ICAEW Ltd company reserves. The probate team could access the reserves by;

- Running an operational deficit in any one year
- Spending on capital projects. This would draw down on available cash in advance of depreciation being charged across the life of the capital project.
- Request funding through the PSD finance director or ICAEW Regulatory Board.

33. Excerpt from the latest ICAEW Financial Statements - 2019 (reserves policy)

RESERVES POLICIES

Our reserves policies ensure that ICAEW reserves excluding FRC fine balances are set at a level sufficient to cover both short-term requirements and longer-term investment needs:

- reserves should be set at a level equivalent to between three and six months of expenditure through the income statement; and
- cash and investment balances should be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

Reserves exceeded this range at the end of the year but are expected to revert to the policy range in the short term as we invest in business development, enhance our business systems and manage short-term operational demands. We are managing our capital investment programme, our pension commitments and our financial position in order to maintain these reserve needs, taking account of IFRS 15 impacts, and mitigate any impact on members and member services.

ICAEW statements of changes to reserves for the year ended 31 December 2019

ICAEW	Revaluation reserve	Investment revaluation reserve		Other reserves	Total
	£m	£m	£m	£m	£m
Reserves at 1 January 2018	**16.4**	**7.1**	**16.9**	**5.4**	**45.8**
Net result after taxation	-	-	13.1	-	13.1
Net change in market value of long-term investments over cost	-	(3.3)	-	-	(3.3)
Actuarial gains recognised in year on defined benefit pension scheme	-	-	5.6	-	5.6
Deferred tax attributable to above	0.1	0.6	(0.2)	-	0.5
Total other comprehensive income in the year	**0.1**	**(2.7)**	**5.4**	**-**	**2.8**
Total comprehensive income in the year	0.1	(2.7)	18.5	-	15.9
Reserves at 31 December 2018	**16.5**	**4.4**	**35.4**	**5.4**	**61.7**
Reserves at 1 January 2019 (as previously reported)	**16.5**	**4.4**	**35.4**	**5.4**	**61.7**
Adjustment on initial application of IFRS 16 (net of tax)	-	-	(0.3)	-	(0.3)
Reserves at 1 January 2019 (as restated)	**16.5**	**4.4**	**35.1**	**5.4**	**61.4**
Net result after taxation	-	-	18.0	0.2	18.2
Net change in market value of long-term investments over cost	-	3.6	-	-	3.6
Actuarial gains recognised in year on defined benefit pension scheme	-	-	9.6	-	9.6
Deferred tax attributable to above	-	(0.5)	(0.2)	-	(0.7)
Total other comprehensive income in the year	**-**	**3.1**	**9.4**	**-**	**12.5**
Total comprehensive income in the year	-	3.1	27.4	0.2	30.7
Reserves at 31 December 2019	**16.5**	**7.5**	**62.5**	**5.6**	**92.1**

ICAEW has initially applied IFRS 16 at 1 January 2019, using the modified retrospective approach. Under this approach, comparative information is not restated and the cumulative effect of initially applying IFRS 16 is recognised in retained earnings at the date of initial application.

34. **The governance process (in line with IGR requirements) for budget leads and is overseen by the ICAEW Regulatory Board.**

The PS Executive Director (not a member of ICAEW Board) reports to IRB and, as established to meet the requirements of the LSB's IGRs, leads the ICAEW's probate regulatory operation.

The ED is assisted by a PSD Finance Director, and team, which is specific to the PS department i.e. the PS finance team are not part of ICAEW's central member/representative group.

Any shared costs which are charged to PSD through overheads by the wider ICAEW are reviewed in detail by the PSD Finance Director for value and are annually reviewed, as set out as a requirement of the IGRs, with senior ICAEW finance leadership i.e. the PSD Finance Director reviews with the ICAEW Finance Director and ICAEW COO.

As probate operations are a minor element of the Professional Standards Department, similarly only minor elements of cost related to the above set-up are charged to the probate budget.

This structure has been approved under the LSB's IGRs and specially ensures independence.

