



ICAEW's action plan to increase market transparency

ICAEW is a chartered accountants' body that has been designated as an approved regulator and licensing authority for the reserved legal services of probate since 2014. It regulates over 12,000 firms for accountancy and other non-legal reserved services. In the case of reserved legal services it currently regulates 280 firms. The proposals set out below in response to the Competition and Markets Authority's recommendations in December 2016 on market transparency follow the Nolan principles and are proportionate to and focused on those supplying the reserved legal activity.

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
<p>Action to deliver a step change in standards of transparency to help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers</p>	<p>Description of current actions Consideration and assessment of appropriate approach by Probate Committee.</p> <p>Determination of scope of requirement by Probate Committee. This has been set as follows:</p> <p>PHASE 1: In order to decide whether to introduce a voluntary or mandatory scheme ICAEW will carry out the following simultaneously:</p> <ol style="list-style-type: none"> 1. Research ICAEW accredited firms to ascertain the current position regarding transparency of pricing and what clearly identifiable non-reserved legal services ICAEW's probate firms are providing. 2. Create a dedicated consumer page on ICAEW's Legal Services Website 3. Introduce a badging scheme for firms regulated to provide legal services 4. Produce and implement an ICAEW Guide to Best Practice for transparency of pricing and legal service provision. 5. Publish ICAEW's Action Plan to increase market transparency 	<p>February 2017</p> <p>June 2017</p> <p>November 2017 – February 2018</p>	

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	<p>6. Consult on ICAEW’s action plan to increase market transparency</p> <p>7. Continue with the client care initiative</p> <p>8. Conduct follow-up research to ascertain whether transparency of pricing has improved since the implementation of the voluntary guidance in the ICAEW Guide to Best Practice.</p> <p>Details are set out below:</p> <p>1. ICAEW will conduct research in the current position regarding transparency of pricing and related services</p> <p>ICAEW will conduct research into how ICAEW firms regulated to conduct probate services are publicising their prices for probate services and also for clearly identifiable non-reserved legal activities such as will writing and lasting powers of attorney. This research will be conducted in order to ascertain matters such as whether firms:</p> <ol style="list-style-type: none"> a. publicise their fees; b. explain how they calculate their fees, for example, do they charge; <ul style="list-style-type: none"> • an hourly rate/time spent; or • % of value of estate c. offer a free initial consultation and/or a free quote of costs; d. state whether or not the costs include VAT; e. give clients an explanation of what services will be provided for such costs f. make clear to clients the size and nature of any disbursements likely to be incurred 	<p>November 2017 – February 2018</p>	<p>December 2018</p>

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	<p>2. Consumer page on ICAEW’s Legal Services Website</p> <p>A consumer area on ICAEW’s Legal Services Website will be created (with a link to and from Legal Choices) to advise consumers of, for example:</p> <ol style="list-style-type: none"> a. A register of accredited firms b. The benefits of engaging the services of regulated firms as opposed to non-regulated firms. For example: <ul style="list-style-type: none"> • Regulatory oversight • Competency requirements • Quality assurance reviews of ICAEW regulated firms under ICAEW’s Practice Assurance Scheme • First-tier internal complaints procedure and second-tier complaints procedures • Sign-posting to ICAEW and the Legal Ombudsman for conduct and service complaints • Professional Indemnity Insurance requirements • Compensation Scheme c. A link will be created to the area of ICAEW’s website that publishes disciplinary action and decisions taken against firms and individuals d. What pricing and service provision information they should expect to receive before and after engaging with a firm as set out in ICAEW’s Guide to Best Practice. e. What legend to look for on a firm’s website and letterhead that identifies firms regulated by ICAEW to conduct reserved legal activities. ICAEW will work towards introducing a badge/logo for the firms it accredits to provide reserved legal services in order to make it easier for consumers to quickly identify such firms. [See paragraph 6 below] 	<p>February 2018 – June 2018</p>	

