

Summary of decision

The purpose of this summary sheet is to provide a brief overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further detail. **This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 (the "Act").**

The Institute of Chartered Accountants for England and Wales ("ICAEW") proposes to change the entity that would be responsible for the ICAEW's legal services regulatory functions in order to comply with the Internal Governance Rules ("IGR"). It has also provided a suite of new and amended regulatory arrangements and accompanying documents in support of its compliance with the IGR. This decision notice relates to those activities regulated under the Act and not the other activities that the ICAEW undertakes.

The LSB's decision is to grant in full the applications from ICAEW to make changes to its regulatory arrangements to ensure it is in compliance with the LSB's IGR published on 24 July 2019.

Following assessment of the ICAEW's applications, the LSB has concluded that the changes to regulatory arrangements do not trigger any of the refusal criteria set out within paragraph 25(3) of Schedule 4 to the Act.

Decision notice

The ICAEW's applications, in its capacity as an approved regulator with both representative and regulatory functions, for approval of changes to its regulatory arrangements to ensure it is compliant with the IGR.

1. The LSB has granted in this decision notice two applications from the ICAEW to change its regulatory arrangements to ensure it is compliant with the IGR. One application was received from the ICAEW in its capacity as an approved regulator, and the other as a regulatory body. This notice gives the LSB's decision in respect of both applications as they are identical, having regard to the ICAEW being a single institution incorporated by Royal Charter, and the main objective of the applications to further separate the ICAEW's regulatory and representative functions.
2. This decision notice sets out the decision taken, including a description of the key changes.
3. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The ICAEW is an approved regulator and a licensing authority for legal services under the Act and has both representative and regulatory functions. The ICAEW's proposed new arrangements for the separation of representative and regulatory functions in compliance with the IGR are set out within this decision notice.
4. This notice sets out the decision taken, including a description of the key changes. The notes at page 9 of this notice explain the statutory basis for the decision.
5. The chronology of the LSB's handling of this application is set out below.

Chronology

- The LSB confirmed receipt of two applications from the ICAEW on 28 April 2020.
- The 28-day decision period for considering the application ended on 21 May 2020.
- An extension notice was issued on 12 May and the 90-day deadline ends on 22 July.
- The ICAEW responded to supplementary questions on 29 May 2020.
- This decision notice is effective from 21 July 2020.
- The decision notice will be published on the LSB's website by 21 July 2020.

Background

6. The ICAEW was designated under the Act as an approved regulator and licensing authority for non-contentious probate in 2014, and for the administration of oaths in 2020. In accordance with the Act and the IGR published in 2011, the ICAEW delegated its regulatory functions for legal services to its regulatory body, the ICAEW Regulatory Board ("IRB"). Executive support was provided by the ICAEW's Professional Standards Department ("PSD"). The IRB in turn delegated its powers to the ICAEW's Probate Committee.

7. The LSB published its new IGR on 24 July 2019, [Internal Governance Rules 2019](#). The new IGR introduces obligations to further enhance the separation of an approved regulator's representative and regulatory functions. In particular, the new IGR requires that an approved regulator must delegate its regulatory functions to a separate regulatory body. Following delegation, the approved regulator may only retain a regulatory role that is reasonably necessary for it to be assured that regulatory functions are being discharged in compliance with Section 28 of the Act or as otherwise required by law (the "residual role").
8. The new IGR are intended to enhance regulatory independence as far as reasonably practicable; to create and maintain clear divisions which prevent the representative functions prejudicing the regulatory functions; to promote the regulatory objectives and to uphold the principles that represent best regulatory practice.

Summary of proposed changes

9. The ICAEW proposes to change the entity that would be responsible for the supervision of all the ICAEW's legal services regulatory functions and make changes to a suite of documents to comply with the IGR¹.
10. ICAEW has submitted documents that have either been amended or created to effect the proposed alterations to the ICAEW's regulatory arrangements. These are provided within Appendix B of the application and include (as numbered within the application):
 - Documents relating to the regulatory body:
 1. IRB Terms of Reference
 2. Probate Committee Terms of Reference
 3. Regulatory Board Nomination Committee Terms of Reference
 4. Panel to Appoint the Chair of the Regulatory Board Nomination Committee Terms of Reference
 5. Professional Standards Appointments Committee
 - Documents relating to the approved regulator:
 6. ICAEW Nominating Committee Terms of Reference
 7. ICAEW Board Terms of Reference
 8. Senior Staff Appointments Committee Terms of Reference
 9. ICAEW Council Terms of Reference
 13. ICAEW Governance Handbook chapters 1 and 2
 - Documents relating to both the approved regulator and the regulatory body:
 10. ICAEW Liaison Group Terms of Reference
 11. Operational Protocol

¹ The ICAEW was previously not considered to be an applicable approved regulator (AAR) under the IGR made before 2019. This meant that the ICAEW was not required to comply with the need to separate its regulatory and representative functions under the Schedule to the 2014 IGR.

12. Shared Services Committee Terms of Reference

11. In reaching its decision, the LSB considered all the above documents and in particular, the regulatory arrangements within items 1-5 and 11.

Key issues considered in the assessment of the application

Separation and assurance (Rule 2 Duty to delegate and Rule 3 Provision of assurance to Approved Regulator)

Duty to delegate

12. The ICAEW has decided to remain as a unitary corporate entity and proposes to transfer responsibility for the ICAEW's legal services regulatory functions (currently held by its Probate Committee) to the IRB. The IRB will continue to receive executive support from the PSD. The PSD currently conducts the regulatory activities for accountancy and legal services that are within the ICAEW's remit. The IRB and the PSD will collectively be referred to within the ICAEW's regulatory and other arrangements as the "regulatory body" under the IGR. Once the proposed changes have been made, the Probate Committee will report to the IRB and its powers will be limited to dealing with legal services applications and compliance with legal services regulations only.
13. The ICAEW describes its proposed approach to the separation of the regulatory body from the representative body as reasonably practicable and consistent with section 28 of the Act (and accordingly, compliant with the overarching duty at rule 1 of the IGR). The LSB acknowledges this view and expects the ICAEW to adhere to the overarching duty by reviewing these new regulatory arrangements on a regular basis². The LSB considers that a review of the new arrangements after the first year of operation is appropriate.
14. The delegation of regulatory functions by the ICAEW as approved regulator is given effect by the proposed changes to the terms of reference for the IRB³. Key features of the IRB terms of reference, which are designed to align with the IGR are:
- A requirement for a lay majority and a lay chair for legal services matters.
 - Members of the IRB may not be a member of the ICAEW Board or Council or other ICAEW committee
 - The alternate chair (the person appointed to act as the IRB's chair for matters relating to legal services regulation) will be appointed on the basis of being the best candidate for the job and on merit, however the alternate chair must not be nor must ever have been an accountant or a lawyer⁴.
 - A revised appointments process for IRB members and Chairs.
 - The IRB will determine its own requirements for funding and resources.

