



## PROBATE COMMITTEE TERMS OF REFERENCE

### Accountability

1. 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. The Committee is made up of 10 members of whom half are lay members.
4. The chair of the Committee is a lay member and will have a casting vote where required.
5. 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.
6. Half the members of the committee will be practitioners with expertise in the regulated areas.
7. ICAEW office-holders are disqualified from membership of the Committee in accordance with Principal Bye-law 44. ICAEW Council and Board members may not serve on the Committee.

### Powers and authorities

8. 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***

9. The Committee will operate in accordance with the Probate Regulations and Probate Compensation Scheme Regulations.
10. 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.
11. The Committee will have a quorum of five members, the majority of whom will be lay members.
12. There will be a review of the Committee's membership and function within 3 years.