£,000	Budget 2020	2020 Forecast	Variance comment
Regulatory fees	484	501	In year registrations stronger than expected
Fines, costs and reg pens	11	0	Fine income relates to committee decisions
Staff and overheads	(319)	(321)	
Legal, research, insurance	(119)	(130)	Higher contribution to Legal Choices needed
Quality assurance travel	(6)	(3)	
Committee	(16)	(11)	More virtual meetings (Covid impact)
General office	(19)	(18)	
Print, design and advertising	(1)	(1)	
Surplus	15	17	

The small surplus represents a return of set-up costs over time

Please note, the above figures are the cost of operations. The figures therefore do not include the cost of establishing and growing a compensation scheme. This differs to the presentation on page 27 (para 69) and the table below which captures the establishing of this scheme over the first 10 years of operation and to a target of a minimum of £1m. Good progress has been made in the early years with establishing the fund as required and as guided by the ICAEW probate committee.

The allocation of staff costs is higher in 2020 actuals and 2021 budget largely due to the additional requirements of the LSB (related to the IGRs etc) and also, as registrations increase, cost of operations increase.

£,000	2020 Forecast	2021 Budget	
Compensation scheme income	192	190	Funding of compensation scheme
Compensation scheme cost	(192)	(190)	Funding of compensation scheme
Regulatory fees	501	510	Higher registrations (no fee increase)
Fines, costs and reg pens	0	2	Estimate only
Staff and overheads	(321)	(330)	Slight catch-up of 2020 reviews (Covid)
Legal, research, insurance	(130)	(131)	Includes Legal Choices
Quality assurance travel	(3)	(5)	Slight catch-up of 2020 reviews (Covid)
Committee	(11)	(12)	Virtual meetings in part (Covid)
General office	(18)	(18)	
Print, design and advertising	(1)	(1)	
Surplus	17	15	

The small surplus represents a return of set-up costs over time

Figure Bud2021

At this time 2022 and 2023 budgets are not expected to be materially different to 2021 (reflecting only an increase in income related to a 1-2% fee increase and costs, largely staff, increasing by wage inflation)

35. As per the detail of activities above, both immediate and medium-term needs have been taken into account.

36. Revenues generated are billed independently of representative and other regulatory functions, they are

raised specifically through the probate firm fee (the equivalent of a practising fee charge) and are and will be applied solely to purposes which are permitted.

37. For 2021, there is no proposed increase in practising fees.

38. The operational plan has been developed to support the strategic and this is reflected in the proposed budget and no fee increase.

39. 2021 results are not expected to be materially different to 2020 i.e. without fee increases, but with registrations remaining largely consistent, income is expected to remain at current levels.

40. As a result of the BSB withdrawing their support, costs above include extra contributions to the running, development and marketing costs of the Legal Choices website.
The ICAEW cost share of Legal Choices rose to £20,900 in 2020. This was above the budget estimate. For 2021 the SRA have advised of a further increase of £2,900.
ICAEW has volunteered to assist in this area which has, disappointingly, come under funding pressure. ICAEW has been able to manage this within our budget as a result of a small increase in registration numbers (more fees) and careful cost control.

41. Staff costs include administrative functions but in the main relate to policy, regulatory support (processing of applications, change and withdrawals and reporting), quality assurance (visits, reviews, annual returns, surveys and conduct (complaint management including investigation and, where applicable, taking cases through the committee and tribunal process).

42. Overheads relate to for example property, utilities, systems, support services – underpinning and supporting the operational work of staff.