² IGR, rule 1(3)

³ Appendix 1 of the application

⁴The IRB's chair for decisions relating to accountancy regulation will continue to be a non-lay.

15. The LSB is content that the delegation of regulatory functions complies with the IGR.

Provision of assurance to the approved regulator

16. The IGR require that assurance be given to the approved regulator by the regulatory body that the delegation of the regulatory functions is being undertaken in a way that is consistent with the Act and the IGR. The ICAEW has set out the provision for that assurance in a protocol for sharing information⁵. The ICAEW revised the protocol submitted in the original applications, with enhanced detail around the frequency of such reporting in response to a question posed by the LSB during the assessment period.

17. The protocol sets out four methods of assurance:

- Monthly meetings are to be held between the PSD Executive Director and the CEO, which will include updates on what actions the PSD Executive Director has taken to ensure compliance with the IGRs and the Act.
- The CEO's Report to the ICAEW Board includes a regulatory update from the PSD Executive Director.
- The PSD Executive Director will attend ICAEW Board and other governance meetings as an observer.
- The IRB will publish a report in or around March each year on all of its legal services activities as the regulatory body under the IGRs. This report will include information about the regulatory body's:
 - i. governance arrangements;
 - ii. arrangements for financial management and control; and
 - iii. systems and processes for risk management and internal audit.

18. The LSB is content that the range and frequency of the type of information that will be provided to the approved regulator by the regulatory body is appropriate under IGR.

19. Given the unitary structure of the ICAEW, the approved regulator will need to remain vigilant that the information provided to it is not used for representative functions. The IRB should review the information sharing protocol in due course to ensure that the regulatory autonomy of the regulatory body is not compromised by such arrangements.

Regulatory autonomy (Rule 4: Regulatory autonomy and Rule 5: Prohibition on dual roles)

Regulatory autonomy

20. The IGR sets out that the regulatory body should independently determine its structure, strategy and any amendments to the regulatory arrangements. Given that the ICAEW as the approved regulator is establishing the structure for the regulatory body, it is expected that, once the necessary changes have been implemented, the approved regulator will have no ongoing role in determining the structure of the

⁵ Appendix 11 of the application

regulatory body. It will be for the IRB to periodically review and improve its own arrangements.

21. The proposed terms of reference for the IRB provide for amendments to the regulatory arrangements under the Act and outline the ability of the IRB to independently determine its strategy.

Prohibition on dual roles

22. The ICAEW has determined that it has the necessary structure and policy in place to ensure that no person may be involved in both regulatory decisions and representative functions, unless that person's role is within a shared service in accordance with Rule 11 of the IGR. As a result of the ICAEW assessment, the PSD Executive Director will no longer sit on the ICAEW Board as a voting member but will only attend in order to satisfy the information sharing arrangements required by the approved regulator as part of the assurance function.

Governance (Rule 7: Governance: Lay composition and Rule 8: The Regulatory Board: Appointments and Terminations)

Lay composition

23. The terms of reference of the IRB set out the requirements for a lay majority for decisions relating to regulatory functions set out in the Act. The arrangements also make provision for the circumstances where a lay majority is not available, to allow decisions to be confirmed or not, at the next meeting of the IRB (assuming there is a lay majority).

The regulatory board: Appointments and terminations

24. The ICAEW resubmitted their arrangements for the ICAEW Regulatory Board Nomination Committee to take into account our questions during the assessment of the application, about the representative body prejudicing the independent appointment of the IRB Chairs and members. While the President of the ICAEW or nominee have a role guaranteed by the terms of reference, this role no longer has an ability to stop the appointment process through a unanimous decision. The IGR specifically sets out a provision for the approved regulator to be involved, as long as this is done in a way which does not undermine, or reasonably appear to undermine its independence. As with other arrangements, after the implementation of the changes necessary for compliance with the IGR, it will be for the IRB to periodically review and improve its own appointment arrangements.
25. As the approved regulator, the ICAEW President or nominee will be strictly limited to acting in a representative capacity on the Nomination Committee when influencing the nomination process. They will need to be mindful of the IGR guidance on an approved regulator's influence on appointments and terminations. This risk is mitigated as the approved regulator does not have a majority on the Appointment Committee.

Budget and Resources (Rule 9: Regulatory Resources, Rule 10 Regulatory Body Budget, Rule 11: Shared Services)

Regulatory resources and regulatory body budget

26. The ICAEW revised and resubmitted the ICAEW Regulatory Board Terms of Reference and the ICAEW Board Terms of Reference to ensure the IRB determines its budget and resources independently in compliance with the IGR. In the terms of reference, the IRB budget principles outline that those parts of the budget relating to the discharge of legal services activities will be automatically included in the ICAEW overall budget. The terms of reference require that, over a planning period of typically 3 years, the IRB will use reasonable endeavours to ensure that the legal services activities are, at a minimum, self-financed.
27. The LSB is satisfied that this is proportionate and necessary. The IRB will need to ensure that it provides sufficient information to the approved regulator so that the approved regulator may be assured that the required resources are proportionate and targeted where action is needed. More broadly, the IRB must also ensure that it has provided the approved regulator with sufficient assurances of compliance with Section 28 of the Act.

Shared Services

28. Given that the IRB and the PSD will make their own determination about the resources required for their operation, there is limited concern that the services might be provided on terms less favourable than those provided to the approved regulator. To mitigate this risk, the ICAEW proposes that a Shared Services Committee will review both the existing and new shared services. As the risk primarily relates to the unitary nature of the approved regulator and the regulatory body, it will be managed through the IRB and on an executive level by the PSD. The ICAEW has determined that retaining shared services is necessary in order to be efficient and reasonably cost-effective. The LSB notes these arrangements and expects them to be kept under review in accordance with rule 1 of the IGR.

