

***Webinar:
Legal Services
Regulatory Update***

12 SEPTEMBER 2023



Agenda

- Regulatory update - Sophie Wales, Head of Regulatory Affairs and Policy
- Quality Assurance update - Chris Greenhalgh, Quality Assurance Manager
- 2023 Probate Diversity Survey: headline findings – James Murray, OMB
- Q&A

Today's webinar

- Please ask a question in the Q&A box at any time during the webinar.
- We will respond to questions at the end of the session.
- Use 'upvoting' to help us answer the questions in order of popularity in the time available.
- **The slides will be sent to you along with a recording of the event. We won't be distributing the slides during today's session.**



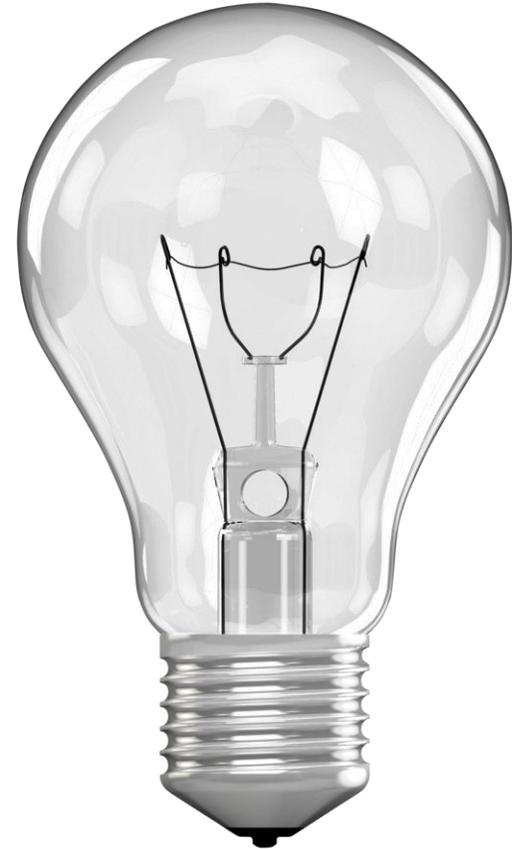
Regulatory update

SOPHIE WALES

HEAD OF REGULATORY AFFAIRS AND POLICY

POLLS

Please take a minute to respond to our polls



Recent areas of focus

- Regulatory Performance Assessment 2022
- Regulatory Performance Assessment 2023
- Ongoing competence
- Consumer empowerment

Regulatory Performance Assessment 2022

Regulator	Well-led	Regulatory Approach	Authorisation	Supervision	Enforcement
Bar Standards Board	Insufficient	Partial	Partial	Partial	Insufficient
Council of Licensed Conveyancers	Partial	Partial	Sufficient	Sufficient	Partial
Costs Lawyers Standards Board	Sufficient	Sufficient	Sufficient	Sufficient	Sufficient
CILEx Regulation Limited	Partial	Partial	Sufficient	Sufficient	Sufficient
The Faculty Office	Partial	Partial	Partial	Sufficient	Sufficient
The Institute of Chartered Accountants in England and Wales	Partial	Sufficient	Sufficient	Sufficient	Sufficient
Intellectual Property Regulation Board	Partial	Partial	Sufficient	Partial	Sufficient
Solicitors Regulation Authority	Sufficient	Sufficient	Sufficient	Sufficient	Partial

Summary of 2022 results

- Sufficient assurance on 4 out of 5 areas
- Improvement from prior years
- Praise for educational films and clear information on complaints processes
- The Legal Services Board want greater transparency of ICAEW Regulatory Board meetings

Recent areas of focus - continued

- Regulatory Performance Assessment 2022
- Regulatory Performance Assessment 2023
- Ongoing competence
- Consumer empowerment
 - Public legal education
 - Information about price
 - Information about quality
 - Information about service, redress and regulation
 - How information is made available to consumers

Current and future projects

- Equality, Diversity & Inclusion (EDI)
- Rule of law and professional ethics
- Technology & innovation – consultation is open
- Disciplinary and enforcement processes
- Financial protection (PII and compensation funds)
- Review of first-tier complaints – consultation is open