43. Committee costs relate to the running of the probate committee.

44. General office costs largely relate to supporting the work of staff.

B. A breakdown of the budget for PCF

Total PCF income collected in the current and budget year and a breakdown of how it was allocated or spent:

- by department or expenditure category; **See Fig. Bud2021**

- an explanation of any variation in total PCF spending between the current and budget year; **There are no major variances indicated in the budget. However, any adverse impact of Covid-19 on registrations is not yet fully clear, and will only become clearer by March 2021. The commitment to Legal Choices (which is for 3 years) is being kept under careful review as the costs here have increased significantly over the years,** and

- a comparison of PCF for approval in the budget year, with level of PCF in the current year and explanation of why the fee level has changed (if applicable). **Not applicable, no change is proposed. We hope that no change in some small way illustrates ICAEW's support and commitment to firms at this difficult time.**

In addition, if the proposal is to increase the PCF relative to the current year,

- include a forecast budget for the current application and for the next three years (where available); **See Fig. Bud2021**

- an estimate of the PCF for the next three years (where available); **It is estimated that 2022 and 2023 will see small increase in fees e.g 1-2%**

- anticipated income from all sources (including non-PCF income) and its allocation to permitted purposes for the current application and where available, for the next three years (see section IV, below); **See Fig. Bud2021** and

- explain the reserves policy and rationale/requirement for any high level reserves. **See 'Excerpt from ICAEW Financial Statements 2019 (reserves policy)'**

45. Please note the relatively small scale of our operation and volume of registrations in context.

46. A detailed estimate for the next 3 years is not available but, at the current scale, is not expected to fluctuate materially from 2021 projections i.e. a slowly and small increasing fee from 2022 to match inflationary cost increases.

47. Income and cost risks are carefully and regularly monitored and considered through the forecast and budget process. Such financial projections are also reviewed with the PS Executive Director.

48. Projections of longer-term cost variation are considered minor, and largely related to wage and general cost inflation. This is in the main why a small percentage increase from 2022, and likely in future years, is recommended.

49. Income is largely related to annual registration fees.

50. Regulatory penalties/fine income will/would contribute to the costs of investigating such complaints and bringing them to committee. Such penalties/fines are not expected to exceed the cost of operations. Forecasting such penalties will never be a simple function of the budget process due to the highly speculative nature of a complaint, investigation process, penalty/fine decision and then cash recovery. There may be timing challenges too if these processes cross year ends e.g. costs may be seen in one year and

recoveries the next. We are young as a regulator in this area and continue to build our experience and data trending analysis. This is and will be carefully monitored and managed.

51. ICAEW reserves policy is to ensure that there is at least a 3-month operational reserve (beyond the fully funded operational year) to cover costs if, for example, the function wind downs or is transferred to another regulator. This is in line with the broad range of other ICAEW regulatory commitments, experience and agreed approach with oversight bodies.

C. Regulatory activities

- Assurance that the regulatory arm has been given sufficient resources to carry out their functions in compliance with section 30 of the Act and the supporting Internal Governance Rules. **The regulatory arm has allocated sufficient resources to carry out the functions described above. As a large regulator ICAEW can draw on expertise from large and experienced teams and synergies from such arrangements, systems and mature processes**.

52. Please note the relatively small scale of our operation.

53. As a principle of our regulatory budgeting process and for 2021, adequate resource is budgeted and reserves and processes to re-prioritise are in place and considered appropriate to absorb reasonable operational changes during the year.

54. Financial modelling, projections and forecasts are prepared by a management accountant, in consultation with operational, HR, policy and quality assurance and conduct teams, and the estimates and results are reviewed and approved by the PS Director of Finance.

55. Budgeted and probate collected fee income is used only for purposes related to probate activities.

56. For prior performance, please see the annual financial infographic analysis published on the ICAEW website. Forecasts and budgets are constructed with previous and future performance and requirements in mind, including transparency.

57. Information is available at icaew.com/probate

The registration fee method is explained online https://www.icaew.com/technical/legal-and-regulatory/probate-services/become-accredited-for-probate/how-to-apply-and-application-forms

Relevant Rules

Rule D. 10 (b): evidence which demonstrates that reasonable care was taken in settling the application in the context of the budget necessary for the immediate and medium term

Rule D. 10 (d): clarity and transparency over the revenue raised through practising fees to be applied for permitted purposes which are regulatory functions

Rule D. 10 (e): clarity and transparency over the revenue raised through practising fees to be applied for permitted purposes which are not regulatory functions