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	<p>3. Introduce a badging scheme for firms regulated to provide legal services</p> <p>With regard to badging for regulated firms, ICAEW provides logos for members and member firms to use on their letterheads and websites etc. It also provides a logo for ICAEW Licensed Insolvency Practitioners. For probate, ICAEW currently provides accredited firms with suggested wording to use as a legend on their letterheads and websites etc which states that the firm is accredited by ICAEW to provide probate services. We will work towards creating a reserved legal services logo for firms which would make an ICAEW regulated firm more easily identifiable for consumers. We will also consider introducing a secure badging scheme similar to that provided by the Council for Licensed Conveyancers (CLC) to prevent such a logo being used on a fraudulent website. Using such a system would also enable the logo to be used as a mechanism to link to the consumer page of ICAEW Legal Services Website which will provide information as set out above. We will also consider whether to make the use of such a logo a compulsory regulatory requirement.</p> <p>4. Production and implementation of an ICAEW Guide to Best Practice for transparency of pricing and legal services provision</p> <p>a. ICAEW will produce a Guide to Best Practice for transparency of pricing and legal services provision for accredited firms. When producing this guide consideration will be given to the LSCP principles on the design of information remedies.</p>	<p>January 2018 – April 2018</p> <p>March – May 2018</p>	<p>December 2018</p>

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	<p>b. The scope of services this guide will cover will be the reserved legal services of probate only. However, where bundled services are provided to a consumer involving a mix of legal and accountancy or other services, the scope will extend to require a greater degree of transparency across all these bundled services</p> <p>c. Once produced this Guide will be sent to all ICAEW accredited probate firms and, initially, the transparency requirements in this Guidance will apply to probate services only.</p> <p>d. At the end of 2018 ICAEW will conduct further research to ascertain the extent to which probate firms are voluntarily complying with the Guide and how much transparency in pricing has improved since ICAEW conducted its initial research outlined in section 1 above. This initial research will also inform ICAEW what clearly identifiable non-reserved legal services probate firms are carrying out which these transparency arrangement could be extended to.</p> <p>e. ICAEW shares the belief of the CMA that there will be strong incentives for its accredited firms to voluntarily comply with the arrangements in this Guide. These will be outlined in a covering letter to firms when the Guide is sent to them. This letter will set out the following:</p> <ul style="list-style-type: none"> • Why it has been produced – to implement the CMA recommendations to increase market transparency • That doing nothing to comply with the guidance is not an option • That ICAEW has set up a dedicated area for consumers of legal services on its probate website area giving consumers the 		

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	<p>information as set out in section 2 above and which promotes the capacity of the firms to market to the consumers.</p> <ul style="list-style-type: none"> • The reasons why it will benefit their firm commercially (as set out below) • That ICAEW will be consulting on its action plan to implement the CMA’s requirements in March 2018 • That ICAEW has undertaken to conduct research at the end of 2018 to ascertain the extent to which accredited firms are complying with the requirements in the guide. • Compliance will also be monitored by QAD and through the firm’s annual return • If this research shows that there is insufficient uptake of the voluntary requirements in the guide ICAEW will have to give serious consideration to making the requirements compulsory in the Legal Services Regulations. <p>f. The commercial advantages that will be set out in this covering letter and which, we believe, will act as strong incentives for firms to voluntarily comply with the arrangements in the Guide to Best Practice, are:</p> <ul style="list-style-type: none"> (i) A register of accredited firms will be listed on a dedicated consumer area of ICAEW’s Legal Services website (non-regulated firms will not); and consumers will be advised of the benefits of engaging the services of regulated firms. (ii) Consumers will be advised on this dedicated area of the information they should expect to receive from a firm complying with ICAEW’s Guide to Best Practice on transparency of pricing and legal services 		

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	<p>provision. They are therefore more likely to engage with a firm whose website contains such information.</p> <p>(iii) It could save firms costly time in dealing with first-tier complaints from clients about fees caused by ambiguity or lack of information on pricing and services at the outset of the engagement. It could also reduce the number and therefore cost of cases being referred to the Legal Ombudsman (LeO).</p> <p>(iv) An advantage of an ABS is that services can be provided as a one stop shop thus keeping costs low. Transparency of pricing would highlight this.</p> <p>g. ICAEW also believes that the transparency requirements are likely to be adopted voluntarily by firms because of the following:</p> <p>(i) Accountants are bound to have regard to transparency best practice under the Benson Principles, the seventh of which declares;</p> <p>“The governing body must satisfy itself that there is fair and open competition in the practice of the profession so that the public is not at risk of being exploited. It follows that members in practice must give information to the public about their experience, competence, capacity to do the work and the fees payable.”</p> <p>(ii) These assertions are in line with the transparency outcomes being sought by the CMA. The Practice Assurance Standard No2 addressing client engagement and acceptance will be revisited to ensure the</p>		

