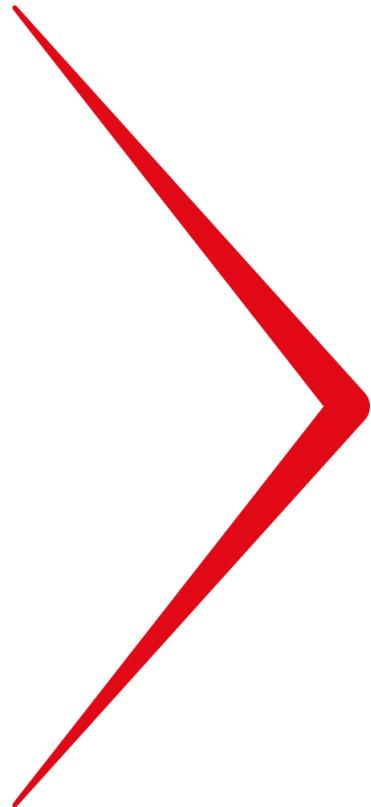




# *Probate*

**WHAT YOU NEED TO KNOW...**

- Part 1: Reasons to be accredited, scope of the accreditation and routes to accreditation
- Part 2: Ongoing requirements once accredited
- Part 3: Monitoring visits



*This webinar will  
cover...*



# *Probate – what you need to know (part 1)*

**REASONS TO BE ACCREDITED, SCOPE OF THE ACCREDITATION AND ROUTES TO ACCREDITATION**

# *Do I need to be accredited?*

- By law, you need to be accredited by a legal services regulator before you undertake any probate activity.
- ICAEW has issued regulatory advice to enable ICAEW members and firms to decide whether they are currently operating within these expectations or whether they should apply for probate accreditation.
- Published 1 April 2015 and took full effect from 1 August 2015.
- updated on 1 March 2016 and took effect on 1 June 2016 to clarify certain aspects of the probate process. These include;
  - An explanation of the application of the policy where unlicensed firms act as executors.
  - A clearer explanation of the limitations on the unlicensed firm to charge for services when they perform the probate service itself.
  - The additional obligations for firms which are appointed joint executors.

# *What are the benefits of becoming accredited?*

- Business opportunity
- Cradle to grave service for clients
- One-stop-shop for your business advisory services
- Potential to develop other legal services
- Opportunities for expansion and modernisation
- Sits well with the existing work of accountancy firms
- The combination of accounting, tax, law and administration skills required means it complements other service offerings and uses similar skill sets.

# *What does probate accreditation cover?*

- Schedule 2 paragraph 6 of the Legal Services Act 2007 defines probate activities as preparing any probate papers for the purposes of the law of England and Wales. Probate papers are papers on which to found or oppose a grant of probate (or grant of letters of administration).

Preparing probate papers involves:

- PA1 form for personal applicants
- Inheritance Tax forms
- Paying the Inheritance Tax due
- The oaths

Obtaining the grant of probate involves:

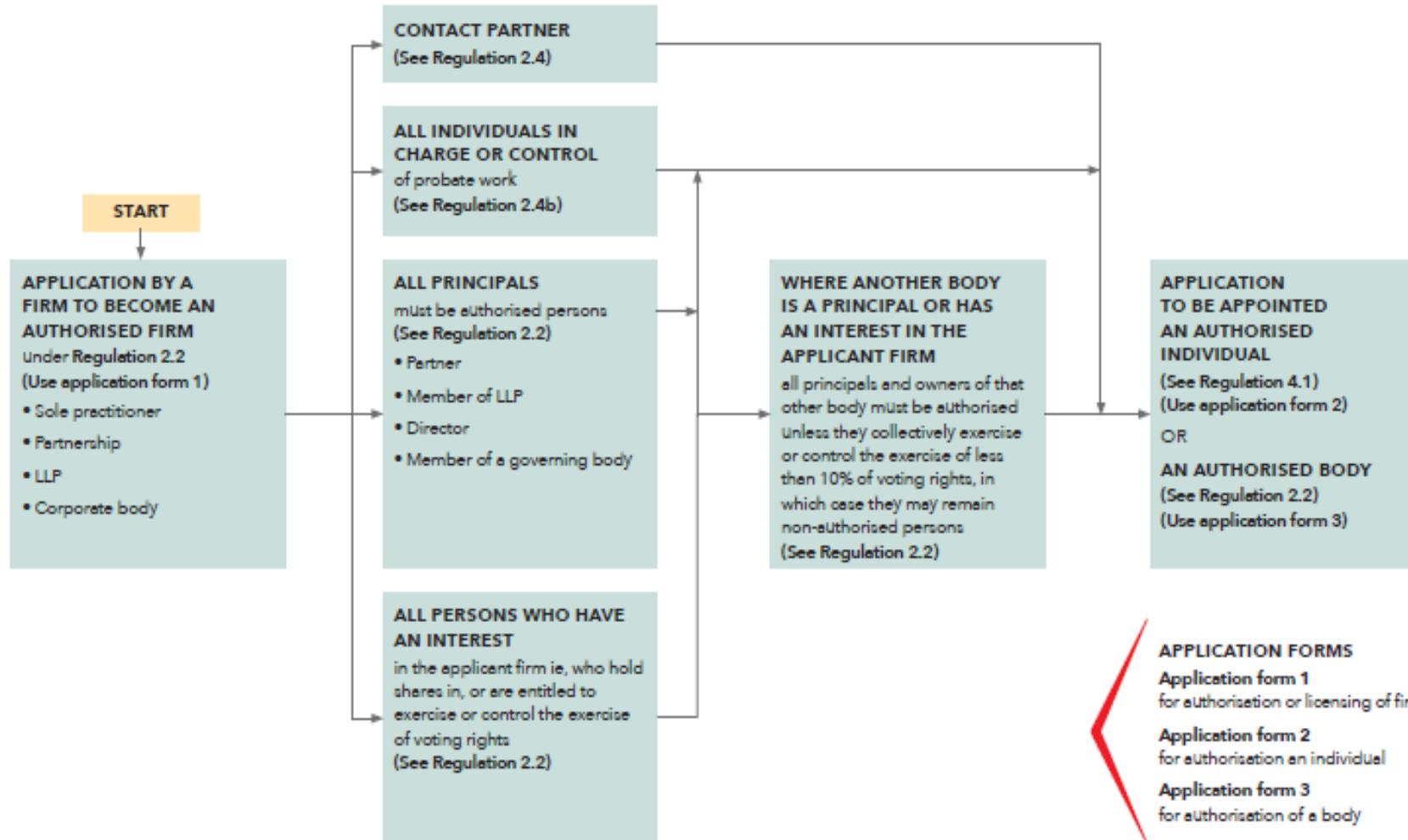
- Swearing the oath
- Submitting the relevant papers to the probate office
- Obtaining copies of the grant