Rule D.10 (f) for the purposes of the enabling the LSB to assess the impact on the proposed practising fee, provide clarity and transparency on the allocation of all the approved regulator's financial resources, whether or not those resources arise from permitted purposes

Rule D. 11 (a): description of how the application was developed and settled, including any consultation carried out, whether or not some consultation was carried out by the Board (see below)

Rule D. 11 (b) where there is a proposed increase in practising fees, the budget should show anticipated income from all sources and its allocation to the permitted purposes for the current application and where available for the next 3 years

Rule D.11 (e): an explanation of contingency arrangements where unexpected regulatory needs arises in-year

How to apply and application for

icaew.com/regulation/probate-services/become-accredited-for-probate/how-to-apply-and-application-forms

Google Chrome isn't your default browser Set as default

In this section

- When should our firm apply for ICAEW accreditation to conduct probate work?
- The application process
- How to apply to become a licensed firm for probate services
- Fees
- Professional indemnity insurance
- Further support
- How do we know whether to apply to become an authorised licensed firm?
- How to apply to become an authorised firm for probate services
- Probate affiliates
- DBS checks
- Determining applications

Further details on how the funds are used and the feescales are published online:
icaew.com/regulatoryfees
Answers to FAQ questions are published online
https://www.icaew.com/en/membership/regulations-standards-and-guidance/fees-for-regulated-areas-and-affiliates/fees-frequently-asked-questions-and-answers

The feescales for authorised and licensed firms are published online with further explanation
https://www.icaew.com/-/media/corporate/files/members/regulations-standards-and-guidance/regulatory-fees/icaew-regulatory-fees-probate-2019.ashx?la=en

58. The snapshot of the below shows the cost of the LSB as a proportion of fees in the feescale to be published for 2021

Probate registration fee

This is an annual fee charged to all ICAEW registered probate firms. The fee funds the Professional Standards' operation for probate. 1.8% of this fee pays for the oversight role of the Legal Services Board.

A. Description of the consultation process conducted with fee paying members

- including length of time the published consultation was open;
- summary of consultation responses;

- changes to the PCF proposals as a consequence of consultation responses; and
- details of consultation with non-commercial bodies (e.g. Law centres federation, Citizens Advice etc.) or an explanation of why their views had not been sought.

Relevant Rules

Rule D. 11 (a): description of how the application was developed and settled, including any consultation carried out, whether or not some consultation was carried out by the Board

Rule D 12: in considering an application submitted to it under this Part of these Rules, the Board reserves the right to consult any person it considers appropriate. In particular, it reserves the right to consult the Consumer Panel about the impact of proposed fees on persons providing non-commercial services.

59. PS has previously consulted with firms in terms of the principle of self-financing i.e. probate income funds probate activities. PS is pleased with the +80% positive response.

60. Feedback is also gathered as part of the annual renewal process: Firms do not complain about current fee levels or request specific changes or highlight any issues with any particular groups.

61. We do not expect any concern about no change or, in future years (2022-), to a very small increase in registration fees, justified by cost inflation. In fact, our firms (and firm representatives on the Probate Committee) have shown an understanding of the demands of a self-financing financial model and of inflationary pressures.

62. Recent consultation

At the time of creating questions for the consultation, the impact of Covid was (and remains) considerable. It was unclear as to whether a small increase was appropriate at that time. So, to be conservative, the decision was taken to consult on a small fee increase – would this create a big negative response?

It did not create a big negative response but in support of small firms at this incredibly difficult time, it was subsequently decided to propose a zero increase.

63. The consultation opened in mid-July and ended 31 August. We have invited all registered firms to consult us on potential future small increases in fees. As expected, as the change is minor and priority attention is elsewhere at present under Covid-19 , there was a very low response rate – only 2 contacts gave their view. With engagement and understanding high, it is speculated that, as firms are given the opportunities each year to raise concerns about fee level and any adverse impact (including equality) and do not, firm representatives are largely content and do not see the need to make representation or comment to ICAEW.