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	<p>consumer experience is adequately considered, and the principles will be explored and reinforced by articles in <i>Economia</i> to apply to those regulated by ICAEW for legal services and for accountancy as a whole.</p> <p>(iii) Firms regulated for probate receive a monitoring visit within two years of registration, and then at least once every 8 years. This frequency can be higher depending on risk profile. The checklist of key deliverables has already been amended to consider the quality of client care letters in the context of complaints and compensation disclosures, and will be extended to cover transparency outcomes. The results of the inspection programme will inform the future regulation/guidance approach on transparency.</p> <p>5. Publication of ICAEW’s action plan to increase market transparency</p> <p>6. Consultation on ICAEW’s action plan to increase market transparency</p> <p>ICAEW will consult on ICAEW’s action plan to increase market transparency. Stakeholder feedback received during this consultation will be used to inform decisions that will be made during phase two of ICAEW’s action plan.</p>	<p>March 2018</p> <p>March 2018 – May 2018</p>	<p>October 2018</p>

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	<p>7. Client care initiative</p> <p>a. During phase 1 ICAEW will also continue with its client care initiative. The client care letter initiative, jointly initiated with the other front-line regulators in 2016, has resulted in a report issued in October 2016 that has been published on the ICAEW website and brought to the attention of practitioners within ICAEW's Probate News. The report draws attention of practitioners to the need for transparency on pricing before and during engagements, as well as other communications best practice.</p> <p>b. The client care initiative will be taken forward as part of a Consumer Engagement Project to set out models of best practice in communicating with clients. This will include methods of pricing and service disclosure before and during engagement, as mentioned above, including the information about services disclosed on publicity materials such as websites.</p> <p>c. In respect of the objective of ensuring transparency of pricing to a consumer once a choice of firm has been made, ICAEW considers itself to be in a better position already than all the other legal regulators due to long-established Practice Assurance Scheme. Under this scheme all firms offering services to the public are subject to inspection of how they operate which includes, on every visit, a review of client care arrangements and engagement letters to ensure that they are fit for purpose; and comply with good practice.</p>	<p>January – June 2018</p> <p>Current and on-going</p>	

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	<p>8. Further research on transparency of pricing post-implementation of the ICAEW Guide to Best Practice</p> <ul style="list-style-type: none"> a. ICAEW will conduct further research to ascertain whether transparency of pricing has improved since the implementation of the voluntary guidance in the ICAEW Guide to Best Practice. b. The results of this research will be used to inform the decisions that will be made during phase 2 of this action plan. <p>PHASE 2: Using the results of the research conducted in phase 1 of this action plan, ICAEW will make the following decisions;</p> <ul style="list-style-type: none"> 1. Whether to extend the scope of the transparency requirements to non-reserved legal activities; and 2. Whether to continue with compliance arrangements for the transparency of pricing and related services on a voluntary basis; or 3. Whether to make the compliance arrangements mandatory in the Legal Services Regulations. <p>1. Extension of the scope of arrangements to non-reserved legal activities</p> <ul style="list-style-type: none"> a. ICAEW will look at the initial research conducted in phase 1 of the action plan to ascertain what clearly identifiable non-reserved legal activities its probate firms are currently carrying out, for example, will writing and 	<p>December 2018 – February 2019</p> <p>February 2019 – August 2019</p> <p>February 2019</p>	<p>February 2020</p>

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	<p>powers of attorney. It will then make a decision whether or not to extend the scope of the transparency arrangements to these identifiable non-reserved legal activities; and then in time to other legal services that fall within the definition of section 12 of the Legal Services Act 2007 along the lines agreed with the Legal Ombudsman.</p> <p>b. Liaise with other legal regulators on service regulation to ensure consistency in approach across specific services.</p> <p>2. Voluntary requirements</p> <p>a. In order to make a decision on whether or not to continue with the transparency arrangements on a voluntary basis, ICAEW will consider the research conducted in phase 1 of the action plan in order to ascertain the extent to which compliance has improved from the initial position identified by research at the outset of phase 1 of the action plan (if it was initially poor).</p> <p>b. It will also consider;</p> <ul style="list-style-type: none"> (i) the feedback received from stakeholders during the consultation on ICAEW's action plan also carried out in phase 1; (ii) the adverse effect mandatory regulatory requirements relating to non-reserved legal activities may have on the Legal Services Compensation Scheme arrangements; (iii) the need to accommodate the government's red tape initiative and the provisions of the Small Business and Enterprise Act 2015. 	<p>February 2019 – on-going</p>	<p>February 2020</p>

