

24 March 2016

The Rt Worshipful Charles George, QC
Master of Faculties
Faculty of the Archbishop of Canterbury
1 The Sanctuary
Westminster
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Dear Mr George

ICAEW's proposed application to regulate further reserved legal activities

Thank you for taking the time to meet with us last week to discuss our proposed application to the Legal Services Board to regulate further reserved legal activities.

As agreed I have set out below the matters that were discussed at this meeting and any conclusions that were drawn as a consequence.

1. ICAEW's reasons for making the application to regulate the remaining five reserved legal activities and for restricting such regulation to taxation services only

As advised at the meeting, ICAEW's reasons for making a further application to regulate the remaining reserved legal activities in addition to probate, are, firstly, to enable our member firms to be regulated by one regulator for both their accountancy and legal services rather than have dual regulation with ICAEW and the Solicitors Regulation Authority. Secondly, to improve access to justice by enabling firms to provide both accountancy and legal services in one firm which would also have the additional benefit of reducing costs to the consumer.

We also explained that the reason why ICAEW intends to restrict its regulation of these further reserved legal activities to taxation services is that Chartered Accountants are very experienced in the field of taxation and therefore the ability to provide such legal services would complement the work that accountants are already doing and would be an adjunct to the traditional accountancy practice. It would also enable firms to build on their probate services and extend their businesses in the area of personal wealth, tax and financial planning.

2. The notarial services that relate to taxation

We indicated that the main areas of taxation services that relate to notarial services are transfer pricing; and authorisation and translation of documents for use in overseas jurisdictions.

3. Whether all notarial activities which ICAEW proposes to regulate will be carried out by qualified accountants and what is meant by "we are not proposing to superimpose alternative qualifications to those you apply to your members."

The difference between entity and individual authorisation and regulation was explained and an assurance was given that ICAEW has no intention of regulating notaries as individuals. Rather, ICAEW's intention is to accredit firms to provide notarial services through a notary qualified,

admitted and individually regulated by the Master of Faculties. We indicated that Chartered Accountants would not be providing notarial services unless they were additionally qualified as a notary in their own right. We also pointed out that a reciprocal Memorandum of Understanding had been signed by the legal regulators to enable them to share information regarding the conduct of their regulated individuals who work in bodies regulated by another legal regulator.

4. Notaries Practice Rules 2014

The Notaries Practice Rules were discussed and there was an acknowledgement that these rules would permit notaries to be employed in both authorised and licensed firms regulated by ICAEW.

5. Independence of notaries and their duty to provide notarial services to the public.

The need for notaries to maintain their independence was discussed as was their duty to provide notarial services to the public. It was felt that restricting notarial services purely to taxation would compromise this independence and a notary's ability to discharge their public duty.

We commented that ICAEW was already considering lifting this restriction for notarial services following advice given by counsel that there was no need to place this restriction on notaries as they would be qualified, admitted and independently regulated by the Master of Faculties.

It was therefore agreed that, in order for notaries to maintain their independence, ICAEW should not place any restriction on the scope of notarial services carried out by notaries in ICAEW regulated firms.

6. The work of notaries

In conclusion you commented that, whilst your final opinion on our application will be decided purely in relation to what is in the public interest, you mentioned that the notarial profession may oppose ICAEW's application if it resulted in a loss of work for members. ICAEW can assure you that, for the reasons stated above, because ICAEW will be regulating the entity rather than the individual notary, this will not result in a loss of work for notaries but rather provide increased opportunities to work in different types of legal entities such as alternative business structures.

I hope you find this summary a fair reflection of the discussions and conclusions of our meeting and look forward to receiving any further feedback you may wish to give before our public consultation closes on 6 May 2016. Should you or your team have any further questions around the consultation by all means contact me or a member of my staff.

Yours sincerely,



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