Communication and candour with the Legal Services Board (Rule 12: Communication by persons involved in regulation, Rule 13: Candour about compliance and Rule 14: Disputes and referrals for clarification)

Communication by persons involved in regulation and candour about compliance

29. The ICAEW application states that steps are already in place to enable those involved in regulation to communicate directly with the LSB. This will be extended to members of the IRB. The ICAEW has not explicitly set out a requirement to respond promptly and fully to all requests for information by the LSB, which are made for the purposes of assessing and assuring compliance with the IGR. However, the LSB is confident that this will occur given the structures and independence set out in the arrangements detailed in the application. The IRB should consider, when undertaking a periodic review, whether an explicit statement is required in the future.

Disputes and referrals for clarification

30. The LSB notes within the ICAEW Liaison Group Terms of Reference provided with the applications, that the ICAEW has set out a process for resolving disagreements through a liaison group that has a clear escalation and, if necessary, final referral to the LSB. The Liaison Group consists of the ICAEW President and Chief Executive and the IRB Chair and Alternate Chair and Executive Director of Professional Standards. In the event that the Liaison Group cannot reach an agreement on an issue, it will be referred to the ICAEW Council for a decision after consultation with ICAEW Board.

Decision

31. The LSB has considered the ICAEW's applications against the refusal criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application and accordingly, the applications are granted.
32. This decision is limited to the approval of amendments made by the ICAEW in the applications, it does not cover wider compliance with the IGR.
33. As set out in the [LSB decision document of 13 July on, "Regulatory performance framework; Monitoring regulatory performance"](#), monitoring regulatory independence will be incorporated into our regulatory performance framework effective from 24 July 2020.
34. **Annex A** of this decision notice contains a copy of the alterations to the regulatory arrangements that are approved by the LSB.

Chris Nichols, Director of Policy and Regulation
Acting under delegated authority granted by the Board of the Legal Services Board

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules⁶ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved

⁶ LSB's Rules for applications to alter regulatory arrangements – Version 2 April 2018
[https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20\(2\)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf)

Annex A



ICAEW Regulatory Board

TERMS OF REFERENCE: MARCH 2020

Authority

1. The ICAEW Regulatory Board (IRB) derives its authority from Council.
2. ICAEW is a unitary body. However, to ensure a greater degree of independence, both in substance and appearance, Council has delegated the regulatory and disciplinary functions of ICAEW to the IRB, to separate them from the other activities of ICAEW. In discharging its role and responsibilities the IRB will discuss significant matters with the ICAEW Board and relevant departmental Boards.
3. The IRB will have regard to the objectives of the profession, as set out in ICAEW's Royal Charter, subject to a primary consideration of the public interest.

Composition

4. The IRB comprises up to twelve members including the chair and alternate chair.⁷
5. For non-legal services matters the IRB will be formed of a parity of lay⁸ and non-lay members. The quorum for a meeting will be four: two lay and two non-lay members. In the event that there is not parity, the chair will use their discretion as to whether matters of gravity or public interest will be delayed to another meeting and or taken to vote at that meeting. If there is equality of votes, the chair will have a casting vote.
6. For legal services matters the IRB will be formed of a lay⁹ majority and a lay chair. If a decision on regulatory functions relating to legal services is taken at a meeting where

⁷ The Chair for legal services related matters

⁸ 'Lay' for non-legal services matters means someone who is not and never has been a member, affiliate or employee of the ICAEW or any other accountancy body and such further relevant restrictions as may be appropriate to enhance public confidence in the regulatory process. In making lay appointments, the focus will normally be on consumers of accountancy services and stakeholder organisations rather than those who have more general experience of regulation of other professional services.

⁹ 'Lay' for legal services matters means someone who is not and never has been -

there is either not a lay majority or not a lay chair (or both), this decision will be ratified at the next IRB meeting when there is both a lay majority and a lay chair. Ratification will however take place out of meeting if waiting for the next IRB meeting when there is both a lay majority and lay chair would cause unnecessary delay.

7. The IRB shall elect a Deputy-Chair annually from amongst its membership.
- 8.. The chair and alternate chair of the IRB may not be a member of the ICAEW Board or Council or any other ICAEW Committee. They can attend the ICAEW Board or Council by invitation as agreed by the respective chair.
9. The chair of the IRB will be appointed on the basis of being the person best suited for the job, judged on merit without regard to whether they have a lay or accountancy background. The alternate chair of the IRB will also be appointed on the basis of being the best suited for the job, judged on merit but must not be nor must ever have been an accountant nor a lawyer.
10. The chairs and members of the IRB and the Committees which it has oversight of are appointed by independent sub-committees of the Regulatory Board Nomination Committee. In practice the appointments process is as follows:
 - a) The IRB appoint a panel ('The Chair of the Regulatory Board Nomination Committee Appointments Panel') comprising 3 members to identify and nominate for approval by the IRB Chair and the ICAEW President the candidate for appointment as Chair of the Regulatory Board Nomination Committee.
 - b) The Regulatory Board Nomination Committee appoint a panel ('IRB Chair Appointments Panel'), comprising three members to identify and nominate for approval by the Regulatory Board Nomination Committee, the candidate for appointment as Chair of the IRB.;
 - c) The Regulatory Board Nomination Committee appoint a panel ('The IRB Members Appointments Panel') comprising 3 members to identify and nominate for approval by the Regulatory Board Nomination Committee the candidates for appointment as members of the IRB.

(a) an authorised person in relation to an activity which is a reserved legal activity under the Legal Services Act 2007, for example, a solicitor or barrister

(b) a person authorised to provide services which are regulated claims management services under the Compensation Act 2006

(c) an advocate in Scotland;

(d) a solicitor in Scotland;

(e) a member of the Bar of Northern Ireland;

(f) a solicitor of the Court of Judicature of Northern Ireland.

- d) The Regulatory Board Nomination Committee appoint a Committee ('Professional Standards Appointment Committee') comprising three Chartered Accountant members and three lay members, including the chair of the ICAEW Regulatory Board, with delegated authority to appoint members to the professional standards committees (including their chair and vice-chair), and the reviewers of complaints.
11. In accordance with the Regulatory Appointments Policy, members of the ICAEW Board or Council may not be members of IRB and there will be a period of at least one year between ceasing to be a member of Council or ICAEW Board and taking up membership of IRB. IRB members may not be members of other ICAEW regulatory committees.

