## ICAEW probate and estate administration annual review checklist

Reviewer



Review date	
Firm details	
Firm name	
Name of probate contact partner	
Reporting period	
Total number of probate clients <sup>1</sup>	
Total number of estate administration clients <sup>2</sup>	
Accounting year end	
Turnover £	Income from authorised work £
Value of assets held £	Level of professional indemnity cover £

Address of at least one office in England and Wales from which it undertakes probate work

1.0	ORGANISATION	REG.	Y	N	N/A
1.1	Has the name of the contact partner been given to ICAEW?	2.4c			$\bigcirc$
1.2	Is the firm authorised? If yes, continue to question 1.3, if no, continue to question 1.7				0
	Authorised firms				
1.3	Is each principal <sup>3</sup> in the firm an authorised person?	2.2a	0	0	0
1.4	If another body is a principal in the firm, are non-authorised persons only entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body?	2.2a	0	0	$\bigcirc$
1.5	In the case of a corporate body, is each person who has an interest in the firm an authorised person?	2.2b	0	0	0
1.6	If another body has an interest in the firm, are non-authorised persons only entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body? Go to question 1.12	2.2b	0	0	0

<sup>1</sup> The preparation of papers to apply for a grant of probate or letters of administration.

<sup>2</sup> Following a grant of probate or letters of administration, collecting in the assets of an estate, settling the liabilities and distributing the remainder in accordance with a will or letters of administration.

<sup>3</sup> Includes any individual or person who is held out as being a director, partner, member, or member of the governing body.

1.0	ORGANISATION (CONTINUED)	REG.	Υ	N	N/A
	Licensed firms		0		
1.7	Is at least one principal in the firm an authorised individual or authorised by ICAEW under regulation 2.2 or authorised by another approved regulator in relation to probate work?	2.3a	0		0
1.8	Are all individuals who will undertake, or control the undertaking of, authorised work <sup>4</sup> on behalf of the firm, authorised individuals?	2.4b	0	0	0
1.9	Has the Head of Finance and Administration and a Head of Legal Practice consented to act in these roles and has their appointment been approved by ICAEW?	2.4d			
1.10	Have all non-authorised persons who hold a material interest in the firm been approved by ICAEW?	2.4g	0		
1.11	If another body is a principal in the firm, are non-authorised persons entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body?				0
1.12	Do principals hold relevant affiliate status? <sup>5</sup>	2.4f			
1.13	Does the firm have professional indemnity insurance under ICAEW's PII Regulations with a minimum level of indemnity of £500,000 per claim?	2.4i	0	0	0
1.14	Has the firm informed its insurer that it is undertaking authorised work?		0		0
1.15	Has the level of cover been reviewed to ensure it is adequate?				
1.16	Is the following information available to all clients under the Provision of Services Regulations:  a) Probate registration number and where to access the probate register (icaew.com/probate)  b) Where the probate regulations can be accessed (icaew.com/regulations)?				
1.17	Has the firm established appropriate procedures to deal with complaints, including:	7.1			
	a) Acknowledging the complaint within five business days?		0	0	
	b) Immediately investigating the complaint in a fair, prompt, constructive and honest matter?		0	0	0
	c) If the complaint is justified appropriate procedures to resolve the complaint?				
	d) Notifying the client of the firm's final response within 8 weeks of receiving the complaint?		0	0	0
	e) Informing the client of their right to refer the matter to the Legal Ombudsman?		0	0	0
	f) If the complaint is not resolved within eight weeks of receipt of the complaint, informing the client in writing of their right to request that the Legal Ombudsman investigate the matter?				0
1.18	Have any claims or potential claims been recorded, reviewed and reported to the insurers in accordance with the policy requirements?		0	0	0
1.19	Does the firm have arrangements in place for when it ceases to undertake authorised work, ensuring the interests of those clients for whom it is undertaking such work are protected? <sup>6</sup>	3.12	0	0	0

<sup>4</sup> Covers both 'Probate work: The preparation of papers to apply for a grant of probate or letters of administration' and 'Estate Administration: Following a grant of probate or letters of administration, collecting in the assets of an estate, settling the liabilities and distributing the remainder in accordance with a will or letters of administration'.

<sup>5</sup> Each principal who is not an accredited probate firm, a registered auditor, a DPB (Investment Business) firm, a member of ICAEW, a member of the Institute of Chartered Accountants of Scotland, a member of Chartered Accountants Ireland or another approved regulator must hold affiliate status under these regulations, ICAEW's Audit Regulations, ICAEW's DPB (Investment Business) Handbook, ICAEW's Insolvency Regulations or ICAEW's regulations governing the use of the description 'Chartered Accountants' and general affiliates.