64. One person stated an increase would impact on their firm and the other felt an inflationary driven increase would not have an impact.

65. Questions distributed on a ‘Probate News’ email to our registered firms and also via our Talk Probate online community. A reminder SMS message was sent to those contacts who did not open this issue of Probate News.

1. Does your firm agree or disagree with a proposed 1% inflationary cost driven increase which follows the ICAEW ‘user pays’ principle? Agree/Disagree
2. If you responded ‘disagree’ what approach do you think would be more suitable?
3. Will this have an impact on your firm? Yes/No
4. Please provide a brief explanation of how this change will/will not have an impact on your firm.

Results 2

Agree 2
Disagree 0

Yes 1
No 1

Does your firm agree or disagree that a ‘user pays’ principle is the most pragmatic approach to the funding of probate activities?	If you responded 'disagree' what approach do you think would be more suitable?	Would a small inflationary cost-driven increase impact on your firm?	Please provide a brief explanation of how this change would / would not impact your firm:
Agree		Yes	In the current environmet when, as firms (generally) we are under enormous fee pressure, I don't think there any grounds for a fee increase.
Agree		No	

66. It is speculated that the low response rate is due in part to high priority work elsewhere and to a lack of objection to a small future inflationary increase.
14 contacts clicked the survey link but did not respond to it.
1 contact stated that an increase at this time would not be appropriate. In discussion with the IRB this approach is agreed. No fee increase is proposed.

No equality and diversity related impact issues were raised.

67. No fee increase is proposed for 2021.

IV. Permitted Purposes[3]

This section requires information for both the current and budget year

A. Description of total income (PCF and non-PCF) allocated to permitted purpose (**See Fig. Bud2021**) including

[3] See Section C of the Rules.

- Non-PCF income allocated or spent on permitted purposes, broken down by department/expenditure category. **Not applicable.**

- Commercial income arising from PCF funded permitted purposes[4] (and explanation if this income is to be used for non-permitted purposes) **Not applicable.**

B. Description of total PCF income allocated solely to one or more permitted purposes (**See Fig. Bud2021)** including a breakdown of

- PCF income allocation to each regulatory permitted purpose **See Fig. Bud2021**

- PCF income allocation to each non-regulatory (representative) permitted purpose **Not applicable**

- PCF income allocated to shared/ central services between the regulatory and representative arm (broken down by department/ expenditure category). **See pie-chart below which provides details including overheads, and Fig. Bud2021**

C. A description of permitted purposes activities which were/will be undertaken and if possible, an estimate of the proportion of permitted purpose activities undertaken relative to non-permitted purposes activities. **Not applicable – all probate income is generated uniquely and used to fund probate activities.**

Relevant Rules

Rule D. 10 (c): evidence which demonstrates that the revenues raised through the practising fee charge will be applied solely to purposes which are permitted purposes

Rule D. 10 (d): clarity and transparency over the revenue raised through practising fees to be applied for permitted purposes which are regulatory functions

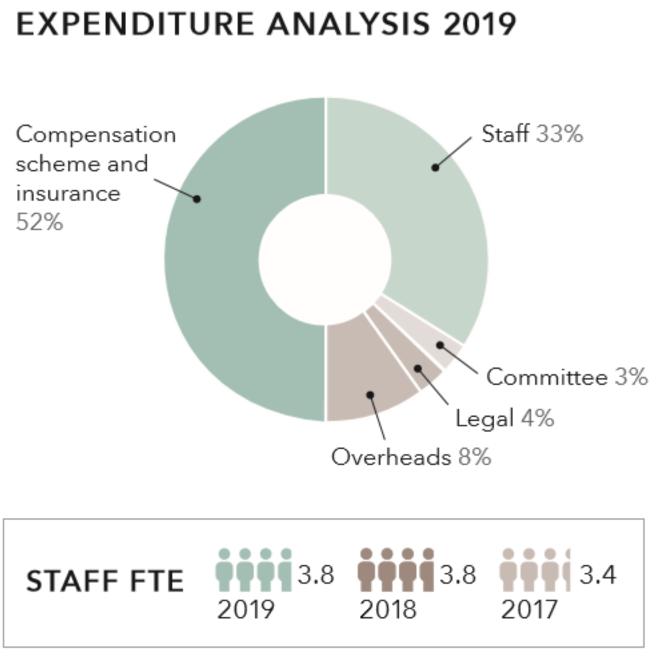
Rule D. 10 (e): clarity and transparency over the revenue raised through practising fees to be applied for permitted purposes which are not regulatory functions