Council Delegations

12. Council has delegated the following responsibilities to the IRB:
- a) development of proposals for ICAEW's professional standards strategy and policies, after consultation with the ICAEW Board and with the relevant departmental Boards as appropriate.
 - b) approving policies and guidelines that are relevant to the discharge of the functions of the IRB and the committees which it has oversight of, including sanctions.
 - c) developing proposals for funding and resources required for professional standards activities as part of the budget preparation process having regard to the high level budgeting principles set at Appendix A.
 - d) developing and monitoring performance criteria and performance measures for ICAEW's professional standards activities.
 - e) general oversight of the performance of the Audit Registration Committee, the Insolvency Licensing Committee, the Investment Business Committee, the Review Committee, the Probate Committee and its successor, the Legal Services Committee, the Investigation Committee, the Fitness Committee¹⁰, the Disciplinary Committee, and the Appeal Committee) or their successors, the Practice Assurance Committee, Professional Indemnity Insurance Committee subject to these committees **not** being answerable to the IRB for their decisions in individual cases.
 - f) considering and, where appropriate, amending, the recommendations of the specialist advisory and operational committees (the Joint Audit, Joint Insolvency, Joint Professional Indemnity Insurance Committee, the Practice Assurance Committee and the Professional Indemnity Insurance Committee and the Board of the Chartered Accountants' Compensation Scheme Ltd) or its successors.
 - g) the submission to the ICAEW Board of any recommendations for additions, deletions or amendments to the Charter and bye-laws in relation to professional conduct and regulatory matters for recommendation to Council for approval.

¹⁰ As from 3 October 2016, the date of the Privy Council's allowance of the Disciplinary Bye Laws.

- h) the setting of the level of regulatory fees, Compensation Scheme contributions and the Practice Assurance fee, provided that it may not approve any increase in these fees above the level of inflation used by ICAEW for employment cost inflation, or any increase which represents a change in policy or any change by ICAEW to the budgeting principles as outlined at Appendix A without discussing with the ICAEW Board.
- i) making and amending regulations in the professional conduct area (except those regulations made by the Investigation, Disciplinary and Appeal Committees under powers delegated to them in the Schedule to the Disciplinary Byelaws), provided that it may not approve any such regulations or amendments without discussing with the ICAEW Board where these represent new, or changes to, policy.
- j) making and amending regulations in respect of insolvency, exempt regulated investment business, audit, professional indemnity insurance, clients' money, corporate practice, use of the description 'Chartered Accountant', membership (cessation, readmission and resignation of members only), the Review Committee, the Chartered Accountants Compensation Scheme and Practice Assurance and legal services areas provided that it may not approve any such regulations or amendments without discussing with the ICAEW Board where these represent new, or changes to, policy.
- k) amending the Practice Assurance standards and guidance provided that it may not approve any amendments to the standards without discussing with the ICAEW Board where these represent new or changes to policy.
- l) amending the guidance on the duty to report misconduct; the duty on firms to investigate complaints; and publicity for the disciplinary and regulatory processes, provided that it may not approve any such amendments without discussing with the ICAEW Board where these represent new, or changes to policy.
- m) approving amendments to 'engaging in public practice' after consultation with the ICAEW Board and with the relevant departmental Boards as appropriate for recommendation to Council.
- n) commenting to the Technical Strategy Board/ Ethics Standards Committee on issues relating to ethical standards generally including proposed amendments to the Code of Ethics.
- o) approval of Statements of Insolvency Practice (SIPs), changes to SIPs and changes to the Insolvency Code of Ethics after taking into account the views of the Insolvency Committee and the Ethics Standards Committee as appropriate, but if any ethical guidance to be produced contains a prohibition (and so does not follow the general system of threats and safeguards) and the Insolvency Committee or Ethics Standards Committee as appropriate does not agree with the prohibition or does not otherwise agree with the approach, the IRB will refer the matter to the Liaison Group, and then if necessary to ICAEW Board and then if necessary to Council.

- p) commenting to the Learning & Professional Development Board on proposals for requirements for: continuing professional development, practising certificate eligibility, and the audit qualifications.
- q) maintaining liaison with other parts of ICAEW whose work affects the quality of professional practice (including the work of members in business through the ICAEW Board and relevant departmental Boards.
- r) approving, on recommendation from the ICAEW Board¹¹ memoranda of understanding in relation to Professional Conduct activities with other bodies with which ICAEW has a relationship provided, in the opinion of the IRB, these are appropriate in assisting ICAEW fulfil its functions.
- s) oversight of ICAEW's supervisory relationship with the Financial Reporting Council (FRC) and its subsidiary Boards, Legal Services Board (LSB), Insolvency Service (IS), Financial Conduct Authority (FCA), the Office for Professional Body Anti-Money Laundering Supervision (OPBAS), and Irish Auditing and Accounting Supervisory Authority (IAASA) (including related links with other participating accountancy bodies) with respect to ICAEW's regulatory responsibilities to these bodies excluding the RQB responsibility under the Companies Act which remains with the LPD Board.
- t) ICAEW's regulatory functions as an approved regulator and licensing authority for legal services under the Legal Services Act 2007 (the Act). However, as the approved regulator, ICAEW will retain the right to request that the Legal Services Board intervene into the IRB's arrangements if it is considered that the IRB is failing to discharge its functions in accordance with the Probate Regulations or the Act.
- u) the development of ICAEW policy in relation to probate practitioners, in consultation with the Probate Committee and other key stakeholders.
- v) rule setting and any amendments to the Probate Regulations and Probate Compensation Scheme Regulations in consultation with the LSB, the Probate Committee and the other stakeholders.
- w) all matters relating to the IRB, Professional Standards committees and other regulatory appointments
- x) in undertaking its activities the IRB will maintain close cooperation with the relevant corresponding functions of ICAS and CAI as appropriate.
- y) to approve an annual regulatory plan that takes into account ICAEW's operational plan and strategy.

13. The IRB has no role in relation to any Professional Standards activity that does not directly relate to the regulation and discipline of ICAEW members or those authorised by ICAEW to undertake regulated activities.