Impact for probate firms

Performance assessment	Ongoing competence	Consumer empowerment	Consumer feedback	Digital comparison tools	Public legal education
Areas identified in 2023 assessment	New CPD Regulations and minimum hours plus ethics	Continued focus – potentially more specific recommendations coming	Encouragement to collect feedback from clients	Consider whether you would want to use these	Resources to share with clients coming later this year

Equality, Diversity & Inclusion	Rule of law & professional ethics	Disciplinary & enforcement processes	Technology & innovation	First-tier complaints	Financial redress (PII & compensation schemes)
Diversity data already collected – potentially greater focus on specific aspects of diversity	Accountancy sector already a leader in this area	Focus on sanctions for serious misconduct	Demonstrate how using technology to help consumers access services	Potentially more prescriptive requirements for dealing with client complaints to firms	ICAEW review already underway

What is ICAEW doing to help?

- Engagement with the Legal Services Board on new policy developments
- Discussions with HMCTS about delays
- Discussions with HMCTS about staff awareness of Chartered Accountants doing probate work



Quality Assurance Department update

CHRIS GREENHALGH

QUALITY ASSURANCE MANAGER

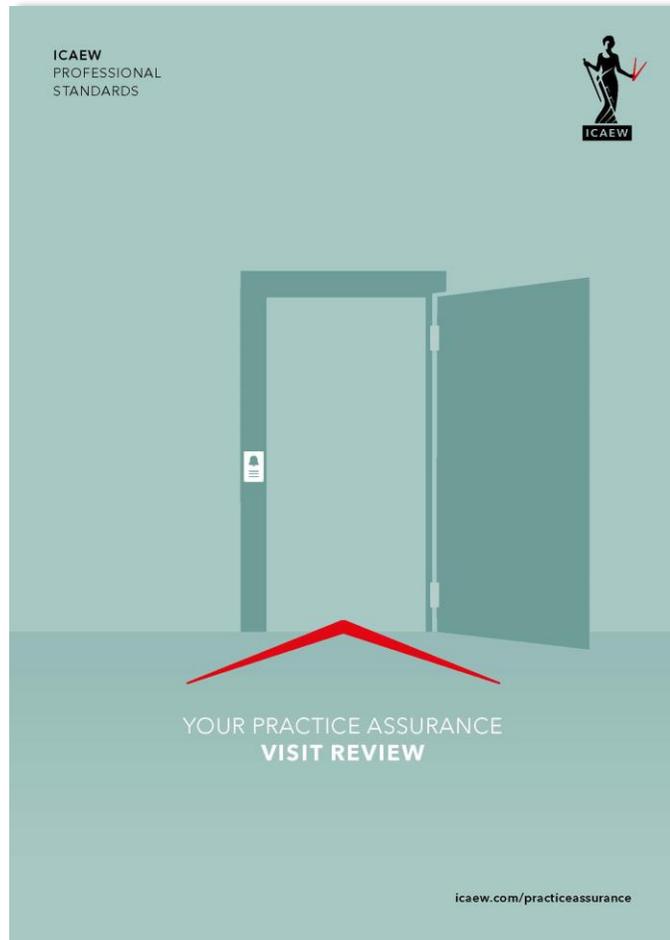
Feedback from Probate Reviews

- The monitoring process
- Feedback from the Quality Assurance Department's 2022/23 probate reviews
- Common pitfalls
- ICAEW resources for probate practitioners

The monitoring process

- ICAEW aims to visit all probate registered firms within two years of granting that firm's accreditation.
- The visit will usually be on site and will:
 - cover Practice Assurance and probate
 - consider your compliance with the Legal Services Regulations.
- Monitoring visits, thereafter, are on a cyclical, risk-based approach.

