



ICAEW – PROBATE REGULATIONS

Contents

Chapter 1 - General	3
Definitions and interpretation.....	4
Chapter 2 - Eligibility, application, continuing obligations and cessation	9
Applications	9
Eligibility.....	9
Continuing obligations	11
PII and compensation.....	13
Modification.....	14
Fees.....	14
Dispensations	15
Cessation of accreditation	15
Regulatory conflicts	16
Chapter 3 - Conduct of authorised work	17
Chapter 4 - Authorised individuals, HoFAs and HoLPs	20
Authorisation and withdrawal of authorisation.....	20
Cessation.....	21
Chapter 5 - Disqualification	23
Chapter 6 - Ownership of licensed firms	24
Acquisition of material interest after issue of licence	27
Powers of ICAEW in relation to existing material interests	28
Enforcement of conditions and objections.....	29
Chapter 7 - Complaints resolution	31
Chapter 8 - Probate affiliates	34
Granting probate affiliate status	34
Withdrawal of probate affiliate status	35
Cessation of probate affiliate status	35
Changes in circumstances	36
Fees.....	36
Disciplinary arrangements	36
Chapter 9 - Probate and other committees	37
Probate Committee.....	37
Notification to committees	39
Chapter 10 - Regulatory action	41
Restrictions and conditions.....	41
Withdrawal of accreditation	41
Suspension	42
Urgent orders.....	43
Implementation of decisions and orders.....	43
Chapter 11 - Review and appeal process	46
Review	46
Appeal.....	48
Regulatory penalties	52

Chapter 1 - General

The Legal Services Act 2007 permits two methods by which a firm may undertake probate work:

- as an authorised firm in which case all of the principals (and shareholders in the case of a company) have to be individually authorised to undertake probate work;
- as a licensed firm if all the principals (and shareholders in the case of a company) are not individually authorised to undertake probate work. Additional requirements then apply.

Authorisation is by an approved regulator, licensing is by a licensing authority and ICAEW is both. Once a firm is authorised or licensed under these regulations it is an 'accredited probate firm' and it has to comply with these regulations. Some regulations may only apply to a licensed firm, such as the requirement to appoint a Head of Finance and Administration and a Head of Legal Practice.

In addition to the regulatory requirements for probate work, a number of important regulatory provisions are applied to estate administration when carried out by a firm conducting probate work. 'Authorised work' for the purposes of these regulations, includes estate administration.

As a licensing authority ICAEW has statutory powers to intervene in the business of firms which it has licensed. These powers and the types of default by a licensed firm (such as breaches of licence conditions or insolvency events) which trigger them are set out in schedule 14 of the Act. ICAEW uses similar powers and applies similar principles as an approved regulator in the case of authorised firms.

It is a requirement of the Act that in discharging its regulatory functions, ICAEW, as an approved regulator, must act in a way which is compatible with the regulatory objectives set out in section 1 of the Act, and in the way which it considers most appropriate for the purpose of meeting those objectives.

All individuals who are in charge of, or control the undertaking of, probate work in an accredited probate firm must be individually authorised to do so under the Act. That authorisation may have been granted by ICAEW or another approved regulator.

ICAEW must be given full details of any non-authorised person who holds or is expected to hold a material interest (see regulation 6.2) in a licensed firm or a firm which applies to be licensed, or of any change in the holding of such an interest. Such a holding is subject to approval by ICAEW which may be granted unconditionally or subject to conditions.

In these regulations, regulations are in bold type with definitions in *italics*. Guidance, to assist firms, is in light type.

1.1 These *regulations* are made by *ICAEW's Council*, pursuant to Clause 16 of the Supplemental Royal Charter of 1948. They come into force on [Date].

1.2 These *regulations* only apply to the grant of probate or letters of administration in England and Wales.

The definition of probate work, and therefore the work that can be authorised by accreditation under these regulations, consists only of preparing papers to apply for a grant of probate or letters of administration. If a firm is asked to prepare papers to oppose a grant of probate, then the client should be requested to seek advice from a suitably authorised person.

There are different arrangements in Northern Ireland and Scotland (in the latter case probate is known as 'confirmation'). Thus a firm cannot undertake probate (or confirmation) work in Northern Ireland and Scotland unless specifically permitted to do so under the law of those countries.

- 1.3** These *regulations* apply to *firms* seeking *accreditation* and to *accredited probate firms* authorised or licensed under these *regulations*. The *regulations* also apply to *principals and employees* of the *firm*. In certain instances the *regulations* continue to apply even if *accreditation* has ceased.
- 1.4** Any notice or document may be served on *ICAEW* by sending it to:
Professional Conduct Department
ICAEW
Metropolitan House
321 Avebury Boulevard,
Milton Keynes
MK9 2FZ UK
- 1.5** Any notice, decision, order or other document which needs to be served on a *firm, member, affiliate* or other person under these *regulations* will be delivered by hand, or sent by email, fax or post:
- a if it is delivered by hand to the addressee, service will take effect immediately;
 - b if sent by email, it will be sent to the most recent email address given by the addressee and service will take effect immediately;
 - c if sent by fax, it will be sent to the most recent fax number given by the addressee and service will take effect immediately; or
 - d if sent by post, it will be sent to the latest address given by the addressee and service will take effect two *business days* after posting.

Definitions and interpretation

- 1.6** The words listed below shall have the meanings given:

- Accountancy body**
- *ICAEW*;
 - Institute of Chartered Accountants of Scotland;
 - Chartered Accountants Ireland;
 - Institute of Chartered Accountants in Australia;
 - New Zealand Institute of Chartered Accountants;
 - South African Institute of Chartered Accountants;
 - Institute of Chartered Accountants of Zimbabwe; or
 - Canadian Institute of Chartered Accountants.

Accreditation The process by which *ICAEW* authorises or licenses persons to undertake *probate work*.

Accredited probate firm	A firm accredited under these <i>regulations</i> to conduct <i>probate work</i> .
Act	Legal Services Act 2007.
Approved Regulator	A body designated under Schedule 4 of the <i>Act</i> in respect of one or more <i>reserved legal services</i> .
Associate	An associate is defined by <i>regulation 6.3</i> .
Authorised firm	A firm authorised under these <i>regulations</i> to conduct <i>probate work</i> .
Authorised individual	A <i>principal</i> or <i>employee</i> of an <i>accredited probate firm</i> who is designated under chapter 4 of these <i>regulations</i> .
Authorised person	A person or <i>firm</i> authorised or licensed by <i>ICAEW</i> or another <i>approved regulator</i> in relation to <i>probate work</i> .
Authorised work	<ul style="list-style-type: none"> • <i>Probate work</i> • 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.
Business day	A day when banks are generally open for business (excluding weekends) in England or Wales (as appropriate).
Contact partner	<p>An individual appointed by a <i>firm</i> to:</p> <ul style="list-style-type: none"> • ensure that it has procedures and practices that enable it to comply with its obligations under these <i>regulations</i>. • correspond with <i>ICAEW</i> in relation to the activities governed by these <i>regulations</i>; • give an annual declaration of the <i>firm's</i> compliance with its responsibilities under these <i>regulations</i> in the form from time to time determined by <i>ICAEW</i>; • from time to time supply <i>ICAEW</i> or its agents with information as required; • ensure that an annual compliance review is undertaken as required under <i>regulation 3.11</i>.

The role of the contact partner is to be responsible for ensuring that the firm complies with these regulations. The contact partner should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions.

Where one of more of the principals of the firm is an individual, one of those individuals should be the contact partner and it is recommended that they also be an authorised individual.

If the firm is a sole practice, the sole practitioner is the contact partner. The Head of Legal Practice is the contact partner in a licensed firm.

<i>Disciplinary Committee</i>	The <i>Disciplinary Committee</i> appointed by ICAEW under the Schedule to its Disciplinary Bye-laws.
<i>Employee</i>	Anyone who carries out work for an <i>accredited probate firm</i>, but excluding a <i>principal</i>, sub-contractor or a consultant.
<i>Firm</i>	A <i>firm</i> includes an individual, a partnership, a limited liability partnership or any other body corporate which is or seeks to be <i>accredited</i> under these <i>regulations</i> to conduct <i>probate work</i>.
<i>First-tier Tribunal</i>	The independent public body established under the Tribunals, Courts and Enforcement Act 2007 with responsibility for hearing appeals against decisions of the <i>Review Committee</i> and <i>Disciplinary Committee</i>.
<i>Head of Finance and Administration</i>	The individual appointed by a <i>licensed firm</i> and who is responsible for taking all reasonable steps to ensure that the <i>firm</i> complies with the requirements in <i>regulation 3.8</i> (clients' assets) and who is not disqualified under the <i>Act</i> from acting as a <i>Head of Finance and Administration</i> and who must report any breach of those requirements to ICAEW as soon as reasonably practicable.

The Head of Finance and Administration (HoFA) should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions. Where one of more of the principals of the firm is an individual, one of those individuals should be the HoFA. The HoFA should hold an appropriate qualification to enable the discharge of his duties with competence and skill.

<i>Head of Legal Practice</i>	The <i>authorised individual</i> appointed by a <i>licensed firm</i> who is responsible for taking all reasonable steps to ensure that: <ul style="list-style-type: none">• the <i>licensed firm</i> and its <i>principals</i> and <i>employees</i> comply with their duties under these <i>regulations</i> (other than <i>regulation 3.8</i>); and• non-<i>authorised persons</i> do not do anything which causes or substantially contributes to any breach of these <i>regulations</i> by the <i>firm</i> or by any <i>authorised person</i> who is a <i>principal</i> or <i>employee</i> of the <i>firm</i>;
--------------------------------------	--

and who is not disqualified under the *Act* from acting as a *Head of Legal Practice* and who must report any breach of those requirements to ICAEW as soon as reasonably practicable.

The Head of Legal Practice (HoLP) should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions. They should also have sufficient independence to be

able to report matters freely if necessary. Where one of more of the principals of the firm is an authorised individual, one of those individuals should be the HoLP. The HoLP in a licensed firm is also the contact partner.

ICAEW	The Institute of Chartered Accountants in England and Wales.
Investigation Committee	The <i>Investigation Committee</i> appointed by <i>ICAEW</i> under the Schedule to its Disciplinary Bye-laws.
Legal Ombudsman	The body appointed by the Office of Legal Complaints under Part 6 of the <i>Act</i> to assist with resolving complaints.
Legal Services Board	The body established under Part 2 of the <i>Act</i> .
Licensing authority	A body designated under Part 1 of Schedule 10 of the <i>Act</i> in respect of one or more <i>reserved legal services</i> .
Licensed firm	A <i>firm</i> licensed under these <i>regulations</i> to conduct <i>probate work</i> .
Material interest	A <i>material interest</i> is defined by <i>regulation 6.2</i> .
Member	A <i>member</i> of <i>ICAEW</i> but not including a <i>probate affiliate</i> .
Principal	<ul style="list-style-type: none">• an individual in sole practice (where the <i>firm</i> is a sole practice);• a person who is a partner (including both salaried and equity partners) (where the <i>firm</i> is a partnership);• a member of a limited liability partnership (where the <i>firm</i> is a limited liability partnership);• a director (where the <i>firm</i> is a company);• a member of the governing body (where the <i>firm</i> is an unincorporated body, other than a partnership); or• any individual or person who is held out as being a director, partner, member, or member of the governing body.
	Corporate practices or limited liability partnerships may be principals in a firm.
Probate affiliate	A person granted <i>probate affiliate</i> status by <i>ICAEW</i> for the purpose of these <i>regulations</i> .
Probate Committee	The <i>ICAEW</i> committee responsible for discharging <i>ICAEW</i> 's functions as set out in these <i>regulations</i> or any sub-committee of that committee.
Probate Compensation Scheme	The scheme for the payment of grants made in accordance with the <i>Probate Compensation Scheme</i> regulations.

Probate work The preparation of papers to apply for a grant of probate or letters of administration.

Register The *register of licensed firms* held by ICAEW in accordance with section 87 of the Act.

Regulations These Probate Regulations, as modified or amended from time to time.

Regulatory penalty An amount paid by an *accredited probate firm* by agreement for a breach of these *regulations* which the *accredited probate firm* agrees has been committed.

Relevant person

- an *authorised individual*;
- a *Head of Finance and Administration*;
- a *Head of Legal Practice*; or
- any other *principal* or *employee* of an *accredited probate firm*.

Reserved legal services

- the exercise of a right of audience;
- the conduct of litigation;
- reserved instrument activities;
- probate activities;
- notarial activities;
- the administration of oaths;

as defined in section 12(1) and Schedule 2 of the Act.

Review Committee The committee appointed under ICAEW's Bye-laws with responsibility for reviewing decisions made by ICAEW as specified in these *regulations*.

1.7 Words and expressions have the meanings given by the Act and the Interpretation Act 1978 unless defined above. The definitions in these *regulations* take precedence.

1.8 In these *regulations* words importing the singular include the plural and vice versa. Words importing the masculine gender include the feminine and neuter. Words importing the neuter gender include both the masculine and feminine genders. Headings do not affect the interpretation of these *regulations*. These *regulations* will be governed by, and interpreted in accordance with, the laws of England and Wales.

1.9 Any references to legislation, regulations, requirements, bye-laws, rules or other documents, will apply to any re-enactment, re-issue or amendment.

Chapter 2 - Eligibility, application, continuing obligations and cessation

Applications

- 2.1 A *firm* that wishes to be *accredited* under these *regulations* must apply in the manner decided by *ICAEW*, on a prescribed form. The application must include the following:
- a any information that *ICAEW* may require to assess the ability of the *firm* to carry out *authorised work*;
 - b a statement by the *firm* of how its *accreditation* will promote the objective of improving access to justice;
 - c information on the *firm's* arrangements for diversity monitoring in relation to its *principals* and *employees* and existing data derived from diversity monitoring;
 - d a declaration by the *firm* that it agrees to be bound by these *regulations* and will ensure that it complies with them at all times;
 - e a declaration by the *firm* that it will deal with *ICAEW* in an open and co-operative manner and inform *ICAEW* promptly about anything concerning the *firm* as required by these *regulations*;
 - f an acknowledgement by the *firm* that none of *ICAEW*, its officers, staff, members of its Council or committees, their servants or agents can be held liable to the *firm* in damages for any act or omission arising out of the performance of any of their functions under the *Act*, or connected with the granting of authorisation or a licence, the enforcement of these *regulations* or the monitoring of compliance with these *regulations* in any respect, unless the act or omission is shown to have been in bad faith;
 - g an acknowledgement that *ICAEW* may make enquiries of or about the *firm* as *ICAEW* deems necessary;
 - h an acknowledgement that *ICAEW* may publish, in such manner as it may determine, information about the *firm's* status under these *regulations*; and
 - i an acknowledgement that *ICAEW* may disclose information about the *firm* as set out in *regulation 2.26*.

Eligibility

- 2.2 *ICAEW* may authorise a *firm* only if:
- a each *principal* in the *firm* is an *authorised person* (or becomes an *authorised person* by decision of *ICAEW* at the same time as granting authorisation to the *firm*) and if another body is a *principal* in the *firm*, non-*authorised persons* are entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body; and
 - b in the case of a corporate body (other than a limited liability partnership) each person who has an interest in the *firm* is an *authorised person* (authorised by *ICAEW* under these *regulations* or by another *approved regulator*) and if another body has an

interest in the *firm*, *non-authorised persons* are entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body.

The above sets out who is required to be an authorised person under these regulations. Generally the principals and shareholders in the case of a company must all be authorised persons but certain *de-minimis* holdings by non-authorised persons are allowed. A firm applying for authorisation may at the same time apply for approval of designation of its principals as authorised individuals under regulation 4.4. If a firm is unsure of its eligibility to be authorised or licensed it should contact ICAEW. A person has an interest in a firm if the person holds shares in the body or is entitled to exercise, or control the exercise of, voting rights in the firm.

2.3 If a *firm* does not meet the requirements of regulation 2.2 ICAEW may license the *firm* only if at least one *principal* in the *firm* is:

a an *authorised individual*; or

b authorised by ICAEW under *regulation 2.2* or authorised by another *approved regulator* in relation to *probate work*;

but in either case is not a *licensed firm*.

2.4 ICAEW, having taken account of the objective of improving access to justice, may *accredit* a *firm* only if it is satisfied that:

a the *firm* is fit and proper to be *accredited*;

b each individual who will undertake, or control the undertaking of, *probate work* on behalf of the *firm* is an *authorised individual* and is fit and proper;

c the *firm* has appointed a *contact partner* whose name has been given to ICAEW;

d in the case of a *firm* applying to be licensed, the *firm* has appointed a *Head of Finance and Administration* and a *Head of Legal Practice* who have consented to act in these roles and whose appointment has been approved by ICAEW;

e the *firm* has at least one office in England and Wales from which it undertakes *probate work* (unless it is a company or limited liability partnership whose registered office is in England or Wales);

f each *principal* who is not an *accredited probate firm*, a registered auditor, a DPB-licensed 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* holds *affiliate* status under these *regulations*, ICAEW's Audit Regulations, ICAEW's DPB Handbook, ICAEW's Insolvency Regulations or ICAEW's regulations governing the use of the description 'Chartered Accountants' and general affiliates;

g in the case of a *firm* applying to be licensed, any *non-authorised person* who holds a *material interest* in the *firm* is approved by ICAEW under chapter 6;

h in the case of a *firm* applying to be licensed, the *firm* has:

- informed all *principals*, *employees* and shareholders who are *non-authorised persons* of the duties imposed on them by sections 90 and 176 of the *Act*; and

- **put in place procedures to prevent such persons from improperly influencing the independence and integrity of *probate work*; and**
- i **the *firm* has professional indemnity insurance under ICAEW's PII Regulations with a minimum level of indemnity of £500,000 per claim.**

Section 28 of the Act requires ICAEW to act in a way which is compatible with the regulatory objectives and which it considers most appropriate for the purpose of meeting those objectives. Under section 1 of the Act the regulatory objectives include the objective of improving access to justice. The application form contains guidance to firms on how their application may promote this objective.

2.5 ICAEW may:

- a grant the application;**
- b reject the application;**
- c grant the application subject to restrictions or conditions; or**
- d postpone consideration of the application.**

Under the Act, ICAEW has a period of 6 months (beginning when all the information required on the application form is received) to make a decision on an application. However, under regulation 2.5d, ICAEW may decide that it can only properly consider a firm's application after it has additional information about the firm. ICAEW may decide this is best achieved by a visit to the firm and a charge may be made for this. If it is necessary to seek additional information, ICAEW may, before the expiry of 6 months, issue an extension notice to the applicant extending the period of time taken to reach a decision to 9 months. The extension notice must set out the reasons for the extension.

If ICAEW rejects or grants the application subject to restrictions or conditions, it must explain in writing to the applicant the reasons for its decision. Orders will come into effect as set out in chapter 10.

A firm can apply for a review of a decision to reject accreditation or to grant it subject to restrictions or conditions. Details of the review process are in chapter 11.

2.6 ICAEW may at any time vary or end a restriction or condition made under *regulation 2.5*.

Continuing obligations

2.7 An *accredited probate firm* and its *principals* and *employees* must at all times:

- a comply with these *regulations*, with any condition of the *firm's accreditation* and with any other relevant regulatory arrangements (and be able to satisfy ICAEW as to such compliance on request);**
- b not do or permit anything which causes or substantially contributes to any breach of these *regulations* by the *firm* or by any *authorised individual* who is a *principal* or *employee* of the *firm*;**
- c comply with ICAEW's PII regulations;**
- d deal with ICAEW in an open and cooperative manner;**

- e if an *authorised firm*, have a *contact partner* (in the case of a sole practitioner, that person will be the *contact partner*);
- f if a *licensed firm* have a *Head of Legal Practice* who is also the *contact partner*;
- g if a *licensed firm* have a *Head of Finance and Administration*;
- h ensure that each individual who undertakes, or controls the undertaking of, *probate work* on behalf of the *firm* is an *authorised individual*;
- i have at least one office in England and Wales from which the *firm* undertakes *probate work* (unless it is a company or limited liability partnership whose registered office is in England or Wales);
- j inform *ICAEW* as soon as practicable but not later than 10 *business days* after any change to the:
 - 1 *accredited probate firm's* registered address;
 - 2 name or trading names of the *accredited probate firm*;
 - 3 address(es) of the *accredited probate firm's* offices;
 - 4 *accredited probate firm's principals*;
 - 5 name or principal business address of any of the *accredited probate firm's principals*;
 - 6 name of the *contact partner*;
 - 7 name of the *Head of Finance and Administration* who must be approved in that capacity by *ICAEW*;
 - 8 name of the *Head of Legal Practice* who must be approved in that capacity by *ICAEW*; or
 - 9 in the case of a body corporate (but excluding a limited liability partnership):
 - the name or address of any shareholder or anyone with any interest in the shares; and
 - the number of shares held by a shareholder or in the number of shares in which anyone has an interest.
- k inform *ICAEW* as soon as practicable but not later than 10 *business days* after any event affecting the *firm's* eligibility to be *accredited*;
- l in the case of a *licensed firm*, inform *ICAEW* as soon as practicable but not later than 10 *business days* after any non-*authorised 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*;
- m pay any of the charges required by *ICAEW* as set out in *regulations* 2.14, 2.15 and 2.16. Such charges may be levied at any time, including after the termination of *accreditation* provided they relate to a period before the date of termination;

- n respond, when required, to enquiries made by *ICAEW* (whether by writing, visiting the *accredited probate firm's* offices or by any other method) about the *firm's* application or its activities as an *accredited probate firm*;
- o arrange for the provision of any information about the *firm* or its clients (and to allow access to the *firm's* systems and personnel) that *ICAEW* may request about the activities as an *accredited probate firm*, whether that information is held by:
 - 1 the *accredited probate firm*;
 - 2 any *principal* or *employee* (or former *principal* or former *employee*) of the *accredited probate firm*;
 - 3 any non-*authorised person* who holds shares in the *accredited probate firm*, or is entitled to exercise, or control the exercise of, voting rights in the *accredited probate firm*.
 - 4 any non-*authorised person* who is entitled to exercise, or control the exercise of, at least 10% of the voting rights in 'A', where A is a *principal* of the *accredited probate firm* or holds shares in the *accredited probate firm*, or is entitled to exercise, or control the exercise of, voting rights in the *accredited probate firm*;
- p provide *ICAEW* with a periodic return in relation to its activities as an *accredited probate firm*;
- q subject itself and all its *principals* to any monitoring, inspection or review process specified by *ICAEW*, including its Practice Assurance scheme;
- r send any notice or other document to be served on *ICAEW* in the manner set out in *regulation* 1.4, or as last notified to the *accredited probate firm*; and
- s monitor the diversity of the *accredited probate firm's principals* and *employees*, and publish the findings of the monitoring, in the manner and format prescribed by *ICAEW* from time to time.

2.8 An *accredited probate firm* may not have as a *principal* or *employee* a person who is disqualified pursuant to section 99 of the *Act* from being a *principal* or *employee* of a body licensed under Part 5 of the *Act*.

As is reflected in *regulation* 5.5, the Legal Services Board maintains a list of persons who have been disqualified from working in licensed firms by the approved regulators under section 99 of the *Act*. Firms are advised to refer to this list, which can be accessed on the LSB's website before submitting their application for accreditation.

2.9 If an *accredited probate firm* ceases to have any *principal* or *employee* who is an *authorised individual* the *firm* will immediately cease to undertake *probate work* until it has notified *ICAEW* of the name of another *principal* or *employee* who meets the requirements of chapter 4.

PII and compensation

2.10 An *accredited probate firm* shall only carry out *authorised work* if it has professional indemnity insurance under *ICAEW's* PII Regulations with a minimum level of indemnity of £500,000 per claim.

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, firms must notify their clients in writing at the beginning of the engagement that their PII is capped and the level of cover.

2.11 An accredited probate firm or firm that was previously accredited must comply with the regulations of ICAEW's Probate Compensation Scheme.

Modification

2.12 An accredited probate firm that wishes to modify the terms of its accreditation must apply in the manner decided by ICAEW. The application must include the following:

- a the terms of the proposed modification;**
- b the reasons for proposing the modification; and**
- c any information that ICAEW may require in connection with the application.**

2.13 ICAEW may:

- a modify the accreditation in the terms of the application;**
- b modify the accreditation in such other terms as it considers appropriate;**
- c reject the application; or**
- d postpone consideration of the application.**

If ICAEW rejects the application for modification, it will inform the accredited probate firm of its reasons in writing within 10 business days. A firm can apply for a review of a decision to reject modification or to grant it subject to restrictions or conditions. Details of the review process are in chapter 11. A charge may be made for dealing with such an application.

Fees

2.14 An accredited probate firm must pay such registration fees (to include any costs that ICAEW is required or has agreed to pay to any other person or body exercising a regulatory or supervisory role in relation to it) as ICAEW determines, at the times and at the rates set by it. The first registration fee is due when a firm applies to be accredited under these regulations to conduct probate work. An application fee is also payable with this first fee.

If a firm's application is not accepted, the first registration fee will be refunded.

2.15 ICAEW may charge a firm or an accredited probate firm a fee if ICAEW has performed additional work. The Probate Committee will decide how much the fee will be.

Additional work may be performed, for example in:

- obtaining information for or about the firm or accredited probate firm;
- collecting any charges due under these regulations;
- responding to enquiries or complaints regarding the accredited probate firm;

- reviewing the continuation of the firm's accreditation;
- visiting the accredited probate firm where ICAEW has had to make a second or subsequent visit to the accredited probate firm as a result of an earlier visit; or
- considering an application for modification under regulations 2.12 and 2.13.

- 2.16** An *accredited probate firm* must pay any levy for *ICAEW's Probate Compensation Scheme* (whether a periodic contribution or special levy) as *ICAEW* may decide from time to time. This includes levies raised after the *firm's accreditation* has ceased but excludes levies relating to claims in respect of services provided by any *firm* wholly after the date of termination of the *firm's accreditation*.
- 2.17** If an *accredited probate firm* has not paid any amounts due under *regulations 2.14, 2.15 or 2.16* within 60 days of the invoice date, *ICAEW* may withdraw its *accreditation*.
- 2.18** Any amounts unpaid under *regulations 2.14, 2.15 or 2.16* may be recovered as a debt to *ICAEW*.

Dispensations

- 2.19** The *accredited probate firm* must inform *ICAEW* in writing within 10 *business days* of a situation arising that may indicate that the *accredited probate firm* cannot, or expects not to be able to, comply with any of these *regulations*. The notification must state what has happened and the action that the *accredited probate firm* proposes to take.
- 2.20** *ICAEW* may grant the *accredited probate firm* a dispensation, of no more than 90 days, from the requirement to comply with a *regulation* where, in response to a written request, it considers it reasonable to do so having regard to the public interest and the interests of any client.
- 2.21** If *ICAEW* rejects the application for a dispensation, it will inform the *accredited probate firm* of its reasons in writing within 10 *business days*. The *accredited probate firm* will then be entitled to apply for a review of the decision in accordance with the procedures set out in chapter 11.

It is not expected that dispensations will be readily granted and any firm applying for a dispensation must show clearly state why the dispensation is needed and what it is doing to remedy the situation.

Cessation of accreditation

- 2.22** A *firm* will cease to be an *accredited probate firm* if:
- ICAEW* accepts an application from the *firm* to cancel its *accreditation*;
 - the *firm* becomes licensed by another *licensing authority*;
 - the *firm* ceases to exist; or
 - ICAEW* withdraws *accreditation*.

If a firm's accreditation is to be withdrawn, the firm may ask for a review of the decision under the procedures in chapter 11. Withdrawal at the firm's request, because the firm no longer exists or it

becomes licensed by another licensing authority, cannot lead to a review. If a firm which is no longer accredited wishes to apply again it can do so in the normal manner.

2.23 If a firm is no longer an accredited probate firm:

- a it must still respond to enquiries (made in writing or by visiting a firm's office or offices) from ICAEW in connection with any circumstance that relates to these regulations during the time that the firm was accredited and must co-operate with the work of the Legal Ombudsman, including the provision of papers and the payment of any remedies ordered;**
- b disciplinary action (including a regulatory penalty) may still be taken for:**
 - 1 any failure to comply with these regulations during the time it was accredited;**
 - 2 any failure to comply with any regulation continuing to have effect notwithstanding that accreditation has ceased;**
 - 3 any failure to keep confidential any information received in the course of authorised work.**

2.24 ICAEW's right to recover any amounts due from a firm under these regulations does not end when a firm is no longer accredited.

The effect of regulation 2.23 is that a firm cannot escape disciplinary action by applying to have its accreditation withdrawn. If, in the process of withdrawing accreditation, ICAEW places a condition on a firm and that condition is broken then disciplinary action can be taken. There is a continuing obligation to deal with ICAEW's enquiries and requests for information under regulation 2.23. Finally, under regulation 2.24 applying to have accreditation withdrawn does not remove the firm's obligation to pay outstanding fees.

Regulatory conflicts

2.25 If an accredited probate firm is of the view that any other regulatory requirement to which it or an authorised individual is subject, including the requirements of another approved regulator, may cause it to cease complying with these regulations, it must inform ICAEW within 10 business days of becoming aware of the conflict.

Firms should note that section 176 of the Act requires individuals conducting probate work to comply with the regulatory arrangements of the approved regulator by whom they are regulated. For example, in the case of a solicitor working within an accredited probate firm this will be the Solicitors Regulation Authority (SRA).

2.26 ICAEW reserves the right to pass information (directly or indirectly) about an accredited probate firm to any ICAEW committee or person or body undertaking regulatory, disciplinary, redress or law enforcement responsibilities for the purpose of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law.

Chapter 3 - Conduct of authorised work

3.1 An accredited probate firm must act in accordance with the fundamental principles set out in the Code of Ethics issued by ICAEW's Council and must make arrangements so that it, its *principals* and *employees* comply with these *regulations* and the professional principles set out in the *Act* to:

- a act with independence and integrity;**
- b maintain proper standards of work;**
- c act in the best interests of their clients; and**
- d keep the affairs of clients confidential.**

Firms of different sizes and with different types of clients will adopt different procedures to comply with these regulations and to act in accordance with the fundamental principles set out in the Code of Ethics. However, all firms will be aiming to provide a high quality and cost effective service, which complies with these regulations. For most firms this means having procedures for doing probate and authorised work, and checks to make sure that the procedures are followed.

3.2 An accredited probate firm shall only carry out *authorised work* which it is competent to perform.

3.3 An accredited probate firm must make sure that only *authorised individuals* undertake, or control the undertaking of, *probate work* on behalf of the *firm*.

3.4 An accredited probate firm must make sure that all *principals* and *employees* undertaking *authorised work* are, and continue to be, competent to carry out the *authorised work* for which they are responsible.

The above places the responsibility on the firm to ensure that its principals and employees who undertake authorised work are suitably competent in doing this work and are up to date with current developments.

3.5 An accredited probate firm must make 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 would be likely to affect the independence or integrity of *probate work*.

These arrangements need to include informing new principals, employees or shareholders who are non-authorised persons of the duties imposed on them by sections 90 and 176 of the Act.

3.6 An accredited probate firm shall ensure that it is in 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.

The best way to obtain and record this agreement is by using an engagement letter. This could also deal with a firm's obligations under section 240 of the Code of Ethics to notify clients of the basis for charging fees. It could draw the client's attention to the arrangements for continuing the provision of probate services (see regulation 3.12) and the complaints procedures established under chapter 7.

As a matter of best practice and in order to reduce the likelihood of future confusion and complaints, firms should also outline clearly for clients at the beginning of the engagement what

is likely to occur and the nature and scope of the work that will be carried out, as well as the costs involved. They should also provide information to enable their clients actively to manage their costs, including being prepared to explain to clients aspects of their work as it progresses and provide them with revised choices and costs estimates if the original estimates are likely to be exceeded.

The client should not be put under pressure by the firm to accept terms of engagement that may not be in accordance with their wishes.

3.7 The *accredited probate firm* shall ensure that clients are 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*.

It is recommended that firms use the following paragraph:

‘In the unlikely event that we cannot meet our liabilities to you, you may be able to seek a grant from ICAEW’s Probate Compensation Scheme. Generally, applications for a grant must be made to ICAEW within 12 months of the time you became aware, or reasonably ought to have become aware, of the loss. Further information about the scheme and the circumstances in which grants may be made is available on ICAEW’s website: www.icaew.com/probate.’

3.8 If an *accredited probate firm* receives any property in connection with *authorised work*, details of the property received should be recorded. The *firm* should take all reasonable steps to ensure that such property is kept safely. Where the property is money this should be dealt with in accordance with *ICAEW’s* clients’ money regulations, except that monies received in connection with *authorised work* must be kept separate from other clients’ monies.

3.9 Any property held by an *accredited probate firm* must only be released on the client's written instructions and a receipt obtained.

Firms should consider carefully whether to hold property in connection with authorised work. It is often the case that the value of such property may be unclear but to safeguard it properly a firm should check that it has appropriate insurance cover. A receipt should be given when any property is received and transferred to a third party.

3.10 An *accredited probate firm* shall ensure that it has appropriate records of *authorised work* undertaken on behalf of clients.

Records should evidence the work undertaken on behalf of clients under these regulations, plus any specific instructions from the client. The records do not have to be on paper but could be held on microfilm or on computers. Whatever method of storage is used, the firm must keep a mechanism for gaining access to those records.

It is likely that ICAEW will only be satisfied if the firm keeps records relating to work performed under these requirements for at least 6 years. Firms should bear in mind that some legislation requires records to be retained for longer.