# *Should our firm be authorised or licensed?*

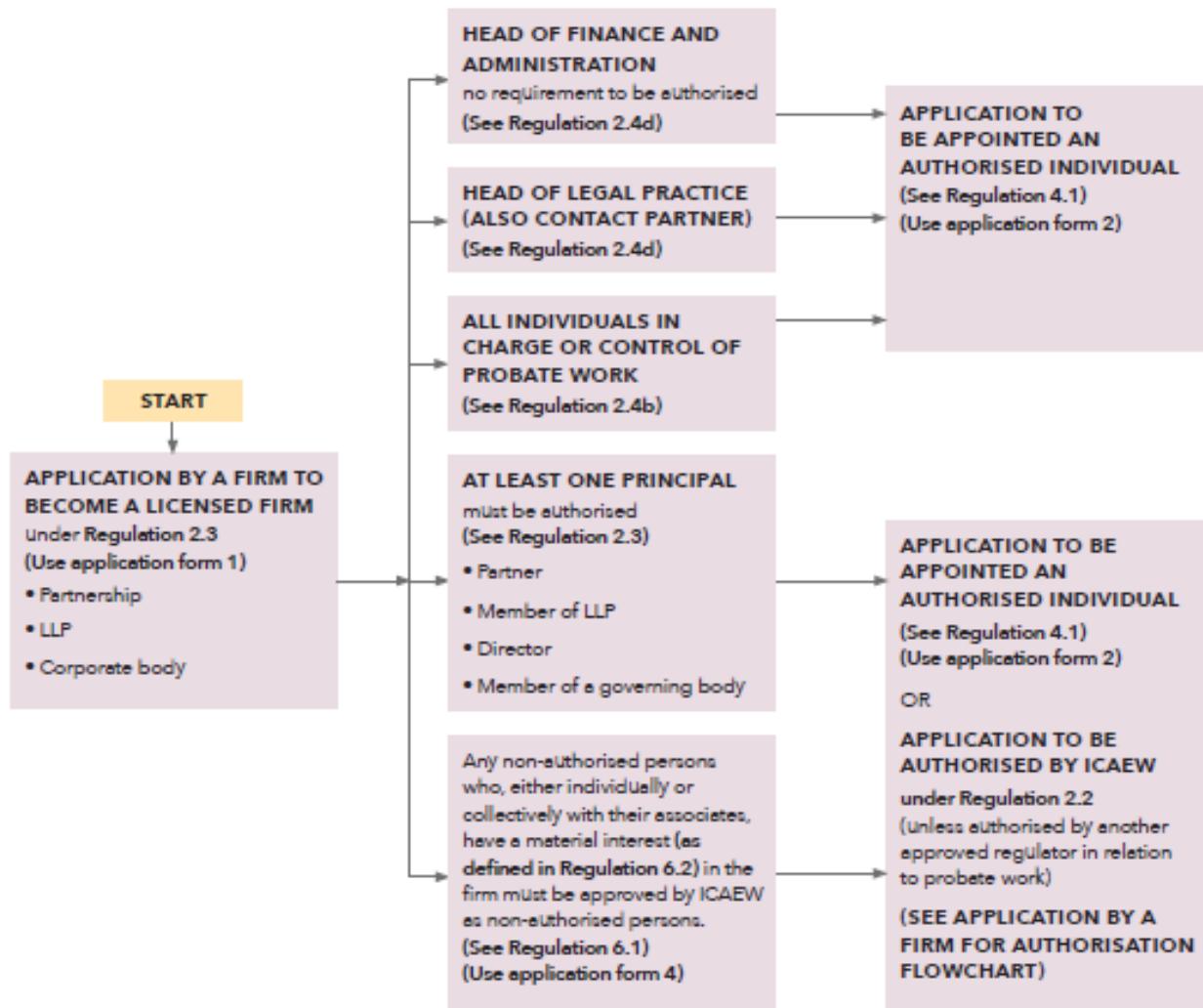
Authorised = All principals and owners individually authorised.

Licensed = At least one principal must be authorised.

# *Application by a firm for authorisation*



# *Application by a firm for licence*



## APPLICATION FORMS

## **Application form 1 for authorisation or licensing of firms**

## **Application form 2**

### **for authorisation an individual**

## **Application form 4 to approve a non-authorised owner of a licensed firm**

For further guidance on the application process, please email [regulatorysupport@icaew.com](mailto:regulatorysupport@icaew.com) or call +44 (0)1908 546 302.

# *Professional indemnity insurance (PII)*

- Your firm will need to comply with ICAEW's PII arrangements.
- Hold a minimum limit of indemnity of £500k per claim for authorised work (ie, probate and estate administration).

# *Accrediting individuals for probate*

- Eligibility to become an authorised individual
  - ICAEW members
  - Non-ICAEW members
- Non-authorised owners
- Probate affiliates
- DBS checks

# *Further help and support*

- [icaew.com/probate](http://icaew.com/probate)
  - Further guidance on the application process and the application forms.
  - Hear how other probate accredited firms are using their accreditation to enhance their client service offering.
- If you have a question about your recently submitted application for accreditation, please contact our Regulatory Support Team.  
T: +44 (0)1908 546 302  
E: [regulatorysupport@icaew.com](mailto:regulatorysupport@icaew.com)



# *Probate – what you need to know (part 2)*

**ONGOING REQUIREMENTS ONCE ACCREDITED**

# *Practice Assurance for probate*

All firms have the following obligations:

- to act in accordance with the Practice Assurance standards;
- to comply with the Code of Ethics and the Clients' Money Regulations as if the firm were a 'member firm', 'practising firm' or 'member' as appropriate;
- to demonstrate a commitment to comply with the Money Laundering Regulations 2017; and
- to complete an annual return, be supervised and monitored.