<sup>6</sup> Particularly where the firm is a sole practitioner, additional measures will need to be in place to protect the interests of clients in the event of the death or incapacity of the practitioner. This may simply be an arrangement for another person to access the firm's records and then make arrangements for the authorised work to be transferred to another probate practitioner.

2.0	CONTINUING OBLIGATIONS	REG.	Y	N	N/A
2.1	Has the firm informed ICAEW as soon as practicable, but not later than 10 business days, after any change to the:	2.7j			
	a) accredited probate firm's registered address;				
	b) name or trading names of the accredited probate firm;				
	c) address(es) of the accredited probate firm's offices;				
	d) name or principal business address of any of the accredited probate firm's principals;		0	0	0
	e) name of the contact partner;		0	0	0
	f) name of the Head of Finance and Administration who must be approved in that capacity by ICAEW;		0		0
	g) name of the Head of Legal Practice who must be approved in that capacity by ICAEW;				
	h) in the case of a body corporate: i) the name or address of any shareholder or anyone with any interest in the shares; and ii) the number of shares held by a shareholder or in the number of shares in which anyone has an interest.				0
2.2	Has the firm informed ICAEW as soon as practicable, but not later than 10 business days, after any event affecting the firm's eligibility to be accredited?	2.7k	0	0	0
2.3	In the case of a licensed firm, has it informed ICAEW as soon as practicable but not later than 10 business days after any nonauthorised person acquires or ceases to hold, or increases or decreases a holding of, any interest in the firm which, either before or after the change, qualifies as a material interest?	2.71	0	0	0
2.4	Has the firm monitored the diversity of its principals and employees?	2.7s			
2.5	Has the firm published the findings of the monitoring?	2.7s	0	0	
2.6	Has the firm complied with the regulations of ICAEW's Probate Compensation Scheme?	2.11	0	0	0
2.7	Has the firm made arrangements to prevent anyone who is not an authorised individual in the firm, or working under the supervision of that person, from having any influence which is likely to affect the independence or integrity of probate work? <sup>7</sup>	3.5			

3.0	PERSONNEL, TRAINING AND COMPETENCE	REG.	Y	N	N/A
3.1	Review the staffing levels, note staff numbers below: Principals Als Probate staff Other professional staff Subcontractors Admin staff				
	A) Are sufficient staff resources available?		0	0	0
	B) Are they at the appropriate level and sufficiently competent?		0	0	0
	C) Has the firm established adequate staff recruitment and retention policies and procedures?		0	0	0

<sup>7</sup> These arrangements need to include informing new principals, employees or shareholders who are nonauthorised persons of the duties imposed on them by sections 90 and 176 of the Act.

3.0	PERSONNEL, TRAINING AND COMPETENCE	REG.	Υ	N	N/A
3.2	Review the declarations of Fit and Proper status, Independence and Confidentiality (See PAS1/HS18):				
	A) Last updated: / / Within 12 months?				
	B) Signed by all personnel?			0	
	C) Do they include probate specific questions?				
	D) Have problems noted been addressed adequately?				
3.3	Review training and CPD records:				
	A) Do all probate personnel have CPD records that record 'Reflect,     Act and Impact'?		0		
	B) Have CPD requirements been complied with?				
	C) Has specialist training been undertaken by all relevant personnel?				
3.4	Have agreements with subcontractors and consultants been obtained (see PAS2/HS23) and updated where appropriate?			0	0
4.0	CONDUCT OF AUTHORISED WORK	REG.	Y	N	N/A
4.1	Probate compliance manual:				
	A) Published by / Own Appropriate?		0		0
	B) Has a proprietary manual been tailored to the firm's particular circumstances?				0
	C) Last updated: / / Up to date?				0
4.2	Has the firm ensured that it has full agreement with its clients as to the nature, scope and terms of the authorised work which is or may be provided and that it retains evidence of this agreement?	3.6			0
4.3	Do these engagement terms ensure:				
	A) clients have been advised in writing of the compensation arrangements at the beginning of the engagement and the time scales for making applications to the Probate Compensation Scheme?	3.7			0
	B) all clients have been notified in writing at the beginning of the engagement of the name of the individual to be contacted in the event of a complaint and of their right to complain to the Legal Ombudsman?	7.2			
	C) all clients have been notified in writing at the beginning of the engagement that their PII is capped and provided the level of cover, if a firm is conducting authorised work and the value of the estate is likely to exceed the level of the firm's own PII?	2.10	0	0	
4.4	Has the firm received any property in connection with authorised work? If yes, has it:	3.8	$\bigcirc$		0
	1. Recorded details of the property received?			0	0
	2. Taken all reasonable steps to ensure that such property is kept safely?			0	0
	Dealt with property which is money in accordance with ICAEW's client's money regulations, keeping monies received in connection with authorised work separate from other clients' monies?		0	0	0
	4. Only released property on the client's written instructions and obtained a receipt?		0	0	
4.5	Where applicable, have all clients been notified of the firm's arrangements for when it ceases to undertake authorised work?			0	0