3.11 An *accredited probate firm* must:

- a confirm on request that it meets the requirements of these *regulations* and supply such evidence as *ICAEW* may require to support such confirmation; and**
- b ensure that it conducts a review, at least annually, to consider whether systems it has maintained have been adequate to enable it to:**

- 1 comply with these *regulations* and to confirm its compliance with these *regulations* when requested by *ICAEW*; and
- 2 prepare any return required under *regulation 2.7p*.

The annual compliance review checks whether a firm has complied with these regulations.

3.12 If an *accredited probate firm* ceases to undertake *authorised work* then there must be arrangements in place to protect the interests of those clients for whom it is undertaking such work.

The Act requires that arrangements must be in place in case a firm ceases to undertake authorised work. These arrangements are to protect the interests of clients and the firm may need to make some arrangements on a contingency basis.

Where a firm is ceasing to conduct authorised work, an orderly wind down or transfer of work to an identified successor firm may be arranged. However, particularly where the firm is a sole practitioner, additional measures will need to be in place to protect the interest 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.

The firm should provide details of these arrangements within an engagement letter or similar. A suggested wording is:

'If, for any reason, I am unable to run my practice, I have made arrangements for the continuation of probate services to clients. [Add details of the person that the client can contact.]'

Chapter 4 - Authorised individuals, HoFAs and HoLPs

All individuals who undertake, or control the undertaking of, probate work on behalf of an accredited probate firm must be individually authorised to do so under the Act by ICAEW or another approved regulator.

In an authorised firm, all the principals will need to be authorised persons. A sole practitioner must be an authorised individual and the firm's contact partner. In other authorised firms it is recommended that one of the principals be the contact partner.

A licensed firm must appoint a Head of Finance and Administration and Head of Legal Practice who have specific responsibilities and important duties as set out in regulation 1.6. The Head of Legal Practice must be an authorised individual and the firm's contact partner.

In all firms (including sole practices) the contact partner can designate appropriately qualified principals or employees as authorised individuals as set out in the following regulations.

Authorisation and withdrawal of authorisation

4.1 Subject to regulation 4.4 the contact partner (or the person who is intended to be the contact partner upon accreditation) may designate as an authorised individual any of the accredited probate firm's principals or employees (or any of the principals or employees of a firm applying for accreditation) who:

- a is a member of an accountancy body and has provided evidence to ICAEW of attendance at a course and assessment, which covered at least the following subjects:**
- a general introduction to the *Act* as it applies to *probate work*;
 - a general introduction to the law of property, equity and trusts;
 - the need for a grant and its effect;
 - the types of grant – probate, letters of administration;
 - who can apply for probate / letters of administration;
 - consideration of the validity of the will;
 - intestacy provisions;
 - obtaining information about the assets and liabilities of the estate;
 - finalising of inheritance tax, corrective accounts and obtaining a clearance certificate from HM Revenue and Customs;
 - the completion of papers for an application for a grant;
 - the completion of the oath and the filing of papers; and
 - the administration of the estate;
- b holds a qualification issued or recognised by an approved regulator (other than ICAEW) that entitles the individual to undertake probate work; or**
- c is otherwise qualified to undertake probate work so as to satisfy ICAEW that it should approve his designation as an authorised individual.**

Only principals and employees of a firm are eligible to become 'authorised individuals', not sub-contractors or consultants.

There are no prescribed courses for the purpose of regulation 4.1a but the firm or member must show that the course covered the above topics. Courses can include those where the learning is computer based 'e-learning', including training delivered over the internet. As the course outline set out in regulation 4.1a builds on the existing qualifications and skills of a chartered accountant, only members of the accountancy bodies as defined in regulation 1.6 may be eligible to become accredited for probate through this route.

Applications in respect of individuals under regulation 4.1c will be decided on a case by case basis, having regard to the sufficiency of the individual's qualification to undertake probate work.

4.2 Subject to regulation 4.4 and with the agreement of the individual, a licensed firm must designate an authorised individual to be the Head of Legal Practice.

4.3 Subject to regulation 4.4 and with the agreement of the individual, a licensed firm must designate an individual to be the Head of Finance and Administration.

4.4 Any designation in accordance with regulation 4.1, 4.2 or 4.3 shall not be effective until an application has been made to ICAEW in a form specified by it and the application has been approved and this may be approved with conditions or restrictions.

Where a firm wishes to be accredited, and any principals or employees are not authorised individuals, the applications by the firm for accreditation and for approval of designation of authorised individuals should be made (and will be dealt with) simultaneously.

4.5 ICAEW will only approve a person's status as an authorised individual, Head of Legal Practice or Head of Finance and Administration, if it is satisfied that that individual is a fit and proper person.

4.6 ICAEW may at any time vary or end a restriction or condition made under regulation 4.4.

Cessation

4.7 Authorised individual status will cease if:

- a the firm in which the individual is an authorised individual ceases to be an accredited probate firm;**
- b the individual ceases to be a principal or employee in the accredited probate firm to which the grant of authorised individual status related;**
- c an event occurs which under ICAEW's Charter, Bye-laws or other regulations the individual would cease to be a member or an affiliate;**
- d the contact partner notifies ICAEW that the individual is no longer an authorised individual; or**
- e ICAEW withdraws authorised individual status.**

Firms are reminded to inform ICAEW of any changes to the authorised individuals of the firm.

4.8 Authorised individual status will not cease under regulation 4.7a or 4.7b if:

- a the accredited probate firm in which the authorised individual is a principal or employee merges with or is acquired by another accredited probate firm; or**

- b** the *authorised individual* leaves the *accredited probate firm* in which he is a *principal* or *employee* and immediately becomes a *principal* or *employee* in another *accredited probate firm*;

provided that *ICAEW* is informed within 10 *business days* of the event. Otherwise, disciplinary action may be taken and *authorised individual* status withdrawn.

4.9 Status as a *Head of Legal Practice* or a *Head of Finance and Administration* will cease if:

- a** the *firm* to which the status relates ceases to be an *accredited probate firm*;
- b** the individual ceases to be a *principal* or *employee* in the *accredited probate firm* to which the status relates;
- c** an event occurs which under *ICAEW's* Charter, Bye-laws or other regulations the individual would cease to be a *member* or an affiliate;
- d** the *firm* or individual notifies *ICAEW* that the individual no longer consents to hold that status; or
- e** *ICAEW* disqualifies the person from holding that status under *regulation 5.1*.

4.10 If an individual is no longer an *authorised individual*, a *Head of Finance and Administration* or a *Head of Legal Practice* disciplinary action under chapter 12 (including the imposition of a *regulatory penalty*) may still be taken for any failure to comply with these *regulations*.

Orders under this chapter will come into effect as set out in chapter 10. The person may request a review (with subsequent right of appeal) under chapter 11.

Chapter 12 applies *ICAEW's* disciplinary arrangements to breaches of these regulations by an authorised individual, a Head of Finance and Administration or a Head of Legal Practice. Regulation 4.10 provides that disciplinary action may be taken after a person has ceased to hold this status.

Chapter 5 - Disqualification

The following regulations set out the circumstances in which a person may be disqualified under section 99 of the Act from acting as a Head of Legal Practice or Head of Finance and Administration, or from being a principal or an employee of any licensed firm. This is liable to occur in specific situations identified in the Act and detailed below.

- 5.1** If both of the conditions set out in *regulations 5.2 and 5.3* are satisfied, *ICAEW* may disqualify a person from:
- a** acting as the *Head of Legal Practice* of any licensed firm;
 - b** acting as the *Head of Finance and Administration* of any licensed firm;
 - c** being a *principal* of any licensed firm; or
 - d** being an *employee* of any licensed firm.
- 5.2** The first condition referred to in *regulation 5.1* is that the person, intentionally or through neglect:
- a** has breached a duty to which the person is subject:
 - as a *Head of Legal Practice* by section 91 of the Act;
 - as the *Head of Finance and Administration* by section 92 of
 - the Act;
 - as a regulated person by section 176 of the Act (within the meaning of that section); or
 - as a *non-authorized person* by section 90; or
 - b** has caused, or substantially contributed to, a significant breach of the *licensed firm's accreditation*.
- 5.3** The second condition referred to in *regulation 5.1* is that *ICAEW* is satisfied that it is undesirable for the person to engage in the activity or activities referred to in *regulation 5.1*.
- 5.4** Upon the application of any person so disqualified under *regulation 5.1*, *ICAEW* may, if the second condition referred to in *regulation 5.3* is no longer satisfied, order that a person's disqualification shall cease to be in force on a date specified in the order.
- 5.5** *ICAEW* will promptly notify the *Legal Services Board* of any decision under *regulation 5.1* that a person should be disqualified, of the results of any review of such a decision under *regulation 11.3* and of any decision by *ICAEW* that a person's disqualification should cease to be in force.

If *ICAEW* disqualifies a person as set out above, the order will come into effect as set out in regulation 10.10. The person may request a review (with subsequent right of appeal) under chapter 11.

Chapter 6 - Ownership of licensed firms

The following regulations set out the requirements where any non-authorised person holds or proposes to hold a material interest in a licensed firm.

Firms applying to be licensed must provide full details of any non-authorised person who holds or is expected to hold a material interest, even if it becomes aware of this after submitting the application.

Licensed firms must also inform ICAEW if any non-authorised person acquires or is expected to acquire a material interest, or if there is any change at all in the extent to which any interest in the firm is held by non-authorised persons. ICAEW will need to approve any non-authorised persons holding or intending to hold a material interest, and changes to the firm's ownership structure may affect its eligibility to be licensed.

ICAEW will decide whether to grant approval of the holding under this chapter. Approval may be granted unconditionally or subject to conditions as set out in these regulations.

If ICAEW objects to a holding or decides to permit it subject to conditions, an applicant or the non-authorised person may request a review (with subsequent right of appeal) under chapter 11.

As set out in regulation 6.2 there are different kinds of material interest. If ICAEW has approved a non-authorised person to hold a specific kind of material interest and that person then acquires a different kind of material interest, this needs to be approved as set out above. No approval is needed if an existing material interest is increased or decreased but notification under regulation 2.71 is required.

6.1 A non-authorised person may not hold a *material interest* in a *licensed firm* without a grant of approval by ICAEW.

6.2 A person holds a *material interest* in a body (B) if the person:

- holds at least 10% of the shares in B;
- is able to exercise significant influence over B's management by virtue of the person's shareholding in B;
- holds at least 10% of the shares in a parent undertaking ('P') of B;
- is able to exercise significant influence over P's management by virtue of the person's shareholding in P;
- is entitled to exercise, or control the exercise of, voting power in B which, if it consists of voting rights, constitutes at least 10% of the voting rights in B;
- is able to exercise significant influence over B's management by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in B;
- is entitled to exercise, or control the exercise of, voting power in P which, if it consists of voting rights, constitutes at least 10% of the voting rights in P; or
- is able to exercise significant influence over P's management by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in P.

Regulation 6.2 sets out the different kinds of material interest that require ICAEW's approval.

6.3 For the purposes of this chapter, the interest held by a person in a *firm* will consist of the total of the interest held by the person and the interest held by any of his *associates*, and a person's *associate* is defined as:

- a** the person's spouse or civil partner;
- b** the person's child or stepchild if aged under 18;
- c** the trustee of any settlement under which the person has a life interest in possession;
- d** an undertaking of which the person is a director;
- e** any employee of the person;
- f** any partner in a firm (other than the *licensed firm*) of which the person is a partner;
- g** if the person is an undertaking, any director or subsidiary undertaking or any director or employee of such subsidiary undertaking;
- h** any person with whom the person has an agreement or arrangement regarding the acquisition, holding or disposal of any share or interest in the shareholding or voting rights referred to in *regulation 6.2*; or
- i** any person with whom the person has an agreement or arrangement to act together in exercising their voting power in relation to the shareholding or voting rights referred to in *regulation 6.2*.

6.4 A *firm* which applies to *ICAEW* to become a *licensed firm* must:

- a** identify in the application any *non-authorised person* who holds, or is expected when the *firm* has been licensed to hold, an interest to which *regulation 6.1* applies;
- b** identify in the application the kind of interest which is so held or expected to be held;
- c** in any such case, inform the *non-authorised person* that *ICAEW* may require the person to provide *ICAEW* with documents and information and that failure to comply with such a requirement is a criminal offence; and
- d** inform *ICAEW* of any change in the identity of such *non-authorised person* or the kind of relevant interest so held or expected to be held occurring after the application but before the *firm* is licensed, such information to be given in writing within seven days of the occurrence of such change or, if later, the day on which the *firm* becomes aware of such change.

Firms must make any non-*authorised person* aware of the importance of the requirement to provide *ICAEW* with documents and information and ensure that the person understands that failure to comply would make them guilty of a criminal offence under paragraph 14 of schedule 13 to the Act, which is punishable by a fine and/or imprisonment.

An applicant who fails to comply with regulation 6.4c is also guilty of an offence under paragraph 13 of schedule 13 to the Act, which is punishable by a fine.

- 6.5** *ICAEW* will not license the *firm* unless it grants approval to the holding of the non-*authorised person* either unconditionally or subject to conditions.
- 6.6** In deciding whether to grant approval to the holding of the non-*authorised person*, *ICAEW* may require the person to provide it with any documents or information and will have regard to all relevant circumstances including:
- a** the probity and financial position of the person or any person listed in *regulation 6.3*;
 - b** whether the person or any person listed in *regulation 6.3* has been disqualified (by *ICAEW* under chapter 5 of these *regulations* or by any other *licensing authority*) from acting as a *Head of Legal Practice* or a *Head of Finance and Administration* or a *principal* or an *employee* of any licensed body; and
 - c** whether the person or any person listed in *regulation 6.3* has been named in a list maintained by the *Legal Services Board* of persons in respect of whom a *licensing authority* has objected to or imposed conditions on the holding of a *material interest*, or of persons who acquire a holding of a *material interest* exceeding a limit specified in the licensing rules of any *licensing authority*.

In determining whether an applicant (together with their associates) is fit and proper, *ICAEW* will have regard to whether they have previously been disqualified under section 99 of the Act, and whether any other licensing authority has previously objected to, or imposed a condition on, their holding of a material (or other restricted) interest in a licensed body.

- 6.7** *ICAEW* will grant approval to the holding of the non-*authorised person* unconditionally if it is satisfied that:
- a** the person's holding of the *material interest* does not compromise the regulatory objectives set out in section 1 of the Act;
 - b** the person's holding of the *material interest* does not compromise compliance by *authorised persons* or the *principals* or *employees* of any *firm* with these *regulations* or with any of *ICAEW's* regulatory arrangements; and
 - c** the person is a fit and proper person to hold the *material interest*.
- 6.8** If *ICAEW* is not satisfied as required by *regulation 6.7* it may:
- a** grant approval to the holding of the non-*authorised person* subject to conditions if it is satisfied that compliance with the conditions makes this appropriate; or
 - b** object to the holding.
- 6.9** Before deciding either to grant approval to the holding of the non-*authorised person* subject to conditions or to object to the holding, *ICAEW* will:
- a** give written notice of the proposed objection or conditions, with reasons for it, to the applicant for the licence and to the non-*authorised person*, explaining the nature of any proposed conditions and stating that representations may be made to *ICAEW* within 28 days;
 - b** consider any representations if made within the time specified by paragraph (a) above; and

- c notify the applicant for the licence and the non-*authorised person* as soon as reasonably practicable of any objection or any conditions imposed, with reasons.**

In all such cases the notice will explain the effect of ICAEW's enforcement powers under Part 5 of Schedule 13 of the Act.

Acquisition of material interest after issue of licence

These regulations impose duties on non-*authorised persons* who acquire or propose to acquire a material interest in a firm which is already licensed. A failure, with knowledge of the relevant facts, to comply with any of these duties to notify is a criminal offence punishable with a fine.

Licensed firms should ensure that any non-*authorised person* who acquires or proposes to acquire a material interest in the firm is aware of the obligation to provide such documents or information as ICAEW may require. Failure to comply with this obligation is a criminal offence punishable by a fine and/or imprisonment.

- 6.10 If a non-*authorised person* who proposes to take a step which would result in his acquiring a *material interest* in a *licensed firm* or, if he already has any *material interest* in the *firm*, an additional kind of *material interest* in the *firm*, then he must:
 - a give written notification of the proposal to the *licensed firm* and to *ICAEW*; and**
 - b must not take the proposed step unless *ICAEW* has granted approval of his holding the *material interest*.****

As set out in regulation 6.2 there are different kinds of material interest. If ICAEW has approved a non-*authorised person* to hold a specific type of material interest, and that person then acquires a different kind of material interest, this needs to be approved as set out above.

- 6.11 If a person only becomes aware of the notification requirements referred to in *regulation 6.10* after making such a proposal, he must give written notification of the proposal to the *licensed firm* and to *ICAEW* within 7 days of becoming aware of them and before taking the proposed step.**
- 6.12 A non-*authorised person* who acquires a *material interest* in a *licensed firm* without taking a step as referred to in *regulation 6.10* must give written notification of the acquisition to the *licensed firm* and to *ICAEW* within 7 days of becoming aware of the acquisition.**
- 6.13 When *ICAEW* receives a notification under any of *regulations 6.10, 6.11* or *6.12*, or if it becomes aware that a person has failed to comply with an obligation to make such a notification, it may require the person to provide it with any documents or information and, within 90 days of the notification, will decide whether to:
 - a approve the person's holding unconditionally;**
 - b warn the person that it proposes to approve the holding subject to conditions;**
 - c approve the holding subject to conditions;**
 - d warn the person that it proposes to object to the holding; or**
 - e object to the holding.****

- 6.14 **ICAEW will grant approval to the holding of the non-*authorised person* unconditionally if it is satisfied of the matters specified in *regulation 6.7*.**
- 6.15 **If *ICAEW* is not satisfied as required by *regulation 6.14*, it may exercise either of the powers referred to in *regulation 6.8*.**
- 6.16 **Subject to *regulation 6.17*, before deciding either to grant approval to the holding of the non-*authorised person* subject to conditions or to object to the holding *ICAEW* will:**
- a **give written notice of the proposed objection or conditions, with reasons for it, to the *licensed firm* and to the non-*authorised person*, stating that representations may be made to *ICAEW* within 7 days;**
 - b **consider any representations made within the time specified by paragraph (a) above; and**
 - c **notify the *licensed firm* and to the non-*authorised person* as soon as reasonably practicable of any objection or any conditions imposed, with reasons.**
- 6.17 ***ICAEW* may approve the holding subject to conditions or may object to the holding without giving the notice referred to in *regulation 6.16* if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives set out in section 1 of the *Act*.**
- 6.18 **Any approval granted by *ICAEW* under *regulations 6.14* or *6.15* is effective only if the *material interest* is acquired within such period as may be specified in written notice by *ICAEW* of the approval or, if no period is specified, within one year of the date of the notice.**

The approval granted by ICAEW is subject to the material interest being acquired either within the period set out in the notice, or, if no period is given, within one year. If the interest is not acquired within this time, approval will need to be sought again.

Powers of ICAEW in relation to existing material interests

ICAEW is empowered to give notice objecting to, or imposing conditions on, the holding of existing material interests where necessary.

A person who holds a material interest subject to any condition may apply to ICAEW for variation or cancellation of the condition.

- 6.19 **If at any time *ICAEW* ceases to be satisfied as required by *regulation 6.7*, or if it is satisfied that a condition imposed by any of the *regulations* in this chapter has not been, or is not being, complied with, it may, within 90 days of becoming aware of the matters the question:**
- a **impose a condition on the holding; or**
 - b **object to the holding.**
- 6.20 ***Regulations 6.16* and *6.17* also apply to the exercise by *ICAEW* of the power referred to in *regulation 6.19*.**
- 6.21 **A condition imposed under any of the *regulations* in this chapter may be varied or cancelled by written notice by *ICAEW*:**

- a on the application of the person who holds the *material interest*; or
- b on the initiative of *ICAEW*.

Enforcement of conditions and objections

Where a material interest is held in contravention of the regulations in this chapter, ICAEW may give notice restricting the rights attached to the holding and, subject to the procedural requirements imposed by the Act, may apply to the High Court for an order requiring a non-authorized person to sell shares.

Where a material interest is held in breach of a condition imposed under any of the regulations in this chapter, ICAEW may, subject to the procedural requirements imposed by the Act, apply to the High Court for an order securing compliance.

6.22 If a person holds a *material interest* in breach of any condition imposed by *ICAEW* under any of the *regulations* in this chapter, *ICAEW* may:

- a give written notice to the person that it intends to apply to the High Court for an order securing compliance if the conditions are not complied with before the end of the period specified in the notice (not less than 28 days); and
- b upon expiry of the period specified in the notice, apply to the High Court to make such order securing compliance as the High Court thinks fit.

The High Court will not make an order securing compliance with a condition until the end of the period in which the person can appeal against the imposition of the condition and, if an appeal is made, until the appeal has been determined or withdrawn.

6.23 If a non-authorized person, who holds a *material interest* by virtue of a shareholding in a *licensed firm*, breaches:

- a *regulation 6.10b*; or
- b any condition or objection imposed by *ICAEW* under any of the *regulations* in this chapter;

then *ICAEW* may:

- give a notice under *regulation 6.24*; and
- apply to the High Court in accordance with paragraphs 43-45 of schedule 13 to the *Act* for an order requiring the sale of shares to secure that the non-authorized person no longer holds a *material interest* in contravention of any of the *regulations* in this chapter.

6.24 A notice under this *regulation* is a written notice to the person holding the *material interest* directing that until further notice:

- a any transfer of, or agreement to transfer, the shares, or the right to be issued with the shares, is void;
- b no voting rights are to be exercisable in respect of the shares;
- c no further shares are to be issued in right of the shares or in pursuance of any offer made to their holder; and

- d except in a liquidation, no payment is to be made of any sums due from the body corporate on the shares, whether in respect of capital or otherwise.**

If ICAEW applies to the High Court for a divestiture order, it will at the same time give a restriction notice to the non-authorised person and send a copy of this notice to the firm.

6.25 A notice under *regulation 6.24* ceases to have effect:

- a if the High Court so orders under paragraph 45(4) of schedule 13 to the *Act*;**
- b at the end of 90 days if *ICAEW* does not within that time make the application referred to in *regulation 6.23*; or**
- c if the *licensed firm* ceases to be licensed by *ICAEW*.**

Part 5 of Schedule 13 of the Act requires ICAEW to inform the Legal Services Board of decisions and actions taken under this chapter.

Chapter 7 - Complaints resolution

The following regulations detail how complaints should be dealt with. The Act requires that a firm has procedures for dealing with complaints. Firms should take care to notify their existing clients of their right to make a complaint. This should be done at the first appropriate opportunity (eg, if a client complains or at the beginning of the next engagement).

It is clearly to the benefit of clients and firms if any complaints that may arise are dealt with promptly and efficiently. Firms should bear in mind that this may be a particularly stressful time for the client.

7.1 An accredited probate firm must establish procedures to deal with complaints.

7.2 An accredited probate firm must ensure that all clients are 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*. This individual should be a *principal* in an *authorised firm* or the *Head of Legal Practice* in a *licensed firm*.

Details of the complaint resolution procedure can be included within the terms of engagement or in any other material supplied to the client at the beginning of the engagement. The following is a suggested paragraph for inclusion:

'If you would like to talk to us about how we could improve our service to you, or if you are unhappy with the service you are receiving, please let us know by contacting [state name of principal]. We will consider carefully any complaint you may make about our probate services as soon as we receive it and do all we can to resolve it. We will acknowledge your letter within five business days of its receipt and endeavour to deal with it within 8 weeks. If we do not deal with your complaint in this time, or if you are unhappy with our response, you may of course take up the matter with the Legal Ombudsman.'

You must include the contact details for the Legal Ombudsman, which are:

- T 0300 555 0333
- Post Legal Ombudsman, PO Box 15870, Birmingham, B30 9EB
- E enquiries@legalombudsman.org.uk

You must also advise the client of the timescale for making a complaint to the Legal Ombudsman, which is:

- 12 months from the time that the event occurred or the client ought reasonably to have known there was a problem; and
- six months from the date of your firm's final response.

As many complaints arise out of a misunderstanding of what services the firm has been retained to do, the progress in delivering those services and the cost involved, firms should ensure that they advise their clients in writing at the beginning of the engagement of the likely scope and nature of the intended work and the costs involved. Firms should ensure that their clients understand and agree to the process and these costs, and should keep their clients updated on matters as the engagements proceed.

Firms should also bear in mind the importance of learning from complaints. It is recommended that at the conclusion of the complaints process firms reflect on whether procedures and/ or systems could be introduced or modified to avoid similar complaints arising in the future.

- 7.3** If an *accredited probate firm* receives a complaint from a client or a former client it must acknowledge the complaint within five *business days*.
- 7.4** The *accredited probate firm* must begin immediately to investigate the complaint in a fair, prompt, constructive and honest manner. The investigation should be conducted or supervised by the *Head of Legal Practice* in a *licensed firm*, or by a *principal* in an *authorised firm*.

In the case of serious complaints, firms should bear in mind their obligations and duties under the firm's professional indemnity insurance. If cover is not to be affected, firms should notify insurers of matters that could give rise to a claim as soon as possible. However, the firm must still investigate the complaint and this does not affect the rights of the client to take the matter up with the Legal Ombudsman.

- 7.5** The *accredited probate firm* must keep a full record of the way in which the complaint has been handled. This documentation must be kept in a separate complaint file.
- 7.6** If following such an investigation the *accredited probate firm* is of the opinion that the complaint is justified in whole or in part, it must do whatever is appropriate to resolve the complaint, whether by way of remedial work, apology, providing information, returning books or documents, reduction or repayment of fees, or otherwise.
- 7.7** When the *accredited probate firm* notifies the client of its final response, which should be provided within 8 weeks of receiving the complaint, the client must be informed of their right to refer the matter to the *Legal Ombudsman*.

Once a firm has concluded its investigation of the complaint, it should notify the client in writing of the outcome and how, if appropriate, it intends to rectify the matter. This may lead to more discussions with the client. However the firm should make clear to the client when it has made its final response. At this stage the client should also be informed of their right to refer the matter to the Legal Ombudsman.

- 7.8** If the complaint is not resolved within 8 weeks of receipt of the complaint, the client must be informed in writing of their right to request that the *Legal Ombudsman* investigate the matter.

If the complaint is not resolved within 8 weeks the client must be informed of their right to refer the matter to the Legal Ombudsman. This does not prevent a firm continuing to try to resolve the matter with the client, but the client could still request that the Legal Ombudsman looks into the matter.

- 7.9** The *accredited probate firm* must cooperate with the *Legal Ombudsman*.
- 7.10** The *accredited probate firm* must comply with any decision that the *Legal Ombudsman* may make and promptly comply with any remedy ordered by the *Legal Ombudsman*.

The Legal Ombudsman may decide that a firm should pay the client compensation for any loss, inconvenience or distress caused to the client arising from the matter complained of. The decision may also include an apology, reimbursement of all or part of the firm's fees paid by the client, the requirement that the firm takes remedial action to put the matter right or pays another firm to do so, or any other action which the Ombudsman deems necessary.

7.11 The *accredited probate firm* must provide *ICAEW* with such details of complaints as *ICAEW* may request (whether by writing, visiting the *firm's* offices or by any other method) within *20 business days* of receiving such a request.

Chapter 8 - Probate affiliates

ICAEW may accredit a firm which has a principal (an individual or a corporate body) who is not a member, a member of one of the bodies listed below or an accredited probate firm, a registered auditor or a DPB-licensed firm (and who at the time of the proposed accreditation is not an affiliate under the audit regulations, the DPB Handbook, the insolvency regulations or ICAEW's regulations governing the use of the description 'chartered accountant' and general affiliates) only if that individual or body corporate is granted probate affiliate status by ICAEW.

The bodies referred to above are the:

- Institute of Chartered Accountants of Scotland;
- Institute of Chartered Accountants in Ireland; or
- another approved regulator.

Probate affiliate status does not confer membership of ICAEW nor entitle the individual or body corporate to use the title 'chartered accountant'. However, it does mean that a probate affiliate is bound by the same rules and regulations as govern a member of ICAEW.

Granting probate affiliate status

- 8.1** *Probate affiliate status does not give the probate affiliate any rights other than those contained in these regulations. Neither the probate affiliate nor his accredited probate firm shall make any public representation that the probate affiliate has any rights other than those contained in these probate affiliate regulations.*
- 8.2** *A person must apply for probate affiliate status in the manner decided by ICAEW. To carry out its responsibilities under these probate affiliate regulations, ICAEW may make any enquiries necessary to assess the eligibility of the applicant.*
- 8.3** *ICAEW may grant probate affiliate status if it is satisfied that the applicant:*
- a is a fit and proper person to be granted probate affiliate status;*
 - b has agreed to comply with these regulations;*
 - c has agreed to observe and uphold ICAEW's Code of Ethics; and*
 - d has agreed to provide ICAEW with all the information it needs.*
- 8.4** *ICAEW may, on receiving an application for probate affiliate status:*
- a grant probate affiliate status;*
 - b reject the application;*
 - c grant probate affiliate status with restrictions or conditions; or*
 - d postpone consideration of the application.*
- 8.5** *ICAEW may at any time vary or end a restriction or condition made under regulation 8.4.*

Withdrawal of probate affiliate status

8.6 *ICAEW* may in its sole discretion withdraw *probate affiliate* status if the *probate affiliate*:

- a is in the opinion of *ICAEW* no longer a fit and proper person;
- b fails to pay on time any fines or costs ordered by any committee or tribunal of *ICAEW*;
- c has a disciplinary order made against him by any committee or tribunal of *ICAEW*;
- d fails to pay the annual subscription within 30 days of the date of a notice to renew *probate affiliate* status; or
- e fails or ceases to comply with any of these *regulations* and, in the circumstances, *ICAEW* considers that withdrawal is justified.

Decisions under regulations 8.4, 8.5 or 8.6 will come into effect as set out in chapter 10.

If a probate affiliate is dissatisfied with a decision made by *ICAEW* under regulations 8.4, 8.5 or 8.6 it may apply for a review of the decision in accordance with the procedures set out in chapter 11.

Cessation of probate affiliate status

8.7 *Probate affiliate* status will cease if:

- a subject to *regulation 8.8*, the *firm* in which the *probate affiliate* is a *principal* ceases to be accredited;
- b subject to *regulation 8.8*, the *probate affiliate* ceases to be a *principal* in the accredited *probate firm* to which the grant of *probate affiliate* status related;
- c the *probate affiliate* is an individual and has a bankruptcy order made against him;
- d the *probate affiliate* is a body corporate which:
 - has been the subject of an effective resolution passed by the shareholders (or in the case of a limited liability partnership, by its members) for it to be wound up or has had a winding up order made against it on the grounds of insolvency;
 - has had an administration order made against it on grounds of insolvency; or
 - has had a receiver appointed by a creditor or by a court on the application of a creditor.

8.8 *Probate affiliate* status will not cease under *regulation 8.7a* or *8.7b* if:

- a the accredited *probate firm* in which the *probate affiliate* is a *principal* merges with or is acquired by another accredited *probate firm*; or
- b the *probate affiliate* leaves the accredited *probate firm* in which he is a *principal* and immediately becomes a *principal* in another accredited *probate firm*;

provided that *ICAEW* is informed within 10 *business days* of the event. Otherwise, disciplinary action may be taken and *probate affiliate* status withdrawn.

Changes in circumstances

- 8.9 ***A probate affiliate or the accredited probate firm's contact partner must inform ICAEW in writing within 10 business days of any changes relevant to matters considered by ICAEW under regulation 8.3.***

Fees

- 8.10 ***Probate affiliates must pay a fee each year in addition to the accredited probate firm's annual fee. The first annual fee for probate affiliate status is due when an application is made for such status, together with any application fee.***
- 8.11 ***The amount of the fees for probate affiliate status will be determined by ICAEW from time to time.***

Disciplinary arrangements

- 8.12 ***The disciplinary provisions of ICAEW that apply to a member also apply to a probate affiliate.***
- 8.13 ***A probate affiliate shall be liable to disciplinary action for any failure to observe and uphold any guidance issued by ICAEW, including any ethical guidance.***
- 8.14 ***A probate affiliate will remain liable to disciplinary action under these regulations for any acts or omissions relating to the obligations in these regulations during the period in which probate affiliate status was held, regardless of any subsequent cessation of such status.***

Chapter 9 - Probate and other committees

This chapter describes the various committees involved in the regulatory process and their powers. Some, but not all, of the powers may be delegated by the Probate Committee to either sub-committees or staff.

A firm generally has the right to seek a review of a decision. Details are in chapter 11.

Probate Committee

9.1 The *Probate Committee* must:

- a comprise ten members, half of whom must be lay members; and
- b have a quorum of five members, the majority of whom must be lay members.

The chairman of the Probate Committee must be a lay member and will have the casting vote where required. A lay member is a person who has never qualified or practised as a professional accountant. Solicitors and persons with legal training are also unable to act as lay members on the committee.

Members of ICAEW's Council and Board are excluded from membership of this committee.

9.2 The *Probate Committee* is responsible for discharging ICAEW's functions as an *approved regulator* and *licensing authority* as set out in these *regulations* and is also responsible for:

- a reviewing the returns and reports made under these *regulations*, and investigating failure to make returns or reports;
- b making appropriate enquiries into the eligibility of applicants for *accreditation*; *authorised individual status*; *Head of Legal Practice status*; *Head of Finance and Administration status*, or *probate affiliate status* (by writing, visiting a *firm's* office or offices, or in any other way);
- c making appropriate enquiries into the eligibility of applicants for status as non-*authorised persons* who hold *material interests* in *licensed firms*;
- d making appropriate enquiries to confirm that an *authorised person*, *Head of Legal Practice*, *Head of Finance and Administration* or *probate affiliate* is complying with these *regulations* (by writing, visiting a *firm's* office or offices, using a periodic return, or in any other way);
- e making appropriate enquiries to confirm that a non-*authorised person* who holds a *material interest* in a *licensed firm* is complying with these *regulations* (by writing, visiting a *firm's* office or offices, using a periodic return, or in any other way);
- f publishing, in any manner it decides, its orders or decisions if it considers this appropriate; and
- g compiling and maintaining a *register of licensed firms* and supplying information to the *Legal Services Board* as required.