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	<p>(iv) The benefits to consumers of retaining voluntary requirements which are:</p> <ul style="list-style-type: none"> • Voluntary transparency requirements can be introduced more quickly than mandatory ones because there will be less consultation required as there will be no need to amend the Legal Services Regulations. • Keeping regulations to a minimum helps to keep costs for the consumer low (and also complies with the red tape initiative). • Voluntary transparency requirements avoid the need for specificity that would be necessary for regulation and therefore promote a wider ethical approach that may be extended to non-reserved legal services. <p>c. Should the research show that voluntary adoption by firms of the transparency arrangements set out in ICAEW's Guide to Best Practice has greatly improved from what it was at the outset of phase 1 (if it was poor); this will show that the strong incentives identified by ICAEW are in fact working. If this be the case, and the stakeholder feedback from the consultation conducted on the action plan in phase 1 is generally in favour of voluntary transparency arrangements rather than mandatory, ICAEW will continue with the arrangements put in place in phase 1.</p> <p>3. Mandatory requirements</p> <p>a. Should the research conducted in phase 1 of the action plan show that there is insufficient compliance by accredited firms with the transparency requirements in ICAEW's Guide to Best Practice, ICAEW will give serious</p>	<p>February 2019 – March 2019</p>	<p>February 2020</p>

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	<p>consideration to making these arrangements compulsory in the Legal Services Regulations.</p> <p>b. Before making this decision however, ICAEW will consider whether the benefits of making the requirements compulsory (ie, greater compliance by firms) outweigh the disadvantages which are:</p> <ul style="list-style-type: none"> (i) Mandatory requirements in the Legal Services Regulations may make it more difficult for ICAEW to extend their scope to non-reserved legal services because of the current arrangements for the Probate Compensation Scheme. (ii) Increase in regulation could make services more costly for the consumer and will run contrary to the government’s red tape challenge. (iii) Mandatory arrangements will take much longer to implement because of the governance procedures that must be followed to make a change to regulations <p>c. If mandatory requirements are considered appropriate, ICAEW will consult on its proposed changes to the probate regulations introducing these requirements and follow due governance to implement them</p>	<p>March 2019 – August 2019</p>	

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	<p>PHASE 3 : Assessment of success and impact of changes introduced</p> <p>1. Consumer survey</p> <p>In order to assess the impact of the changes we have introduced, Professional Standards will work with ICAEW’s Insight and Digital Teams to ascertain the most effective way to conduct a survey of consumers of legal services from ICAEW’s regulated firms. For example, adding an on-line survey to the consumer webpage for consumers to provide feedback on:</p> <ul style="list-style-type: none"> • How many firms’ websites published prices for key resources. • How the prices compared between providers. • Whether the information provided by our regulated firms enable them to shop around and, if so, how easy this was. • Whether they checked the regulated status of firms before engaging with them. • Whether they were provided with information on methods of redress. <p>2. Indicative evidence of market change in the medium to long-term</p> <p>The above should provide the following indicative evidence (by way of surveys) of market change in the medium to long-term:</p> <ul style="list-style-type: none"> • Increased levels of shopping around • Consumers report finding it easier to shop around • More consumers check the regulatory status of their provider 	<p>December 2019 - March 2020</p>	

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	<ul style="list-style-type: none"> • More providers publish their prices online for key scenarios • Narrower price dispersion for key scenarios • More small businesses view lawyers as cost-effective • Legal Ombudsman reports higher recall by complainants that their provider signposted them to the service • Legal Ombudsman records fewer complaints about transparency issues (as a proportion of caseload and/or total volume of complaints. <p>Such survey to assess progress should however be conducted jointly with other legal regulators through the Legal Services Regulators' Forum.</p>		
Promotion of the use of independent feedback platforms to help consumers to understand the quality of service offered by competing providers	<p>Description of current actions</p> <ol style="list-style-type: none"> 1. No actions are in place at this time <p>Description of future actions</p> <ol style="list-style-type: none"> 2. Whilst the accountancy profession and those regulated for probate have little or no experience of this area of dissemination , ICAEW will work with the other legal regulators through the Legal Regulators' Forum to investigate whether there are currently any independent feedback platforms such as customer review websites that review legal service providers; and if there are, the reliability of such sites and the information they require. 3. It is hoped that, following this work, the members of the Legal Services Regulators Forum will agree on the appropriate guidance 	February 2018 onwards	