Rule D.11 (b) where there is a proposed increase in practising fees, the budget should show anticipated income from all sources and its allocation to permitted purposes to the current application and, where available, the next three years

68. See responses above in explanation above.

69. Allocated resources/income are not expected to change from the list of costs described in the budget and shown in the financial analysis online (see 2019 report above as published on ICAEW.com)

[4] Referred to as derivative income in paragraph 7 of the Guidance.



V. Transparency of PCF information to fee-paying members

A. A description or copy of the information that will be provided to fee paying members, which is clear and accessible and includes

- The level of the PCF
- How the PCF has been set
- A breakdown of how the PCF income will be allocated to non-regulatory/regulatory and shared services
- An explanation of why commercial income arising from PCF funded permitted purposes is to be used for non-permitted purposes.
- An accurate presentation and representation of the LSB and Office for Legal Complaints (OLC) levies so the regulated community is clear about the proportion of PCF attributable to the levies [5]

[5] As set out in paragraph 14 of the Guidance.

Relevant Rules

Rule D. 10 (d): clarity and transparency over the revenue raised through practising fees to be applied for permitted purposes which are regulatory functions

Rule D. 10 (e): clarity and transparency over the revenue raised through practising fees to be applied for permitted purposes which are not regulatory functions

Rule D. 10 (g): evidence that persons paying the practising fees will have explained to them how revenue raised through the charging of practising fees will be applied as between the approved regulator's performance of regulatory functions and any other functions also carried on by the regulator

Rule D. 11 (d): an explanation of how the cost to each regulated person is to be broken down as between income to be allocated to the discharge of regulatory functions and income allocated to other functions

70. Previous consultation explained the self-financing approach.

71. The online fee scales explain the rationale in how to calculate a registration fee. Larger firms pay a higher fee.

72. Registration fees and annual financial results and allocations are published on the ICAEW website.

73. There is no commercial income.

74. The LSB costs are considered minor (c1.8% of total expenditure) and this is referenced on the published fee scale.

VI. Regulatory and Equality Impact assessment

A. A description of how the proposed PCF may potentially impact on various groups, in particular those with protected characteristics, within the approved regulator's membership (whether the proposal is for the PCF to be static, increased or decreased).

B. A description of how the PCF has been developed in light of the Regulatory objectives set out in the Act and Better Regulation principles.

C. A Regulatory and/or Equality Impact assessment (optional).

Relevant Rules

Rule D. 10 (g): a regulatory and diversity impact assessment

75. See also comments above.

76. There is no increase proposed for 2021.

77. Operational planning and associated registration fees therefore remain consistent with and in line with previously agreed strategic, operational and regulatory approaches as addressed through a range of submissions and regular discussions with the LSB.

78. We have and will ensure that our consultations includes the opportunity to comment on the impact and to highlight whether this relates to a specific grouping.

79. Due regard has been given to regulatory and equality & diversity impact assessments and no further work, beyond the fee consultation and extensive diversity survey, is planned for 2021.

VII. Other supporting information

Further detail on the consultation including:

- the length of time the published consultation was open
  The consultation was open for 6 weeks
- the number of responses
  2
- a detailed summary of the consultation responses and how the views were taken into account when formulating the PCF proposal
  These and views expressed previously were taken into account;
  Firms do not wish to see large increases.
  Firms support the self-financing principle.
  Firms are not against fee increases but wish them to be considered in context of inflation and ability to pass on cost to their clients.
  Firms wish the fees and increases to be fair including a measure of proportionality.

VIII. Contact details

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