In discharging its functions the Probate Committee will have regard at all times to the public interest, and the requirements and regulatory objectives of the Legal Services Act 2007.

9.3 The *Probate Committee* may delegate the following functions to sub-committees, ICAEW's staff, or another duly appointed agent:

- granting applications for *accreditation* under *regulation 2.5a*;
- granting applications for *accreditation* subject to conditions under *regulation 2.5c*;
- varying or ending a condition or restriction under *regulation 2.6*;
- granting applications for *authorised individual, Head of Legal Practice* or *Head of Finance and Administration* status under *regulation 4.4*;
- granting applications for *authorised individual, Head of Legal Practice* or *Head of Finance and Administration* status subject to conditions under *regulation 4.4*;
- varying or ending a condition or restriction under *regulation 4.6*;
- granting approval to a holding of a *material interest* by a *non-authorised person* with or without conditions under *regulations 6.7, 6.8a, 6.14* or *6.15*;
- deciding to vary or end a condition on the holding of a *material interest* by a *non-authorised person* under *regulation 6.21*;
- granting applications for *probate affiliate* status under *regulation 8.4a*;
- granting applications for *probate affiliate* status subject to conditions under *regulation 8.4c*;
- varying or ending a condition or restriction under *regulation 8.5*;
- withdrawing *probate affiliate* status under *regulations*:
 - 8.6b - failure to pay on time any fines or costs;
 - 8.6c - disciplinary order; or
 - 8.6d - failure to pay annual subscriptions;
- reviewing the returns and reports made under these *regulations*, and investigating failure to make returns or reports;
- making appropriate enquiries into the eligibility of applicants for *accreditation; authorised individual* status; *Head of Legal Practice* status; *Head of Finance and Administration* status, or *probate affiliate* status (by writing, visiting a *firm's* office or offices, or in any other way);
- making appropriate enquiries into the eligibility of *non-authorised persons* who seek approval as holders of *material interests* in a *licensed firm*;
- making appropriate enquiries to confirm that an *authorised person, Head of Legal Practice, Head of Finance and Administration* or *probate affiliate* is complying with these *regulations* (by writing, visiting a *firm's* office or offices, using a periodic return, or in any other way);

- making appropriate enquiries to confirm that a *non-**authorised person*** who holds a *material interest* in a *licensed firm* is complying with these *regulations* (by writing, visiting a *firm's* office or offices, using a periodic return, or in any other way);
- publishing, in any manner it decides, its orders or decisions if it considers this appropriate;
- compiling and maintaining a *register of licensed firms* and supplying information to the *Legal Services Board* as required;
- varying or ending a condition or restriction under *regulation 10.2*; or
- withdrawing *accreditation* under *regulations*:
 - 10.3b - non-compliance with the *PII regulations*;
 - 10.3c - failure or delay in submitting a return or report;
 - 10.3d - failure to pay amounts due;
 - 10.3e - failure to pay costs awarded by the *Review Committee*; or
 - 10.3f - failure to pay fines or costs awarded by *ICAEW's* disciplinary committees or the *First-tier Tribunal*.

9.4 All information obtained under these *regulations* will be confidential but may be disclosed by *ICAEW* (directly or indirectly) to any person or body undertaking regulatory, redress, disciplinary or law enforcement responsibilities for the purpose of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law.

All information that *ICAEW* receives will remain confidential except in the above circumstances.

9.5 In carrying out its responsibilities under these *regulations* *ICAEW*, the *Probate Committee* and the *Review Committee* may consider any disciplinary findings, orders, ongoing investigations or any other information (including criminal and civil court judgments) concerning or affecting the *firm* or its *principals* or *employees*, any *non-**authorised persons*** holding a *material interest* in a *firm* (either actual or proposed), an applicant for *authorised individual* status, an *authorised individual*, an applicant for *Head of Legal Practice* status, a *Head of Legal Practice*, an applicant for *Head of Finance and Administration* status, a *Head of Finance and Administration*, an applicant for *probate affiliate* status or *probate affiliate*.

Regulation 9.5 allows consideration of any disciplinary or other matter that affects the firm.

Notification to committees

9.6 The *Probate Committee* must notify the *Investigation Committee* about any fact or matter which:

- a suggests that an *accredited probate firm*, an *authorised individual*, a *Head of Legal Practice*, a *Head of Finance and Administration*, a *probate affiliate* or any other person (including a *non-**authorised person*** holding a *material interest*) may be liable to disciplinary action under these *regulations* or other regulations or bye-laws of *ICAEW*; and

b in the opinion of the *Probate Committee* needs to be investigated.

9.7 The *Investigation Committee* must inform the *Probate Committee* about any fact or matter which appears to it to be relevant to the powers and duties of the *Probate Committee* under these *regulations*.

Under regulations 9.6 and 9.7 information may be exchanged between the ICAEW committees responsible for regulation and discipline.

Chapter 10 - Regulatory action

This chapter explains how ICAEW may take regulatory action against an accredited probate firm, including withdrawal of accreditation if necessary.

Regulatory decisions come into effect as set out in regulations 10.9 to 10.10.

A firm may ask for a review of a decision and this is dealt with in chapter 11. A firm must apply for a review within 10 business days (or in some cases 28 days) of the decision being given to the firm.

Restrictions and conditions

- 10.1 ICAEW may impose restrictions or conditions on an *accredited probate firm* if it considers that:**
- a any of the circumstances mentioned in *regulation* 10.3a to 10.3f or 10.3j exist, or may exist, and the restrictions or conditions are justified;**
 - b the *firm* has not or may not have complied with these *regulations* in the past, and the restrictions or conditions are justified;**
 - c there is reason to believe that the *firm* may cease to comply with these *regulations* in the future and the restrictions or conditions are justified;**
 - d being *accredited* or continuing *probate work* without restrictions or conditions could adversely affect a client or any other person; or**
 - e it is appropriate to do so to ensure that *probate work* is undertaken, supervised and managed effectively.**
- 10.2 ICAEW may at any time vary or end a restriction or condition made under *regulation* 10.1.**

ICAEW may place conditions on how an accredited probate firm carries out or manages its probate work. These could be that a firm should undertake specified training or change its procedures.

ICAEW may place restrictions on an accredited probate firm such as:

- against the firm, for example that it cannot accept any new clients or probate work;
- against a principal, for example that a particular principal may no longer be an authorised individual; or
- that an employee may no longer be involved in probate work.

Where conditions or restrictions are imposed by ICAEW, a firm will have to undertake to comply with the terms of the restriction or condition. Any failure to deal with these matters is likely to be viewed extremely seriously.

Withdrawal of accreditation

- 10.3 ICAEW may withdraw a *firm's accreditation* if:**
- a it considers that the *firm* no longer meets one or more of the eligibility requirements of *regulations* 2.2 or 2.3;**
 - b it considers that the *firm* is not complying with the PII regulations;**

- c the *firm* is over 30 days late submitting the required returns or reports;
- d the *firm* has not paid the amounts due under *regulations* 2.14, 2.15 or 2.16 within 60 days of the date of an invoice under *regulation* 2.17;
- e the *firm* has not paid the costs in the time set by the *Review Committee* under *regulation* 11.4;
- f the *firm* has not paid in the time set any fines or costs ordered by the *Investigation Committee*, the *Disciplinary Committee*, or the *First-tier Tribunal*;
- g it considers that the *firm* has not complied with any restriction or condition under *regulation* 10.1 or any written undertaking that the *firm* has given to ICAEW;
- h it considers that the *firm* or any of its *principals*, *employees* and shareholders have not complied with any other *regulation* and, in the circumstances, withdrawal is justified;
- i it considers that the continued *accreditation* of the *firm* may adversely affect a client or any other person; or
- j in the case of a *licensed firm*, a *non-authorized person* holds an interest in the *firm* as a result of which the *firm* has ceased to comply with any of the *regulations* in chapter 6.

ICAEW may, as an alternative to regulatory action, accept a written undertaking from a firm that it will undertake a particular course of action.

Suspension

- 10.4 ICAEW may suspend *an accredited probate firm's accreditation* for a period if it considers that:
- a any of the circumstances mentioned in *regulation* 10.3a to 10.3g or 10.3j exists or may exist;
 - b the *firm* is not, or may no longer be, complying with these *regulations*; or
 - c the continuation of the *firm's probate work* could adversely affect a *client* or any other person.
- 10.5 During a period of suspension an *accredited probate firm*:
- a may continue with any ongoing *probate work* with the permission of the *Probate Committee*; but
 - b may not accept any new appointments for *probate work*.
- 10.6 ICAEW may vary or end a suspension made under *regulation* 10.4.

ICAEW can order that a firm's accreditation is suspended rather than withdrawing accreditation. This allows ICAEW to consider further evidence while protecting the public interest.

Urgent orders

- 10.7** ICAEW may impose restrictions or conditions on a *firm's accreditation* in the terms permitted by *regulation 10.1* by means of an urgent order if it considers that there is a need to do so.
- 10.8** *Regulation 10.7* is subject to ICAEW allowing the *accredited probate firm* an opportunity to make oral or written representations within 10 *business days* of the urgent order being made. Having considered any representations ICAEW may:
- a end the order; or
 - b continue the order.

Regulation 10.7 allows ICAEW to take immediate regulatory action if the need arises. ICAEW may do this in the case of, for example, serious allegations or if there is a potential or actual loss of client money. As well as making immediate representations on the fact that an urgent order has been made, a firm can ask for a review under regulation 11.2 of any underlying order made under regulation 10.1. The order comes into force when it is served on the firm (see regulation 10.9) and is not lifted if a review is requested.

Implementation of decisions and orders

- 10.9** A decision made under *regulations 2.5, 2.6, 2.13, 2.20, 2.21, 4.4, 4.6, 6.7, 6.8, 6.14, 6.15, 6.19, 6.21, 8.4, 8.5, 10.7, or 11.6* will come into effect as soon as notice of it is served on the *firm*.

The regulations quoted in regulation 10.9 concern the following:

- the grant or refusal of an application for accreditation under regulation 2.5;
- the decision to vary or end a condition or restriction on accreditation under regulation 2.6;
- decisions on applications to modify accreditation under regulation 2.13;
- the grant or refusal of dispensations under regulations 2.20 and 2.21;
- the grant or refusal of authorised individual status, or status as a Head of Legal Practice or Head of Finance and Administration under regulation 4.4;
- the decision to vary or end a condition or restriction on a person's status as an authorised individual, Head of Legal Practice or Head of Finance and Administration under regulation 4.6;
- the decision to approve a holding by a non-authorised person either unconditionally or subject to conditions, or to object to the holding, prior to the grant of a firm's accreditation under regulations 6.7 and 6.8;
- the decision to approve a holding of a material interest by a non-authorised person unconditionally following a firm's accreditation under regulation 6.14;
- the decision to approve a holding of a material interest by a non-authorised person subject to conditions, or to object to such a holding, following a firm's accreditation under regulation 6.15;
- the decision to impose conditions on a holding, or to object to a holding, of an existing material interest by a non-authorised person under regulation 6.19;

- the decision to vary or end a condition on a holding of a material interest by a non-authorised person under regulation 6.21;
- the grant or refusal of an application for probate affiliate status under regulation 8.4;
- the decision to vary or end a condition or restriction on a person's status as a probate affiliate under regulation 8.5;
- orders in respect of restrictions or conditions on a firm's accreditation that are made on a urgent basis under regulation 10.7; and
- First-tier Tribunal decisions under regulation 11.6.

10.10 A decision made under *regulations 4.7e, 5.1, 8.6 or 10.1* will come into effect 10 *business days* after notice of it is served on the *firm* or any later time that *ICAEW* specifies, except:

- a if a *firm* has applied for a review under *regulation 11.2*, the order will be postponed until an order under *regulation 11.3* has been put into effect; or**
- b if a *firm* has appealed under *regulation 11.5*, the order will be postponed until an order of the *First-tier Tribunal* under *regulation 11.6* has been put into effect.**

Decisions made under the regulations referred to in regulation 10.10 come into effect 10 business days after the firm has been given the decision. However, the decisions are postponed if an application for review or appeal is made. The decision of the Review Committee or First-tier Tribunal is the one that will come into effect.

The regulations referred to in regulation 10.10 concern the following:

- withdrawal of status as an authorised individual under regulation 4.7e;
- disqualification from status as a Head of Legal Practice or Head of Finance and Administration or from being a principal or an employee of a licensed firm under regulation 5.1;
- withdrawal of status as a probate affiliate under regulation 8.6; and
- the imposition of conditions or restrictions imposed on an accredited probate firm under regulation 10.1.

Regulation 1.5 details how decisions and orders are served on firms.

10.11 A decision made under *regulations 10.3 or 10.4* will come into effect 28 days after notice of it is served on the *accredited probate firm* or any later time that *ICAEW* specifies, except:

- a if a *firm* has applied for a review under *regulation 11.2*, the order will be postponed until an order under *regulation 11.3* has been put into effect; or**
- b if a *firm* has appealed under *regulation 11.5*, the order will be postponed until an order of the *First-tier Tribunal* under *regulation 11.6* has been put into effect.**

Decisions made under the regulations referred to in regulation 10.11 come into effect 28 days (rather than business days) after the firm has been given the decision. However, the decisions are postponed if

an application for review or appeal is made. The decision of the Review Committee or First-tier Tribunal is the one that will come into effect.

The regulations referred to in regulation 10.11 relate to the following:

- withdrawal of a firm's accreditation under regulation 10.3; and
- suspension of a firm's accreditation under regulation 10.4.

Chapter 11 - Review and appeal process

At the request of a firm or an accredited probate firm, a decision to refuse an application, grant it with conditions, withdraw a firm's accreditation or only allow it to continue with conditions or restrictions may be reviewed by ICAEW using the following process.

The same process may be used against a decision to reject an application for authorised individual status, Head of Legal Practice status, Head of Finance and Administration status or affiliate status. It may also be used against a decision to grant these applications with restrictions or conditions or to withdraw status altogether.

Similarly this process may be used against a decision to object to the holding or continued holding of a material interest or a decision to allow a holding subject to conditions.

11.1 In *regulations 11.2 to 11.7*, 'affected party' means a *firm*, an *accredited probate firm*, an applicant for *authorised individual* status, an *authorised individual*, an applicant for *Head of Legal Practice* status, a *Head of Legal Practice*, an applicant to *Head of Finance and Administration* status, a *Head of Finance and Administration*, an applicant for *probate affiliate* status, a *probate affiliate*, a person seeking approval of the holding of a *material interest*, or a person holding a *material interest* in a *licensed firm*.

Review

11.2a A party affected by a decision or order of *ICAEW* under these *regulations* may apply for a review in accordance with *regulations 11.2b* and *11.2c*.

11.2b An application for review must be made in writing to *ICAEW* within **10 business days** of service on the affected party of a decision or order made under:

- regulation 2.5b-* refusing to grant a *firm accreditation* as an *authorised or licensed firm*;
- regulation 2.5c* granting *accreditation* to a *firm* subject to conditions or restrictions;
- regulation 2.6* refusing to vary or end a condition or restriction on a *firm's accreditation* or varying a *firm's accreditation* in terms other than those sought in the *firm's* application;
- regulation 2.13* refusing to modify a *firm's accreditation* or modifying a *firm's accreditation* in terms other than those sought in the *firm's* application for modification;
- regulation 2.21* refusing to grant a dispensation from the *regulations*;
- regulation 4.4* refusing to grant *authorised individual, Head of Legal Practice* or *Head of Finance and Administration* status or granting such status subject to conditions or restrictions;
- regulation 4.6* refusing to vary or end a condition or restriction on a person's *authorised individual, Head of Legal Practice* or *Head of Finance and Administration* status, or varying the condition or restriction in terms other than those sought in the person's application;

- regulation 4.7e** withdrawing *authorised individual* status;
- regulation 5.1** disqualifying a person from acting as a *Head of Legal Practice* or *Head of Finance and Administration* or from being a *principal* or *employee* of any *licensed firm*;
- regulation 5.4** refusing to order that a person's disqualification shall cease to be in force;
- regulation 6.8** objecting to the holding of a *material interest* or granting approval subject to conditions;
- regulation 6.15** objecting to a change in the holding of a *material interest* or granting approval subject to conditions;
- regulation 6.19** objecting to the continued holding of a *material interest* or imposing conditions on that holding;
- regulation 6.21** refusing to vary or end a condition on the holding of a *material interest* by a *non-authorised person*, or varying the condition in terms other than those sought in the person's application;
- regulation 8.4b** refusing to grant *probate affiliate* status;
- regulation 8.4c** granting *probate affiliate* status subject to conditions or restrictions;
- regulation 8.5** refusing to vary or end a condition or restriction on a person's status as a *probate affiliate*, or varying the condition or restriction in terms other than those sought in the person's application;
- regulation 8.6** withdrawing *probate affiliate* status; and
- regulation 10.1** imposing restrictions or conditions on *accreditation*;
- 11.2c** An application for review must be made in writing to *ICAEW* within 28 days of service on the affected party of a decision or order made under:
 - regulation 10.3** withdrawing an *accredited probate firm's accreditation*; or
 - regulation 10.4** suspending an *accredited probate firm's accreditation*.
- 11.3** A meeting of the *Review Committee* will be arranged as soon as is practical after an affected party has applied under *regulation 11.2b* or *11.2c*. The *Review Committee* will consider the matter afresh and will hear new material put forward by the affected party. The *Review Committee* may make any decision which *ICAEW* could have made.
- 11.4** The *Review Committee* may order an affected party to contribute to the costs of the review.

The Review Committee has the same powers as ICAEW when making orders against a firm, an accredited probate firm, an applicant for authorised individual status, an authorised individual, an applicant for Head of Legal Practice status, a Head of Legal Practice, an applicant for Head of Finance and Administration status, a Head of Finance and Administration, an applicant for affiliate status or a probate affiliate. It can also make orders disqualifying persons from holding positions in

licensed firms (as set out in chapter 5) or from holding material interests in those firms (as set out in chapter 6).

It can impose the same, more severe or less severe orders. It can also award costs. Costs are likely to be awarded if, for example, the affected party fails to attend the review when it said it would, does not send in further material it has promised, or the application is frivolous.

Appeal

A firm or person who is the subject of a decision of the Review Committee and is dissatisfied with that decision can appeal to the First-tier Tribunal, which is an independent public body established under the Tribunals, Courts and Enforcement Act 2007. Appeals will be heard by the General Regulatory Chamber of the First-tier Tribunal and will be subject to the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. The First-tier Tribunal can only consider an appeal on any of the grounds in regulation 11.5. On appeal, the decision of the Review Committee is postponed until the First-tier Tribunal confirms or varies the decision (see regulation 10.10 and 10.11).

Upon an appeal the First-tier Tribunal has the powers set out in regulation 11.6.

The First-tier Tribunal can also award costs against either party to an appeal but will normally do so only where it considers that the party has acted unreasonably in bringing, defending or conducting the proceedings .

- 11.5 Within twenty-eight days of the *Review Committee* serving its decision on an affected party under *regulation* 11.3 the affected party may appeal to the *First-tier Tribunal*. An appeal can only be made on one or more of the following grounds:**
- a that the *Review Committee*:**
 - 1 was wrong in law; or**
 - 2 wrongly interpreted any relevant regulation, Bye-law, or associated guidance;**
 - b that the *Review Committee* made an order which no tribunal, correctly applying the law to the facts before it and acting reasonably, would have made; or**
 - c that there was evidence which the *Review Committee* had not considered and which:**
 - 1 could reasonably have led the *Review Committee* to make a different order; and**
 - 2 could not have been put before the *Review Committee* even if those concerned had done their best to produce it.**

An appeal cannot be made if this is only against the costs awarded by the Review Committee. Regulations 10.9 to 10.11 explain when orders come into effect.

- 11.6 On hearing the appeal the *First-tier Tribunal* may:**
- a affirm the *Review Committee*'s decision wholly or in part;**
 - b set aside the *Review Committee*'s decision wholly or in part;**
 - c substitute for all or part of the *Review Committee*'s decision a new decision which the *Review Committee* could have made;**

- d send the matter back to the *Review Committee* to be considered again (generally, or in accordance with a finding made or direction given by the *First-tier Tribunal*); or
- e dismiss the appeal.

11.7 If the *First-tier Tribunal* sends a matter back to the *Review Committee* under *regulation* 11.6 then *regulation* 11.3 will apply when the *Review Committee* reconsiders. The meeting of the *Review Committee* to reconsider the matter will be arranged as soon as is practicable.

Chapter 12 - Disciplinary arrangements

The Probate Committee does not have the power to apply the disciplinary arrangements of ICAEW to the firms that it accredits. Only the Disciplinary or Investigation Committees can do this. The bye-laws or rules already provide a framework for disciplinary action to be taken against members or firms and the purpose of this chapter is to apply the disciplinary arrangements of ICAEW to the firms that it accredits. Where the terms of these regulations differ from those of the bye-laws or rules, these regulations prevail.

Any fine imposed by the tribunal in the exercise of ICAEW's powers as a licensing authority cannot exceed the amount(s) from time to time stipulated by the Legal Services Board under section 95 of the Act (currently £250m in the case of a firm or £50m in the case of an individual: see the Legal Services Act 2007 (Licensing Authorities) (Maximum Penalty) Rules 2011 (SI 1659/2011).

Under regulation 12.2 the Disciplinary Committee shares with the Probate Committee the power to withdraw status as an accredited probate firm or authorised individual or to disqualify an individual from holding the status of Head of Legal Practice or Head of Finance and Administration or from being a principal of, or employed by, any licensed firm.

Appeals against decisions of the Disciplinary Committee under this chapter are made to the First-tier Tribunal under regulation 12.3 and are not subject to the separate appeal provisions of ICAEW's Disciplinary Bye-laws. See also the guidance relating to appeals to the First-tier Tribunal above regulation 11.5.

- 12.1 Save as provided below, the Disciplinary Bye-laws apply to breaches of these regulations:**
- a as if references in those Bye-laws to a firm or member firm are construed as references to an *accredited probate firm*; and**
 - b as if references in those Bye-laws to a *member* are construed as references to a *relevant person*.**
- 12.2 In addition to the powers of a tribunal set out in the Disciplinary Bye-laws, if the *Disciplinary Committee* considers that a complaint brought by the *Investigation Committee* under this chapter is proved, it will make a finding to that effect. The *Disciplinary Committee* will take the seriousness, the type of complaint and any other relevant circumstances into account and may make any of the following orders:**
- a that the *accredited probate firm or relevant person* be reprimanded or severely reprimanded;**
 - b that the *accredited probate firm or relevant person* be fined;**
 - c that status as an *accredited probate firm or authorised individual* be withdrawn; or**
 - d that an individual be disqualified under *regulation 5.1* from acting as the *Head of Legal Practice*, as the *Head of Finance and Administration* or as a *principal or employee of any licensed firm*.**
- 12.3 Within twenty-eight days of the *Disciplinary Committee* serving its decision on an affected party the affected party may appeal to the *First-tier Tribunal*.**
- 12.4 An appeal against a decision of the *Disciplinary Committee* under this chapter can only be made on one or more of the following grounds:**

- a that the *Disciplinary Committee*:
 - 1 was wrong in law; or
 - 2 wrongly interpreted any relevant regulation, Bye-law, or associated guidance;
- b that the *Disciplinary Committee* made an order which no tribunal, correctly applying the law to the facts before it and acting reasonably, would have made; or
- c that there was evidence which the *Disciplinary Committee* had not considered and which:
 - 1 could reasonably have led the *Disciplinary Committee* to make a different order; and
 - 2 could not have been put before the *Disciplinary Committee* even if those concerned had done their best to produce it; and/or
- d in the case of an appeal against the imposition of a fine,
 - 1 that the imposition of the fine is unreasonable in all the circumstances of the case;
 - 2 that the amount of the fine is unreasonable; or
 - 3 that it is unreasonable of the *Disciplinary Committee* to require the penalty imposed or any portion of it to be paid by the time or times by which it was required to be paid.

12.5 On hearing the appeal the *First-tier Tribunal* may:

- a affirm the *Disciplinary Committee*'s decision wholly or in part;
- b set aside the *Disciplinary Committee*'s decision wholly or in part;
- c substitute for all or part of the *Disciplinary Committee*'s decision a new decision which the *Disciplinary Committee* could have made; or
- d send the matter back to the *Disciplinary Committee* to be considered again (generally, or in accordance with a finding made or direction given by the *First-tier Tribunal*); or
- e dismiss the appeal; and/or
- f in the case of an appeal against the imposition of a fine:
 - 1 quash the fine;
 - 2 substitute a fine of such lesser amount as it considers appropriate; or
 - 3 change the time by which the fine is required to be paid.

Regulatory penalties

ICAEW may decide that a referral to the Investigation Committee to investigate an apparent failure to comply with these regulations is not appropriate. Instead, with the agreement of the firm, ICAEW may propose a regulatory penalty. The following regulations explain this process.

- 12.6** ICAEW may propose a *regulatory penalty* to an *accredited probate firm* subject to the following:
- a** the *accredited probate firm* must have agreed that the breach of these *regulations* has been committed;
 - b** ICAEW will decide the amount of the penalty and when it is to be paid and will set this out in the letter to the *accredited probate firm* proposing the penalty; and
 - c** if the *accredited probate firm* wishes to accept the terms on which the penalty is proposed, it must notify ICAEW within 10 *business days* of the date of service of the letter from ICAEW containing the proposal.
- 12.7** There are no rights of review or appeal against a *regulatory penalty*.
- 12.8** ICAEW will take account of any comments an *accredited probate firm* makes about the terms of the *regulatory penalty*. It may then reduce the amount of the penalty.
- 12.9** If the *accredited probate firm* accepts the penalty under *regulation 12.6c*, ICAEW, as soon as is practicable:
- a** will make an order; and
 - b** may publish the order in any way it decides.
- 12.10** Details of any penalty accepted, and the order made, will be kept by ICAEW and it may, if it wishes, use that information in the future.
- 12.11** If an *accredited probate firm* does not agree that the breach has been committed, or does not agree to the terms of the penalty proposed or fails to comply with the terms of the penalty, the matter may be dealt with under the Disciplinary Bye-laws.

Regulatory penalties are likely to be used, for example, where a firm has consistently been late in replying to letters from ICAEW, has failed to submit annual returns, has given incorrect information on the return, or has not honoured undertakings given to ICAEW.

There is no right of appeal, as a regulatory penalty can only be made with the firm's agreement. Once a matter has been settled by a regulatory penalty, there will be no further regulatory or disciplinary action against the firm on the matter. However, the details of the regulatory penalty will be put on the firm's record and may be taken into account in the future.

Royal Charter of the 11th May 1880

Victoria by the Grace of God

of the United Kingdom of Great Britain and Ireland Queen Defender of the Faith

TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING!

Whereas an Humble Petition has been presented to Us by the following Public Accountants namely William Turquand of Coleman Street in the City of London John Unwin Wing of Prideaux Chambers Sheffield Anthony Wigham Chalmers of 5 Fenwick Street Liverpool Henry Grosvenor Nicholson of 100 King Street Manchester Jarvis William Barber of Alliance Chambers George Street Sheffield and Charles Henry Wade and Edwin Guthrie both of Marsden Street Manchester setting forth (among other things) to the effect following:

That the Petitioner William Turquand is the President of a Society established in 1870 in London called the Institute of Accountants that the Petitioner John Unwin Wing is the President of a Society established in 1872 in London called the Society of Accountants in England that the Petitioner Anthony Wigham Chalmers is the President of a Society of Accountants established in 1870 at Liverpool that the Petitioner Henry Grosvenor Nicholson is the President of a Society of Accountants established in 1871 at Manchester that the Petitioner Jarvis William Barber is the President of a Society of Accountants established in 1877 at Sheffield and that the Petitioners Charles Henry Wade and Edwin Guthrie are Public Accountants at Manchester.

That the Profession of Public Accountants in England and Wales is a numerous one and their functions are of great and increasing importance in respect of their employment in the capacities of Liquidators acting in the winding-up of companies and of Receivers under decrees and of Trustees in bankruptcies or arrangements with creditors and in various positions of trust under Courts of Justice as also in the auditing of the accounts of public companies and of partnerships and otherwise.

That the aggregate number of members of the said societies exceeds 500 and in that number are comprised nearly all the leading Public Accountants of England and Wales.

That the said societies were not established for the purposes of gain nor do the members thereof derive or seek any pecuniary profit from their membership but the societies aim at the elevation of the profession of public accountants as a whole and the promotion of their efficiency and usefulness by compelling the observance of strict rules of conduct as a condition of membership and by setting up a high standard of professional and general education and knowledge and otherwise.

That in the judgement of the Petitioners it would greatly promote the objects for which the said societies have been instituted and would also be for the public benefit if the members thereof were incorporated as one body as besides other advantages such incorporation would be a public recognition of the importance of the profession and would tend to gradually raise its character and thus to secure for the community the existence of a class of persons well qualified to be employed in the responsible and difficult duties often devolving on Public Accountants.

That the Petitioners desire and propose that if incorporation by Charter is granted to them such conditions should be laid down as would require for the admission to membership of persons now already following the profession either long actual experience in the profession or service for a long time in the capacity of a Public Accountant's Clerk or else the passing of appropriate examinations under the supervision of the Corporation.

That with respect to the admission to membership of persons hereafter desirous of entering into the profession the Petitioners contemplate that subject to future determination by the Council or Governing Body of the Corporation a strict system of examination should be established including a preliminary examination to be held before the candidate for membership enters on service under articles an intermediate examination to be held in the course of his service and a final examination and that no person be allowed to present himself for the final examination unless he has served for five years at least or if he has graduated in any of the Universities of the United Kingdom then for three years at least under articles as a Public Accountant's Clerk.

That the examinations would (subject to future determination by the Governing Body of the Corporation) be of such a character as to test the knowledge of the candidates not only in bookkeeping and accounts but also in the principles of mercantile law and in the law and practice of bankruptcy and the winding-up of companies.

That the Petitioners believe that such a system would have an educational effect of a highly beneficial kind.

That the Petitioners further desire and propose that the Corporation should lay down such rules respecting admission to membership and exclusion therefrom as would prevent Public Accountants from mixing the pursuit of any other business with the discharge of the higher duties devolving on them as Public Accountants and as

would put an end to the practice which has been much objected to of the division of profits with persons in other professions or callings in the form of commission or the like.

That the Petitioners further desire that the members of the Corporation should be authorised to annex to their names distinctive letters indicative of their membership.

And whereas by the said Petition, the Petitioners on behalf of themselves and the other members of the said societies and of the profession generally most humbly prayed that We would be graciously pleased to grant our Royal Charter for incorporating under the title of the Incorporated Institute of Accountants in England and Wales or under such other title as to Us might seem fit and with all such powers and privileges as are mentioned in the Petition or such others as to Us might seem fit the Petitioners and the several persons who were then members of the said societies or of any of them and other Public Accountants who might thereafter become members of the Corporation in pursuance of the regulations thereof.

Now therefore we having taken the said Petition into Our Royal consideration and being satisfied that the intentions of the Petitioners are laudable and deserving of encouragement have constituted erected and incorporated and We by Our Prerogative Royal and of Our especial Grace certain knowledge and mere motion by these Presents for Us and Our Royal Successors do constitute erect and incorporate into one body politic and corporate by the name of THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES the said William Turquand John Unwin Wing Anthony Wigham Chalmers Henry Grosvenor Nicholson Jarvis William Barber Charles Henry Wade and Edwin Guthrie and such other persons as are by this Our Charter made or declared to be members or as shall hereafter be admitted as members of the said body corporate with perpetual succession and a Common Seal and with power to alter and renew the same at discretion Willing and ordaining that the said body corporate (hereinafter referred to as the Institute) shall be capable in law to take and hold any personal property and also to take purchase and hold lands buildings and hereditaments for the purposes of the Institute with power to dispose thereof but so that the Institute shall apply its profits (if any) or other income in promoting its objects and shall not at any time pay any dividend to its Members.

And we do also will ordain and declare as follows (that is to say): *(Clauses 1 to 28 inclusive were revoked by clause 32 (now clause 18) of the Supplemental Charter of 21st December 1948.)*

In Witness whereof We have caused these Our Letters to be made Patent.

Witness Ourselves at our Palace of Westminster, the Eleventh day of May in the Forty third Year of Our Reign.

By Her Majesty's Command,

CARDEW.

Supplemental Charter of the 21st December 1948

George the Sixth

by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith

TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING!

Whereas Our Royal Predecessor Queen Victoria in the year of Our Lord 1880 by Royal Charter dated 11th day of May in the forty-third year of Her Reign constituted the seven persons named therein a Body Politic and Corporate by the name of The Institute of Chartered Accountants in England and Wales with perpetual succession and a Common Seal.

And Whereas the said Institute of Chartered Accountants in England and Wales (hereafter referred to as 'the Institute') has presented a Humble Petition to Us setting forth to the effect following:

That the Institute since the grant of the said Royal Charter (hereinafter referred to as 'the Original Charter') has pursued the objects of the Original Charter and has aimed at the elevation of the accountancy profession as a whole and the promotion of its efficiency and usefulness by compelling the observance of strict rules of conduct as a condition of membership and by setting up a high standard of professional and general education and knowledge and has thereby secured for the community the existence of a class of persons well qualified to be employed in the responsible and difficult duties devolving on professional accountants.