5.0	CONSULTATION, INDEPENDENT, HOT AND COLD FILE REVIEWS	REG.	Y	N	N/A
5.1	Consultation arrangements in respect of technical, ethical and other significant matters:				
	A. Are personnel fully aware of the firm's arrangements?				0
	B. Have consultations been documented?			$\bigcirc$	
	C.Have external consultants been identified? Name				
	D. Has the fit and proper status, confidentiality, independence and potential conflicts of interest of external consultants and reviewers been addressed (See PAS3/HS03)?				0
5.2	Do the above procedures ensure that there is a process of dealing with conflicting views regarding important matters between probate staff, between probate staff and the authorised individual and between the authorised individual and the independent principal?		0	0	0
5.3	Cold file reviews are undertaken to ensure that the firm's probate procedures and probate regulations have been complied with. They should be conducted by persons with the appropriate expertise and authority.  Cold file reviews undertaken: No	3.11			
	A. Were they chosen on a regular and systematic basis?			0	0
	B. Were the reviews undertaken by, or under the supervision of an AI or suitably qualified external consultant?		0		0
	C.Did the reviews cover all Als?			0	0
	D.Was an appropriate checklist used?		0	0	0
5.4	Matters to consider when undertaking cold file reviews:  - Has an engagement letter been issued?  - Does it include:  - a clear scope of probate services  - who is doing what  - PII level if estate exceeds it  - Details of compensation scheme  - Alternate details (where applicable)  - Has an engagement checklist been used?  - If yes, did it:  - Confirm who the client is  - Check for potential conflicts of interest  - Consider whether probate could be considered contentious  - Has the firm applied its anti-money laundering procedures?  - Has an initial appointments checklist been used?  - If yes, did it cover details of:  - the deceased  - the will  - executors  - beneficiaries (including bankrupts and minors)  - family tree  - estate debts  - Has the firm considered the safekeeping and handling of clients' property, including clients' money?  - Has written authority from the client been obtained prior to the release of any property/money?  - If engaged in asset management has appropriate advice been taken on investment decisions?  - Do estate accounts reconcile to underlying records and clients' money bank accounts?				

5.0	CONSULTATION, INDEPENDENT, HOT AND COLD FILE REVIEWS	REG.			
	<ul> <li>Have distributions been made correctly and have all payments to third parties been authorised by the client?</li> <li>If the firm is administering the estate, has it obtained written authorisation from the client to pay its fees from estate money in accordance with the Clients' Money Regulations?</li> <li>Are there appropriate records of authorised work? This should include: <ul> <li>Confirmation of beneficiaries and legacies</li> <li>Notifications to HMRC</li> <li>Submission of R27</li> <li>Identification and valuation of assets</li> <li>Grant of probate</li> <li>CGT and IHT work</li> <li>Distribution of the estate</li> <li>Have all key dates been met (notices to creditors, IHT account, IHT payment)?</li> <li>Are there records of the finalisation of the deceased's &amp; personal representatives' IT/CGT and estate accounts?</li> <li>Is it clear that authorised work has been undertaken or controlled by authorised individuals?</li> <li>Have non-Als refrained from exerting any influence?</li> <li>Are the fees charged consistent with the engagement terms?</li> </ul> </li> </ul>				
5.5	Review the records of the cold file reviews and confirm:				
	1. A summary has been retained?		0		0
	2. Matters arising have been followed up?		0		0
	3. The appropriate action has been taken?		0		0
	4. Training needs identified have been followed up?		0	0	0
	5. Have the results been fed back to the probate staff?				$\circ$
6.0	MATTERS ARISING AND ACTION TAKEN				