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	<p>that should be given to accredited legal services firms to assist and encourage them to engage with such feedback platforms.</p> <p>4. Feedback mechanisms are also being developed through wider promotion of client satisfaction surveys, the principles and approach for which were approved by the Probate Committee in February 2017. Pilots of these surveys will be initiated in Autumn 2017 and rolled out to all probate firms later in the year.</p> <p>5. ICAEW has agreed to be a participator in Legal Choices and we have created a link to Legal Choices from our website.</p>		
<p>Facilitation of the development of a dynamic intermediary market through making data more accessible to comparison tools and other intermediaries</p>	<p>Description of current actions</p> <p>1. Since designation in 2014 ICAEW has published on its website a register of all the firms that it registers for probate, including authorised firms which do not need to be disclosed under the Legal Services Act. ICAEW will follow this approach until a national register is seen as replacing the need for it.</p> <p>2. ICAEW publishes details on its website of future disciplinary and appeals hearings, summary decisions, and full reports of disciplinary orders and regulatory decisions.</p> <p>Description of future actions</p> <p>3. ICAEW will provide basic data on its legal services website of regulated firms that may be of use to comparison websites.</p>	<p>September 2014</p>	

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	<ol style="list-style-type: none"> 4. ICAEW will be liaising with the Legal Ombudsman regarding acquiring data on the second-tier complaints made about probate firms with a view to publishing data on the consumer area of ICAEW's legal services website on complaints and disciplinary actions against ICAEW's regulated probate firms. 5. ICAEW has been a participant in a joint audit register that has been operating in the UK and the Republic of Ireland since the early 2000's and therefore has considerable experience in working with a national register. The expertise has been offered to the other regulators as a first step. 6. Part of the data disclosure requires the approval of the Probate Committee and then the approval of the firms. This has been obtained through undertakings on an annual return completed by the firms and also a separate approval by the Probate Committee for participation in a national legal services register. 7. ICAEW stands ready to respond to future requirements in this area according to the timetable that others leading the project will set. This will include considering the alignment of current data disclosures with the other regulators. 	March 2018 – on-going	
Making better information available to assist consumers when they are identifying their legal needs and the types of legal services providers (both regulated	<p>Description of current actions</p> <ol style="list-style-type: none"> 1. ICAEW was not a founder member of Legal Choices for historical reasons. In November 2016 it was identified that with over 250 firms now being licensed it was perhaps timely to get engaged. The Probate Committee authorised a 	February 2017	

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<p>and unregulated) who can help them.</p>	<p>committal to enter discussion with the Legal Choices oversight team in February 2017 which coincided with the CMA recommendations.</p> <p>2. Discussions were held by ICAEW in April 2017 with the SRA which identified that a more robust governance structure was needed to underpin the initiative and provide assurance for the bodies' investment and participation. In addition major changes would be needed in taxonomy to embrace the impact of ABSs. For these reasons, initial participation will be limited till the major project is initiated.</p> <p>3. The next meeting of the Legal Choices Governance Group is scheduled for 21 September 2017 when these governance issues will be discussed and, hopefully, resolved which will enable greater participation by ICAEW as described below.</p> <p>4. Views have been sought by the SRA as project leader from ICAEW on a proposed programme for a scaled-up Legal Choices initiative. The draft programme was issued by the SRA team in June 2017 and proposals endorsed by the Probate Committee that month.</p> <p>5. As previously stated, a link has been created from ICAEW's website to Legal Choices. Once the consumer area of ICAEW's website is live a link will also be placed on this page.</p> <p>Description for the future</p> <p>6. Agreement of funding structure with the SRA and other regulators for the 2018-20 programme.</p>	<p>April 2017</p> <p>September 2017</p> <p>June 2017</p> <p>July 2017</p> <p>August 2017</p>	

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	<p>7. Active participation in setting the governance of the enlarged Legal Choices Project.</p> <p>8. Participation and contribution to the Editorial Board</p> <p>9. Consideration of role and relevance of the Legal Choices website to the professional services market as a whole and the scope of the site to address accountancy and other services. Also, the effectiveness of its role for the firms licensed by ICAEW who will essentially be funding it.</p>	<p>October 2017</p> <p>December 2017</p> <p>February 2018</p>	