That since the grant of the Original Charter the number of members of the Institute has greatly increased and is now about 14,000.

That since the grant of the Original Charter the duties and responsibilities of members of the Institute have been extended and widened as a result of the growth and development of industry and commerce and the increasing diversity and complexity of all forms of social and economic activity.

That it is the belief of the Institute that by reason of the foregoing the furtherance of the objects for which the Institute was originally constituted and incorporated has become increasingly desirable in the public interest and the responsibilities of the Institute have become of greater importance than at the date of the grant of the Original Charter.

That it is the belief of the Institute that the furtherance of the aforesaid objects would be facilitated and the public interest served if certain limits upon the operations of the Institute were extended and further powers and privileges granted to the Institute and if certain other variations were made in the Original Charter and if certain ordinances of the Original Charter with the aforesaid further powers and privileges and variations were restated in terms which would facilitate the management of the affairs of the Institute.

That the Institute being desirous of furthering the aforesaid objects and of serving the public interest desires that We should be graciously pleased to command that as from a date to be fixed by Us a new Royal Charter should be granted to the Institute supplemental to the Original Charter granting to the Institute certain additional powers and privileges and restating certain of the ordinances of the Original Charter with certain variations in the form and manner expressed in a document appended to the Petition but subject to any amendments and alterations which to Us may seem desirable.

That the Institute desires that it should be empowered to frame new bye-laws subject to confirmation by the Lords of Our Most Honourable Privy Council to give effect to the powers to be granted by such new Royal Charter but in the hope and humble expectation that We will be pleased to grant a new Royal Charter as aforesaid the members of the Institute at meetings held on the 21st April 1948 and the 5th May 1948 have approved the bye-laws appended to this Our Charter and signed by the President of the Institute and the Institute desires that We may be pleased to ordain that the said bye-laws shall become and be valid as the bye-laws of the Institute from the date fixed by Us as the date of the aforesaid new Royal Charter.

The Institute has by the said Petition most humbly prayed that We may be graciously pleased to grant to the Institute as from a date to be fixed by Us a new Royal Charter supplemental to the Original Charter granting to the Institute certain additional powers and privileges and restating with certain variations certain of the ordinances of the Original Charter in the manner hereinbefore expressed and empowering the Institute to frame new bye-laws subject to confirmation by the Lords of Our Most Honourable Privy Council to give effect to the powers to be granted by the said new Royal Charter and ordaining that the bye-laws appended to the Petition become and be valid from the said date as the bye-laws of the Institute.

Now therefore we having taken the said Petition into Our Royal consideration by virtue of Our Prerogative Royal and moved thereto by Our desire to further the objects of the Institute for Ourselves Our Heirs and Successors in addition to and notwithstanding anything to the contrary contained in the said Original Charter granted by Our Royal Predecessor Queen Victoria are graciously pleased to grant ordain and declare as follows namely:

Objects and powers

1 (a) The principal objects of the Institute are:

- (i) to advance the theory and practice of accountancy, finance, business and commerce in all their aspects, including in particular auditing, financial management and taxation;
- (ii) to recruit, educate and train a body of members skilled in these arts;
- (iii) to preserve at all times the professional independence of accountants in whatever capacities they may be serving;
- (iv) to maintain high standards of practice and professional conduct by all its members; and
- (v) to do all such things as may advance the profession of accountancy in relation to public practice, industry, commerce and the public service.

(b) In furtherance of its principal objects the Institute shall have the following ancillary objects and powers, namely:

- (i) to borrow with or without security, to purchase, take on lease of hire or in any other way acquire any real or personal property and to sell, lease, mortgage or otherwise deal in any way with any such real or personal property;
- (ii) to construct, alter and maintain any buildings considered necessary for the use of members and others or for any purposes of the Institute and to provide the same and any buildings and rooms in the occupation of the Institute with all proper and necessary fixtures, fittings, furniture and other equipment;
- (iii) to maintain a library or libraries for the use of members and others;
- (iv) to publish or distribute books pamphlets and journals relating to the affairs of the Institute or promoting and furthering the interests, usefulness and efficiency of members and others or of the accountancy profession generally;
- (v) to make gifts or contributions for national, public, educational or charitable purposes;
- (vi) to make grants to universities or other educational establishments, to provide finance and make grants for courses, lectures, classes or other tuition or for research and to establish scholarships or exhibitions and give prizes with a view to promoting or furthering the interests of members and prospective members of the Institute;
- (vii) to organise, finance and maintain schemes for the granting of diplomas, certificates and other awards (with or without prior examination) with a view to promoting the principal objects of the Institute and to provide, if it thinks fit (whether in such scheme or otherwise) and subject to payment of such fee, subscription or other sums as may be prescribed by or pursuant to the bye-laws of the Institute, for the use of designatory letters by persons granted such diplomas, certificates and awards; provided always that no such scheme shall become operative unless and until it shall have been approved by the Council of the Institute (in this Our Supplemental Charter referred to as 'the Council') and so that no designatory letters shall be used in connection with any such scheme unless such use shall have been expressly approved by the Lords of Our Most Honourable Privy Council; and provided also that no member shall in any circumstances be obliged to participate in any such scheme;
- (viiA) to organise and establish finance (directly or indirectly), maintain and participate in, and agree to be subject to, alone or in conjunction with one or more other bodies, a body or bodies, independent of the Institute, having responsibility for providing independent oversight of the accountancy profession and any related matter, including (but without limitation): considering and reviewing the standard setting activities of the Institute and its systems of discipline, professional conduct and regulation; adopting and publishing professional and ethical standards relevant to the profession; and adopting a scheme or schemes providing for the investigation and discipline of persons and bodies subject to it which shall, if the Institute so agrees, include persons and bodies subject to discipline by the Institute;
- (viii) to make grants or other contributions to local or other societies having as their object the furtherance of the objects of the Institute;
- (viiiA) without prejudice to the generality of sub-clause (a)(iv) and sub-clause (b)(viiA) of this clause, the Institute shall have power to organise, finance and maintain alone or in conjunction with one or more other professional accountancy bodies (together in this sub-clause called 'the participants') a scheme for investigating and making findings as to the professional or business conduct, efficiency and competence of any member of any of the participants or of any firm which is or at any time has been composed in whole or in part of members of any of the participants who are in public practice in Our United Kingdom, where (in any such case) in the opinion of the participants (or as laid down in the scheme) the circumstances to be investigated give rise to or include questions of public concern; and if any such finding be adverse to any member or firm as aforesaid the scheme may provide for the making of an appropriate order or orders against such member or firm. Any such scheme shall be binding upon the Institute, its members and firms as aforesaid. If any such scheme contains any provision which enables the Council (alone or in conjunction with others) to alter or amend the scheme, the Council shall not permit any alteration or amendment to be made which in the opinion of the Council would

- fundamentally alter the scheme as then in force, except with the further approval of the Institute in general meeting and of the Lords of Our Most Honourable Privy Council;
- (viiiB) to organise, establish, finance and maintain a scheme, system or arrangements for Practice Assurance, consisting of the inspection, monitoring and review of the professional and business efficiency and competence of:
- (a) any body corporate or partnership including a limited liability partnership which is wholly or partly composed of member engaged in public practice; or
 - (b) any member who holds a current practising certificate; or
 - (c) by agreement, any body corporate or partnership including a limited liability partnership or sole practitioner engaged in public practice as accountants;
- and to levy such fee as is prescribed by or pursuant to the bye-laws from such body corporate, partnership, sole practitioner or member;
- (viiiC) to perform any function which by virtue of, or for the purposes of, any statute or agreement may be performed by the Institute in relation to members, non-members or persons comprised wholly or partly of members or non-members;
- (ix) to pay remuneration to and the reasonable expenses of officers and servants of the Institute and to pay pensions and gratuities to, or to make other provision for, former officers and servants of the Institute and their dependants;
- (x) to pay such sums for the reasonable expenses of members of the Council as may be permitted by the bye-laws and to pay remuneration to and the reasonable expenses of any other persons (whether members of the Institute or not) who render services to the Institute;
- (xi) to organise, finance and maintain alone or in conjunction with one or more other professional accountancy bodies (and to delegate to any other person or body the operation and performance of) any schemes or arrangements for the compensation of loss, the monitoring of compliance, the investigation of complaints and discipline;
- (xii) to do, alone or in conjunction with others, the foregoing and all such other lawful things, in any manner whatsoever consistent with the provisions of this Our Supplemental Charter and the bye-laws of the Institute as from time-to-time in force (in this Our Supplemental Charter referred to as 'the bye-laws'), as may be incidental or conducive to promoting, furthering or protecting the interests, usefulness and efficiency of the Institute and its members and of the accountancy profession.

The Council

- 2** (a) There shall be a Council of the Institute and subject to the provisions of this Our Supplemental Charter and of the bye-laws, the management of the affairs and business of the Institute shall be vested in the Council which, in addition to the powers and authorities by this Our Supplemental Charter or otherwise expressly conferred on it, may exercise all such powers and do all such acts and things as may be exercised or done by the Institute as are not hereby or by the bye-laws required to be exercised or done by the Institute in general meeting but so that no addition to or rescission or variation of the bye-laws shall invalidate any prior act of the Council which would have been valid if the same had not been made.
- (b) Subject to the provisions of this our Supplemental Charter the Council may delegate any of its powers, authorities or discretions in accordance with the bye-laws.
- (c) The Council shall consist of such members and provisional members, with such qualifications and appointed or elected in such manner and holding office for such periods or on such terms as to re-appointment or re-election and otherwise, as may be prescribed by or pursuant to the bye-laws. The President, Deputy-President and Vice-President of the Institute shall also be the President, Deputy-President and Vice-President of the Council.

Classes of members

- 3** The members of the Institute shall be divided into two classes to be styled respectively fellows and associates of the Institute with such practising rights as may be prescribed by the bye-laws. There shall in addition be a class to be styled honorary members of the Institute for whom the bye-laws and regulations shall make express provision, and who may use after their name the designation 'FCA (Honorary)' (or such other letters as may be approved by the Privy Council). Save as so provided, the provisions of this Our Supplemental Charter and the bye-laws and regulations shall not apply to an honorary member of the Institute (but they shall apply to an honorary member who is or has been a member or an affiliate of the Institute to the same extent as to any other person who is or has been a member or an affiliate of the Institute). Provided always that honorary members shall not be members of the Institute and (save as aforesaid) may not use the designatory letters applicable to members for which clause 9 of this Our Supplemental Charter provides.

Continuance of existing members

- 4** The persons who at the date of the grant of this Our Supplemental Charter are fellows or associates of the Institute shall continue to be fellows or associates of the Institute subject to the provisions of this Our Supplemental Charter and of the bye-laws of the Institute.

Admission as associate

5 Any person who has satisfied such requirements as may from time-to-time be prescribed by or pursuant to the bye-laws in respect of training, examinations, fitness for membership or otherwise shall be entitled to be admitted an associate of the Institute.

Associate becoming a fellow

6 On and after the first day of January 1960 an associate of the Institute shall become a fellow of the Institute on the first day of January next following the completion by him of ten years of membership of the Institute: save that an associate may become a fellow before that date on establishing to the satisfaction of the Council and in such manner as the Council may require that he has been continuously for at least five years a member of the Institute in practice as a public accountant as his main occupation on which the decision of the Council shall be final. For the purposes of this Clause membership of the Society of Incorporated Accountants prior to becoming a member of the Institute shall be counted as membership of the Institute.

Associate becoming a fellow revised provisions

7 (a) The provisions of clause 6 of this Our Supplemental Charter shall cease to apply on the first day of January 1979. But until that date an associate shall become a fellow prior to the expiration of the qualifying period laid down in the said Clause 6 if he satisfies the Council in the prescribed manner as to his fitness to become a fellow.

(b) As from and including the first day of January 1979:

(i) an associate admitted to membership of the Institute prior to the first day of July 1978 shall automatically become a fellow on the first day of January next following the completion by him of five years of membership or on such earlier date on which he satisfies the Council in the prescribed manner as to his fitness to become a fellow;

(ii) an associate admitted to membership of the Institute on or after the first day of July 1978 shall become a fellow if but only if he satisfies the Council in the prescribed manner as to his fitness to become a fellow.

(c) A person shall satisfy the Council in the prescribed manner as aforesaid if he complies with such requirements (which may include but need not be limited to the passing of oral or written tests or both and evidence of practical accountancy experience) as shall be prescribed in regulations made from time-to-time by the Council in its absolute discretion.

Fees and subscriptions

8 Every person on his admission to be a member of the Institute shall pay such fee and every member shall pay such subscription or other sums as may be prescribed by or pursuant to the bye-laws of the Institute.

Description of members and distinctive letters

9 A member of the Institute may describe himself as a Chartered Accountant and may use after his name in the case of a fellow the initials F.C.A. (representing the words 'Fellow of the Institute of Chartered Accountants in England and Wales') and in the case of an associate the initials A.C.A. (representing the words 'Associate of the Institute of Chartered Accountants in England and Wales').

Power to organise, finance and maintain a scheme for 'Accounting Technicians'

10 Without prejudice to the generality of the powers conferred upon the Institute by this Our Supplemental Charter, the Institute shall have power to organise, finance and maintain a scheme for the training and qualification of a body of persons to be known as 'accounting technicians'. The powers conferred upon the Institute by this clause shall be exercisable by the Council and any such scheme shall be in such form as the Council may from time-to-time consider appropriate and in particular may include provision for adding to, rescinding or varying the scheme and any regulations made thereunder for the purpose of implementing the same.

Provided always that accounting technicians shall not be members of the Institute and that the Institute shall not be entitled to authorise the use of any designatory letters in connection with any such scheme.

Power to admit members of Scottish and Irish Institutes of Chartered Accountants

11 Notwithstanding anything in this Our Supplemental Charter or the bye-laws contained, the Council shall have power in its absolute discretion to admit to membership of the Institute any qualified member of The Institute of Chartered Accountants of Scotland or of The Institute of Chartered Accountants in Ireland upon such terms and conditions as the Council from time-to-time considers appropriate provided that such terms and conditions are also approved by the Council of the other Institute in question.

Power to admit members of overseas accountancy bodies

12 (a) Notwithstanding anything in this our Supplemental Charter or the bye-laws contained, the Council shall have power in its absolute discretion to admit to membership of the Institute any qualified member of any accountancy body or any individual authorised as an accountant by an appropriate authority outside the United Kingdom and the Republic of Ireland upon such terms and conditions as the Council from time-to-time considers appropriate provided that such accountancy body or, in the case of an authorising authority, the criteria upon which such individuals may be admitted to membership of the Institute, shall first have been approved by the Lords of Our Most Honourable Privy Council, but subject to paragraph (b) below.

- (b) Notwithstanding anything in this Our Supplemental Charter, the Council shall treat an application for membership of the Institute from a national of a member state of the European Union, or of a state in which the European Economic Area Agreement is in force, who holds a diploma in accountancy to which any Directive in force in the European Union (as adapted by the said Agreement) applies, in accordance with the said Directive, regulations made in pursuance thereof and, where appropriate, the said Agreement and the European Economic Area Act 1993.

Affiliate status

- 12A** (a) The Council shall have the power in its absolute discretion to grant affiliate status to persons not being members of the Institute upon such terms and conditions as the Council from time-to-time considers appropriate.
- (b) Every person on being granted affiliate status shall pay such fee and every affiliate shall pay such subscription or other sums as may be prescribed by or pursuant to the bye-laws of the Institute.
- (c) An affiliate shall be subject to the provisions as to discipline set out in this Our Supplemental Charter and of the bye-laws of the Institute, including any scheme maintained under sub-paragraphs (viiA) or (viiiA) of Clause 1(b) hereof, and references to members in such provisions shall be taken to include references to affiliates.
- (d) Provided always that affiliates shall not be members of the Institute and shall not be entitled to any of the rights of members (other than the rights of a member in disciplinary proceedings) and that the Institute shall not be entitled to authorise their use of any designatory letters.

Examinations

13 The Council shall from time-to-time cause examinations to be held of all persons seeking to become members of the Institute (or assessment to take place of such persons on such terms and conditions as the Council from time to time considers appropriate).

Persons ceasing to be members to have no claim on funds or property

14 If any person ceases for any cause whatever to be a member of the Institute he shall not nor shall his representatives have any interest in or claim against the funds or property of the Institute.

Power to make bye-laws

- 15** (a) The Institute may from time-to-time, by resolution passed by a majority of not less than two-thirds of the members present and voting (in person or by proxy) at a meeting specially convened for the purpose with at least twenty-one days' notice in writing (which expression shall be taken to mean written or produced by any substitute for writing or partly one and partly another, including in electronic form), make such bye-laws for regulating the affairs of the Institute as to the Institute seem fit and from time-to-time rescind or vary any of the bye-laws and make others in their stead, but so that the bye-laws shall not be in any respect inconsistent with the express provisions of this Our Supplemental Charter.
- (b) No new bye-law and no rescission or variation of any bye-law shall have effect unless and until the same has been submitted to and allowed by the Lords of Our Most Honourable Privy Council, of which allowance a Certificate under the hand of the Clerk of Our said Council shall be conclusive.
- (c) Unless and until added to rescinded or varied, the bye-laws in force immediately upon the allowance of this clause by Us in Council shall constitute the bye-laws.

Power to make regulations

16 The Council may from time-to-time make such regulations as it thinks fit for any of the following purposes:

- (a) carrying into effect any provision of this Our Supplemental Charter or of the bye-laws or otherwise for regulating the affairs of the Institute; or
- (b) the Institute carrying out the functions of a designated professional body or a recognised professional body or a recognised supervisory body or a recognised qualifying body, under applicable legislation whether within the United Kingdom, the Isle of Man, the Channel Islands or the Republic of Ireland, or under equivalent legislation in other jurisdictions, or for the purpose of carrying out any other functions thereunder; or
- (c) without prejudice to the generality of the foregoing, the Institute carrying out any function which by virtue of, or for the purposes of, any statute or agreement may be performed by the Institute;

and may rescind, vary or add to any such regulations provided always that no such regulations shall be in any way inconsistent with the express provisions of this Our Supplemental Charter or of the bye-laws.

Power to amend Supplemental Charter

17 The Institute may from time-to-time by resolution passed by a majority of not less than two-thirds of the members present and voting (in person or by proxy) at a meeting specially convened for the purpose with at least twenty-one days' notice in writing (which expression shall be taken to mean written or produced by any substitute for writing or partly one and partly another, including in electronic form) alter amend or add to this Our Supplemental Charter and such alteration amendment or addition shall when allowed by Us in Council become effectual so that the said Original Charter and this Our Supplemental Charter shall thenceforth continue to operate as if they had originally been granted and made accordingly.

Revocation of Clauses 1–28 of the Original Charter

18 Clauses numbered 1–28 inclusive of the said Original Charter shall be revoked and be of no effect but all admissions elections appointments acts and things lawfully effected made or done under and in accordance with powers granted under any of the aforesaid clauses of the said Original Charter shall be deemed to have been effected made or done under powers granted by this Our Supplemental Charter and shall operate and take effect from the date of such admission election appointment or act.

Supplemental Charter and Original Charter to be read as one

19 As far as is consistent with the terms hereof this Our Supplemental Charter shall be read as one with the said Original Charter and henceforward shall operate as though it had been granted with the said Original Charter.

Scheme of Integration

20 Notwithstanding anything hereinbefore in this Our Supplemental Charter contained, the Institute shall have power to carry into effect the Scheme of Integration dated the 5th day of December 1956 for the integration of the Society of Incorporated Accountants with the Institute (a copy of which Scheme is appended to this Our Supplemental Charter) and the provisions of such Scheme shall be binding upon the Institute and its members. Subject to clause 15 of this Our Supplemental Charter the Institute may make such bye-laws for the purpose of carrying the said Scheme into effect as to the Institute seem fit and may from time-to-time rescind or vary any such bye-laws and make others in their stead; and any such bye-law may empower the Council to issue regulations for the purpose aforesaid. The above mentioned Scheme of Integration shall be alterable in like manner and upon the like conditions as the bye-laws of the Institute and references in this Our Supplemental Charter and the bye-laws to the said Scheme shall be construed as references to such Scheme as from time-to-time in force.

In Witness whereof We have caused these Our Letters to be made Patent.

Witness Ourselves at Westminster this twenty-first day of December in the thirteenth year of Our Reign.

By Warrant under the King's Sign Manual.

NAPIER.

Principal Bye-laws

Made under article 15 of the Supplemental Charter dated 21st December 1948.

- **1 Interpretation of terms and citation**
 - Interpretation of terms and citation
- **2 Admission to Membership**
 - Admission to and refusal of membership
 - Admission notwithstanding informality in training
 - Applications for admission to membership
 - Honorary members
- **3 Members**
 - Certificate of membership
 - Resignation of membership
 - Cessation of membership
 - Return of certificates
 - Re-admission of former members
- **4 Meetings of the Institute**
 - Annual meeting
 - Special meeting
 - Meeting at more than one place
 - Notice of meetings
 - Notice of motions
 - Transmission of accompanying documents
 - Chairman of meeting
 - Quorum at meetings
 - Lack of quorum
 - Adjournment of meetings
 - Amendment to resolutions
 - Polls
 - Each member to have one vote
 - Chairman's casting vote
 - Validity and result of vote
 - Form of proxy
 - Proxy must be a member
 - Deposit of proxy
 - Validity of vote by proxy
 - Minutes of meetings of the Institute
- **5 Fees and Subscriptions**
 - Fees and subscriptions
 - Annual subscriptions: when payable
 - Power to waive, reduce, remit or refund fees and subscriptions

- Power to vary fees and subscriptions
- Practice Assurance fees
- **6 The Council**
 - Composition of Council
 - Election by constituencies
 - [Deleted]
 - Term of office of elected members
 - Co-opted members of Council
 - A - Ex officio members of Council
 - B - Ex officio members of Council
 - Vacation of office of Council members
 - Election to Council - disciplinary orders against candidates
 - Resignation of Council members
 - Removal of Council members
- **7 Proceedings of the Council**
 - Meetings of Council
 - Adjournment of meetings
 - Quorum of Council
 - Election of President, Deputy-President and Vice-President
 - Removal of President, Deputy-President and/or Vice-President
 - Ex officio membership of Committees
 - Chairman of Council
 - Voting at meetings of Council
 - Minutes of meetings of Council and Committees
 - Validity of proceedings
- **8 Delegation**
 - Committees, Sub-committees or other person or persons
 - Head of staff
- **9 Public Practice**
 - Conditions for engaging in public practice
 - Eligibility to hold practising certificate
 - Issue of practising certificates
 - [Deleted]
 - Use of designations
- **10 Continuing Professional Development**
- **11 comprising bye-law 57, Deleted**
- **12 Appeals**
 - Appeals
- **13 Common Seal**
 - Custody of Common Seal
 - Use of Common Seal

- **14 Authentication of Documents**
 - Authentication of documents
- **15 Audit**
 - Appointment of auditors
 - Retirement of auditors
 - Nomination of auditors
 - Removal of auditors
 - Auditor's right to attend meetings
- **16 Notices**
 - Notices
 - Suspension of postal services
- **17 Indemnity and Expenses**
 - Indemnification of Council member and others
 - Council members and others not to be liable for losses
 - Expenses of members of Council

1 Interpretation of Terms and Citation

Interpretation of terms

1. a. In these bye-laws, unless inconsistent with the subject or context:
 - i. the following expressions shall have the following meanings:
 - ii. the expression 'these bye-laws' includes the Schedules which shall have the same status and effect as if they were set out herein as part hereof; and
 - iii. references to Schedules are to the Schedules to these bye-laws.
- b. The Interpretation Act 1978 applies to these bye-laws in the same way as it applies to an enactment.
- c. The headings are inserted for convenience only and shall not affect the construction of these bye-laws.
- d. These bye-laws may be cited as the Principal Bye-laws of the Institute of Chartered Accountants in England and Wales.

Appeal Committee means the Appeal Committee appointed by the Council under the Schedule to the Disciplinary Bye-laws (appointment of Investigation, Disciplinary and Appeal Committees);

approved training means practical training and experience approved by the Council and obtained at or from a training office;

Committee means a committee appointed by the Council pursuant to bye-law 49(a) (concerning delegation of powers to committees) and any of the Appeal Committee, the Disciplinary Committee and the Investigation Committee;

Council means the Council of the Institute;

Disciplinary Bye-laws means the Disciplinary Bye-laws of the Institute;

Disciplinary Committee means the Disciplinary Committee appointed by the Council under the Schedule to the Disciplinary Byelaws (appointment of Investigation, Disciplinary and Appeal Committees);

electronic form includes electronic transmission in any form through any medium (including, without limitation, telephonic, facsimile and email transmission, and publication on the Internet);

head of staff means the person appointed by the Council pursuant to bye-law 50 (power to appoint head of staff);

Investigation and Discipline Scheme means the Scheme made and adopted on behalf of the Accountancy Investigation and Discipline Board Limited by its managing body, the Accountancy Investigation and Discipline Board, in which the Institute participates pursuant to sub-clause 1(b)(viiA) of the Supplemental Charter, and in these byelaws any reference to the Investigation and Discipline Scheme shall be deemed also to include the Joint Disciplinary Scheme;

Investigation Committee means the Investigation Committee appointed by the Council under the Schedule to the Disciplinary Bye-laws (appointment of Investigation, Disciplinary and Appeal Committees);

in writing means written or produced by any substitute for writing or partly one and partly another, including in electronic form; Joint Disciplinary Scheme means the Scheme established with other accountancy bodies pursuant to sub-clause 1(b)(viiiA) of the Supplemental Charter (power to establish a disciplinary scheme);

member means a member of the Institute and membership shall be construed accordingly;

member firm means

- a. a member engaged in public practice as a sole practitioner; or
- b. a partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- c. a limited liability partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- d. any body corporate (other than a limited liability partnership) engaged in public practice of which:
 - i. 50 per cent or more of the directors are members; and
 - ii. more than 50 per cent of the nominal value of the voting shares is held by members; and
 - iii. more than 50 per cent of the of the aggregate in nominal value of the voting and non-voting shares is held by members;

order includes any finding, term or condition in consequence of or upon which the order is made;

practice and public practice mean practice as a public accountant in any part of the world otherwise (subject to bye-law 51(b) (concerning directors of a body corporate and members of limited liability partnerships)) than as an employee;

practising certificate means a certificate issued to a member by the Institute authorising him to engage in public practice;

provisional member (formerly known as student) means a person:

- a. who is training under a training contract; or
- b. who has trained under such contract and is eligible either to sit for the professional examinations of the Institute or, having successfully sat those examinations, to apply for membership, and for the purposes only of this definition an order under bye-law 22(7)(d) of the Disciplinary Bye-laws (concerning eligibility to sit examinations) shall be disregarded;

registered address means:

- a. in the case of a member in practice, the place of business registered by him with the Institute or, where more than one such place of business is registered by him, such place of business indicated by him as being his principal place of business; and
- b. in the case of a member not in practice, the address registered by him with the Institute;

regulations or regulation means regulations made by the Council or any Committee or Sub-committee pursuant to clause 16 of the Supplemental Charter (power to make regulations) and for the time being in force;

Royal Charters means the Royal Charter dated 11th May 1880 and the Supplemental Charter dated 21st December 1948; Sub-committee means a sub-committee appointed by a Committee pursuant to bye-law 49(b) (power to delegate to sub-committees); Supplemental Charter means the Supplemental Royal Charter dated 21st December 1948;

Sub-committee means a sub-committee appointed by a Committee pursuant to bye-law 49(b) (power to delegate to sub-committees);

Supplemental Charter means the Supplemental Royal Charter dated 21st December 1948;

training contract means a contract of approved training registered with the Institute and in such form and containing such provisions as may be prescribed in regulations, made between a candidate for membership and the person or firm at or from whose office the approved training is to be given;

training office means an office which for the time being is authorised pursuant to regulations to train provisional members;

United Kingdom includes the Channel Islands and the Isle of Man;

2 Admission to Membership

Admission to and refusal of membership

2. a. All admissions to and refusals of membership shall be by the Council or as it may by regulation prescribe.
- b. An applicant for admission to membership must satisfy such requirements as to education, approved training, examinations, fitness for membership or otherwise as shall be prescribed in regulations.

Admission notwithstanding informality in training

3. The Council may, in any particular case in which it considers it desirable to do so, admit a person to membership notwithstanding any deficiency in his training contract or his approved training thereunder.

Applications for admission to membership

4. a. An application for admission to membership shall be in writing and shall be signed by the applicant who shall thereby undertake, if admitted, to be bound by the Royal Charters, bye-laws of the Institute and regulations for the time being in force.
- b. Every such application shall comply with such other requirements (not being inconsistent with these bye-laws) as shall be prescribed in regulations.

Honorary members

- 4A. a. The Council may, by a resolution passed by a majority of not less than three-fourths of the members present and voting at a meeting, admit a person to be an honorary member of the Institute.
- b. An honorary member (in his capacity as an honorary member):
 - i. shall not be bound by the Supplemental Charter and the bye-laws and regulations except where these make express provision relating to honorary members;
 - ii. shall not be liable to pay any fee or subscription to the Institute;
 - iii. is not entitled to receive notice of or attend or vote at any meetings of the Institute; and
 - iv. for the avoidance of doubt, shall not be subject to the provisions as to discipline set out in the Supplemental Charter and in the bye-laws.
- c. The Council may by a resolution passed by a majority of not less than three-fourths of the members present and voting at a meeting, remove a person from honorary membership for good cause."

3 Members

Certificate of membership

5. A member shall be entitled on being admitted to membership.

Resignation of membership

6. A member may tender his resignation by notice to the Institute and on its acceptance by the Council, but not until then, he shall cease to be a member. Provided that any member whose notice of resignation has not been received before 1st February in any year shall remain liable for any fees or subscriptions in respect of that year.

Cessation of membership

7. A member shall thereupon cease to be a member:
 - a. if he has a bankruptcy order made against him;
 - b. if he fails to pay his annual subscription by 31st March in the year in which it becomes due or any increase in such subscription before the expiration of three months after the increase becomes due unless the Council otherwise decides; or
 - c. if he fails to comply with any order as to fines and/or costs made by the Investigation Committee, the Disciplinary Committee or the Appeal Committee or any Tribunal appointed under the Investigation and Discipline Scheme by the date or dates upon which the same are due. Provided that in respect of a member whose registered address is outside the United Kingdom, the Council may, if it is satisfied that for legal reasons beyond the member's control he is unable to remit the amount due, extend the period within which the amount must be paid.

Return of certificates

8.
 - a. If a person ceases for any reason to be a member he shall thereupon forthwith return to the Institute all certificates issued to him by the Institute, including his certificate of membership, practising certificate and examination certificates (if any), unless the Council otherwise decides.
 - b. On the coming into force of any order made against a person, or body under the Disciplinary Bye-Laws, that person or body shall forthwith return to the Institute all certificates issued to him or it by the Institute which are affected by the order.

Re-admission of former members

9. Any person who has ceased for any reason to be a member may be re-admitted to Council may consider appropriate.

4 Meetings of the Institute

Annual meeting

10.
 - a. The annual meeting shall be held in London on the first Tuesday in June in every year or at such other place in England or Wales or on such other day (being not earlier than the first Tuesday in May and not later than the second Tuesday in June) as the Council may decide.
 - b. The ordinary annual business of the Institute shall be the appointment or re-appointment of auditors and the reception and consideration of the annual report of the Council and the accounts of the Institute with the auditors' report thereon.

Special meeting

11.
 - a. Council may whenever it thinks fit convene a special meeting and shall do so:
 - i. on receipt by the Institute of a requisition in writing, signed by not less than two hundred and fifty members and stating the object of the proposed meeting, provided both that the said requisition requires the special meeting to be held on the same day as the annual meeting of the Institute and that the Institute has received the said requisition not later than 21st February in the relevant year; or
 - ii. within 56 days from the receipt by the Institute of a requisition in writing signed by not less than one per cent of the members as at the end of the calendar year prior to the date of the said requisition and stating the object of the proposed meeting.
 - b. A requisition may consist of several documents in like form each signed by one or more members.

Meeting at more than one place

- 11A.
 - a. The Council may resolve to enable members to attend an annual or special meeting by simultaneous attendance and participation at more than one place. The members present in person or by proxy at each meeting place shall be counted in the quorum for, and entitled to vote at, the meeting in question. That meeting shall be duly constituted and its proceedings valid if the chairman of the meeting is satisfied that members attending at all the meeting places are able to:
 - i. participate in the business for which the meeting has been convened;
 - ii. hear and see all persons who speak (whether by the use of microphones, loudspeakers, audio-visual communications equipment or otherwise) in the principal meeting place (as defined in paragraph (b) of this bye-law) and any other meeting place; and
 - iii. be heard and seen by all other persons so present in the same way.
 - b. The meeting shall be deemed to take place at the place at which the chairman of the meeting is present (the "principal meeting place").