The monitoring process



- Before the visit
- The opening meeting and review
- The closing record
- Your response
- After the visit

Core areas covered

- General background – clients, type of work, volume of work
- Procedures – including quality control and consultation arrangements
- Eligibility
- Fit & proper requirements and undue influence
- Competence – staff training (CPD)
- Professional indemnity insurance - minimum level of indemnity of £500,000 per claim
- Clients' assets and clients' money
- Compliance review
- Client file reviews
- Any other areas (eg, engagement terms, complaints procedures, transparency disclosures and diversity)

Probate monitoring results

PROBATE MONITORING 2022

PROBATE ACCREDITED FIRMS

As at 31.12.22
 Active - 353 (2021: 356)
 Accreditations in the year - 31 (2021: 41)
 Cessations in the year - 34 (2021: 24)

CESSATIONS

Restructured - 9 (2021: 11)
 No longer requires accreditation / no probate work - 14 (2021: 10)
 Firm ceased - 7 (2021: 3)
 Cost of accreditation - 3 (2021: 0)
 License revoked - 1 (2021: 0)

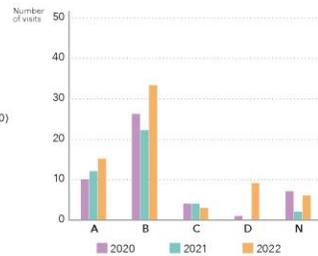
VISIT APPROACH

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. Of the firms visited in 2022, 1 (2021: 7) was outside of this target.

VISIT NUMBERS

2022 66 (4.3% of Practice Assurance visits undertaken)
 2021 40 (3.2%)
 2020 48 (2.9%)

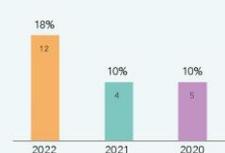
VISIT OUTCOMES



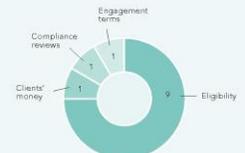
VISIT GRADES

- 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



2022 MATTERS REQUIRING FOLLOW-UP



2022: matters requiring follow-up:

- Eligibility (9)
- Clients' money (1)
- Compliance reviews (1)
- Engagement terms (1)

Year	Visit numbers	% of visits requiring follow-up action
2020	48	10.4% (5)
2021	40	10.0% (4)
2022	66	18.0% (12)

2023: the year to date in numbers

- Probate accredited firms as at 31 August 2023 - 361 (31 December 2022: 353)
- In seven months from 1 January to 31 July 2023 QAD has completed 37 visits
- Visit outcomes:
 - 31 (84%) concluded with no follow-up
 - 2 (5%) required some follow-up
 - 4 (11%) reported to the Legal Services Committee
- Follow-up included:
 - Assurances to comply with regulation 3.8 and 3.9 around the operation of clients' money bank accounts.
 - The submission of mandatory compliance reviews for clients' money and probate. Confirmation that it has updated its website for the disclosures regarding the ICAEW compensation scheme and price and service transparency.
- Reports to the Legal Services Committee included:
 - Eligibility regarding affiliate and non-authorized owners.
 - Significant clients' money breaches.
- We carried out 21 'first probate' visits (1 Jan – 31 Jul). We aim to visit firms within the first 24 months of accreditation.

Common pitfalls

- To help your firm avoid inadvertent breaches of the Legal Services Regulations, we have highlighted some of the common breaches we see. More information can be found at [Probate - Common pitfalls](#)
- Significant findings
 - Eligibility (regs 2.4h, 2.7l and 6.2)
 - Clients' property (regs 3.8 and 3.9)
- Common findings:
 - Transparency (regs 2.7t to 2.7w)
 - Monitoring diversity (reg 2.7s)
 - Terms of engagement (reg 3.6) and ICAEW Compensation Scheme (reg 3.7)
 - Compliance review (reg 3.11)
 - Professional indemnity insurance (reg 2.10)
 - The Money Laundering Regulations

Resources

- [Probate services](#)
- [Practice Assurance for Probate](#)
- [Probate resources](#)
- [Probate News](#)
- [Anti-money laundering](#)
- [CPD for firms](#)
- [Regulatory News](#)
- [LinkedIn](#)
- [Helplines and support](#)