# *Regulatory and other requirements*

Your firm needs to ensure it considers various matters and gathers all the necessary information. For example:

- monitoring independence;
- control of probate work;
- documentation of authorised work; and
- safeguarding of clients' property.

## ***Regulatory and other requirements (cont)***

- notifying potential creditors and other claimants
- drawing up a family tree
- regular progress meetings with the probate team and updates to the client
- interim fee notes
- For estate administration cases:
  - obtain identification from beneficiaries as soon as you know who they are; and
  - maintain an easily accessible list of assets.

## ***Regulatory and other requirements (cont)***

- Set out a policy indicating the areas where consultations and hot file reviews should take place and who can conduct these.
- At the completion of an assignment, issue the executors with:
  - a summary of the estate's assets and liabilities leading down to the final distributions; and
  - all important documents (the will, grant, any relevant accounts and valuations) and any other documents that you think are appropriate.

## *Regulatory and other requirements (cont)*

Annual compliance reviews:

- These must be carried out every year.
- Effective reviews should include both whole-firm and cold file reviews.
- A questionnaire to help you comply with this requirement is available  
[icaew.com/compliancechecklist](http://icaew.com/compliancechecklist)

# *Regulatory and other requirements (cont)*

- The Probate Regulations stipulate firms must advise clients of:
  - the nature, scope and of the authorised work as agreed with them;
  - the compensation arrangements;
  - the firm's PII cap, if the value of the estate exceeds the firms PII cover; and
  - their right to complain to the Legal Ombudsman and the relevant contact details.
- Sole practitioners – please ensure you provide your clients with details of your alternate in writing.

## *Regulatory and other requirements (cont)*

- All probate firms must monitor the diversity of its principals and employees.
- ICAEW will collect this information every two years.
- Your firm's data should be published on your firm's website in a format of your choice.
- More information is available at [icaew.com/probatediversity](http://icaew.com/probatediversity)

## *Regulatory and other requirements (cont)*

Estates monies received in connection with authorised work must be:

- dealt with in accordance with our Clients' Money Regulations;
- kept separate from other clients' monies in a designated account;
- held in a separate, individually designated account, on an engagement by engagement basis.

Clients' Money Regulations require:

- trust status letters for each account;
- regular reconciliations; and
- an annual compliance review,

## *Regulatory and other requirements (cont)*

Anti-money laundering procedures:

- Don't forget to conduct anti-money laundering client due diligence on the executors of the will.

To comply with the *Provision of Services Regulations*, firms must refer to the register of accredited probate firms. A suggested disclosure is:

'Details of the firm's probate registration can be viewed at [icaew.com/probate](http://icaew.com/probate), under the firm's reference number which begins C00.'

## *Regulatory and other requirements (cont)*

- All authorised individuals **and staff** need to keep their skills up to date with appropriate CPD training.

# *Marketing*

ICAEW probate accredited firms may use the ICAEW probate accredited firm logo (UK) for promotional purposes.



Additionally, authorised firms may use the legend:

'Authorised by the Institute of Chartered Accountants in England and Wales to carry out the reserved legal activity of non-contentious probate in England and Wales.'

## *Marketing (cont)*

Licensed firms may use the legend:

'Licensed by the Institute of Chartered Accountants in England and Wales to carry out the reserved legal activity of non-contentious probate in England and Wales.'