Notice of meetings

12.
 - a. An annual or special meeting shall be called by at least twenty-one days' notice, exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held. The notice shall specify the date, time and place of the meeting and, in the case of a meeting at which business other than the ordinary annual business of the Institute is to be transacted, the general nature of that business and shall be given in manner hereinafter mentioned to all members other than any as are not entitled to receive notices from the Institute. In the case of an annual meeting, the notice shall also specify the meeting as such and shall be accompanied by a copy of the annual report of the Council, subject to paragraph (c) of this bye-law a summary financial statement which complies with paragraph (d) of this bye-law, a list of the persons nominated or deemed to be nominated as auditors and particulars of any motions to be brought before the meeting under bye-law 13 (notice of motions).
 - b. Every notice calling a meeting of the Institute shall be accompanied by a form of proxy complying with the provisions of bye-law 23 (form of proxy). Except that the Institute shall not be obliged to send out forms of proxy to the members for use at any adjourned meeting.
 - c. The Institute shall send a copy of its accounts with the auditors' report thereon, instead of a summary financial statement, to any member who has given written notification to that effect to the Institute in such form as the Council may determine or accept and who has not revoked it.
 - d. Every summary financial statement shall be derived from the accounts of the Institute, shall include the auditors' statement thereon and shall have been approved by the Council.

Notice of motions

13. A member wishing to bring before the annual meeting any motion not relating to the ordinary annual business of the Institute may do so provided that:
 - a. the Institute has received notice of the proposed motion not later than 21st February in the relevant year;
 - b. the Institute has received notice from not less than ten members entitled to vote at the annual meeting not later than 21st February in the relevant year expressing their desire that the proposed motion should be brought before the annual meeting; and
 - c. the proposed motion relates to matters affecting the Institute or the accountancy profession.
- 13A. The Institute shall circulate with the notice calling the annual meeting before which any such motion as is referred to in bye-law 13 (notice of motions) is to be brought a statement not exceeding 1,000 words explaining the grounds on which the said motion is to be proposed. Provided that:
 - a. the Institute shall have received notice to that effect and a copy of the said statement not later than 21st February in the relevant year; and
 - b. the Institute shall not be bound to circulate a statement if it is reasonably satisfied that the rights conferred by this bye-law are being abused to secure needless publicity for a defamatory matter.

Transmission of accompanying documents

- 13B.** Notwithstanding anything in these bye-laws to the contrary any communication to be given, sent, supplied, delivered or provided to any person by the Institute, whether pursuant to the Charter, these bye-laws or otherwise may be delivered or supplied in electronic form or by making them available on a website in accordance with these bye-laws.

Chairman of meeting

- 14.** At all meetings of the Institute the President or in his absence the Deputy-President or in his absence the Vice-President shall be chairman. If at any meeting the President, Deputy-President and Vice-President are not present within fifteen minutes after the time appointed for the meeting and willing to act, the members of the Council present shall choose one of their number to be chairman of the meeting. If no member of the Council is present or if all the members of the Council present decline to take the chair, the members present shall choose one of their number to be chairman of the meeting.

Quorum at meetings

- 15.** Subject as hereinafter provided with regard to adjourned meetings, the quorum at any annual meeting shall be twenty members present in person and the quorum at any special meeting shall be thirty members present in person. No business other than the appointment of a chairman shall be transacted at any annual or special meeting unless the requisite quorum is present at the time when the meeting proceeds to business.

Lack of quorum

- 16.**
- a. If within fifteen minutes after the time appointed for an annual meeting (or such longer interval as the chairman of the meeting may determine) a quorum is not present, or if during the meeting a quorum ceases to be present, the meeting shall stand adjourned to such other date (being not less than fourteen nor more than twenty-eight days thereafter) and such time and place as the chairman of the meeting may determine. At such adjourned meeting any members present in person shall be a quorum and shall have power to pass any resolution and to transact all business which could lawfully have been transacted at the meeting from which the adjournment took place. At least seven days' notice of any meeting adjourned through want of a quorum shall be given in the same manner as for the original meeting.
 - b. If within fifteen minutes after the time appointed for a special meeting (or such longer interval as the chairman of the meeting may determine) a quorum is not present, or if during the meeting a quorum ceases to be present, the meeting shall be dissolved.

Adjournment of meetings

- 17.** Subject to these bye-laws the chairman of any meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time (or sine die) and from place to place. No business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. Where a meeting is adjourned sine die, the date, time and place for the adjourned meeting shall be fixed by the Council and not less than seven days' notice of the adjourned meeting shall be given in the same manner as for the

original meeting. Subject thereto and as provided in bye-law 16 (lack of quorum), no notice need be given of an adjourned meeting unless it be so directed in the resolution for adjournment.

Amendment to resolutions

- 18.
- a. No amendment shall be permitted to any resolution to alter, amend or add to the Supplemental Charter or these bye-laws or the Disciplinary Bye-Laws except with the consent of the chairman of the meeting and then only if in the opinion of the chairman (whose decision shall be final) the amendment is one of form and not of substance.
 - b. If an amendment is proposed to any resolution under consideration but is in good faith ruled out of order by the chairman of the meeting the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.

Polls

- 19.
- a. At any annual or special meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless:
 - i. before or on the declaration of the result of the show of hands a poll is demanded by the chairman of the meeting or by at least twenty-five members present in person or by proxy; or
 - ii. the resolution is to alter, amend or add to the Supplemental Charter or these bye-laws or the Disciplinary Bye-Laws, in which event a poll shall be taken without any show of hands or demand as aforesaid.
 - b. A demand for a poll may, before the poll is taken, be withdrawn. A demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
 - c. If a poll is duly demanded or is required to be taken, it shall be taken in such manner as the chairman of the meeting may direct. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded or required to be taken. The chairman of the meeting may appoint scrutineers (who need not be members) and may adjourn the meeting to a date, time and place fixed by him for the purpose of declaring the result of the poll.
 - d. A poll demanded on the choice of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded or required to be taken on any other question shall be taken either immediately or at such subsequent date (being not more than twenty-eight days after the date of the meeting), time and place as the chairman of the meeting may direct. Any business other than that upon which a poll has been demanded or is required may be proceeded with pending the taking of the poll. No notice need be given of a poll not taken immediately.
 - e. On a poll, votes may be given personally or by proxy.

Each member to have one vote

20. On a show of hands every member present in person shall have one vote and on a poll every member present in person or by proxy shall have one vote.

Chairman's casting vote

21. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded or is required to be taken shall be entitled to a second or casting vote.

Validity and result of vote

22. a. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered. Every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting whose decision shall be final.
- b. Unless a poll is taken a declaration by the chairman of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against the resolution.

Form of proxy

23. a. The instrument appointing a proxy shall be in writing in such form as the Council may determine or accept and shall be signed by the appointor or his attorney duly authorised in writing. The signature on such instrument need not be witnessed.
- b. An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Proxy must be a member

24. A proxy must be a member.

Deposit of proxy

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, must be deposited at such place or one of such places (if any) as may be specified for that purpose in or by way of note to or in any document accompanying the notice convening the meeting or, if no place is so specified, with the head of staff at such place within the United Kingdom as the Council may from time to time prescribe not less than 48 hours before the time for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used. In default it shall not be treated as valid. The instrument shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

- 25A.**
- a. The Council may allow a proxy to be appointed, and the instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, to be sent, in electronic form or by means of a website, on such terms and conditions as it thinks fit. Provided that such instrument and other documents must be deposited by the time specified in bye-law 25.
 - b. If and to the extent that the Council allows appointments to be made and documents to be sent in this way, any provisions of these bye-laws which are inconsistent therewith shall be of no effect in relation thereto. The Council may require such evidence it thinks fit to satisfy itself that any such appointment or document is genuine.

Validity of vote by proxy

- 26.** A vote given or demand for a poll made in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointor or the revocation of the appointment of the proxy or of the authority under which the appointment was made: Provided that no notice of such death, insanity or revocation was received at the address for the time being applicable for the purposes of bye-law 25 (deposit of proxy) before the commencement of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) the time appointed for the taking of the poll at which the proxy is used.

Minutes of meetings of the Institute

- 27.** Proper minutes shall be recorded of all resolutions and proceedings of meetings of the Institute. Every minute signed by the chairman of the meeting to which it relates or by the chairman of a subsequent meeting shall be sufficient evidence of the facts therein stated.

5 Fees and Subscriptions

Fees and subscriptions

28. The fees and subscriptions payable by members shall be those in force immediately before this bye-law came into effect or as from time to time approved by members at a meeting in accordance with bye-law 31.

Annual subscriptions: when payable

29. All annual subscriptions payable under these bye-laws shall be due and payable on 1st January in each year or, in the case of members admitted after that date, as shall be prescribed in regulations.

Power to waive, reduce, remit or refund fees and subscriptions

30. Notwithstanding anything contained in these bye-laws the whole or any part of any fees or subscriptions payable by a member may be waived, reduced, remitted or refunded and the period within which payment must be made may be extended in such manner as may be prescribed in regulations.

Power to vary fees and subscriptions

31. The Institute may from time to time by resolution passed by a majority of the members present and voting (in person or by proxy) on a poll at a meeting change the then prevailing rates or types of fees and subscriptions payable by any or all members.

Practice Assurance Fees

- 31A. For the purposes of bye-laws 28, 30 and 31 the term "fees" does not include the fees payable under bye-law 54.

6 The Council

Composition of Council

32. The Council shall consist of not more than 85 elected members, not more than 20 co-opted members appointed under bye-law 36 (co-opted members of Council), not more than five ex officio members appointed under bye-law 36A and not more than 10 ex officio members appointed under bye-law 36B (ex officio members of Council) and may act notwithstanding any vacancy in its body.

Election by constituencies

33. Election to the Council shall be on the basis of constituencies. The number and areas and/or type of such constituencies and the number of members which each constituency is to be entitled to elect to the Council shall be such as may be prescribed in regulations; and such regulations shall also, subject to any express provisions of these bye-laws, prescribe:
- i. the manner and conduct of Council elections including but not limited to the timing of such elections, the notices to be issued, the procedure for nominating candidates, the procedure for holding, voting at, determining and announcing the results of elections and the procedure for filling any casual vacancies among the elected members of the Council; and
 - ii. eligibility to stand for election, to join in nominating a member for election, and to vote on any election to the Council in respect of any particular constituency.

34. [Deleted]

Term of office of elected members

- 35.
- a. An elected member's term of office is in these bye-laws referred to as his 'elected term of office'.
 - b. An elected member of the Council shall assume office at the conclusion of the annual meeting of the Institute next following his election. Provided that, if a vacancy occurs among the elected members of the Council otherwise than because an elected member of the Council has come to the end of his elected term of office and otherwise than at the conclusion of an annual meeting, the person who is elected to fill such vacancy shall assume office fourteen clear days after election.
 - c. An elected member of the Council shall, subject to these bye-laws and the Disciplinary Bye-Laws, be entitled to hold office until the conclusion of the fourth annual meeting after that at which he assumed office.
 - d. An elected member of Council shall be eligible for re-election at the election immediately preceding the Annual Meeting at which he would otherwise retire from office.
 - e. If a vacancy occurs among the elected members of the Council otherwise than because an elected member of the Council has come to the end of his elected term of office³, the person who is elected to fill such vacancy shall hold office only for the remainder of the elected term of office of the elected member of the Council whose vacancy he fills; and in relation to any such person the expression 'elected term of office' shall be construed accordingly.

Co-opted members of Council

- 36.
- a. The Council may appoint any member or provisional member to be a co-opted member of the Council provided that there shall not be more than twenty co-opted members in office at any one time.
 - b. A co-opted member of the Council shall not be appointed for a term exceeding four years at any one time nor shall he be entitled to remain a member of the Council after he has attained the age of seventy years. Subject as aforesaid, a co-opted member of the Council whose term of appointment has expired shall be eligible for further co-option.
 - c. Every appointment of a co-opted member of the Council shall be reported to the next succeeding annual meeting.

Ex officio members of Council

- 36A. A member of the Council chosen as President, Deputy-President or Vice-President in accordance with bye-law 43 (election of President, Deputy-President and Vice-President) shall thereupon become an ex officio member of the Council (in substitution for any other membership of the Council which shall be deemed to have been vacated) and shall remain an ex officio member of the Council until he ceases to hold the office of President, Deputy-President or Vice-President as the case may be. Provided that, except where he is, as President, removed from office pursuant to bye-law 43A, a Past-President shall retain ex officio membership of the Council until the conclusion of the second annual meeting after the annual meeting held in the year in which he ceases to hold the office of President.
- 36B. Such other holders of offices within the Institute who are not already members of the Council as the Council may determine shall become ex officio members of the Council until they cease to hold the office concerned provided that there shall not be more than 10 members in office at any one time by virtue of this bye-law.

Vacation of office of Council members

37. The office of a member of the Council shall be vacated:
- a. if he ceases to be a member or provisional member of the Institute;
 - b. if an adverse finding, other than a finding of a prima facie case with an order that no further action be taken, is made against him under the [Investigation and Discipline Scheme](#) or the [Disciplinary Bye-Laws](#); or
 - c. if he has been absent from three or more consecutive meetings of the Council without the consent of the Council.

Election to Council - disciplinary orders against candidates

- 37A. A member or provisional member shall not be eligible for election or appointment to Council if within the period of 10 years prior to such proposed election or appointment an adverse finding other than a finding of a prima facie case with an order that no further action be taken has been made against him under the [Investigation and Discipline Scheme](#) or the [Disciplinary Bye-Laws](#) or any equivalent provision previously in force.

Resignation of Council members

38. A member of the Council may tender his resignation of office by notice to the Council. On its acceptance by the Council, but not until then, he shall cease to be a member of the Council.

Removal of Council members

39. The Institute may by resolution passed by a majority of the members present and voting (in person or by proxy) at a special meeting convened for the purpose remove any member of the Council from his office before the expiration of his period of office. No resolution to remove a member of the Council under this bye-law shall be effective unless notice of the intention to propose it has been given to the Institute not less than twenty-eight days before the meeting at which it is to be proposed. The Institute shall give members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting. A copy of any such notice to propose such a resolution shall be sent to the member of the Council concerned forthwith upon receipt by the Institute.

7 Proceedings of the Council

Meetings of Council

40. a. Subject to these bye-laws the Council shall meet for the despatch of business, adjourn and otherwise regulate its proceedings as it may think fit. The Council shall be deemed to meet if, notwithstanding that the members of Council are in separate locations, they are nonetheless linked by conference telephone, conference video link or other communication equipment which allows those participating to hear and speak to each other. A quorum in that event shall be the number of persons required for a quorum in accordance with bye-law 42 who are so linked. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- b. A meeting of the Council may at any time be called by order of the President, Deputy-President or Vice-President, or at the request in writing, addressed to the head of staff, of five members of the Council.
- c. At least three days' notice of a meeting of the Council shall be delivered or sent to each member of the Council: Provided that if the President, Deputy-President or Vice-President when ordering a meeting certifies in writing that an emergency exists, only one day's notice as aforesaid need be delivered or sent. The period of notice shall in each case be exclusive of the day on which the notice is delivered or sent and of the day on which the meeting is to be held. Any such notice shall contain as far as is practicable a statement of the business to be transacted at such meeting. Any such notice shall be taken as duly delivered or sent unless the contrary be shown. The accidental failure to send or the non-receipt by any member of the Council of any notice or the non-existence in fact of the certified emergency shall not invalidate the relevant meeting.

Adjournment of meetings

41. Subject to these bye-laws the chairman of any meeting of the Council may, with the consent of the meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjourned meeting unless it be so directed in the resolution for adjournment.

Quorum of Council

42. Twelve members of the Council shall form a quorum at all meetings of the Council.

Election of President, Deputy-President and Vice-President

43. At the first meeting of the Council after every annual meeting the members of the Council present shall choose one of the members of the Council as President, another as Deputy-President and another as Vice-President. Subject to bye-law 43A (removal of President, Deputy-President and Vice-President), the members so chosen shall hold the office of President, Deputy-President and Vice-President respectively until the first meeting of the Council held after the next succeeding annual meeting. A member of Council who has previously been chosen as President, Deputy-President or Vice-President shall be eligible to be chosen as President, Deputy-President or Vice-President for a

second or subsequent period of office. Any vacancy in any of the offices of President, Deputy-President and Vice-President shall be filled at one or the other of the two meetings of the Council next following the occurrence of such vacancy or as the Council may otherwise determine.

Removal of President, Deputy-President and/or Vice-President

- 43A. The Council may, by a resolution passed by a majority of not less than three-fourths of the members present and voting at a meeting, remove from office the President, Deputy-President and/or Vice-President before the expiration of his period of office.

Ex officio membership of Committees

44. The President, the Deputy-President and the Vice-President shall by virtue of their offices be members of all Committees other than the Investigation Committee, the Disciplinary Committee and the Appeal Committee and any Committee carrying out the Institute's functions as a regulator under statute.

Chairman of Council

45. At the first meeting of the Council after every annual meeting the members of the Council present shall appoint one of the members of the Council as the chairman of Council. The person so appointed shall preside as chairman at all meetings of the Council, provided that in his absence at any meeting of the Council the members of the Council present shall choose one of their number to be chairman of that meeting.

Voting at meetings of Council

46. Subject to Bye-law 4A, at all meetings of the Council the vote of a majority of those present and voting shall prevail. In the case of an equality of votes the chairman of the meeting shall have a second or casting vote in addition to his original vote.

Minutes of meetings of Council and Committees

47. Proper minutes shall be recorded of all resolutions and proceedings of meetings of the Council and of Committees and Sub-committees. Every minute signed by the chairman of the meeting to which it relates or by the chairman of a subsequent meeting shall be sufficient evidence of the facts therein stated.

Validity of proceedings

48. All acts done by any meeting of the Council, or of any Committee or Sub-committee, or by any person acting as a member of the Council or as a member of the Committee or Sub-committee, shall as regards all persons dealing in good faith with the Institute, notwithstanding that there was some defect in the appointment of any of the persons acting as aforesaid, or that any such persons had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and had continued to be a member of the Council or a member of the Committee or Sub-committee and had been entitled to vote.

8 Delegation

Committees, Sub-committees or other person or persons

- 49.
- a. Subject to the [Supplemental Charter](#) and [these bye-laws](#), the [Council](#) may delegate any of its powers, authorities or discretions to committees consisting of such person or persons (whether members of the [Council](#) or not) or to such person or persons (whether members of the [Council](#) or not) and on such terms and conditions as it thinks fit and may from time to time revoke or alter any of such powers, authorities or discretions so delegated.
 - b. Any [Committee](#) may, subject to any such terms and conditions as aforesaid, delegate any of its powers, authorities or discretions to a sub-committee consisting of such person or persons (whether members of the [Council](#) or of such [Committee](#) or not) or to such person or persons (whether members of the [Council](#) or of such [Committee](#) or not) and on such terms and conditions as it thinks fit and may from time to time revoke or alter any of such powers, authorities or discretions so delegated.
 - c. Subject to [these bye-laws](#) and to any terms and conditions imposed by the [Council](#) or, in the case of a [Sub-committee](#), the [Committee](#) by which it was formed, any [Committee](#) or [Sub-committee](#) may meet for the despatch of business, adjourn and otherwise regulate its proceedings as it thinks fit. A [Committee](#) or [Sub-committee](#) shall be deemed to meet if, notwithstanding that the members of the [Committee](#) or [Sub-committee](#) are in separate locations, they are nonetheless linked by conference telephone, conference video link or other communication equipment which allows those participating to hear and speak to each other. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting then is.
 - d. Insofar as any power, authority or discretion is delegated to a [Committee](#), [Sub-committee](#) or any other person pursuant to [these bye-laws](#), any reference in [these bye-laws](#) to the exercise by the [Council](#) or [Committee](#) of the power, authority or discretion so delegated shall be construed as if it were a reference to the exercise thereof by such [Committee](#), [Sub-committee](#) or person, as the case may be.
 - e. Bye-law 36 of the [Disciplinary Bye-Laws](#) (publicity for the disciplinary process) shall apply to chairmen of any [Committees](#) appointed for the purposes of paragraph (b) of Article 16 of the [Supplemental Charter](#) in the same way (after making any necessary changes) as it applies to the Chairman of the [Investigation Committee](#).

Head of staff

- 50.
- a. The [head of staff](#) of the Institute, being the most senior member of the paid staff of the Institute, shall be appointed by the [Council](#) on such terms and for such period as it thinks fit. The formal title of the [head of staff](#) shall be as [Council](#) may from time to time determine.
 - b. The [head of staff](#) may, subject to any such terms and conditions as the [Council](#) thinks fit, delegate any of his powers, authorities and discretions (including, without limitation, any powers, authorities and discretions delegated to him pursuant to bye-law 49 (concerning delegation to person or persons)) to such person or persons and on such terms and conditions as he thinks fit and may from time to time revoke or alter any of such powers, authorities or discretions so delegated.
 - c. Insofar as any power, authority or discretion is delegated by the [head of staff](#) to any other

person pursuant to this bye-law, any reference in these bye-laws or the Disciplinary Bye-Laws to the exercise by the head of staff of the power, authority or discretion so delegated shall be construed as if it were a reference to the exercise thereof by such person.

[Note (this note does not form part of the Principal bye-laws):

The Council has determined that the head of staff shall be called the Chief Executive.]

9 Public Practice

Conditions for engaging in public practice

- 51.
- a. Subject as may be provided in regulations a member shall be entitled to engage in public practice in the United Kingdom or any other member state of the European Economic Area only if he holds a current practising certificate.
 - b. The circumstances in which a member is, by virtue of being a director of a body corporate or a member of a limited liability partnership, to be regarded as engaging in public practice and any other requirements governing such practice shall be those prescribed in regulations. A member shall not engage in public practice otherwise than in accordance with such regulations or as a sole practitioner or as a partner in a firm.

Eligibility to hold practising certificate

- 52.
- a. Subject to paragraph (b) of this bye-law and to bye-laws 22 (powers of tribunal) and 30 (intervention orders) of the Disciplinary Bye-Laws, a member shall be eligible to hold a practising certificate if he satisfies such requirements as shall be prescribed in regulations.
 - b. A member who fails to pay his practising certificate fee by 31st March in the year in which it becomes due or before the expiration of three months after it has become due shall thereupon cease to be eligible for such a certificate unless the Council otherwise decides.

Issue of practising certificates

- 53.
- a. Practising certificates shall normally be issued for a period not exceeding twelve months and ending on 31st December and shall, subject to bye-law 52(b) (failure to pay practising certificate fee), be renewed automatically for a period of twelve months on 1st January next following when the appropriate renewal fee shall become due and payable.
 - b. Practising certificates shall be in such form or forms as may be prescribed in regulations.
 - c. A member who ceases to be eligible for a practising certificate shall forthwith return his certificate to the Institute but shall be granted a further certificate if and when he again becomes so eligible.
- 54.
- a. Members and member firms shall co-operate with any scheme, system, or arrangements for inspection, monitoring and review of their professional and business efficiency and competence established by the Institute and shall comply with any regulations made in respect thereof.
 - b. A member holding a practising certificate shall pay such fee or fees in respect of such scheme, system or arrangement as may from time to time be determined by the Council in its absolute discretion.
 - c. If a member fails to pay any fee or fees due under paragraph (b) he shall cease to be eligible for a practising certificate.
 - d. For the purposes of this bye-law a firm which describes itself as "Chartered Accountants" shall be presumed to be a member firm unless it proves it is not.

Use of designations

- 55.
- a. Save as permitted by regulation a member practising under the title of a firm in partnership with any person not a member nor a member of one or other of such institutes, societies or bodies of accountants as may be approved by the Council shall not use after or in conjunction with the title of the firm the initials FCA or ACA or describe the firm in any way whatever as chartered accountants.
 - b. Save as permitted by regulation a member practising as a director of a body corporate or as a member of a limited liability partnership shall not use after or in conjunction with the title of that body the initials F.C.A. or A.C.A. or describe the body in any way whatever as chartered accountants.

10 Continuing Professional Development

Continuing Professional Development

56. Except as may be provided in regulations a member shall?
- a. keep under review his needs for training and development having regard to the professional and other work he undertakes;
 - b. where such a review identifies a specific need for training or development act promptly to meet such need; and
 - c. certify annually to the Institute compliance with these provisions and, if requested by the Institute, provide such evidence of compliance as may be required.

11 Comprising bye-law

57. Deleted

12 Appeals

Appeals

- 58.
- a. Except as provided in these bye-laws or in regulations, an applicant for membership, a provisional member, a former provisional member and a member shall each have the right to appeal against any decision made concerning him under or pursuant to these bye-laws or regulations (including decisions concerning admission to membership, eligibility for practising certificates and entitlement to fellowship).
 - b. The provisions governing the hearing of any such appeal shall be prescribed in regulations.

13 Common Seal

Custody of Common Seal

59. The Common Seal shall be kept in such custody as the Council may determine.

Use of Common Seal

60. The Common Seal shall not be affixed to any instrument except by order of the Council or of a Committee or Sub-committee or of any person authorised by the Council in that behalf and in the presence of two members of the Council. Every such instrument shall be signed by the two members of the Council in whose presence the Seal is affixed and by the head of staff. Provided that it shall not be necessary for any member of the Council to be present when the Seal is affixed to any such certificate as is referred to in bye-law 5 (certificate of membership). It shall be sufficient for the signatures of the two members of the Council and the head of staff upon any such certificate to be facsimile signatures.

14 Authentication of Documents

Authentication of documents

61. Any member of the Council or the head of staff or any person appointed by the Council for the purpose shall have power to authenticate any document affecting the constitution of the Institute and any resolution passed at an annual meeting or a special meeting or at a meeting of the Council or of any Committee or Sub-committee, and any book, record, document or account relating to the business of the Institute, and to certify copies thereof or extracts therefrom as true copies or extracts. A document purporting to be a copy of any such resolution, or an extract from the minutes of any such meeting, which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Institute upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

15 Audit

Appointment of auditors

- 62.
- a. The members shall at each annual meeting appoint at least one but not more than two members in practice or at least one but not more than two firms to be the auditor or auditors of the Institute.
 - b. No member of the Council shall be eligible for appointment as auditor in a personal capacity. No firm in which a member of the Council is a director, partner, member (if the firm is a limited liability partnership), or employee shall be eligible for appointment as auditor.
 - c. In the event of any vacancy occurring in the office of auditor between annual meetings or in the event of a vacancy not being filled at an annual meeting, the said vacancy may be filled by the Council at a meeting summoned with notice of the object provided that during such vacancy a continuing auditor may act alone.
 - d. The remuneration, if any, of the auditor or auditors so appointed shall be determined either by the meeting or in such manner as the meeting may resolve.
 - e. In this bye-law the expression 'firm' means a partnership or body corporate (including a limited liability partnership) engaged in public practice.

Retirement of auditors

63. The auditor or auditors shall retire at the next annual meeting after his or their appointment, but shall be eligible for re-appointment.

Nomination of auditors

64. Each retiring auditor shall, unless he has notified the Council not later than 24th March preceding the date of the annual meeting that he does not wish to offer himself for re-appointment, be deemed to be nominated for re-appointment at such meeting. Every other candidate for appointment as an auditor shall be nominated in writing by the Council. Notice of the names of all candidates nominated for appointment or deemed to be nominated for re-appointment shall be sent to all members with the notice calling the annual meeting.

Removal of auditors

65. The Institute may, by a resolution passed by a majority of not less than three-fourths of the members present and voting (in person or by proxy) at a special meeting convened for the purpose, remove any auditor from his office before the expiration of his period of office. The Institute may also by a resolution passed by a majority of the members present and voting (in person or by proxy), at such a meeting appoint in place of any auditor so removed another member in practice. In default of such an appointment, the Council may at a meeting summoned with notice of the object appoint an auditor in the place of the auditor so removed.

Auditor's right to attend meetings

66. An auditor shall be entitled to attend any annual meeting or special meeting and to receive all notices of and other communications relating to any such meeting which any member is entitled to receive and to be heard at any such meeting on any part of the business of the meeting which concerns him as auditor.

16 Notices

Notices

- 67.
- a. Any notice required to be given for the purposes of these bye-laws shall be in writing.
 - b. Any communication required to be given, delivered or sent to members under or in connection with these bye-laws may be given or sent by pre-paid post addressed to them at their registered address.
 - c. Any communication (other than a form of proxy) required to be given, delivered or sent to the Institute under or in connection with these bye-laws shall, subject to paragraph (e) of this bye-law, be given or sent by pre-paid post addressed to the Institute at its principal London address for the time being and marked for the attention of the head of staff.
 - d. Where any communication is given, delivered or sent by post, service shall be deemed to have been effected at the expiration of 48 hours after the time when such communication is posted and in proving such service it shall be sufficient to prove that the cover containing such communication was properly addressed, stamped and posted.
 - e. Subject to paragraph (f), the Institute may send or supply all communications to members in electronic form and all communications delivered in accordance with these bye-laws shall be deemed to be validly given, sent or supplied for the purposes of the Supplemental Charter, the Principal Bye-laws and any regulations.
 - f. A communication may only be sent or supplied by the Institute in electronic form to a member who has agreed (generally or specifically) that the communication may be sent or supplied in that form (and has not revoked that agreement).
 - g.
 - i. Where the communication is sent or supplied in electronic form it may only be sent or supplied to an address specified for the purpose by the intended recipient (generally or specifically).
 - ii. Where the communication is sent or supplied in electronic form by post or by hand, it must be handed to the recipient or sent or supplied to an address to which it could be

validly sent if it were in hard copy form.

- h. Any communication which is sent or supplied by the Institute in electronic form shall be deemed to have been received by the intended recipient 24 hours after it was transmitted, and in proving such receipt it shall be sufficient to show that such communication was properly addressed.
- i. A communication is validly sent or supplied by the Institute if it is made available on a website in accordance with these bye-laws.
- j. A communication may only be sent or supplied to a member by being made available on a website if the person:
 - i. has agreed (generally or specifically) that the communication may be sent or supplied to him in that manner, or
 - ii. is taken to have so agreed under paragraph (k) hereof and has not revoked that agreement.
- k. This paragraph applies to any communication to be sent or supplied to a member:
 - i. To the extent the Principal Bye-laws or any regulations authorise the Institute to send or supply communications to members by making them available on a website, a member in relation to whom the following conditions are met is taken to have agreed that the Institute may send or supply communications to him in that manner.
 - ii. The conditions are that:
 - (1) the member has been asked individually by the Institute to agree that the Institute may send or supply communications generally, or the document or information in question, to him by means of a website, and
 - (2) the Institute has not received a response within the period of 28 days beginning with the date on which the Institute's request was sent.
- l. A member is not taken to have so agreed if the Institute's request:
 - i. did not state clearly what the effect of failure to respond would be; or
 - ii. was sent less than twelve months after a previous request made to him for the purpose of this paragraph in respect of the same or a similar class of communication.
- m. A communication authorised or required to be sent or supplied by means of a website must be made available in a form, and by a means, that the Institute reasonably believes will enable the member:
 - i. to read it; and
 - ii. to retain a copy of it.
- n. For this purpose a communication can be read only if:
 - i. it can be read with the naked eye; or
 - ii. to the extent that it consists of images (for example photographs, pictures, maps, plans

or drawings), it can be seen with the naked eye.

- o. The Institute must notify the intended recipient of:
 - i. the presence of the communication on the website;
 - ii. the address of the website;
 - iii. the place on the website where it may be accessed; and
 - iv. how to access the communication.
- p. The communication is taken to be sent:
 - i. on the date on which the notification required by this paragraph is sent; or
 - ii. if later, the date on which the communication first appears on the website after that notification is sent.
- q. The Institute must make the communication available on the website throughout:
 - i. the period specified by any provision of the Supplemental Charter, the Principal By-laws or any regulation, or
 - ii. if no such period is specified, the period of 28 days beginning with the date on which the notification required under paragraph (p) hereof, is sent to the person in question.
- r. For the purposes of paragraph 12, a failure to make any communication available on a website throughout the period shall be disregarded if:
 - i. it is made available on the website for part of that period, and
 - ii. the failure to make it available throughout that period is wholly attributable to circumstances that it would not be reasonable to have expected the Institute to prevent or avoid.
- s. Any communication which is sent or supplied by the Institute by means of a website.
- t. A communication that is sent or supplied otherwise than in hard copy form or in electronic form or by means of a website is validly sent or supplied if it is sent or supplied in a form or manner that has been agreed by the member or is sent by pre-paid post addressed to them at their registered address.
- u. The Institute may notify members in writing of an address for the purpose of its receiving communications from members by such electronic form as the Council may determine and may specify what communications may be sent to it in electronic form and having done so shall be deemed to have agreed to receive any such notice or other document from members by such electronic form.

Suspension of postal services

- 68.** If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Institute is unable to give notice by post in hard copy of a meeting of members such notice shall be deemed to have been given to all members entitled to receive such notice in hard copy form if such notice is advertised on the same date in at least four national daily newspapers with appropriate

circulation and such notice shall be deemed to have been given on the day when the advertisement appears. In any such case the Institute shall (i) make such notice available on a website from the date of such advertisement until the conclusion of the meeting or any adjournment thereof and (ii) send confirmatory copies of the notice by post to such members if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

17 Indemnity and Expenses

Indemnification of Council members and others

69. Every member of the Council, the head of staff and every auditor of the Institute shall be indemnified by the Institute against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own respective wilful default or, in the case of an auditor, his own negligence or wilful default or that of any partner or employee of such auditor.

Council members and others not to be liable for losses

70. Neither any member of the Council nor the head of staff nor any auditor of the Institute shall be liable for any other member of the Council or the head of staff or any auditor of the Institute, or for joining in any receipt or document, or for any act of conformity, or for any loss or expense happening to the Institute, unless the same happen from his own wilful default, or in the case of an auditor from his own negligence or wilful default or that of any partner or employee of such auditor.