Delegations by the IRB

¹¹ Delegated by the Board to the Executive Director, Professional Standards on 26 January 2017

14. The IRB has delegated the following powers to the Probate Committee (and its successor the Legal Services Committee) as they pertain to Probate activities;
 - a. ICAEW's functions as an approved regulator and licensing authority as set out more fully in the Probate Regulations, which include:
 - i. considering and determining applications for probate accreditation;
 - ii. considering and determining applications for authorised individual, Head of Legal Practice, Head of Finance and Administration, non-authorised owner or probate affiliate status;
 - iii. monitoring compliance with the Probate Regulations;
 - iv. taking regulatory action as required to secure compliance with the Probate Regulations;
 - v. referring matters to ICAEW's disciplinary committees as required;
 - vi. compiling and maintaining a register of licensed firms and supplying this information to the Legal Services Board (LSB) as required.
 - b. ICAEW's functions under the Probate Compensation Scheme Regulations in determining applications for grants;
15. The IRB delegates responsibility for detailed work on the co-ordination of policy on:
 - a. the regulation of audit to the Joint Audit Committee
 - b. the maintenance, improvement, development and promotion of insolvency standards and guidance and the facilitation of discussions between the authorising bodies to the Joint Insolvency Committee
 - c. professional indemnity insurance to the Joint Professional Indemnity Insurance Committee

subject to these joint committees having no executive powers.
16. The IRB delegates responsibility for the operation of the Practice Assurance Scheme to the Practice Assurance Committee .
17. ICAEW owns shares in a limited company, Chartered Accountants Compensation Scheme Ltd, which decides on claims for compensation arising from investment business transactions by authorised firms and from exempt regulated investment business transactions by licensed firms. This relationship is governed by the memorandum and articles of the company and also by various shareholders' agreements. The purpose of this body is to provide services under an agency agreement with each of the participating bodies. The Board of this company (described in this Scheme as an 'operational committee') is accountable to the IRB, for the management of these joint activities.
18. The IRB delegates to the Head of the Regulatory Practice Group authority to consider dispensation applications and applications for general affiliate status under the Regulations governing the use of the description 'Chartered Accountants' and ICAEW general affiliates.

Operation of the IRB

19. The IRB will carry out its responsibilities within the framework of general duties and procedural requirements for Committees as set out in the governance handbook.
20. If any contentious issues arise between the ICAEW Board and the IRB which cannot be resolved through initial dialogue, the issue will be referred to the Liaison Group. Contentious issues would include matters relating to the budget principles outlined in Appendix A, proposals for bye-law amendments and changes in process.
21. The Liaison Group consists of the ICAEW President and Chief Executive and the IRB Chair and Alternate Chair and Executive Director, Professional Standards. In the event that the Liaison Group cannot reach agreement on an issue, it will be referred to Council for decision after consultation with ICAEW Board.
22. The IRB normally meets up to five times a year or as otherwise necessary to conduct its business.
23. The IRB will communicate on its regulatory activity to ICAEW Board and Council annually.
24. The IRB will take account of inclusion and diversity in relation to its activities.
25. As part of the IRB's responsibility for quality assurance, all members of the IRB and its Committees, both professional and lay, should be provided with appropriate training upon appointment and, as appropriate, thereafter.
26. Members of the IRB and the committees which it has oversight of should also be subject to annual appraisal and, where necessary, performance management and effectiveness review.
27. The IRB will keep under review, in consultation with the Regulatory Board Nomination Committee the structure and membership of the IRB and the committees which it has oversight of, their training and their competence.

Definitions

'Lay' for non-legal services matters means someone who is not and never has been a member, affiliate or employee of the ICAEW or any other accountancy body and such further relevant restrictions as may be appropriate to enhance public confidence in the regulatory process. In making lay appointments, the focus will normally be on consumers of accountancy services and stakeholder organisations rather than those who have more general experience of regulation of other professional services.

'Lay' for legal services matters means someone who is not and never has been -

(a) an authorised person in relation to an activity which is a reserved legal activity under the Legal Services Act 2007, for example, a solicitor or barrister

(b) a person authorised to provide services which are regulated claims management services under the Compensation Act 2006

(c) an advocate in Scotland;

(d) a solicitor in Scotland;

- (e) a member of the Bar of Northern Ireland;
- (f) a solicitor of the Court of Judicature of Northern Ireland.



IRB budget principles

1.	Regulatory activities of ICAEW are overseen by IRB, whose role is derived from Council. ICAEW acts as a unitary professional body.
2.	As part of its role, IRB will recommend a budget for regulatory activities including the fees required to discharge its responsibilities. Those parts of the budget relating to the discharge of legal services activities will be automatically included in the ICAEW overall budget. The other parts of the budget will be subject to the agreement of the ICAEW Board, for integration within ICAEW's overall budget. Agreement should not be unreasonably withheld.
3.	Over a planning period, typically 3 years, IRB will use reasonable endeavours to ensure that the legal services activities at a minimum self-finance
4.	The basis for recovering costs through regulatory fees should be confirmed from time to time between the ICAEW Board and IRB. Professional standards activities should normally be self-financing.
5.	The number and scope of regulated services may vary from time to time subject to approval of business cases by both the ICAEW Board in the first instance and IRB.
6.	Regulatory and disciplinary costs to be met will include both direct costs of those activities and a reasonable and proportionate share of ICAEW's overhead costs derived on a consistent basis across ICAEW.
7.	IRB will be provided with key details of the budgetary framework, constraints and assumptions in order to assist with understanding and approval.
8.	Exceptional changes to costs or income encountered during a budget year should be discussed between PS and the Finance Director in order to make proposals to IRB and the ICAEW Board for managing the event.
9.	In the event of disagreement over budget proposals, the matter should be referred to the Liaison Group.