ICAEW Probate Diversity Survey 2023

Headline findings

James Murray, OMB



Background

Overview

- ICAEW monitors the diversity of staff at its probate accredited firms through a biennial survey
- This presentation provides a brief overview of the findings from the 2023 survey (including comparisons with the 2021 results and relevant data from the 2021 Census where available)
 - The full report is available at [icaew.com/probatediversity](https://www.icaew.com/probatediversity) providing more detailed results

Methodology

- All 353 probate accredited firms were sent the survey and asked to encourage all of their staff to complete it (via an online questionnaire)
- In total 329 firms¹ returned the required data by the deadline, equating to a response rate of 93%
- Across these firms, a total of 9,766 staff completed the survey (continuing the upward trend seen in previous years)

	2017	2019	2021	2023
Number of firms returning data	131	272	332	329
% of firms returning data	49%	87%	98%	93%
Number of staff completing survey	3,615	7,623	8,483	9,766

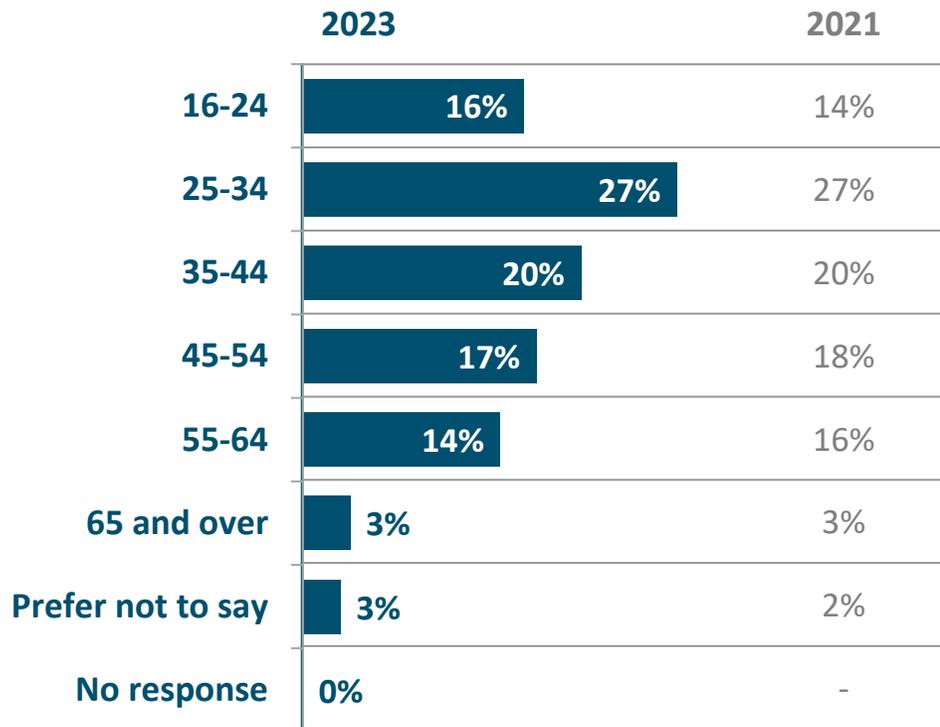
¹ 336 firms actually provided data but 7 of these were excluded from the analysis due to issues with the format or content of their responses

Age



Two-fifths (43%) of staff in ICAEW probate accredited firms are aged under 35

Very similar picture to 2021, although a slight increase in those aged 16-24 (up from 14% to 16%)

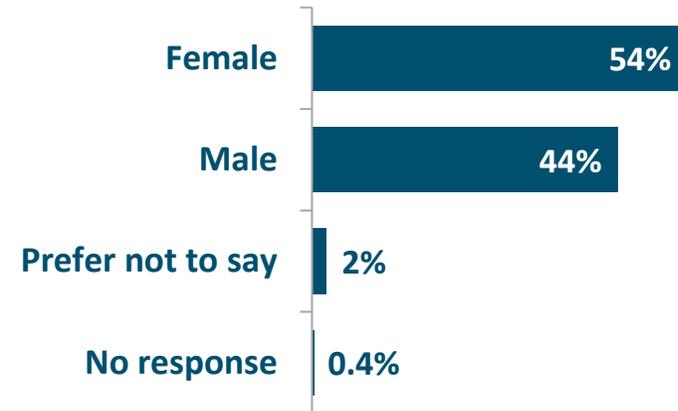


Gender



54% of ICAEW probate accredited firm staff were registered female at birth

This is slightly higher than the national picture recorded in the latest Census (52%)