Expenses of members of Council

71. The Council may pay to any member who is required to attend a meeting of the Council or of any Committee or Sub-committee and to any member of the Council who is required to attend a meeting of the Council or of any Committee or Sub-committee or of the Institute and to any member or member of the Council who is required to attend any other meeting for the purposes of the Institute a reasonable subsistence allowance on each occasion of attending such a meeting and reasonable travel costs to and from the place of the meeting. The Council may also pay the expenses reasonably and properly incurred by the President, Deputy-President, Vice-President or any member of the Council when acting in an official capacity on behalf of the Institute.

Disciplinary Bye-laws

Effective from 1st September 1998.

- **Preliminary**
 - Citation, interpretation and service of documents
 - Constitution of Investigation, Disciplinary and Appeal Committees, and appointment of reviewers of complaints
- **Liability to disciplinary action**
 - Application of investigation and discipline schemes
 - Liability of members and provisional members to disciplinary action
 - Liability of member firms to disciplinary action
 - Liability of regulated firms to disciplinary action
 - Liability of former members, member firms, regulated firms and firms to disciplinary action
 - Proof of certain matters
 - Relevance of codes of practice, regulations etc.
- **Complaints**
 - Complaints
 - Processing of complaints by head of staff
 - Investigation of complaints by firms themselves
- **Complaints laid before Investigation Committee**
 - Initial consideration of complaints so laid
 - Referral of complaints to or from an investigation and discipline scheme
 - Assumption of matters in accordance with an investigation and discipline scheme
 - Power of Investigation Committee to call for information etc
 - Power of Investigation Committee to require advice to be obtained and followed
 - Complaints not referred or referred back from an investigation and discipline scheme
 - Consent Orders
 - Cautions
- **Complainant's right to review**
 - Review of finding no prima facie case
 - Further investigation of complaint after review
- **Disciplinary proceedings**
 - Tribunals
 - Hearing of formal complaints
 - Temporary suspension of activities of authorised firm
 - Powers of tribunal
 - Orders for waiver or repayment of fees or commission
 - Remedial orders

- Expenses
 - Time when tribunal's order takes effect
- **Appeals**
 - Right of appeal
 - Panels
 - Hearing of appeals
 - Powers of panel on appeal
- **Intervention orders**
 - Intervention orders
 - Appeals against intervention orders
- **Fines and costs**
 - Time limits for payment of fines
 - Powers of tribunals and panels as to costs
 - Liability for fines and costs payable by member firms
- **Refund of fees, commission and expenses**
 - Time limit for payment of fees, commission and expenses
 - Refund of sums to complainants
- **Publicity**
 - Publication of findings and other orders
 - Publicity for the disciplinary process
- **Commencement and transitional provisions**
- **Schedule - Bye-law 2 - Constitution of Investigation, Disciplinary and Appeal Committees, and appointment of reviewers of complaints**

Preliminary

Citation, interpretation and service of documents

1.1 These bye-laws may be cited as the Disciplinary Bye-laws of the Institute of Chartered Accountants in England and Wales.

1.2 In these bye-laws, unless the context otherwise requires AADB means the Accountancy and Actuarial Discipline Board, being the body which has the responsibility for operating the AADB Scheme and references to the AADB shall, unless inconsistent with the subject or context, be deemed to include references to the managing body of the Accountancy and Actuarial Discipline Board;

AADB Scheme (<http://www.frc.org.uk/aadb>) means the Scheme made and adopted by the managing board of The Accountancy Investigation and Discipline Board Limited (now the AADB), in which the Institute participates pursuant to Article 1(b)(viiA) of the Supplemental Charter);

the Appeal Committee means the Appeal Committee appointed under the Schedule to these bye-laws;

approved training means practical training and experience approved by the Council and obtained at or from an office which is for the time being authorised under regulations to train provisional member;

authorised firm means a firm regulated by the Institute in its capacity as

- a. a designated professional body under the Financial Services and Markets Act 2000, or
- b. in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations;

the bye-laws means all the bye-laws of the Institute for the time being in force;

complainant, except in bye-laws 24A and 34B, in relation to a complaint or formal complaint, means any of the following persons

- a. the person who under bye-law 9.1 brought to the attention of, or reported to, the head of staff any of the facts and matters which constitute the complaint;
- b. any person, who, before the Investigation Committee has under bye-law 15 decided whether in its opinion the complaint discloses a prima facie case, has made written representations to the head of staff on any of those facts and matters; and
- c. if the person mentioned in paragraph (a) of this definition, being an individual, dies before the complaint has been finally disposed of under these bye-laws, his personal representative.

complaint, except in bye-law 11 or where the reference is to a previously mentioned formal

complaint, has the meaning given by bye-law 9.3;

Council means the Council of the Institute;

defendant means a member, firm or provisional member against whom a formal complaint has been preferred to the Disciplinary Committee;

director (save in paragraph (a) of the definition of member firm below) includes a member of a limited liability partnership;

Disciplinary Committee means the Disciplinary Committee appointed under the Schedule to these bye-laws;

disciplinary record, in relation to any person or body, comprises all orders, findings, fines and penalties to which he has at any time been subject, being orders, findings, fines or penalties of any description prescribed for the purposes of this definition by regulations;

firm means

- a. a body corporate or partnership including a limited liability partnership which is wholly or partly composed of members engaged in public practice or was so composed at, or at any time since, the relevant time;
- b. a member who is engaged in public practice as a sole practitioner or was so engaged at, or at any time since, the relevant time; or
- c. a person or body who was a regulated firm at the relevant time;

and in this definition, the relevant time means the time relevant to any facts or matters which under bye-law 9 have been reported to the head of staff, or have been brought or come to his attention, as indicating a possible liability to disciplinary action;

formal complaint means a complaint preferred by the Investigation Committee to the Disciplinary Committee under bye-law 15, and in relation to a tribunal means the formal complaint which the tribunal was appointed to hear;

head of staff means the person appointed under Principal Bye-law 50;

hearing, in relation to a formal complaint or an appeal, includes the making of any finding or order on or in connection with the complaint or appeal, and also includes a hearing;

Insolvency Licence means an authorisation issued by the Institute to a member pursuant to the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 (as from time to time amended) as a precondition to the member acting as an insolvency practitioner;

Investigation Committee means the Investigation Committee appointed under the Schedule to

these bye-laws;

Investigation and discipline scheme means any scheme in which the Institute participates pursuant to articles 1(b)(viiA), 1(b)(viiiA), or 1(b)(xi) of the Supplemental Charter;

member means a member of the Institute, and membership shall be construed accordingly;

member firm means

- a. a member engaged in public practice as a sole practitioner; or
- b. a partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- c. a limited liability partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- d. any body corporate (other than a limited liability partnership) engaged in public practice of which:
 - i. 50 per cent or more of the directors are members; and
 - ii. more than 50 per cent of the nominal value of the voting shares is held by members; and
 - iii. more than 50 per cent of the aggregate in nominal value of the voting and non-voting shares is held by members;

notice means notice in writing;

order includes a finding;

panel (except in bye-law 26) means a panel appointed under bye-law 27.1 to hear an appeal;

practice and public practice mean practice as a public accountant in any part of the world otherwise than as an employee, subject however to any regulations made pursuant to bye-law 51.b of the Principal Bye-laws and to any other guidance issued by the Council;

practising certificate means a certificate issued to a member authorising him to engage in public practice;

prima facie case means a prima facie case for disciplinary action under these bye-law;

the Principal Bye-laws means the Principal Bye-laws of the Institute;

principal means a sole practitioner, a partner in a partnership or a director of a body corporate;

provisional member means a person

- a. who is serving under a training contract; or

- b. who has trained under such contract and is eligible either to sit for the professional examinations of the Institute or, having successfully sat those examinations, to apply for membership,

and for the purposes only of this definition an order under bye-law 22.7.d shall be disregarded;

registered address means

- a. in the case of a member in practice or a firm, the place of business registered by the member or firm with the Institute or, if more than one place of business is so registered, the one registered as the principal place of business;
- b. in the case of a member not in practice or a provisional member, the address registered by him with the Institute;
- c. in the case of a former member, former member firm, former regulated firm or former firm the latest address registered with or notified to the Institute by the person or body in question.

registered auditor means a firm registered as a registered auditor at the instance of the Institute (in its capacity as a recognised supervisory body under the Companies Act 2006 or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations);

regulated firm means an authorised firm or a registered auditor;

regulations means regulations made by the Council or any committee or sub-committee under clause 16 of the Supplemental Charter (power to make regulations) and for the time being in force;

representative, in relation to the defendant in any proceedings under these bye-laws, means

- a. a barrister, solicitor or member appointed by him to represent him in those proceedings; or
- b. any person permitted under regulations to represent him in those proceedings, and represented shall be construed accordingly;

reviewer of complaints means a person appointed as a reviewer of complaints under paragraph 5 of the Schedule to these bye-laws;

training contract means a contract of approved training registered with the Institute and in such form and containing such provisions as may be prescribed in regulations, made between a candidate for membership and the person or firm at or from whose office the approved training is to be given;

tribunal means a tribunal appointed under bye-law 19.1 to hear a formal complaint;

United Kingdom includes the Channel Islands and the Isle of Man.

- 1.3 The Interpretation Act 1978 applies to these bye-laws in the same way as it applies to an enactment
- 1.4 In these bye-laws, unless the context otherwise requires
- a. words importing the masculine gender include the neuter (as well as, by virtue of the Interpretation Act 1978 as applied by paragraph 3, the feminine);
 - b. words importing the neuter gender include both the masculine and the feminine;
 - c. any reference to a numbered bye-law is a reference to the bye-law so numbered among these bye-laws;
 - d. any reference within any of these bye-laws to a numbered paragraph is a reference to the paragraph so numbered of that bye-law.
- 1.5 In these bye-laws
- a. references to the date of an order made by the Investigation Committee under bye-law 16 (consent orders) or bye-law 16A (cautions) refer to the date on which the order was signed on behalf of the Committee;
 - b. references to the date of an order made by a tribunal or panel refer to the date on which the order was announced at the hearing of the formal complaint or appeal in question;
 - c. references to the date of an order made by the Investigation Committee under bye-law 30 (intervention orders) refer to the date on which the Committee decided to make the order.
- 1.6 Any notice or other document required to be served for the purposes of these bye-laws on a member, a firm, a provisional member or a defendant may be sent by pre-paid post addressed to him at his registered address or, if none, at his last known or usual place of residence or business.
- 1.7 Any notice or other document required to be served on the head of staff for the purposes of these bye-laws may be sent by pre-paid post addressed to the head of staff at the Institute's principal London address for the time being or such other address of the Institute as may be prescribed by regulations.
- 1.8 Service of a document sent as mentioned in paragraphs 6 or 7 shall be deemed to have been effected at the end of 48 hours from the time of posting; and in proving that a document was so sent it shall be sufficient to prove that the cover containing it was properly addressed, stamped and posted.

Constitution of Investigation, Disciplinary and Appeal Committees, and appointment of reviewers of complaints

- 2 The Schedule to these bye-laws shall have effect with respect to the constitution of the Investigation, Disciplinary and the Appeal Committees and the appointment of reviewers of complaints.

Liability to disciplinary action

Application of investigation and discipline schemes

- 3 An investigation and discipline scheme shall apply to all members and firms in accordance with the terms of that scheme and these bye-laws.

Liability of members and provisional members to disciplinary action

- 4.1 A member or provisional member shall be liable to disciplinary action under these bye-laws in any of the following cases, whether or not he was a member or provisional member at the time of the occurrence giving rise to that liability

- a. if in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on himself, the Institute or the profession of accountancy;
- b. if he has performed his professional work or the duties of his employment, or conducted his practice, inefficiently or incompetently to such an extent, or on such a number of occasions, as to bring discredit on himself, the Institute or the profession of accountancy;
- c. if he has committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them;
- d. if he has failed to comply with any order of the Investigation, Disciplinary or Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs;
- e. if any of the circumstances set out in paragraph 2 exist with respect to him.

- 4.2 Those circumstances are

- a. that he has failed to satisfy a judgment debt;
- b. that he has, individually or as a partner, made an assignment by reason of insolvency of some or all of his assets for the benefit of his creditors;
- c. that he has made any arrangement or entered into a composition with his creditors to satisfy his debts, whether by resolution of his creditors or court order or under any deed or other document by reason of insolvency;
- d. that he has made a proposal to enter into a Voluntary Arrangement on grounds of insolvency, or has entered into such a Voluntary Arrangement;
- e. that he is a partner in a firm which
 - i. has had a winding-up order made against it on grounds of insolvency; or
 - ii. has made a proposal to enter into a voluntary arrangement on grounds of insolvency, or has entered into such a voluntary arrangement; or
 - iii. has had an administration order made against it on grounds of insolvency; or
 - iv. has had a receiver appointed by a creditor or by a court on the application of a creditor;

- f. that he is a director of a body corporate engaged in public practice which
 - i. has been the subject of an effective resolution passed by the shareholders (or in the case of a limited liability partnership, by its members) for it to be wound up or has had a winding-up order made against it on grounds of insolvency; or
 - ii. has made a proposal to enter into a voluntary arrangement on grounds of insolvency, or has entered into such a voluntary arrangement; or
 - iii. has had an administration order made against it on grounds of insolvency; or
 - iv. has had a receiver appointed by a creditor or by a court on the application of a creditor.

Liability of member firms to disciplinary action

5.1 A member-firm shall be liable to disciplinary action under these bye-laws in any of the following cases

- a. if in the course of carrying out professional work or otherwise it has committed any act or default likely to bring discredit on itself, the Institute or the profession of accountancy;
- b. if it has performed its professional work, or conducted its practice, inefficiently or incompetently to such an extent, or on such a number of occasions, as to bring discredit on itself, the Institute or the profession of accountancy;
- c. if it has committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them;
- d. if it has failed to comply with any order of the Investigation, Disciplinary or Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs;
- e. if it is a partnership to which any of heads (i) to (iv) of bye-law 4.2(e) applies;
- f. if it is a body corporate to which any of heads (i) to (iv) of bye-law 4.2(f) applies.

In this paragraph "regulations" does not include any such regulations as are mentioned in bye-law 6.1(a) or 6.2(a).

5.2 It shall be a defence to a complaint arising by virtue of this bye-law for a member firm to prove that it had taken all such steps as it could reasonably have been expected to take (including the making of appropriate rules and arrangements) to prevent acts or defaults of the kind which are the subject of the complaint.

5.3 The fact that one or more partners have joined or left a member firm since the time of the acts or defaults which are the subject of disciplinary action shall not affect the firm's liability to such action unless the Investigation Committee is satisfied that, as currently constituted, the firm has substantially lost its identity with the firm as constituted at that time; but if the member firm continues to have the same or substantially the same name, that fact shall be evidence that such identity has not been lost.

5.4 For the purposes of this bye-law a firm which describes itself as "Chartered Accountants" shall be presumed to be a member firm unless it proves that it is not.

Liability of regulated firm to disciplinary action

6.1 An authorised firm shall be liable to disciplinary action under these bye-laws in any of the following cases

- a. if it has committed a breach of any regulations issued by the Institute in its capacity as a designated professional body under the Financial Services and Markets Act 2000 or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations;
- b. if it has failed to comply with a notice served by the Investigation Committee under bye-law 13 within the time allowed by or under that bye-law;
- c. if it has failed to comply with any order of the Investigation, Disciplinary or Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs.

6.2 A registered auditor shall be liable to disciplinary action under these bye-laws in any of the following cases

- a. if it has committed a breach of any regulations issued by the Institute in its capacity as a recognised supervisory body under the Companies Act 2006 or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations;
- b. if it has failed to comply with a notice served by the Investigation Committee under bye-law 13 within the time allowed by or under that bye-law;
- c. if it has failed to comply with any order of the Investigation, Disciplinary or the Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs.

Liability of former members, member firms, regulated firms and firms to disciplinary action

- 6A.1 A person or body who, while he was a member, member firm, regulated firm or firm, became liable to disciplinary action under these bye-laws, or an investigation and discipline scheme shall continue to be subject to these bye-laws after he has ceased to be a member, member firm, regulated firm or firm, as the case may be, as if he had not so ceased; and references in these bye-laws to members, member firms, regulated firms and firms shall be construed accordingly so far as may be necessary to give effect to this paragraph.
- 6A.2 Without prejudice to the generality of paragraph 1 above, the reference in paragraph 1 of bye-law 9 (complaints) to facts or matters indicating that a member or a firm may have become liable to disciplinary action under these bye-laws, or an investigation and discipline scheme includes facts or matters indicating that a former member or former firm may have become so liable.
- 6A.3 Bye-law 13 (power of Investigation Committee to call for information etc) shall extend to any former member, former member firm or former regulated firm, and a breach of bye-law 13 shall render the former member, former member firm or former regulated firm liable to disciplinary action by virtue of this bye-law.
- 6A.4 Liability to disciplinary action or other action by virtue of this bye-law
- a. subject to paragraph 3, extends only to facts and matters which occurred while the person or body concerned was actually a member, member firm, regulated firm or firm, as the case may be; and
 - b. does not extend to any facts or matters which occurred before 7 October 1999 unless (for the avoidance of doubt) such facts or matters, at the time when they occurred, rendered the person or body concerned liable to disciplinary action under bye-law 6.1(a), or bye-law 6.2.(a) (or earlier regulations covering the same subject matter as those bye-laws, in conjunction with any bye-laws) or under any regulations issued by the Institute in its capacity as a recognised professional body under the Insolvency Act 1986.

Proof of certain matters

- 7.1 The fact that a member, member firm or provisional member has, before a court of competent jurisdiction, pleaded guilty to or been found guilty of an indictable offence (or has, before such a court, outside England and Wales, pleaded guilty to or been found guilty of an offence corresponding to one which is indictable in England and Wales) shall for the purposes of these bye-laws be conclusive evidence of the commission by him of such an act or default as is mentioned in bye-law 4.1(a) or 5.1(a), as the case may be.
- 7.2 The fact that a member, member firm or provisional member
- a. has been the subject of an adverse finding (not set aside on appeal or otherwise) in

respect of his conduct, being a finding in proceedings before a body which is for the time being listed in paragraph 5 or before a regulatory body performing its functions under the, the Financial Services and Markets Act 2000, the Insolvency Act 1986 or the Companies Act 2006; or

- b. has had a disqualification order made against him or has given a disqualification undertaking which has been accepted by the Secretary of State under the Company Directors Disqualification Act 1986,

shall, for the purposes of these bye-laws, be conclusive evidence of the commission by him of such an act or default as is mentioned in bye-law 4.1(a) or 5.1(a), as the case may be.

7.3 A finding of fact

- a. in any report of an inspector appointed under the Companies Act 1985;
- b. in any civil or criminal proceedings before a court of competent jurisdiction in the United Kingdom or elsewhere;
- c. in any proceedings before, or report by, any of the bodies mentioned in paragraph 4; or
- d. in any proceedings as a result of which an accountant was notified by the relevant authority that he was not qualified to give an accountant's report within the meaning of section 34 (accountants' reports), of the Solicitors Act 1974,

shall for the purposes of these bye-laws be prima facie evidence of the facts found.

7.4 The bodies referred to in paragraph 3(c) are

- a. The Financial Services Authority;
- b. The Financial Services Tribunal or the Financial Services and Markets Tribunal;
- c. any designated professional body within the meaning of the Financial Services and Markets Act 2000;
- d. The Insolvency Practitioners Board;
- e. any recognised professional body or competent authority within the meaning of the Insolvency Act 1986;
- f. any recognised supervisory body within the meaning of the Companies Act 2006;
- g. any body which is for the time being listed in paragraph 5;
- h. any body situated in Ireland which exercises a similar function to the bodies listed in (a) to (g) above.

7.5 The bodies referred to in paragraph 2(a) and 4(g) are

- a. The Institute of Chartered Accountants of Scotland;
- b. The Institute of Chartered Accountants in Ireland;
- c. The Association of Chartered Certified Accountants;
- d. The Chartered Institute of Management Accountants;
- e. The Chartered Institute of Public Finance and Accountancy.

- 7.6 The Council may at any time by regulations add any accountancy body (other than the Institute) to, or remove any body listed in paragraphs (2), (4) or (5).
- 7.7 Nothing in paragraphs 3 to 6 shall affect the evidential status of any report or other document not falling within paragraph 3.

Relevance of codes of practice, regulations etc.

- 8.1 In discharging his or its functions under these bye-laws a person or body mentioned in paragraph 2 may have regard to all relevant matters, including any code of practice (whether relating to the ethical, the technical or any other aspect of practice), and any regulations or guidance, affecting (as the case may be) the firm, member or provisional member concerned.
- 8.2 Those persons and bodies are

- a. the head of staff;
- b. a reviewer of complaints;
- c. the Investigation Committee;
- d. a tribunal;
- e. a panel.

Complaints

Complaints

- 9.1 Any person may bring to the attention of the head of staff any facts or matters indicating that a member, a firm or a provisional member may have become liable to disciplinary action under these bye-laws or an investigation and discipline scheme and it is the duty of every member, where it is in the public interest for him to do so, to report to the head of staff any such facts or matters of which he is aware.
- 9.2 In determining whether it is in the public interest for a member to report any such facts or matters under paragraph 1 regard shall be had to such guidance as may from time to time be issued by the Council.
- 9.3 In these bye-laws any facts or matters which
- a. have come to the attention of the head of staff under paragraph 1 or otherwise; and
 - b. indicate that a member, a firm or a provisional member may have become liable to disciplinary action under these bye-laws or an investigation and discipline scheme,
- are referred to as a complaint.
- 9.4 Any dispute relating to
- a. a decision of the head of staff as to whether any facts or matters fall within paragraph 3(b); or
 - b. an opinion formed by him as mentioned in paragraph 1, 2, 3(a) or 3(b) of bye-law 10,
- shall be referred to and determined by the Investigation Committee.

Processing of complaints by head of staff

- 10.1 If, as regards any complaint, the head of staff is of the opinion that it is to be dealt with by an investigation and discipline scheme, he shall lay it before the Investigation Committee.
- 10.2 If, in the case of any complaint not laid before the Investigation Committee under paragraph 1, the head of staff is of the opinion that it is appropriate to do so, he shall attempt to resolve the complaint by conciliation or in some other way not involving disciplinary action under these bye-laws; and if the attempt is successful, he shall take no further action with respect to the complaint.
- 10.3 Where an attempt under paragraph 2 is made but fails, the head of staff shall review the complaint in the light of any further relevant facts or matters which have come to his attention since he initiated the attempt; and
- a. if as a result of that review he remains of the opinion that the member, the firm, or the

provisional member concerned may have become liable to disciplinary action under these bye-laws, he shall proceed to investigate the complaint;

- b. if as a result of that review he is no longer of that opinion, he shall take no further action with respect to the complaint.

- 10.4 If, as regards any complaint not laid before the Investigation Committee under paragraph 1, the head of staff does not think it appropriate to make an attempt under paragraph 2, he shall proceed to investigate the complaint.
- 10.5 If, having investigated a complaint under paragraph 3 or 4, the head of staff is no longer of the opinion that the member, the firm or the provisional member concerned may have become liable to disciplinary action under these bye-laws, he shall take no further action with respect to the complaint unless the complainant insists on its being laid before the Investigation Committee; but if the head of staff remains of that opinion or the complainant so insists, the head of staff shall lay the complaint before the Investigation Committee.

Investigation of complaints by firms themselves

- 11.1 Every firm shall ensure that all new clients are informed in writing of the name of the principal to be contacted in the event of their wishing to complain about the firm's services, and of their right to complain to the Institute.
- 11.2 If a firm receives a complaint concerning any services it has provided or failed to provide to a client or former client, it shall forthwith cause the complaint to be investigated by a principal.
- 11.3 If, as a result of an investigation under paragraph 2, the firm is of the opinion that the complaint is wholly or partly justified, it shall take whatever steps are appropriate to resolve the complaint, whether by way of remedial work, apology, the provision of information, the return of books or documents, the reduction or repayment of fees, or otherwise.
- 11.4 If the head of staff receives a complaint against a firm, not being a complaint to which paragraph 1 of bye-law 10 applies, he may, if it appears to him appropriate to do so, refer it to the firm for investigation under paragraph 2 of this bye-law instead of dealing with it as provided in paragraphs 2 to 5 of bye-law 10.
- 11.5 The fact that a complaint is being investigated under this bye-law shall not affect the duty of members under bye-law 9.1 to report to the head of staff, where it is in the public interest for them to do so, any facts or matters indicating that a member, a firm or a provisional member may have become liable to disciplinary action.
- 11.6 The definition of "complaint" in bye-law 9.3 does not apply for the purposes of this bye-law.

Complaints laid before Investigation Committee

Initial consideration of complaints so laid

- 12.1 This bye-law applies where a complaint is laid before the Investigation Committee under bye-law 10.
- 12.2 The Investigation Committee shall first of all decide whether it considers that, having regard to all the circumstances of the matter, it is appropriate that the complaint is referred to an investigation and discipline scheme to be dealt with under the terms of that scheme.
- 12.3 If the Investigation Committee does not refer a complaint to an investigation and discipline scheme under bye-law 12A.1, it shall either
- a. refer the complaint back to the head of staff to be processed by him under paragraphs 2 to 5 of bye-law 10 as if he had not laid it before the Investigation Committee under paragraph 1 of that bye-law; or
 - b. proceed to deal with it under bye-law 15.

Referral of complaints to or from an investigation or discipline scheme

- 12A.1 If the Investigation Committee decides, in accordance with bye-law 12.2, that it is appropriate for a complaint to be referred to an investigation and discipline scheme, it shall make a written referral of the complaint to that investigation and discipline scheme.
- 12A.2 If a referral to an investigation and discipline scheme is declined in accordance with the terms of the scheme, the Investigation Committee shall either
- a. refer the fact or matter back to the head of staff to be processed by him under paragraphs 2 to 5 of bye-law 10; or
 - b. proceed to deal with the fact or matter under bye-law 15.
- 12A.3 If following an enquiry under an investigation or discipline scheme, the fact or matter is referred to the Institute, the Investigation Committee shall either
- a. refer the fact or matter back to the head of staff to be processed by him under paragraphs 2 to 5 of bye-law 10; or
 - b. proceed to deal with the fact or matter under bye-law 15.

Assumption of matters in accordance with an investigation and discipline scheme

- 12B If the head of staff receives notice in writing in accordance with the terms of an investigation and discipline scheme requiring that a fact or matter be dealt with under the terms of that scheme, then with immediate effect
- a. the investigation of the fact or matter shall be treated as if it had been referred under bye-law 12A.1; and
 - b. the head of staff and the Investigation Committee (or if, at the relevant time, a formal complaint has been preferred under bye-law 15.2a, the Disciplinary Committee) shall cease to have any responsibility for it.

Power of Investigation Committee to call for information, etc.

- 13.1 The Investigation Committee shall have power by notice served on any member, member firm, regulated firm or provisional member to call for such information, such explanations and such books, records and documents as the Committee considers necessary to enable it or the head of staff to perform its or his functions under these bye-laws.
- 13.2 It shall be the duty of any person or body on whom a notice is served under paragraph 1 to comply with it within the period of fourteen days beginning with the date of service or such longer period as the Investigation Committee may allow.

Power of Investigation Committee to require advice to be obtained and followed

- 14.1 If the Investigation Committee is of the opinion that a complaint laid before it indicates that the practice of any firm may have been conducted inefficiently, it may require any member or member firm concerned (at his own expense) to obtain advice from such source as the Committee may specify and to implement the advice obtained.
- 14.2 In any disciplinary proceedings for an alleged failure to comply with a requirement imposed under paragraph 1, it shall be a defence for the member or member firm concerned to prove that he had good and sufficient reasons for not complying with the requirement.
- 14.3 The power conferred on the Investigation Committee by this bye-law is without prejudice to any power exercisable by it apart from this bye-law.

Complaints not referred to or referred back from an investigation and discipline scheme

- 15.1 Where a complaint laid before the Investigation Committee is
- a. not referred to an investigation and discipline scheme under bye-law 12A.1 and not referred back to the head of staff under bye-law 12.3a; or
 - b. declined by an investigation and discipline scheme under bye-law 12A.2 and not referred back to the head of staff under bye-law 12A.2a; or

- c. referred back by an investigation and discipline scheme to the Institute under bye-law 12A.3 and not referred back to the head of staff under bye-law 12A.3a,

the Investigation Committee shall consider whether or not the complaint discloses a prima facie case and, if it finds that it does not, shall dismiss the complaint.

- 15.2 If the Investigation Committee finds that the complaint discloses a prima facie case it may
 - a. prefer the whole or part of the complaint to the Disciplinary Committee as a formal complaint; or
 - b. deal with the whole or part of it under bye-law 16 (consent orders); or
(bb) deal with the whole or part of it under bye-law 16A (cautions); or
 - c. order that further consideration of the whole or part of the complaint be deferred, on such terms and conditions as it considers appropriate, for either or both of the following purposes, namely
 - i. to enable the Investigation Committee to obtain such information, such explanations and such books, records and documents as it considers necessary to perform its functions under this bye-law; or
 - ii. if the subject of the complaint is the existence of any of the circumstances set out in sub-paragraphs (b) to (f) of bye-law 4.2, to enable the Committee to monitor developments arising out of those circumstances; or
 - d. order that no further action be taken on the complaint or on any specified part of it.
- 15.3 The conditions on which an order under paragraph 2(c) may be made include the giving of written undertakings for the protection of client interests.
- 15.4 Before taking any decision under the preceding provisions of this bye-law the Investigation Committee
 - a. unless satisfied that the member, member firm, regulated firm or provisional member concerned has been given an opportunity to make written representations to the Committee, shall give him such an opportunity; and
 - b. may, if it thinks fit, give him or his representative an opportunity of being heard before the Committee (but shall not be under a duty to do so).
- 15.5 In deciding whether to prefer a complaint (the current complaint) to the Disciplinary Committee, the Investigation Committee may take into account any facts or matters
 - a. which were the subject matter of any complaint considered by the Investigation Committee on any previous occasion in relation to the member, member firm, regulated firm or provisional member concerned;
 - b. in respect of which the Committee on that occasion found that a prima facie case was disclosed; but

- c. in respect of which no formal complaint was preferred to the Disciplinary Committee and no order was made under bye-law 16.2 (consent orders) or bye-law 16A (cautions);

and if the Investigation Committee decides to prefer the whole or part of the current complaint to the Disciplinary Committee as a formal complaint, it may also prefer to that Committee any formal complaint which it could have preferred to it on that previous occasion against the member, member firm, regulated firm or provisional member in question and, if there were two or more such previous occasions, may prefer a separate formal complaint against him in respect of each of some or all of them.

- 15.6 If the Investigation Committee prefers a formal complaint to the Disciplinary Committee, it shall send to the Disciplinary Committee and to the defendant a summary of the material facts and matters which were considered by the Investigation Committee together with?
 - a. a summary or copy of any written representations made to it by the defendant, and
 - b. if the defendant has appeared before it in person or by a representative, a summary of any oral representations made to it.
- 15.7 If the Investigation Committee finds that a complaint discloses a prima facie case but orders that no further action be taken on it, it shall serve a notice to that effect on the member, member firm, regulated firm or provisional member concerned; and if within the period of 28 days beginning with the date of service of that notice the member, member firm, regulated firm or provisional member concerned serves notice on the head of staff that he is unwilling to accept the finding that a prima facie case exists, then, unless on reconsideration the Committee finds that no prima facie case exists, it shall prefer the whole or part of the complaint to the Disciplinary Committee under paragraph 2(a).

Consent orders

- 16.1 If
 - a. under bye-law 15 the Investigation Committee is of the opinion that a complaint discloses a prima facie case; and
 - b. after considering all the relevant circumstances (including the past disciplinary record, if any, of the member, member firm, regulated firm or provisional member concerned) the Committee is of the opinion that the complaint is one which it is appropriate to deal with under this bye-law, the following provisions of this bye-law shall apply.
- 16.2 The Investigation Committee may with the agreement of the member, member firm, regulated firm or provisional member concerned make
 - a. any one or more of the orders which, on finding a formal complaint proved, the Disciplinary Committee would have power to make against the defendant by virtue of

according to whether the person concerned is a member, a member firm, an authorised firm, a registered auditor or a provisional member;

- i. bye-law 22.3 (f), (g) or (h); or
- ii. bye-law 22.4 (b), (c) or (d); or
- iii. bye-law 22.5 (b), (c) or (d); or
- iv. bye-law 22.6 (b), (c) or (d); or
- v. bye-law 22.7 (f) or (g),

- b. if the person concerned is a member, member firm or regulated firm, any order which, on finding a formal complaint proved, the Disciplinary Committee would have power to make against the defendant under bye-law 23, 24 or 24A;
- c. an order that the member, member firm, regulated firm or provisional member concerned shall pay to the Institute a sum by way of costs.

16.3 Before making any order under paragraph 2 the Investigation Committee shall serve on the member, member firm, regulated firm or provisional member concerned a notice describing the action which it proposes to take if the member, member firm, regulated firm or provisional member agrees, and specifying the order which it would make in that event.

16.4 A notice under paragraph 3 must

- a. be in, or substantially in, such form as may be prescribed by regulations made by the Investigation Committee;
- b. explain the extent to which the finding of the Investigation Committee would be communicated to others;
- c. state that, if the member, member firm, regulated firm or provisional member concerned does not agree in writing to the proposed action within a stated period, a formal complaint may be preferred to the Disciplinary Committee which, in the event of its finding that complaint proved in whole or in part, would have available to it the complete range of orders mentioned in bye-laws 22, 23, 24 and 24A.