Probate Committee

TERMS OF REFERENCE:

ACCOUNTABILITY

- ~~1. The Probate Committee reports to the ICAEW Regulatory Board (IRB). Although ICAEW has been designated as an approved regulator under the Legal Services Act 2007 (the Act) it has agreed that the Probate Committee will carry out its regulatory functions in relation to probate independently of ICAEW. The ICAEW Council and other boards and committees of ICAEW may not intervene directly into the work of the Committee. However, as the approved regulator, ICAEW will retain the right to request that the Legal Services Board (LSB) intervene into the Committee's arrangements if it is considered that the Committee is failing to discharge its functions in accordance with the Probate Regulations or the Act's regulatory objectives.~~
- ~~2. Before determining matters of policy, or making or amending regulations concerning the regulation of probate practitioners, the Committee is required to consult with the ICAEW Regulatory Board (IRB) and other interested parties as appropriate.~~

MEMBERSHIP

- ~~3.2. The Committee is made up of 10 members of whom half are lay members.~~
- ~~4.3. The chair of the Committee is a lay member and will have a casting vote where required.~~
- ~~4. A lay member is defined as a person who has never qualified or practised as a professional accountant. Solicitors and persons with legal training may not be lay members. who is not and never has been -~~
 - ~~(a) an authorised person in relation to an activity which is a reserved legal activity under the Legal Services Act 2007, for example, a solicitor or barrister~~
 - ~~(b) a person authorised to provide services which are regulated claims management services under the Compensation Act 2006~~
 - ~~(c) an advocate in Scotland;~~



[\(d\) a solicitor in Scotland;](#)

[\(e\) a member of the Bar of Northern Ireland;](#)

[\(f\) a solicitor of the Court of Judicature of Northern Ireland.](#)

5. Half the members of the committee will be practitioners with expertise in the regulated areas.
6. ICAEW office-holders are disqualified from membership of the Committee in accordance with Principal Bye-law 44. [The Regulatory Appointments Policy applies to this Committee, and therefore](#) ICAEW Council and Board members may not serve on the Committee.

POWERS AND AUTHORITIES

7. [The IRB Council](#) has delegated responsibility for the following activities to the Committee:
 - a) ICAEW's functions as an approved regulator and licensing authority as set out more fully in the Probate Regulations, which include:
 - considering and determining applications for probate accreditation;
 - considering and determining applications for authorised individual, Head of Legal Practice, Head of Finance and Administration, non-authorised owner or probate affiliate status;
 - monitoring compliance with the Probate Regulations;
 - taking regulatory action as required to secure compliance with the Probate Regulations;
 - referring matters to ICAEW's disciplinary committees as required;
 - compiling and maintaining a register of licensed firms and supplying this information to the Legal Services Board as required.
 - b) ICAEW's functions under the Probate Compensation Scheme Regulations in determining applications for grants;
 - ~~c) the development of ICAEW policy in relation to probate practitioners, in consultation with the IRB and other key stakeholders;~~
 - ~~d) rule setting and any amendments to the Probate Regulations and Probate Compensation Scheme Regulations in consultation with the LSB, the IRB and other stakeholders;~~
 - ~~e) budget and fee setting in relation to accredited probate firms, in consultation with the LSB, the IRB (and ICAEW Board where any proposed increase is above the rate of wage inflation); and~~

f) ~~liaising freely with the LSB and other stakeholders on matters concerning probate practitioners and responding to requests for information from the LSB.~~



MODUS OPERANDI

8. The Committee will operate in accordance with the Probate Regulations and Probate Compensation Scheme Regulations.
9. In discharging its functions the Committee will have regard at all times to the public interest, and the regulatory objectives and requirements of the Legal Services Act 2007.
10. The Committee will have a quorum of five members, the majority of whom will be lay members.
11. There will be a review of the Committee's membership and function every~~within~~ 3 years.

Appendix 3

ICAEW Regulatory Board Nomination Committee

TERMS OF REFERENCE: DRAFT 030420

Accountability

1. The ICAEW Regulatory Board Nomination Committee reports to the ICAEW Regulatory Board (IRB)

Composition

2. The Committee comprises four members as follows:
 - The Chair
 - Chair of ICAEW Regulatory Board
 - Alternate Chairⁱ of ICAEW Regulatory Board
 - President of ICAEW, or an office-holder nominated by the President
3. The Committee will have a majority of non-ICAEW members.
4. Panels of the Committee will be formed for specific purposes, as set out below.
5. The Chair of the Regulatory Board Nomination Committee will be independent of ICAEW and layⁱⁱ for all matters including legal services. The Chair will be selected through an independent process and the appointment approved by the Chair of the ICAEW Regulatory Board, the Alternate Chair of the ICAEW Regulatory Board and the ICAEW President.

Purpose

6. The Committee is responsible, under powers delegated to it by the IRB, and other than as set out below, for dealing with all matters relating to the appointment and performance evaluations of chairs and members of the ICAEW Regulatory Board and Professional Standards Committees.

Duties

Appointments to the ICAEW Regulatory Board (IRB)

7. In relation to the IRB, the Committee shall:

- 7.1. Regularly review the structure, size and composition (including the skills, knowledge, experience and diversity) of the IRB and make recommendations to the IRB for any changes.
- 7.2. Ensure plans are in place for orderly succession to IRB positions.
- 7.3. Be responsible for appointing candidates to fill IRB vacancies as and when they arise:
 - 7.3.1. The Chair and Alternate Chair of the IRB will be identified and appointed by the IRB Chair Appointment Panel (ICAP);
 - The ICAP panel will be chaired by the Chair of the Regulatory Board Nomination Committee
 - The ICAEW President, or their nominee, will be a member of the panel
 - Unless conflicted the IRB Chair
 - The decision of the Panel to appoint must be unanimous.
 - Where the Chair of the IRB is conflicted, the alternative chair will sit in their place. Where both are conflicted the decision will be made by the other two members.
 - 7.3.2. Members of the IRB will be appointed by the IRB Members Appointment Panel (IMAP);
 - The IMAP panel will be chaired by the Chair of the Regulatory Board Nomination Committee
 - The other two members of the IMAP panel are:
 - Chair of the ICAEW Regulatory Board
 - ICAEW President.
 - The decision of the Panel to appoint must be unanimous.
- 7.4. Before any appointment is made, the Committee will evaluate the balance of skills, knowledge, experience and diversity of the IRB and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment. In identifying suitable candidates, the panel shall:
 - 7.4.1. Use open advertising or the services of external advisers to facilitate the search.
 - 7.4.2. Consider candidates from a wide range of backgrounds.
 - 7.4.3. Consider candidates on merit and against objective criteria, having due regard to the benefits of diversity on the IRB and taking care that the appointees have enough time available to devote to the position.
 - 7.4.4. Take account of the Regulatory Appointments Policy.
- 7.5. Prior to the appointment to the IRB, the proposed appointee shall be required to disclose any business or similar interests that may result in a conflict of interest. These must be authorised by the IRB prior to appointment, and any future interests that could result in a conflict must not be undertaken without prior authorisation of the IRB.

7.6. The Committee shall ensure that, on appointment, a formal letter of appointment is provided setting out clearly what is expected of the successful candidate.