Similarly, a higher proportion of staff identify as women than identify as men (54% vs. 43%)

A small minority identify as non-binary (0.2%) or in some other way (0.1%)



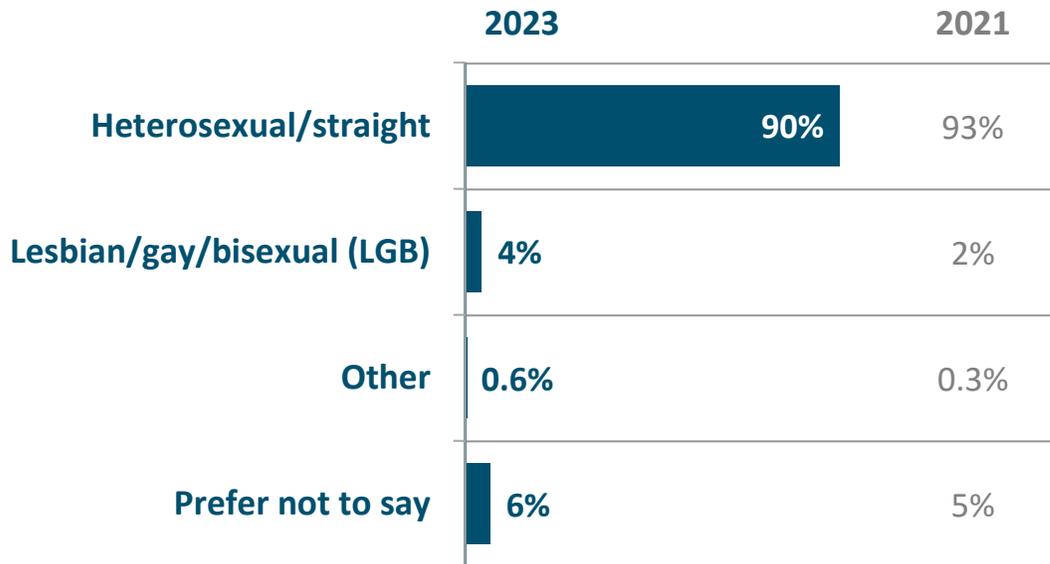
0.3% identify as a different gender than their sex registered at birth (similar to the 0.5% seen in the Census)

- A further 4% preferred not to say or did not answer

Sexual orientation



The majority (90%) of staff at ICAEW probate accredited firms classify themselves as heterosexual/straight, consistent with the Census (89%)



Around 4% identify as lesbian, gay or bisexual (LGB); an increase from 2021 and similar to the national picture (3%)

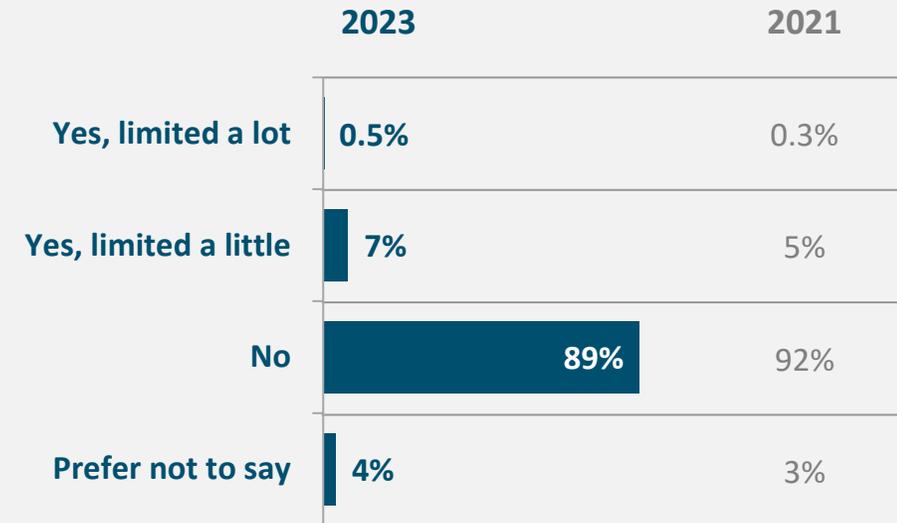
Disability



4% of staff consider themselves to have a disability according to the definition in the Equality Act (up from 3% in 2021)