16.5 If within the period stated in the notice the member, member firm, regulated firm or provisional member agrees in writing to the Investigation Committee proceeding as proposed in the notice, the Committee shall make the order specified in the notice unless, having regard to any further information which it has received, it is of the opinion

- a. that a lesser or no penalty is appropriate, in which case it shall impose a lesser or no penalty, as the case may be;
- b. that a smaller or no sum is appropriate by way of costs, in which case it shall order a smaller sum to be paid by way of costs or make no order as to costs, as the case may be; or
- c. that no prima facie case exists, in which case it shall so find.

- 16.6 If the member, member firm, regulated firm or provisional member does not within the period stated in the notice agree in writing to the Investigation Committee proceeding as proposed in the notice, the Committee shall prefer the complaint to the Disciplinary Committee under bye-law 15.2(a) unless, having regard to any further information which it has received, it is of the opinion that no prima facie case exists, in which case it shall so find.
- 16.7 Paragraphs 1, 4 and 5 of bye-law 32 (time limits for payment of fines) shall apply in relation to any fine imposed by an order made under paragraph 2(a) or (b) of this bye-law as they apply in relation to a fine imposed by an order made by a tribunal; and paragraphs 2, 8 and 9 of bye-law 33 (time limits for payment of costs) shall apply in relation to any costs payable by virtue of an order made under paragraph 2(c) of this bye-law as they apply in relation to costs payable by virtue of an order made under bye-law 33(1).
- 16.8 Where any provision of bye-law 32 or 33 applies by virtue of paragraph 7 of this bye-law, it shall do so with the modification that any reference to the date of the order is to be taken to refer to the date of the relevant order under this bye-law.
- 16.9 Where the Investigation Committee makes an order under this bye-law, it shall cause to be published, as soon as practicable and in such a manner as it thinks fit, such a report as it thinks fit of its proceedings under this bye-law with respect to the complaint.
- 16.10 Except in so far as the Investigation Committee in its absolute discretion otherwise directs, a report published under paragraph 9 shall
- a. state the name of the person or body against whom the order was made; and
 - b. describe the order or orders made against him and state that they were made with his agreement,

but need not include the name of any other person or body concerned in the complaint.

Cautions

- 16A.1 If
- a. under bye-law 15 the Investigation Committee finds that a complaint discloses a prima facie case; and
 - b. after considering all the relevant circumstances (including the past disciplinary record, if any, of the member, member firm, regulated firm or provisional member concerned) the Committee is of the opinion that the complaint is one which it is appropriate to deal with by way of a caution under this bye-law (with or without an order to pay costs),

the following provisions of this bye-law shall apply.

- 16A.2 The Investigation Committee shall serve on the member, member firm, regulated firm or

provisional member concerned ("the subject of the complaint") a notice

- a. stating that the Committee finds that the complaint discloses a prima facie case; and
- b. informing the subject of the complaint that the Committee proposes to make an order under this bye-law
 - i. that he be cautioned; or
 - ii. that he be cautioned and pay to the Institute a fixed sum by way of costs,

as the case may be.

- 16A.3 A notice under paragraph 2 must be in, or substantially in, such form as may be prescribed by regulations made by the Investigation Committee and must explain the extent to which, in accordance with regulations, the proposed order, if made, would be communicated to others; and in that paragraph "a fixed sum" means the fixed sum for the time being so prescribed for such costs.
- 16A.4 If within the period of 28 days beginning with the date of service of a notice under paragraph 2 above the subject of the complaint serves notice on the head of staff that he is unwilling to accept the finding that a prima facie case exists, then, unless on reconsideration the Committee finds that no prima facie case exists, it shall prefer the whole or part of the complaint to the Disciplinary Committee under bye-law 15.2(a).
- 16A.5 If no notice under paragraph 4 is served on the head of staff within that period, the Investigation Committee shall make the order proposed in the notice served under paragraph 2.
- 16A.6 Any costs ordered under this bye-law shall be paid within the period of 30 days beginning with the date of the order; and bye-law 33.8 (latest time for payment of costs) shall apply to costs payable to the Institute under this bye-law as it applies to costs payable under bye-law 33, but with the omission of the words "or instalments of costs" and "or under".
- 16A.7 Except with the consent of the subject of the complaint in question, this bye-law shall not apply to a complaint involving facts or matters which occurred before 7 October 1999.

Complainant's right to review

Review of finding of no prima facie case

- 17.1 This bye-law applies where, under bye-law 15, 16 or 16A, the Investigation Committee finds that a complaint laid before it does not disclose a prima facie case against the member, member firm, regulated firm or provisional member concerned.
- 17.2 A complainant may apply in writing to the head of staff for a review of the finding, and the head of staff shall refer every such application to a reviewer of complaints (the reviewer) who, subject to paragraph 3, shall consider the application.
- 17.3 The reviewer shall not consider the application if it was received by the head of staff after the end of the period of six months beginning with the date of the finding unless
- a. the reviewer is satisfied that the complainant could not reasonably have been expected to make the application within that period; or
 - b. there is, in the opinion of the reviewer, fresh evidence justifying consideration of the application.
- 17.4 If, after considering the application, the reviewer is of the opinion that one or more of the circumstances mentioned in paragraph 5 apply, he shall remit the application to the Investigation Committee with a recommendation that the whole or part of the complaint be reconsidered.
- 17.5 Those circumstances are that
- a. fresh evidence of a material nature has been received since the date of the finding;
 - b. there has been a failure on the part of the head of staff or the Investigation Committee to follow the procedure for processing or consideration of complaints laid down in these bye-laws or any regulations, and the Committee's consideration of the complaint has been prejudiced by that failure;
 - c. there is reason to suspect a lack of independence on the part of any member of the Investigation Committee who took part in the consideration of the complaint, and the Committee's consideration of the complaint has been prejudiced by that lack;
 - d. the finding was not one which could reasonably have been arrived at by the Investigation Committee upon due consideration of the facts and matters before it.
- 17.6 If, after considering the application, the reviewer is of the opinion that none of the circumstances mentioned in paragraph 5 applies, he shall so inform the complainant and the Investigation Committee and give them in writing his reasons for being of that opinion.
- 17.7 The reviewer may request the head of staff to provide him with such technical assistance as the reviewer considers necessary to enable him to perform his functions under this bye-law; and the head of staff shall comply with any reasonable request made under this paragraph.

17.8 The reviewer may require the Investigation Committee to exercise its powers under bye-law 13 in order to obtain such information, such explanations and such books, records and documents as he considers necessary to enable him to perform his functions under this bye-law; and for this purpose the reference in that bye-law to the Committee's functions shall be taken to include those of the reviewer.

Further investigation of complaint after review

18.1 If under bye-law 17.4 the reviewer remits the application to the Investigation Committee with a recommendation that the whole or part of the complaint be reconsidered, the complaint or that part of it shall be treated by the Committee as if it had then been newly laid before it by the head of staff, except that

- a. the Committee may have regard both to the information and any representations previously available to it in relation to the complaint and to any information or representations (whether written or oral) received by it since the date of the finding mentioned in bye-law 17.1; and
- b. the Committee shall not take any decision on the complaint under paragraphs 1 to 3 of bye-law 15 until the member, member firm, regulated firm or provisional member concerned has been given a further opportunity to make written representations to it.

18.2 If it appears to the Investigation Committee, after reconsidering the complaint as required by paragraph 1, that there is still no prima facie case against the member, member firm, regulated firm or provisional member concerned, it shall inform the reviewer of its reasons for proposing so to find; and the reviewer may, within the period of 28 days beginning with the date on which he is so informed, or such longer period as the Committee may allow, send the Committee such comments, if any, on the proposed finding as he thinks fit.

18.3 On receipt of any such comments within the period mentioned in paragraph 2 the Investigation Committee shall consider its proposed finding in the light of them, and shall then decide whether or not it is of the opinion that the complaint discloses a prima facie case.

18.4 If

- a. within the period allowed by or under paragraph 2 the reviewer informs the Investigation Committee that he has no comments on the proposed finding; or
- b. when that period ends no comments by the reviewer have been received by the Committee,

the Committee shall proceed to decide whether or not it is of the opinion that the complaint discloses a prima facie case.

18.5 If under paragraph 3 or 4, the Investigation Committee finds that the complaint does not disclose a prima facie case, it shall inform the complainant and the reviewer in writing of its

reasons for so finding.

Disciplinary proceedings

Tribunals

- 19.1 On receipt by the Disciplinary Committee of a formal complaint, the Chairman of that Committee or, failing him, any Vice-Chairman of that Committee
- a. shall appoint three of its members, two of them being members of the Institute and the third not being an accountant, as a tribunal to hear that complaint; and
 - b. shall appoint one of the three as chairman of the tribunal.
- 19.2 If, in the case of a tribunal so appointed, any member of the tribunal
- a. is for any reason unable to attend the hearing or any adjourned hearing of the formal complaint; or
 - b. is in the course of the hearing unable to continue so to attend,
- the remaining members, if not less than two in number, may at their discretion proceed or continue with the hearing; but if the defendant is present or represented at the hearing, they shall do so only if he or his representative consents.
- 19.3 If, in a case falling within paragraph 2, the remaining members of the tribunal
- a. do not proceed or continue with the hearing; or
 - b. complete the hearing but are unable to agree on a finding,
- the complaint shall be heard or re-heard by a new tribunal appointed under paragraph 1.
- 19.4 If at any time during the hearing of a formal complaint the chairman of the tribunal appointed under paragraph 1 is for any reason of the opinion that it is impracticable or would be contrary to the interests of justice for the hearing to be completed by that tribunal, he shall so inform the Chairman or, failing him, any Vice-Chairman of the Disciplinary Committee, who shall thereupon direct that the complaint be re-heard by a new tribunal so appointed.
- 19.5 The Disciplinary Committee may appoint a barrister or a solicitor to act as legal assessor at the hearing of a formal complaint.
- 19.6 Where a new tribunal is appointed pursuant to paragraph 3 or 4, or to an order made on appeal under bye-law 29.2(e), no member of the previous tribunal may be appointed as a member of the new one; but a person appointed as a legal assessor may continue to act at any re-hearing of the complaint.

Hearing of formal complaint

- 20.1 As soon as practicable after the appointment of a tribunal to hear a formal complaint, the head of staff shall serve on the defendant a notice stating the terms of the complaint and the time and place fixed for the hearing.

- 20.2 The defendant may appear before the tribunal in person or by a representative.
- 20.3 The tribunal shall give the defendant or his representative a reasonable opportunity of being heard before it.
- 20.4 If the defendant does not attend and is not represented at the hearing, then, provided that the tribunal is satisfied that the notice required by paragraph 1 was served on him, the tribunal may hear the formal complaint in his absence.
- 20.5 The Investigation Committee may appoint the head of staff or any member of the Institute, or may instruct a barrister or solicitor, to present the formal complaint before the tribunal.

Temporary suspension of activities of authorised firm

- 21.1 If, at any time while a tribunal is considering a formal complaint against an authorised firm, it is of the opinion, as regards all or any of the firm's exempt regulated activities under the Financial Services and Markets Act 2000, that their continuation may materially prejudice the interests of any client of the firm, it may serve on the firm a notice specifying the activities as to which it is of that opinion and ordering the firm to suspend them for a specified period (not exceeding 30 days) beginning at the time of service of the notice.
- 21.2 A notice under paragraph 3 of bye-law 16 (consent orders) served on a firm undertaking exempt regulated activities under the Financial Services and Markets Act 2000 shall mention the power available under this bye-law (as well as the orders referred to in paragraph 4(c) of that bye-law).

Powers of tribunal

- 22.1 If the tribunal appointed to hear a formal complaint is of the opinion that the complaint has been proved in whole or in part, it shall make a finding to that effect; but if it is not of that opinion, it shall dismiss the complaint.
- 22.2 If the tribunal finds that the formal complaint has been proved in whole or in part, it may (unless it is of the opinion that in all the circumstances it is inappropriate to do so) make against the defendant such one or more of the orders available against him under the following provisions of these bye-laws, namely
- a. paragraph 3, 4, 5, 6 or 7 of this bye-law, as the case may be; and
 - b. bye-laws 23 (waiver etc. of fees), 24 (remedial action) and 24A (expenses),

as it considers appropriate, having regard to the past disciplinary record, if any, of the defendant, the tribunal's views as to the nature and seriousness of the formal complaint (so far as proved), and any other circumstances which the tribunal considers relevant.

- 22.3 If the defendant is a member, the orders available against him are

- a. that he be excluded from membership;
- b. that his practising certificate be withdrawn either permanently or for a specified period;
- c. that any Insolvency Licence held by him be withdrawn;
- d. that he be ineligible for an Insolvency Licence;
- e. that he be ineligible for a practising certificate, either permanently or for a specified period;
- f. that he be severely reprimanded;
- g. that he be reprimanded;
- h. that he be fined a specified sum.

22.4 If the defendant is a member firm, the orders available against it are

- a. that it be prohibited from using the description "**Chartered Accountants**" for a specified period;
- b. that it be severely reprimanded;
- c. that it be reprimanded;
- d. that it be fined a specified sum.

22.5 If the defendant is an authorised firm, the orders available against it are

- a. that it shall cease to be authorised by the Institute to carry on exempt regulated services under the Financial Services and Markets Act 2000;
- b. that it be severely reprimanded;
- c. that it be reprimanded;
- d. that it be fined a specified sum.

22.6 If the defendant is a registered auditor, the orders available against it are

- a. that its registration granted at the instance of the Institute be withdrawn;
- b. that it be severely reprimanded;
- c. that it be reprimanded;
- d. that it be fined a specified sum.

22.7 If the defendant is a provisional member, the orders available against him are

- a. that he be declared unfit to become a member;
- b. that he cease to be a provisional member and be ineligible for re-registration as a provisional member for a specified period not exceeding two years;
- c. that the registration of his training contract be suspended for a period not exceeding two years;
- d. that for a specified period not exceeding two years he be ineligible to sit for such one

or more of the Institute's examinations as may be specified or for any specified part of any of those examinations;

- e. that he be disqualified from such one or more of the Institute's examinations as may be specified or from any specified part of any of those examinations, not being an examination or part the result of which was duly notified to him by the Institute before the date of the order;
- f. that he be severely reprimanded;
- g. that he be reprimanded.

22.8 An order under this bye-law may include such terms and conditions (if any) as the tribunal considers appropriate including, in the case of an order for exclusion from membership made against a member, a recommendation that no application for his readmission be entertained before the end of a specified period.

22.9 An order under this bye-law against a member, member firm or regulated firm may include a direction requiring him (at his own expense) to obtain advice from a specified source and to implement the advice obtained.

22.10 In this bye-law "specified", in relation to any order or direction under this bye-law, means specified in the order or direction.

Orders for waiver or repayment of fees or commission

- 23.1 If the tribunal appointed to hear a formal complaint against a member or member firm engaged in public practice or against a regulated firm finds the complaint proved in whole or in part, it may make one or more of the following orders against the defendant namely?
- a. that he shall waive the whole or part of any fee which has been agreed by or invoiced to a client;
 - b. that he shall pay to the Institute the whole or part of any fee which the client has paid;
 - c. that he shall pay to the Institute the whole or part of any sum of money which has been retained by the defendant in or towards payment of a fee by a client;
 - d. that he shall pay to the Institute a sum assessed by the tribunal as the value (in whole or in part) of any commission to which he has become entitled (whether or not it has been received by him) in connection with the facts and matters which are the subject of the complaint.
- 23.2 Before making an order under paragraph 1 the tribunal
- a. if the defendant is present or represented before it, shall give him or his representative an opportunity to make representations to the tribunal with regard to the proposed order;
 - b. if the defendant is neither present nor represented before it, shall
 - i. adjourn the hearing for a reasonable period;
 - ii. serve on him a notice describing the order it proposes to make under paragraph 1; and
 - iii. at the resumed hearing give him or his representative an opportunity to make representations to the tribunal, either orally or in writing, with regard to the proposed order.
- 23.3 Where an order is made under paragraph 1, the total of
- a. any fees ordered to be waived under paragraph 1(a);
 - b. any sum ordered to be paid under paragraph 1(b);
 - c. any sum ordered to be paid under paragraph 1(c); and
 - d. any sum ordered to be paid under paragraph 1(d)
- shall not exceed ?10,000 or such other sum as may from time to time be fixed for the purposes of this paragraph by direction of the Council.
- 23.4 The tribunal making an order under paragraph 1 may include in it such terms or conditions as it thinks fit.
- 23.5 In this bye-law "client" includes a former client.

Remedial orders

- 24.1 If the tribunal appointed to hear a formal complaint against a member or member firm engaged in public practice or against a regulated firm finds the complaint proved in whole or in part, it may make one or more of the following orders against the defendant namely
- a. that he shall return to any client any books or documents belonging to the client which are not the subject of a lien;
 - b. that, as regards any specified fee, he shall provide the client with such particulars as may be specified;
 - c. that he shall take such steps as may be specified, being steps (other than payment of compensation) which the tribunal considers appropriate for the purpose of resolving the issues which gave rise to the formal complaint.
- 24.2 If the tribunal finds the complaint proved in whole or in part, then, whether it makes any order under paragraph 1 or not, the tribunal?
- a. may appoint a member, member firm or regulated firm other than the defendant to undertake or complete any work which the defendant had been engaged to perform for a client; and
 - b. if it does so, shall order the defendant to pay the reasonable fees of that member, member firm or regulated firm for work done as a result of the appointment.
- 24.3 Bye-law 23.2 shall apply in relation to the making of any order or appointment under paragraph 1 or 2 as it applies in relation to the making of an order under bye-law 23.1.
- 24.4 In the event of a dispute between the defendant and a member, member firm or regulated firm appointed under paragraph 2 as to the fees payable by virtue of an order under paragraph 2(b), the Investigation Committee may either
- a. determine the fees payable; or
 - b. order the parties to the dispute to submit the fees to arbitration in accordance with the directions of the Investigation Committee.
- 24.5 The tribunal making an order under paragraph 1 may include in it such terms or conditions (if any) as it thinks fit.
- 24.6 A defendant against whom an order has been made under paragraph 1 of bye-law 23 requiring him to do all or any of the things mentioned in that paragraph shall be treated for the purposes of paragraph 1(a) of this bye-law as having no lien in respect of the fees to which the order relates, if those requirements
- a. cover the whole of those fees; or

- b. cover only part of them, and the balance has been paid by the client.

24.7 In this bye-law

"client" includes a former client;

"specified", in relation to any order under this bye-law, means specified in the order.

Expenses

24A.1 If the tribunal appointed to hear a formal complaint against a member or member firm or against a regulated firm finds the complaint proved in whole or in part, it may make an order that the defendant shall pay a sum to the Institute which will be sufficient to reimburse the complainant for such expense as, in the opinion of the tribunal, was reasonably and necessarily incurred by the complainant in

- a. bringing to the attention of or reporting to the head of staff any of the facts and matters which constitute the complaint; or
- b. making written representations to the head of staff on any of those facts and matters before the Investigation Committee has under bye-law 15 decided whether in its opinion the complaint discloses a prima facie case.

24A.2 Bye-law 23.2 shall apply in relation to the making of any order under paragraph 1 as it applies in relation to the making of an order under bye-law 23.1.

24A.3 Where an order is made under paragraph 1, the sum which is ordered to be paid shall not exceed 1,000 or such other sum as may from time to time be fixed for the purposes of this paragraph by the direction of Council.

24A.4 The tribunal making an order under paragraph 1 may include in it such terms and conditions as it thinks fit.

24A.5 In this bye-law and bye-law 34B, complainant means the person who under bye-law 9.1 brought to the attention of, or reported to, the head of staff any of the facts and matters which constitute the complaint.

Time when tribunal's order takes effect

25.1 Subject to the following provisions of this bye-law, an order made by the tribunal appointed to hear a formal complaint shall, unless the tribunal otherwise directs, take effect at the end of the period of 28 days beginning with the date of the order.

25.2 If within that period the defendant serves notice of appeal

- a. against the order; or

- b. where applicable, against the tribunal's omission to direct that the record of its decision required to be published under bye-law 35 shall not include the name of the defendant,

then, subject to paragraph 3, the order shall take effect, if at all, only after the appeal has been determined under the following provisions of these bye-laws.

25.3 If, before the appeal has been so determined, the defendant by notice withdraws the notice of appeal

- a. the tribunal's order shall take effect at the end of the period of 14 days beginning with the date on which the notice of withdrawal is served on the head of staff; and
- b. any fines which would have been due for payment before the end of that period if there had been no appeal shall become due at the end of that period.

25.4 This bye-law does not apply to an order for the payment of costs made by the tribunal under bye-law 33.1.

Appeals

Right of appeal

- 26.1 Subject to bye-law 33.5 in the case of an order for exclusion from membership, if a tribunal makes an order against the defendant, he may within the period of 28 days beginning with the date of the order serve on the head of staff notice of appeal
- a. against the order; or
 - b. where applicable, against the tribunal's omission to direct that the record of its decision required to be published under bye-law 35 shall not include the name of the defendant.
- 26.2 The grounds on which the defendant may appeal against an order include the ground that the amount of any costs ordered by the tribunal to be paid by him is excessive (but not the ground that the amount of any costs ordered by it to be paid to him by the Institute is too small).
- 26.3 A notice of appeal under paragraph 1 shall be of no effect unless, before the end of the period of 28 days beginning with the date on which the written record of the tribunal's decision was served on him, or such longer period as the Chairman of the Appeal Committee or, failing him, its Vice-Chairman may within that period allow, the defendant serves on the head of staff a notice stating the grounds of appeal.
- 26.4 A notice under paragraph 3 stating the grounds of appeal may be combined with the notice of appeal; but the grounds stated in a notice under paragraph 3 as served on the head of staff shall not be amended thereafter except with the leave of the panel appointed under bye-law 27 to hear the appeal.
- 26.5 A defendant may withdraw a notice of appeal by serving on the head of staff notice to that effect.
- 26.6 If the defendant serves a notice of appeal under paragraph 1 but fails to serve a notice stating the grounds of appeal before the end of the period allowed by or under paragraph 3, the tribunal's order shall take effect under bye-law 25.3 as if the defendant had served a notice of withdrawal of the appeal on the head of staff on the last day of that period.
- 26.7 If, after the period of 28 days allowed by paragraph 1 has expired, the defendant serves on the head of staff a written application (in the prescribed form) for leave to serve notice of appeal under that paragraph notwithstanding the expiration of that period, then
- a. the Chairman of the Appeal Committee or, failing him, its Vice-Chairman shall as soon as practicable appoint a panel (constituted as prescribed) to consider the application in accordance with the procedure prescribed for such panels, and
 - b. the panel may give the defendant leave to serve notice of appeal under paragraph 1 within the period of 28 days beginning with the date on which notice of the panel's decision is served on him at an address specified by him in his application.

- 26.8 Leave shall not be given under paragraph 7(b) unless the panel is satisfied that the defendant could not reasonably have been expected to serve notice of appeal within the period of 28 days originally allowed by paragraph 1.
- 26.9 Where, in the case of an order made by a tribunal against a defendant, leave to serve notice of appeal out of time is given under paragraph 7(b)
- a. the order shall be treated for the purposes of the bye-laws as if its date were the date of service on the defendant of notice of the panel's decision as mentioned in paragraph 7(b), and references to the date of that order shall be construed accordingly;
 - b. the provisions of the bye-laws shall have effect in relation to that order subject to such directions as may be given by the panel giving that leave, being directions which the panel consider necessary for the purpose of adapting or supplementing those provisions so as to fit the circumstances resulting from the giving of that leave.
- 26.10 In this bye-law "prescribed" means prescribed by regulations.

Panels

- 27.1 As soon as practicable after the receipt by the head of staff of an effective notice of appeal under bye-law 26 the Chairman of the Appeal Committee or, failing him, its Vice-Chairman shall appoint a panel to hear the appeal.
- 27.2 A panel so appointed shall consist of
- a. a chairman, being either the Chairman or the Vice-Chairman of the Appeal Committee or, if neither of them is available to sit, another person (whether a member of the Appeal Committee or not) who is either a barrister or a solicitor;
 - b. three members of the Appeal Committee who are members of the Institute; and
 - c. one member of the Appeal Committee who is not an accountant.
- 27.3 If any member of the panel, other than its chairman
- a. is for any reason unable to attend the hearing or any adjourned hearing of the appeal;
or
 - b. is in the course of the hearing unable to continue so to attend,
- the remaining members, if not less than four in number, may at their discretion proceed or continue with the hearing; but if the defendant is present or represented at the hearing, they shall do so only if he or his representative consents.
- 27.4 If, in a case falling within paragraph 3, the remaining members of the panel
- a. do not proceed or continue with the hearing; or

- b. complete the hearing but are unable to agree on how to determine the appeal, the appeal shall be heard or re-heard by a new panel appointed under paragraph 1.
- 27.5 If at any time during the hearing of an appeal the chairman of the panel appointed under paragraph 1 is for any reason of the opinion that it is impracticable or would be contrary to the interests of justice for the hearing to be completed by that panel, he shall so inform the Chairman or, failing him, the Vice-Chairman of the Appeal Committee who shall thereupon direct that the appeal be re-heard by a new panel so appointed.
- 27.6 The Appeal Committee may appoint a barrister or solicitor to act as legal assessor at the hearing.
- 27.7 Where a new panel is appointed pursuant to paragraph 4 or 5, no member of the original panel may be appointed as a member of the new one; but a person appointed as a legal assessor may continue to act at any re-hearing of the appeal.

Hearing of appeals

- 28.1 As soon as practicable after the appointment under bye-law 27.1 of a panel to hear an appeal, the head of staff shall serve on the defendant a notice stating the time and place fixed for the hearing.
- 28.2 The defendant may appear before the panel in person or by a representative.
- 28.3 The panel shall give the defendant or his representative a reasonable opportunity of being heard before it.
- 28.4 If the defendant does not attend and is not represented at the hearing then, provided that the panel is satisfied that the notice required by paragraph 1 was served on him, the tribunal may hear the appeal in his absence.
- 28.5 If the defendant or his representative so requests, the hearing of the appeal shall be held in public; but notwithstanding such a request, the panel may exclude the press and public from all or part of the hearing in circumstances in which Article 6 of the European Convention on Human Rights permits this.
- 28.6 The Investigation Committee may appoint the head of staff or any member of the Institute, or may instruct a barrister or solicitor, to appear on behalf of the Committee at the hearing of the appeal.

Powers of panel on appeal

- 29.1 On an appeal under bye-law 26.1 against an order made on a formal complaint, the panel appointed to hear the appeal
- a. shall take into consideration the record of the evidence given before, and the

documents produced to, the tribunal at the hearing of the complaint;

- b. may, if it thinks fit, re-hear any witness who gave oral evidence before the tribunal;
and
- c. may on special grounds (as to which the panel shall be the sole judge) receive fresh evidence.

29.2 On such an appeal, the panel may by order

- a. affirm, vary or rescind any order of the tribunal;
- b. substitute for any such order or orders such other order or orders as it thinks appropriate, being in every case an order which the tribunal might have made on the formal complaint;
- c. include in any substituted order such terms and conditions, if any, as the panel thinks appropriate including, in the case of an order for the exclusion of a member from membership, a recommendation that no application for his readmission be entertained before the end of a period specified in the order;
- d. direct that the record of the tribunal's decision to be published under bye-law 35 shall not include the name of the defendant;
- e. direct that the complaint shall be re-heard by a new tribunal appointed under bye-law 19.1.

29.3 An order made by a panel on an appeal under bye-law 26.1 shall take effect on the date of the order unless the panel directs that it shall take effect as from some later date specified in the order.

Intervention orders

Intervention orders

30.1 Where, whether in the course of considering a complaint or not, the Investigation Committee is of the opinion that a member engaged in public practice

- a. has appeared before a court of competent jurisdiction charged with an indictable offence and has either
 - i. been remanded in custody on that charge; or
 - ii. pleaded guilty to or been found guilty of such an offence;
- b. has been excluded from membership of any body (other than the Institute) mentioned or referred to in bye-law 7.2(a);
- c. is a person whose professional competence or efficiency is seriously impaired as a result of ill health or mental incapacity;
- d. is a sole practitioner who has abandoned his practice; or
- e. is a member of a partnership or director of a body corporate which was engaged in public practice, but whose principals have all abandoned the practice,

the Committee may (subject to paragraph 3 and, where it applies, paragraph 8) make against him one or more of the orders available against him under paragraph 2.

30.2 The orders available against a member are

- a. that his practising certificate be suspended for such period (not exceeding two years) as the Investigation Committee considers appropriate in all the circumstances;
- b. that he shall not take on any new clients;
- c. that in respect of his professional activities he shall execute, in such terms as the Investigation Committee may specify in the order, a power of attorney or an enduring power of attorney in favour of another member designated by the Investigation Committee (in this paragraph referred to as "the substitute");
- d. that he shall instruct his bank that cheques drawn on his client bank account are not to be honoured unless signed or counter-signed by the substitute;
- e. that he shall provide the substitute with an account of all client account money;
- f. that he shall hand over to the substitute all books and documents concerning any of his clients and divert his professional mail to the substitute's registered address.

30.3 Where a member is engaged in public practice

- a. as a partner in a partnership in which one or more of the other partners are members so engaged; or
- b. as a director of a body corporate one or more of whose other directors are members so engaged,

an order under this bye-law (other than one confined to suspending his practising certificate) shall not be made against him unless it is also made against each other partner or director so engaged who is a member.

- 30.4 In determining under this bye-law whether or not a member's professional competence or efficiency is seriously impaired as a result of ill-health or mental incapacity, the Investigation Committee may rely on a report by a registered medical practitioner; but the absence of such a report shall not prevent the Committee from so determining on the basis of the member's conduct.
- 30.5 For the purposes of this bye-law a member shall, unless the contrary is proved, be presumed to have abandoned the practice of which he is a principal if
- a. it appears to the Investigation Committee that he has, without reasonable explanation, been continuously absent from all offices of the practice for at least 30 days; or
 - b. he has persistently failed to respond to efforts to contact him at his registered address.
- 30.6 An order under this bye-law
- a. may be framed so as to be in force indefinitely or for a specified period or until the occurrence of a specified event; and
 - b. may include such terms and conditions (if any) as the Investigation Committee thinks fit.
- 30.7 Where the Investigation Committee has made an order against a member under this bye-law, it may on a written application made by him or on its own initiative
- a. by order discharge the order or vary it (whether so as to prolong its operation or in any other way); or
 - b. if the order has ceased to have effect, make a fresh order under this bye-law.
- 30.8 Before making an order against a member under this bye-law or taking any action under paragraph 7 the Investigation Committee shall
- a. serve on the member concerned a notice describing (with reasons) the action it proposes to take; and
 - b. give him a reasonable opportunity to make written representations to it and, if he so requests, give him or his representative a reasonable opportunity to make oral representations to it.
- 30.9 Paragraph 8 shall not apply if, in the opinion of the Investigation Committee, delay in taking

action under paragraphs 1 to 6 or paragraph 7 would seriously prejudice the interests of any person, whether a client of the member concerned or not; but where the Committee acts by virtue of this paragraph without having done as provided in paragraph 8, it shall promptly

- a. serve on the member concerned a notice describing (with reasons) the action it has taken;
- b. give him a reasonable opportunity to make written representations to it and, if he so requests, give him or his representative a reasonable opportunity to make oral representations to it; and
- c. reconsider the action taken by it in the light of any representations so made.

30.10 As soon as practicable after making any order under this bye-law the Investigation Committee shall serve a copy of the order on the member concerned.

30.11 Where the Investigation Committee makes any order under this bye-law, it shall cause a statement to that effect to be published, as soon as practicable, in such manner as it thinks fit.

30.12 Except insofar as the Investigation Committee in its absolute discretion otherwise directs, a statement published under paragraph 11 shall

- a. state the name of the member against whom the order was made; and
- b. describe the order or orders made against him,

but need not include the name of any other person or body concerned.

Appeals against intervention orders

31.1 If the Investigation Committee makes an order against a member under bye-law 30 (intervention orders), he may within the period of 28 days beginning with the date of the order serve on the head of staff notice of appeal

- a. against the order; or
- b. where applicable, against the Committee's omission to direct that the statement required to be published under bye-law 35 (as applied by the following provisions of this bye-law) shall not include the name of the member.

31.2 The provisions of these bye-law mentioned in column 1 of the table set out in paragraph 6 (which relate to appeals against orders made by tribunals) shall apply in relation to appeals under paragraph 1 of this bye-law as if references in those provisions to a tribunal, to an order made by a tribunal (or on a formal complaint) and to the defendant were respectively references to the Investigation Committee, to an order made by it under bye-law 30, and to the member against whom that order was made.

31.3 In their application by virtue of paragraph 2 the provisions mentioned in column 1 of that table shall have effect subject to any further modifications specified in column 2 of the table.

31.4 On an appeal under paragraph 1 the panel appointed to hear the appeal may, whether the appeal is successful or not, order the member concerned to pay the Institute by way of costs of the appeal such sum as the panel may in its absolute discretion determine.

31.5 Any costs ordered under paragraph 4 shall, unless a longer period for payment (whether by instalments or not) is allowed by order of the panel, be paid within the period of 28 days beginning with the date of the order; and paragraphs 8 and 9 of bye-law 33 (time for payment of costs) shall apply in relation to any costs or instalment of costs payable under this bye-law as if references to that bye-law and to paragraph 8 of it were references to this bye-law and this paragraph respectively.