7.7. The Committee, ICAP and IMAF shall review the results of the IRB performance evaluation process, which will include individual performance appraisals, and take account of this when approving the renewal of individual appointments.

Performance evaluation of the Chair and members of the ICAEW Regulatory Board

8. The evaluation of the performance of the IRB Chair will be performed by a panel comprising the Chair of the Regulatory Board Nomination Committee, the ICAEW President and the Alternate Chair of the IRB.

9. The evaluation of the performance of the members of the IRB will be performed by a panel comprising the Chair of the Regulatory Board Nomination Committee, the ICAEW President and the IRB Chair.

Appointments to Professional Standards Committees

10. The Committee shall appoint a committee to appoint members and chairs of the Professional Standards Committees (see Annex), namely the Professional Standards Appointments Committee.

11. The Professional Standards Appointments Committee shall report on its decisions to the Regulatory Board Nomination Committee.

Remuneration

12. The Committee is responsible for determining the policy for remuneration and setting remuneration for the chairs and members of the IRB and Professional Standards committees, having regard to:

12.1. When determining remuneration policy and practices, consider the need for clarity, simplicity, risk mitigation, predictability, proportionality and alignment to culture.

12.2. When determining remuneration policy, take into account all other factors it deems necessary, including relevant legal and regulatory requirements.

12.3. No person shall be involved in any decisions as to their own remuneration.

13. The Committee is responsible for review of the ongoing appropriateness of the remuneration policy.

Staff appointments

14. The Committee is not responsible for the appointment, objective setting, appraisal, and remuneration of the Executive Director, Professional Standards or of any Professional Standards staff. The Executive Director, Professional Standards is appointed by the Senior Staff Appointments Committee.

Operation of the Committee and its sub-committees and panels

15. The Committee, its sub-committees and panels will operate in accordance with the Regulatory Appointments Policy.

16. All appointments must be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who, through their abilities, experience and qualities, match the needs of the committee in question. The Committee, its sub-committees and panels shall not make any appointment without first scrutinising the proposal.

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17. All appointments will be made in accordance with the policy on Equality, diversity and inclusion and Active Members.
18. All appointees must be committed to the principles and values of service in the public interest and perform their duties with integrity.
19. The process of appointment must be transparent by making information about the process and appointments publicly available.
20. No person shall be involved in any decisions as to their own appointment.

The Panel to appoint the Chair of the Regulatory Board Nomination Committee

TERMS OF REFERENCE: DRAFT 030420

Accountability

1. The Panel is accountable to the ICAEW Regulatory Board

Composition

2. The Panel comprises the following members:
 - IRB Chair
 - Alternate Chair of the IRB
 - ICAEW President

Purpose

3. The Panel has authority delegated from the ICAEW Regulatory Board and is responsible for the appointment of the Chair of the Regulatory Board Nomination Committee.

Operation of the Committee

4. The Panel will operate in accordance with the Regulatory Appointments Policy
5. All appointments must be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who, through their abilities, experience and qualities, match the needs of the committee in question.
6. All appointees must be committed to the principles and values of service in the public interest and perform their duties with integrity.
7. The process of appointment must be transparent by making information about the process and appointments publicly available.
8. The decision must be unanimous.

9. The Panel will report on its decision to the ICAEW Regulatory Board.

Annex 5

Professional Standards Appointments Committee

TERMS OF REFERENCE: DRAFT V170220

Accountability

10. The Professional Standards Appointments Committee (ProSAC) is accountable to the [Regulatory Board](#) Nomination Committee.

Composition

11. Membership of the Committee will be a maximum of six, with an equal number of [non-lay accountant](#) and lay members.
12. The Chair [and Alternate Chair](#)¹² of [the](#) ICAEW Regulatory Board (IRB) will be ~~an~~ ex-officio members of the Committee for the period of their office on IRB.
13. A member of [the](#) ICAEW Nominating Committee will be an ex-officio member of the Committee for the period of their term on [the](#) ICAEW Nominating Committee
14. A Chair will be elected annually by the members of the Committee and will be responsible for chairing meetings and advising on the agenda. If the elected Chair is unable to attend a meeting they may delegate the role for that meeting to another member of the Committee.
15. The quorum for a meeting is 4 members: 2 [non-lay accountant](#) and 2 lay¹³.

¹² [This is the Chair of the ICAEW Regulatory Board for legal services related matters](#)

¹³ 'Lay' [for non-legal services related appointments](#) means someone who is not and never has been a member, affiliate or employee of the ICAEW or any other accountancy body and such further relevant restrictions as may be appropriate to enhance public confidence in the regulatory process. In making lay appointments, the focus will normally be on consumers of accountancy services and stakeholder organisations rather than those who have more general experience of regulation of other professional services. ['Lay' for legal services related](#)

Powers and authorities Purpose

16. The Committee has authority delegated from the [Regulatory Board](#) Nomination Committee and is responsible for the appointment of the members of the professional conduct and regulatory committees (including their chair and vice-chair) [\(see Annex\)](#), and the Reviewer(s) of Complaints.

Operation of the Committee

17. Decisions on appointments require unanimous agreement from the Committee present at the meeting. The Chair has no second or casting vote.

18. There will be four meetings a year to an agreed schedule of business for each meeting.

19. The Committee will report on its decisions to the [Regulatory Board](#) Nomination Committee.

20. The Committee will operate in accordance with the Regulatory Appointments Policy.

21. All appointments must be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who, through their abilities, experience and qualities, match the needs of the committee in question. The Committee shall not make any appointment without first scrutinising the proposal.

21-22. [All appointments will be made in accordance with the policy on Equality, diversity and inclusion and Active Members.](#)

[appointments means \(as defined in paragraph 2\(4\) of Schedule 1 of the Legal Services Act 2007\) a person who has never been—](#)

- [\(a\) an authorised person in relation to an activity which is a reserved legal activity;](#)
- [\(b\) a person authorised, by a person designated under section 5\(1\) of the Compensation Act 2006, to provide services which are regulated claims management services \(within the meaning of that Act\);](#)
- [\(c\) an advocate in Scotland;](#)
- [\(d\) a solicitor in Scotland;](#)
- [\(e\) a member of the Bar of Northern Ireland;](#)
- [\(f\) a solicitor of the Court of Judicature of Northern Ireland.](#)

~~22-23.~~ All appointees must be committed to the principles and values of service in the public interest and perform their duties with integrity.