The proportion whose day-to-day activities are limited by a long-term health problem or disability has also risen over the last two years (8% vs. 6% in 2021)



The most widespread types of health problem or disability affecting staff are mental health (3%), mobility (2%) and cognitive/learning issues (2%)

Ethnic group



The majority of staff (84%) are white, with 13% from an ethnic minority (lower than the 16% reported in the Census)

White

Ethnic minorities

84%

13%

Prefer not to say (3%)

There is increased representation of staff from an ethnic minority background since 2021 (up from 11% to 13%), largely driven by greater numbers of Asian/Asian British staff

	2021	2023
Net: Ethnic minorities	11%	13%
Asian/Asian British	7%	9%
Mixed/multiple	2%	2%
Black/African/Caribbean/Black British	1%	1%
Arab	0.1%	0.1%
Other	0.6%	0.7%

However, the proportion from a Black/African/Caribbean/Black British background is lower than the wider population (1% vs. 4% in the Census)

Faith



36% of staff are Christian, a decrease from 42% in 2021. There has been a corresponding increase in the proportion with no religion

- This pattern is consistent with Census results over time

Christian

No religion

No response

36%

9%

47%

6%

Specific faith
(other than Christian)

Prefer not to say
(1%)

The proportion of ICAEW probate firm staff who are of a specific faith is consistent with the national picture (both 9%)

ICAEW firms continue to have slightly greater representation of Hindus than the wider population (3% vs. 2%)

The same is true for the Jewish faith (2% vs. 0.4%)

	2021	2023
Net: Specific faith	8%	9%
Hindu	3%	3%
Muslim	2%	3%
Jewish	2%	2%
Sikh	0.6%	0.7%
Buddhist	0.4%	0.5%

Parental leave



11% of staff had taken parental leave in the last 5 years. This group were asked several follow up questions:



57% were given additional leave by their employer for ante-natal appointments (unchanged from 2021)



75% were offered flexible working arrangements by their employer (an increase from 69% in 2021)



62% believed the ability to work from home had been an important aide in their return to work (an increase from 51% in 2021)

Other characteristics

Marital status

- Approaching half (45%) of staff are married and 0.1% are in a registered same-sex civil partnership

Socio economic background

- Three-quarters (78%) attended a state school, typically non-selective (62%)
- 29% were the first generation of their family to attend university
- 28% had at least one parent/guardian with a degree-level qualification

Social mobility

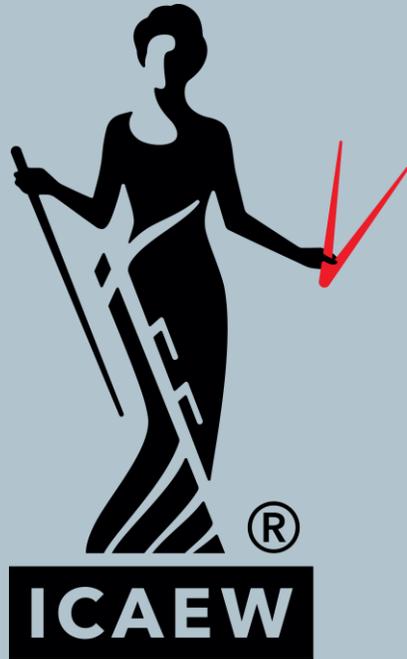
- Almost half (49%) have a degree-level qualification, and a further third (35%) achieved A-levels or equivalent
- Around 1 in 10 were in a household that received income support during their childhood (11%) and received free school meals (9%)

Caring responsibilities

- A quarter (23%) of staff are the primary carer for a child under 18
- In addition, 14% look after someone with a long-term health condition, disability or problems relating to old age



Q&A



[icaew.com](https://www.icaew.com)