# *Marketing (cont)*

Top tips:

1. Who's your target audience?
2. Confirm your message
3. Create a marketing calendar
4. Your staff
5. Update your website
6. Produce a brochure/leaflet
7. Write to your clients
8. Advertise
9. Talk about it!
10. Newsletters

# *Further help and support*

- [icaew.com/probate](http://icaew.com/probate) – access to a wide range of resources.
  - practical guidance for probate practitioners, including the latest regulatory updates, helpsheets, and compliance information; and
  - *The ICAEW guide for probate accredited firms*. This guide contains case studies from other ICAEW accredited firms who are making a success of probate, as well as lots of useful marketing tips and a reminder of the probate resources available to you.
- Probate News – a regulatory update produced by ICAEW's professional standards team containing the latest probate technical guidance and best practice information.  
[icaew.com/probatenews](http://icaew.com/probatenews)
- Technical advisory team – for any general questions about the probate accreditation please contact our team on +44 (0)1908 248 250 or email [contactus@icaew.com](mailto:contactus@icaew.com).
- Talk Probate – share knowledge with other practitioners through this online community.
- Personal financial planning – [icaew.com/pfp](http://icaew.com/pfp)



# *Probate – what you need to know (part 3)*

## **MONITORING VISITS**

# *Monitoring visits*

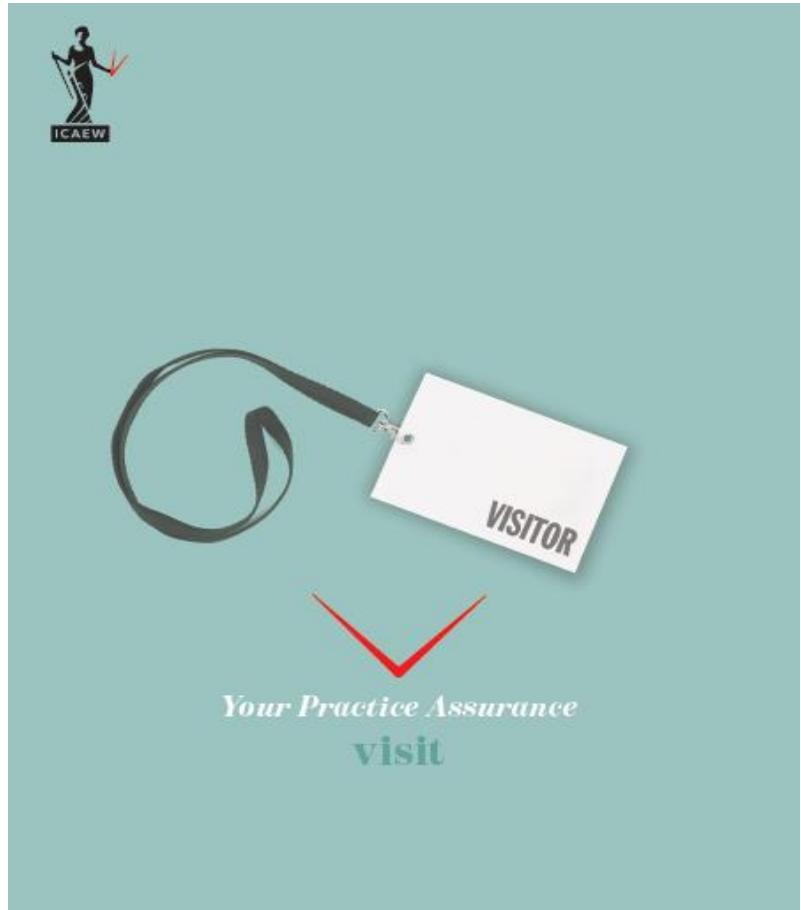
ICAEW will aim to visit each probate registered firm within two years of being granted a licence.

We aim to visit each firm after they have completed some initial probate work.

The visit will always:

- be onsite;
- cover Practice Assurance and probate; and
- consider your compliance with the Probate Regulations.

# *Monitoring visits – what you need to have available for the visit*



- Details of probate and estate administration activities in the last two years.
- Access to client files.
- Records of clients' property.
- Publication of diversity monitoring.
- Annual fit and proper declarations.
- Probate complaints procedures.
- Notifications to the probate compensation scheme.
- Most recent annual review of compliance with the Probate Regulations.

# *Further help and support*

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- Technical advisory team – for any general questions about the probate accreditation please contact our team on +44 (0)1908 248 250 or email [contactus@icaew.com](mailto:contactus@icaew.com).
- Talk Probate – share knowledge with other practitioners through this online community.
- Personal financial planning – [icaew.com/pfp](http://icaew.com/pfp)