~~24.~~ The process of appointment must be transparent by making information about the process and appointments publicly available.

~~23-25.~~ No person shall be involved in any decisions as to their own appointment.

~~24.~~ Candidates for appointment will normally be identified in the following ways:

- ~~• Advertisement: Appointments may be advertised within ICAEW to committees, in the professional press and/or national or local press, and on the ICAEW website.~~
- ~~• List: The Professional Standards Appointment Committee secretary will maintain a list of candidates who have contacted ICAEW to express an interest in appointment or have been identified through an earlier advertisement. Names may be kept on such a list for up to three years and individuals will be considered for vacancies as they arise.~~
- ~~• Nomination by other bodies: ICAEW may approach professional or other reputable bodies for nomination of suitable appointees.~~
- ~~• Executive Search agencies: ICAEW may engage the services of professional search and recruitment agencies to identify suitable candidates if it considers it appropriate in any particular case.~~
- ~~• Recommendation: ICAEW members may recommend candidates for consideration.~~

~~—~~ The Committee will make appointments to the Professional Conduct and Regulatory quasi-judicial committees (including their chair and vice-chair) and to the positions of Reviewer of Complaints

~~25-26.~~ The chair of the committee concerned (or their nominee) and the Executive Director, Professional Standards (or their nominee) may interview candidates for membership of the committees and for the positions of Reviewer of Complaints before review by the Professional Standards Appointments Committee to ensure suitability for appointment. A report of the interview will be made to the panel when it considers the appointment.

Annex: Professional Standards committees

Regulatory committees

- Audit Registration
- Insolvency Licensing
- Investment Business
- Practice Assurance

- Legal Services Committee (formerly the Probate Committee)

Disciplinary committees

- Investigation
- Disciplinary
- Fitness
- Appeal
- Review

Other committees

- Chartered Accountants Compensation Scheme
- Legal Services Compensation Scheme
- Professional Indemnity Insurance

Committees that are within the remit of the Professional Standards Appointment Committee also include the joint committees.

ⁱ This is the Chair of IRB for legal services related matters, or if this is the same person as the Chair of the IRB, the Vice-Chair of IRB.

ⁱⁱ 'Lay' means someone who is not and never has been a member, affiliate or employee of the ICAEW or any other accountancy body and such further relevant restrictions as may be appropriate to enhance public confidence in the regulatory process. In making lay appointments, the focus will normally be on consumers of accountancy services and stakeholder organisations rather than those who have more general experience of regulation of other professional services. For matters involving legal services, 'lay' means someone who is not and never has been - (a) an authorised person in relation to an activity which is a reserved legal activity under the Legal Services Act 2007, for example, a solicitor or barrister (b) a person authorised to provide services which are regulated claims management services under the Compensation Act 2006 (c) an advocate in Scotland; (d) a solicitor in Scotland; (e) a member of the Bar of Northern Ireland;

ICAEW Protocol for ensuring regulatory independence

INTRODUCTION

1. ICAEW is an Approved Regulator and Licensing Authority for legal services under the Legal Services Act 2007 (the Act) and therefore has both representative and regulatory functions.
2. The Legal Services Board's (LSB) Internal Governance Rules (IGRs), published on 24 July 2019 place an overarching duty on an Approved Regulator to ensure that;
 - the exercise of its regulatory functions is not prejudiced by any representative functions it may have;
 - it delegates the discharge of its regulatory functions in compliance with section 28 of the Act to a suitably independent body ("Regulatory Body"); and
 - it only retains a role to the extent that this is reasonably necessary to be assured that regulatory functions are being discharged in compliance with section 28 of the Act.
3. ICAEW Council has delegated responsibility for the supervision of its regulatory functions to the ICAEW Regulatory Board (IRB) and the IRB together with ICAEW's Professional Standards Department (PSD) will be regarded as the Regulatory Body under the IGRs.
4. The IGRs require the Regulatory Body to provide sufficient information to the Approved Regulator as is reasonably required for the Approved Regulator to be assured of the Regulatory Body's compliance with section 28 of the Act because the Approved Regulator remains ultimately accountable for compliance with the Act.

THE PROTOCOL

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5. This protocol has been agreed and adopted by the Approved Regulator and the Regulatory Body and is designed to ensure compliance with the IGRs.
 6. It is the responsibility of the Chief Executive Officer (CEO) of the Approved Regulator working with the PSD Executive Director and the Chair of the IRB to ensure the effective implementation and operation of this protocol and for delivering awareness at all levels of the Approved Regulator and Regulatory Body of the appropriate governance and action required to comply with the Act and the IGRs.

WORKING ARRANGEMENTS

7. The Regulatory Body is responsible for ensuring that the Approved Regulator is provided with sufficient information as is reasonably required for the Approved Regulator to be assured of the Regulatory Body's compliance with section 28 of the Act and Rule 3 of the IGRs.
8. It is proposed that such assurance is provided by the Regulatory Body through the following three ways;
 - a. monthly meetings to be held between the PSD Executive Director and the CEO which will include updates on what actions the PSD Executive Director has taken to ensure compliance with the IGRs and the Act;
 - b. the attendance of the PSD Executive Director as an observer at ICAEW Board and other governance meetings; and
 - c. the publication of an annual report by the IRB on all of its activities as a regulator including its work as the Regulatory Board under the IGRs.
9. The CEO and the ICAEW Board may only require further information from the PSD Executive Director or the Regulatory Body as a whole if they have reasonable grounds to do so. Neither the CEO nor the ICAEW Board can require the PSD Executive Director to provide information which could undermine the Regulatory Body's independence or effectiveness; and the CEO and the ICAEW Board must not use the information they receive from the PSD Executive Director or the Regulatory Body for the representation, protection or promotion of the interests of the persons they represent unless and until they receive that information for that purpose or that information is made publicly available.
10. It is the responsibility of the PSD Executive Director and PSD senior managers to ensure that their respective members of staff have an understanding of this protocol and the IGRs and that they also understand the importance of abiding by them.

RESOLVING DIFFERENCES

11. Disputes which arise between the Approved Regulator and Regulatory Body, whether in relation to this protocol or otherwise will be resolved by the existing ICAEW Liaison Group. However, nothing in this protocol prevents either body from referring a dispute which cannot be settled between them to the LSB. As a matter of good practice, five working days' notice should be given to the other body if either body intends to refer a dispute to the LSB.