31.6 The following is the table referred to above

(1)	(2)
the definition of "representative" in <u>bye-law</u> 1.2	-
<u>bye-law</u> 26.3 to 10	-
<u>bye-law</u> 27	-
<u>bye-law</u> 28	-
<u>bye-law</u> 29	<ul style="list-style-type: none"> a. in paragraph 2.(b), for "on the <u>formal complaint</u>" substitute "under <u>bye-law</u> 30"; b. in paragraph 2(d), for "record of the <u>tribunal's</u> decision" substitute "statement"; and c. for paragraph 2(e) substitute "(e) direct that the matter shall be referred back to the <u>Investigation Committee</u> for reconsideration."
<u>bye-law</u> 35	<ul style="list-style-type: none"> a. for any reference to a record of a <u>tribunal's</u> decision substitute a reference to a statement; b. in paragraph 2, for the words from "Where" to "in part" substitute "Where, on an appeal, a <u>panel</u> rescinds an <u>order</u> made under <u>bye-law</u>

30";

- c. in paragraph 3, omit "the tribunal or, as the case may be,";
- d. in paragraph 4, for "26.1" substitute "31.1";
- e. in paragraphs 5 and 6 omit "tribunal or" (3 times).

Fines and costs

Time limits for payment of fines

32.1 Subject to paragraph 2, a fine imposed by an order of a tribunal appointed to hear a formal complaint shall, unless a longer period for payment (whether by instalments or not) is allowed by the order, be paid within the period of 30 days beginning with the date of the order.

32.2 If the defendant gives notice of appeal against the order of the tribunal within the period allowed by bye-law 26.1, the fine shall not become payable until the appeal has been determined under these bye-law, and shall then be payable, if at all, in accordance with the following provisions of this bye-law.

32.3 A fine

- a. which is imposed by an order of a panel under these bye-law; or
- b. which, having been imposed by a tribunal under these bye-law, is on appeal affirmed or varied in amount by an order of a panel under these bye-laws,

shall be paid within the period of 28 days beginning with the date of the order unless a longer period for payment (whether by instalments or not) is allowed by the order of the panel.

32.4 Any fine or instalment of a fine imposed under these bye-laws must be received by the Institute before the close of business on the last day of the period allowed by or under these bye-laws for its payment (or, if that day is not a business day, before the close of business on the next business day).

32.5 Where

- a. a fine imposed by these bye-laws is payable by instalments; and
- b. any instalment is not duly received by the Institute as required by paragraph 4,

the whole of that fine or, as the case may be, so much of it as then remains unpaid shall become due for payment in accordance with paragraph 4 as if the last day of the period allowed for the payment of that instalment were the last day of the period allowed for the payment of the whole fine.

Powers of tribunals and panels as to costs

33.1 If the tribunal appointed to hear a formal complaint finds that the complaint has been proved in whole or in part, it may order the defendant to pay to the Institute by way of costs such sum as the tribunal may determine.

33.1A If the tribunal appointed to hear a formal complaint dismisses the complaint as wholly unproved or finds that the complaint has been proved in part only, it may order the Institute to pay to the defendant by way of costs such sum as the tribunal may (subject to and in accordance with regulations) in its absolute discretion determine.

- 33.2 Any costs ordered under paragraph 1 shall, unless a longer period for payment (whether by instalments or not) is allowed by the order, be paid within the period of 30 days beginning with the date of the order.
- 33.3 If within the period allowed by bye-law 26.1 the defendant serves notice of appeal against an order for payment of costs made under paragraph 1 of this bye-law, then, subject to paragraphs 4 and 5 of this bye-law (and to bye-law 26.3), those costs shall not become payable until the appeal has been determined under these bye-laws, and shall then be payable, if at all, in accordance with the following provisions of this bye-law.
- 33.4 If, before the appeal has been so determined, the defendant by notice withdraws the notice of appeal
- a. the tribunal's order for payment of costs shall take effect at the end of the period of 14 days beginning with the date on which the notice of withdrawal is served on the head of staff; and
 - b. any costs which would have been due for payment before the end of that period if there had been no appeal shall become due at the end of that period.
- 33.5 A notice of appeal under bye-law 26.1 against an order that the defendant be excluded from membership shall be of no effect unless any costs ordered by the tribunal under paragraph 1 (or such part of those costs as may be determined by the Chairman of the Appeal Committee or, failing him, by its Vice Chairman, on the written application of the defendant) are paid on or before the giving of the notice; but any costs so paid shall be repaid if and so far as their amount is reduced or cancelled by the panel on the appeal.
- 33.6 On an appeal against an order made by a tribunal, the panel appointed to hear the appeal
- a. may by order reduce or cancel the amount of any costs ordered by the tribunal to be paid by the defendant;
 - b. may, whether the appeal is successful or not, order the defendant to pay to the Institute by way of costs of the appeal such sum as the panel may in its absolute discretion determine;
 - c. may, if it finds the complaint wholly unproved or finds that it has been proved in part only, order the Institute to pay to the defendant by way of costs such sum as the panel may, subject to and in accordance with regulations, in its absolute discretion determine.
- 33.7 Any costs ordered by the panel under paragraph 6(b), together with
- a. any unpaid costs ordered by the tribunal under paragraph 1; or
 - b. so much (if any) of those unpaid costs as remains payable after any reduction or cancellation under paragraph 6(a),

shall, unless a longer period for payment (whether by instalments or not) is allowed by order

of the panel, be paid within the period of 28 days beginning with the date of the order of the panel.

33.8 Any costs or instalment of costs payable to the Institute under this bye-law must be received by the Institute before the close of business on the last day of the period allowed by or under this bye-law for payment (or, if that day is not a business day, before the close of business on the next business day).

33.9 Where

- a. any costs ordered by these bye-laws are payable by instalments; and
- b. any instalment is not duly received by the Institute as required by paragraph 8,

the whole of those costs or, as the case may be, so much of them as then remains unpaid, shall become due for payment in accordance with paragraph 8 as if the last day of the period allowed for the payment of that instalment were the last day of the period allowed for the payment of the whole of those costs.

Liability for fines and costs payable by member firms

34.1 Where a member firm has been ordered to pay any fine or costs under these bye-laws, the following provisions of this bye-law apply.

34.2 Any member or former member who at, or at any time since, the relevant time?

- a. was a director of or a partner in the firm; or
- b. as a sole practitioner, himself constituted the firm,

shall be liable for the full amount of the fine or costs in question; and where two or more persons are so liable under this paragraph, they shall be jointly and severally liable.

34.3 If any member or former member fails to pay on demand any amount which he is liable to pay under paragraph 2, the failure shall have the same consequences under the bye-laws as it would if the fine or costs had been imposed on him individually.

34.4 In this bye-law "the relevant time" has the same meaning as in the definition of "firm" contained in bye-law 1.2.

Refund of fees, commission and expenses

Time limit for payment of fees, commission and expenses

34A ~~Bye-law~~ 32 (time limits for payment of fines) shall apply in relation to an ~~order~~ for the payment of a sum under ~~bye-law~~ 23.1 or ~~bye-law~~ 24A.1 as it applies in relation to ~~order~~ for the payment of fines.

Refund of sums to complaints

34B When any sum of which payment is ordered under ~~bye-law~~ 23.1 or ~~bye-law~~ 24A.1 is paid to the Institute, the Institute shall pay the same sum to the client (if ordered under bye-law 23.1) or to the ~~complaint~~ (if ordered under ~~bye-law~~ 24A.1) within 21 days.

Publicity

Publication of findings and other orders

- 35.1 Subject to paragraphs 2 and 4, where a tribunal or panel makes any finding or other order under these bye-laws, it shall cause a record of its decision to be published, as soon as practicable, in such a manner as it thinks fit.
- 35.2 Where a tribunal dismisses a formal complaint, or, on an appeal, a panel decides that a formal complaint has been proved neither in whole nor in part, it shall cause a record of its decision to be so published if, but only if, the defendant so requests.
- 35.3 Unless the tribunal or, as the case may be, the panel otherwise directs, a record of its decision published under this bye-law shall state the name of the defendant and describe the finding and the other order or orders (if any) made against him, but need not include the name of any other person or body concerned in the formal complaint or appeal.
- 35.4 A tribunal shall not cause a record of its decision to be published under paragraph 1 until the period allowed by bye-law 26.1 for giving notice of appeal against the order has expired; and if an effective notice of appeal is given under bye-law 26, then, unless the appeal is abandoned
- a. no record of the tribunal's decision shall be published under paragraph 1 but
 - b. subject to paragraph 2 a record of the panel's decision on the appeal shall be so published.
- 35.5 Notwithstanding paragraphs 2 and 4, a tribunal or panel may cause a record of its decision to be published at any time if in its opinion publication is desirable in view of any statement or comment made in the public domain.
- 35.6 The restrictions imposed by the preceding provisions of this bye-law on publication of a record of the decision of a tribunal or panel shall not apply if the hearing by the tribunal or panel (as the case may be) was held wholly or partly in public.

Publicity for the disciplinary process

- 36.1 Notwithstanding anything in these bye-law, the Chairman of the Investigation Committee may at any time make such public statements as he thinks fit concerning
- a. any matter relating to or connected with the performance by the Institute of any of its statutory functions;
 - b. any complaint; or
 - c. any matter relating to or connected with the performance by the Investigation Committee of its functions under bye-law 30 (intervention order),

being a matter or complaint which in his opinion is or involves a matter of public concern.

- 36.2 The power to make statements under paragraph 1
- a. shall be exercised in accordance with such guidelines as the Council may issue from time to time; and
 - b. may, if the Chairman of the Investigation Committee is for any reason unavailable, be exercised by any Vice-Chairman of that Committee (in which case the reference in that paragraph to the Chairman's opinion shall be read as a reference to the opinion of that Vice-Chairman).
- 36.3 The Chairman of the Investigation Committee may authorise the disclosure to a complaint of information concerning any proceedings brought or to be brought before the Investigation Committee or a tribunal or panel.
- 36.4 An authorisation under paragraph 3 may be given subject to any restrictions which the Chairman of the Investigation Committee thinks appropriate.
- 36.5 A hearing of a formal complaint or appeal may be held in public if the Council has authorised it to be so held; and an authorisation under this paragraph may
- a. relate to a particular case, to cases of one or more classes, or to cases generally; and
 - b. may be given subject to any restrictions which the Council thinks appropriate.
- 36.6 Paragraph 5 does not affect a panel's duty under bye-law 28.5 to hear an appeal in public if so requested by the defendant or his representative, or its power under bye-law 28.5 to exclude the press and public in the circumstances there mentioned.
- 36.7 Where any hearing is held in public by virtue of an authorisation under paragraph 5, the chairman of the tribunal or panel may exclude the press and public from all or part of the proceedings if it appears to him desirable to do so in the interests of justice or for any other special reason.
- 3.8 In this bye-law "statutory functions" means powers and duties conferred or imposed by or under any Act of Parliament or by or under any legislation (wherever in force) for the time being designated in regulations.

Commencement and transitional provisions

Commencement and transitional provisions

- 37.1 These bye-laws, as originally allowed, came into force on 1 September 1998; and references to these bye-laws in paragraphs 2 to 7 of this bye-law refer to them as originally allowed.
- 37.2 Subject to the following paragraphs of this bye-law, these bye-laws apply in relation to
- a. facts or matters which come to the attention of the head of staff (under bye-law 9.1 or otherwise) after the commencement of these bye-laws, including facts or matters which occurred at any time before, but come to his attention after, that commencement;
 - b. facts or matters which came to the attention of the head of staff before the commencement of these bye-laws but were not laid by him before the Investigation Committee before that commencement; and
 - c. facts or matters which immediately before the commencement of these bye-laws were the subject of proceedings under Schedule 2 (Professional Conduct) to the former bye-laws.
- 37.3 In bye-law 7 (proof of certain matters)
- a. paragraph 1 shall have effect in relation to any facts or matters falling within paragraph 2(c) of this bye-law as if the references to a member firm were omitted;
 - b. paragraphs 2 to 7 shall not apply in relation to facts or matters which came to the attention of the head of staff before the commencement of these bye-laws.
- 37.4 An application for the review of a decision of the Investigation Committee made before the commencement of these bye-laws shall be proceeded with under Schedule 2 to the former bye-laws; but if under that Schedule the reviewer of complaints remits the application to the Investigation Committee with a recommendation that it should be reconsidered, the application shall from then on be proceeded with under bye-law 18 of these bye-laws.
- 37.5 Where before the commencement of these bye-laws a tribunal or panel made a finding against a defendant under Schedule 2 to the former bye-laws, but did not make any other order against him, no record of its decision shall be published under bye-law 35 of these bye-laws unless the defendant so requests.
- 37.6 Without prejudice to section 16.1 (general savings) of the Interpretation Act 1978 as applied by bye-law 1.3, if Schedule 2 to the former bye-laws is rescinded, its rescission shall not affect the Institute's right to enforce any order, direction or requirement which was in force immediately before that rescission.
- 37.7 In this bye-law "the former bye-laws" means the bye-laws of the Institute as in force immediately before the commencement of these bye-laws.

37.8 It is hereby declared that

- a. the liability of a person or body to disciplinary action under these bye-laws on a complaint is to be determined in accordance with the bye-laws and regulations in force at the time when the facts or matters complained of occurred; but
- b. all disciplinary proceedings under these bye-laws are to be conducted in accordance with the bye-laws and regulations in force at the time of the proceedings.

37.9 Paragraph 8 does not affect the operation of paragraphs 2 to 7 of this bye-law or any other provision of these bye-laws which expressly restricts or extends the application of these bye-laws or any of them.

Schedule - Bye-law 2 - Constitution of Investigation, Disciplinary and Appeal Committees and appointment of reviewers of complaints

The Investigation, Disciplinary and Appeal Committees

- 1.1 The Council shall appoint an Investigation Committee, a Disciplinary Committee and an Appeal Committee, and in this paragraph "the Committees" means those Committees and "a Committee" means any of them.
- 1.2 Initial appointment as a member of a Committee shall be for a period of not less than three years (such period may be extended at the discretion of Council); but a member or former member of a Committee may be re-appointed.
- 1.3 The Council may terminate a person's membership of a Committee on grounds of serious misconduct or incapacity in such manner as shall be prescribed in regulations made by Council. Such regulations may include a provision to suspend any person's membership of a Committee pending final determination.
- 1.4 No person shall be a member of more than one of the Committees at the same time.
- 1.5 The Council may pay remuneration to, and the reasonable expenses of, the non-accountant members of a Committee.
- 1.6 A Committee may make such regulations (not inconsistent with the provisions of these bye-laws) as it considers necessary for the performance of its functions.

The Investigation Committee

- 2.1 The Investigation Committee shall consist of not fewer than 14 persons, of whom at least the required number must not be accountants.
- 2.2 The required number for this purpose is one quarter or, if the total number of members of the Committee is not divisible by four, one quarter of the first higher number that is so divisible.
- 2.3 The Committee may co-opt other persons, being either members of the Institute or persons who are not accountants, provided that the required number of non-accountants is maintained.
- 2.4 At a meeting of the Committee three members of the Committee, of whom two must be members of the Institute and one must not be an accountant, constitute a quorum.

The Disciplinary Committee

- 3.1 The Disciplinary Committee shall consist of not fewer than 14 persons, of whom at least the required number must not be accountants.
- 3.2 Paragraph 2.2 of this Schedule (meaning of "required number") applies for this purpose.
- 3.3 No member of the Disciplinary Committee shall take part in a decision concerning a case if, while a member of the Investigation Committee, he took part in a decision on that case.

The Appeal Committee

- 4.1 The Appeal Committee shall consist of not fewer than 14 persons, of whom at least the required number must not be accountants.
- 4.2 Paragraph 2.2 of this Schedule (meaning of "required number") applies for this purpose.
- 4.3 The Chairman and Vice-Chairman of the Committee must each be either a barrister or a solicitor; and neither of them shall be an accountant.
- 4.4 No serving member of the Council shall be appointed to the Appeal Committee. If a member of the Appeal Committee becomes a member of Council he shall with immediate effect cease to be a member of the Appeal Committee.
- 4.5 A person who, as a member of the Investigation Committee or the Disciplinary Committee, has been concerned with a formal complaint or with the making of an order under bye-law 30 (intervention orders) shall not be appointed to a panel which is to hear an appeal arising out of that complaint or order.

Reviewers of complaints

- 5.1 The Council shall appoint one or more reviewers of complaints, none of whom shall be an accountant.
- 5.2 Appointment as a reviewer of complaints shall be for a period of not less than three years, and any such appointment may be renewed.
- 5.3 The Council shall pay remuneration to, and the reasonable expenses of, every reviewer of complaints, and shall indemnify him against any civil liability incurred by him in that capacity.
- 5.4 The reviewer of complaints or, if two or more such reviewers are appointed, those reviewers acting jointly, shall make a report to the Council annually.

Review Committee regulations

Effective from 1 July 2012. These regulations were made by the Professional Standards Board of the Institute and first came into force on the 1 January 2001. Regulations 1, 17 and 34a were amended with effect from 1 July 2005. Regulations 2, 7, 14, 19 and 30 were amended with effect from 5 November 2008. In regulation 1, the definition of Investment Business Committee was amended with effect from 1 July 2012.

Interpretation

¹ These regulations are made pursuant to the Principal Regulations. If there is any conflict between these regulations and the Principal Regulations, the Principal Regulations shall prevail. Except where express reference is made in this regulation, words and phrases used in these regulations have the same meaning as in the Principal Regulations.

Applicant means either a firm or a person which or who has made an application for a review of a decision of the Audit Registration Committee, the Insolvency Licensing Committee or the Investment Business Committee.

Application means an application for review of a decision of the Audit Registration Committee, the Insolvency Licensing Committee, or the Investment Business Committee.

Audit Registration Committee or 'ARC' means the registration committee appointed by the Council of the Institute to discharge the responsibilities and powers contained in the Audit Regulations.

Business days means Monday to Friday excluding public holidays.

Chairman means the chairman of a panel or, in his absence, the chairman of the Review Committee.

Days include weekends and public holidays.

The director means the person holding the office which is responsible for the operation of the Institute's disciplinary and regulatory arrangements in Professional Standards.

Firm has the meaning given in the Principal Regulations applicable to the regulatory committee which made the order in respect of which the applicant seeks a review.

Investment Business Committee or 'IBC' means the authorisation committee appointed by the Council of the Institute to discharge the responsibilities and powers contained in the DPB Handbook and under the Statement of professional standing regulations.

Insolvency Licensing Committee or 'ILC' means the Licensing Committee appointed by the Council of the Institute to discharge the responsibilities and powers contained in the Insolvency Licensing Regulations.

Legal adviser means a person employed by the Institute and who may be instructed by the director as the Institute's representative on any application for a review.

Legal assessor means a solicitor or barrister appointed by the secretary under Regulation 4.

Non-accountant means a person who is not a member of the Institute, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Chartered Association of Certified Accountants nor a member or affiliate of any other accountancy body.

Member means a member of the Institute.

Panel means three members of the Review Committee appointed to hear an application for a review, one of whom shall be a non-accountant.

Postponement means abandonment of a date set for a hearing before the hearing has

started.

The masculine gender shall include the feminine gender and vice versa and the singular shall include the plural.

Principal Regulations means the (Audit Regulations), the DPB Handbook, the Insolvency Licensing Regulations as amended from time to time'.

Professional Standards Board means the board to which the Council of the Institute has delegated responsibility for oversight of regulatory matters.

Regulatory Committee means the ARC, ILC or IBC as appropriate.

Review committee means the committee of the Institute appointed to review decisions concerning audit registration, insolvency licensing and investment business under the Principal Regulations.

Secretary means the secretary to the Review Committee.

- 2 An application shall be made in writing to the secretary within 10 business days of the regulatory committee serving a decision on a firm or member. Any such application:
 - a. should contain a statement of the ground or grounds on which the review is sought;
 - b. should state whether he requires his application to be heard in public; and
 - c. may be served on the secretary by fax or email.
- 3 In the absence of a request under regulation 2b, the applicant shall be deemed to have waived his right to have a hearing in public.
- 4 The secretary shall not accept as valid an application for review that does not comply with regulation 2a.

Application for leave to apply for review outside the time limit

- 5 Subject to the following provisions of this regulation, an application made outside the time limit specified in regulation 2 may be considered by the chairman and in his absence the vice-chairman of the Review Committee and his decision shall be final. Any such application shall:
 - a. be in writing;
 - b. set out the reasons why the application could not reasonably have been made within the period originally allowed; and,
 - c. be accompanied by documents or other material in support of the application including, where appropriate, a medical certificate or other confirmation of a medical condition.
- 6 An application made outside the said time limit that does not comply with regulation 5, a, b and c shall not be valid.

Prior to the hearing

- 7 The director shall, as soon as practicable, arrange to convene a panel of the Review Committee to consider the application. Subject to regulation 8, a quorum for a panel of the Review Committee is three, one of whom must be a non-accountant. The panel will be advised by a legal assessor. The legal assessor is not a member of the Review Committee. His role is to advise the panel on procedure and law and to prepare any written Record of Decision for approval by the chairman of the panel.

- 8 If, in the case of a panel convened to consider the application, any member of the panel:
 - a. is for any reason unable to attend the hearing or any adjourned hearing of the application; or,
 - b. is, in the course of the hearing, unable to continue to attend,the remaining members, if not less than two in number, may at their discretion proceed or continue with the hearing; but if the applicant is present or represented at the hearing, they shall do so only if he or his representative consents.
- 9 Unless he agrees to waive or vary any requirements for notice, as soon as practicable after receipt of his application, the applicant will be given not less than 42 days written notice of the date, time, and place for the hearing of the application.
- 10 The director shall appoint a representative to prepare and present the Institute's case to the panel who may be a legal adviser or a barrister or solicitor.
- 11 In support of his application, an applicant may make written representations (subject to regulation 13 below), appear in person before the panel and or be represented by a barrister or a solicitor or any other member of the Institute or with the agreement of the panel, any person.
- 12 Not less than 28 days before the date set aside for the hearing, the secretary shall serve on the applicant:
 - a. a copy of all documents that the panel will be asked to consider;
 - b. a copy of any statements of witnesses (whether or not they are to be called to give oral evidence) which shall give the full name and address of, and shall be signed by, the witness; and,
 - c. a case summary.
- 13 Not less than 14 days before the date set for the hearing, the applicant shall serve on the secretary:
 - a. any response in writing to documents served upon him under regulation 12 above;
 - b. eight copies of all documents that the panel will be asked to consider; and,
 - c. eight copies of any statements of witnesses (whether or not they are to be called to give oral evidence) which shall give the full name and address of, and shall be signed by, the witness.
- 14 Any notice or document shall be served by the applicant by sending the notice or document addressed to the secretary to the Review Committee at Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ by first-class post. Any notice or document required to be served on the applicant may be served personally or by first-class post to the applicant at his registered address. If documents are served by post, service is deemed to have been effected 48 hours after posting.
- 15 The director may decide whether an application for a postponement of a hearing, should be granted.
- 16 The director, or the chairman may of his own volition or on an application by either party prior

to the proceedings direct that there be a pre-hearing review.

- 17 Any preliminary issues on procedure or any application for directions which are necessary or desirable for securing the just, expeditious, and economical disposal of an application may be determined by a pre-hearing review panel (which may or may not be the panel appointed to consider an application). Any matters falling within this regulation may be decided by agreement between the parties without a hearing.
- 18 After the decision of the regulatory committee but before any hearing of the application, the director may ask the applicant to provide such further information and documents relating to the application as he thinks necessary for the just, expeditious and economic disposal of the application and may require the applicant to supply such further copies of any document as he considers necessary.

Order of proceedings

- 19 Unless the panel otherwise directs, the order of proceedings will be as follows:
 - a. a representative will present the Institute's case and produce any evidence, including calling of witnesses to give oral evidence;
 - b. the applicant or his representative will present his case and then produce any evidence including oral evidence from the applicant or calling witnesses to give oral evidence;
 - c. the Institute's representative followed by the applicant may each make a closing address to the panel;
 - d. the panel may ask questions of the applicant; and
 - e. the panel will consider its decision in the absence of the parties.

The hearing

- 20 The hearing of the application shall be held in private unless the applicant has requested a hearing in public in accordance with regulation 2.
- 21 In the absence of the applicant or his representative, the panel may proceed to hear the application where it is satisfied that regulation 9 has been complied with.
- 22 If the applicant does not comply with regulation 13 and he does not attend at the hearing, either in person or by his representative, the application may be dismissed.
- 23 The rules of judicial evidence will not apply. The panel may, at its discretion, treat as evidence any testimony whether in written, oral, or other form.
- 24 A witness for one party may be questioned by, or on behalf of, the other party. A witness so questioned may be re-examined by, or on behalf of, the party calling him.
- 25 The panel may, at its discretion, hear two or more applications for review of decisions made by an applicant at the same time.

- 26 The panel may, with the agreement of all parties, hear applications for review from two or more applicants at the same time.
- 27 The panel may adjourn after hearing the application but before making a decision. In these circumstances the panel may ask the parties to reconvene at a later date so that it can give its decision or it may advise the parties that the decision will be notified in writing within a specific time period. If a decision is notified in writing then:
- a. the parties shall have a period of seven days from receipt of the written decision to make submissions in writing to the panel as to costs and publicity;
 - b. the panel shall, within seven days thereafter, notify the parties in writing of its decision as to costs and publicity; and
 - c. for the avoidance of doubt, the date of the panel's decision shall be the date on which the decision in regulation 27b is deemed under these regulations to have been served on the applicant.
- 28 The panel shall consider whether publicity of any decision it makes is appropriate and if so, it shall decide in what manner the decision will be published.
- 29 After the panel makes a decision, the secretary shall give written notice of the decision to the applicant.
- 30 The panel shall provide written reasons for the decision which it has made including any direction as to whether publicity shall be given to the decision.
- 31 A shorthand or stenographic note of the proceedings may be taken or a tape recording made of them, on behalf of the panel.
- 32 No objection shall be upheld to any technical fault in the procedure adopted by the panel provided that the proceedings are fair and that the relevant regulations have been complied with.
- 33 After the panel has made its decision in respect of the matter under review, the chairman may invite the Institute's representative to make representations on the question of costs. The applicant may make representations on the question of whether it or he should pay the Institute's costs or a contribution thereto.
- 33.1 The panel may order the applicant to pay such sum as it may in its absolute discretion determine.
- 33.2 Unless a longer period for payment (whether by instalments or not) is allowed, the costs must be paid by the applicant within 30 days beginning with the date on which notice of the decision is given.

Withdrawal of application

- 34 The applicant may withdraw his application by notice in writing delivered to the secretary:

- a. at any time, being not less than 21 days before the date set aside for the application; or,
- b. with leave of the chairman at any other time; and,
- c. if an application to withdraw falls under regulation 34b, the applicant may make written representations on the reasons for wishing to withdraw and whether he should pay a sum in respect of the Institute's costs.

35 Leave may be granted under regulation 34 above on such terms including payment of the Institute's costs incurred to that date or a contribution thereto as the chairman shall decide in his absolute discretion.

36 Where an applicant gives notice to the secretary, either verbally or in writing, that he does not accept the terms under 35 above and that he will not attend the hearing, the chairman may in his absolute discretion decide that the Institute's costs or a contribution thereto shall be paid by the applicant and that the application shall stand dismissed.

ICAEW OFFICE HOLDERS 2012 - 2013



Mark Spofforth BSc FCA CTA FRSA

Mark is a senior partner in a 20 partner, 5 office firm of UK Chartered Accountants based in West Sussex. He has a wide portfolio of clients including audits, but mainly focuses on private client work and the SME sector.

Mark is President of the ICAEW. He is a former Chairman of the Council of the ICAEW, and has also chaired the General Practitioner Board, the Technical Directorate, and the Learning and Professional Development Board. He also served as Deputy Chairman of the International Accounting Education Standards Board.

During his time as Chairman of the LPF Board, the Board revamped the Work Experience Guidelines for students and the Continuing Professional Development scheme for members, as well as launching a new ACA Syllabus.

He chaired the Committee that produced the "Profitable and Sustainable Practice" report and was a member of the group that produce the "Value Added Accountants 2005" report. Mark also lectures, broadcasts on financial matters on radio, and writes for the financial press, mainly on matters relevant to the SME sector.

Away from the office, Mark is a past Master of the Horners' Livery company in the City of London, and is a Court member of the Chartered Accountants' Livery Company. Mark's daughter is an Olympian swimmer and in 2009 she became World Champion and holds the World Record for the 100m backstroke event. His son, Peter works in Corporate Finance in the technology sector.



Martyn Jones is currently the Deputy President of the ICAEW.

He has had a distinguished career which began in a smaller firm and then became a lecturer, responsible for developing the auditing standards and guidelines in the UK and Ireland, serving as an advisor to the International Auditing Practices Committee and a senior technical partner in Deloitte LLP. His partner roles included risk management, audit methodology at the global level, service innovation, expert witness work, public policy, the development of director skills and knowledge via the Deloitte Academy, chairing the firm's corporate services group and chairing its quality group on assurance reporting on sustainability disclosures. He also provided advisory services to a number of well-known companies, financial institutions and mutual, to the House of Common and to the House of Lords.

For many years Martyn represented Deloitte LLP on the prestigious CBI Companies Committee. Martyn has also chaired the ICAEW's ethics standards committee and the ethics group of the UK and Irish Consultative Committee of Accountancy Bodies. He has also worked on projects with the World Economic Forum and provided insights to 10 Downing Street on the going concern issues during the financial meltdown. He has also provided training to directors in the public sector on behalf of HM Treasury and the Cabinet Office.

He believes strongly in the key role of accountants in promoting the success of the private sector side of the economy and in providing wide social access to the professions. He provides insights to young people at some leading universities on the behavioural skills needed to succeed in business and acts as an advisor and consultant on public policy and governance issues.



Arthur Bailey FCA

Arthur has been an elected member of the ICAEW Council since 1998, and is a former Chairman. He is currently Vice President.

Prior to his retirement from professional practice, he was Senior Partner with a top 15 firm of Chartered Accountants. During a career spanning over 30 years he had a wide portfolio of clients including small listed companies and regulated businesses but mainly specialised in private clients and the SME sector.

In addition to his professional work Arthur held positions within the not for profit sectors of health and education, and currently has a portfolio of nonexecutive roles, including a Building Society, where he has recently stepped down after completing four years as Chairman. In addition he is a Consultant with both Begbies Traynor and Kingston Smith.

During his time on Council he has served on several committees, and is a past Chairman of the Audit Committee. He has been an elected member of the ICAEW Board since 2008 and is a member of the Remuneration Committee.

Throughout his life, Arthur has lived and worked in North Staffordshire, and in 2003 was the recipient of a Lifetime Achievement Award for his services to business and the community. He is married, with a daughter who is a lawyer, and a son who is a Chartered Surveyor, both of whom work in London.



Michael Izza, chief executive officer

Michael Izza was appointed chief executive of ICAEW in 2006. Under his leadership, ICAEW has embarked on an ambitious strategy to transform itself into an international professional accountancy body, headquartered in the UK. A key part of his role is to promote the contribution made by the profession as a driver of business and economic confidence and growth across the world.

Michael is a regular media commentator and is responsible for spearheading ICAEW engagement with political and regulatory stakeholders. Between 2008 – 2009 he chaired three Treasury working groups tasked with identifying valuers for state-owned financial services companies. He was also chair of a taskforce set up by the Leading Group to examine the relative merits of an international financial transactions tax. He is currently on the UK government-convened Small Business Economic Forum and regularly meets ministers and regulators to discuss issues facing the business community.

Michael joined ICAEW in 2002 as executive director of finance and operations, becoming chief operating officer in 2004. Prior to that he worked at Spring Group Plc from 1997 to 2001 where he was managing director of several businesses and group finance director. From 1989 to 1996 he worked for Canadian Company John Labatt Ltd., latterly as managing director of the retail arm of the business with responsibility for public houses in the UK.

He qualified as a chartered accountant in 1986 with Coopers & Lybrand after graduating in law from Durham University, where he was also president of the student union. Michael has also acted as a school governor for nine years and as a trustee of a charity

Robin Fieth, executive director, members & operations

Robin has executive responsibility for Members, UK Regions, Marketing, IT & Property and Finance.

Experience:

1986 – 1996: Trained with Price Waterhouse (now PwC) in London and transferred post qualification to Bristol.

1996 – 2001: Group Finance Director and Company Secretary of GiroVend Cashless Systems PLC (FTSE listed) and Transacsys plc (AiM listed).

2002 – 2007: Director of Finance, ICAEW

2007 – 2011: Executive Director, Finance & Operations, ICAEW

Voluntary or charity activities:

Trustee of the Chartered Accountants Benevolent Association (CABA); member of the Technical Accounts Committee of the Thames Valley Society of Chartered Accountants; and Vice Chairman and Governor responsible for finance at The Manor Preparatory School, Abingdon.

Sharron Gunn, executive director, commercial

Sharron Gunn qualified as a Chartered Accountant in 1989. After leaving practice she worked as a financial accountant for a property developer before joining J Sainsbury plc in 1993. During her time at the supermarket giant Sharron held a variety of roles, including group management accountant, financial analyst, and commercial manager to the trading division.

Sharron joined ICAEW in 2001 and was appointed Executive Director a decade later. During her time as director of the Member Services department, she launched a successful jobs website, a leadership development programme, and a range of other support services. One of these helps members on a career break – women in particular – return to the accountancy profession.

In 2009 Sharron transformed the members' facilities at ICAEW headquarters into the Business Centre, which is now a magnet for members. She also rebranded and launched One Moorgate Place – the institute's venue and restaurant – which has grown into a successful independent business.

Today Sharron heads up a large team which develops new revenue streams, improves member value and exploits commercial opportunities presented by ICAEW's market-leading position.

Robert Hodgkinson, executive director, technical

Robert Hodgkinson is responsible for ICAEW's technical strategy department which includes its seven specialist faculties in audit and assurance, corporate finance, finance and management, financial reporting, financial services, IT and tax.

He also leads ICAEW's thought leadership programmes and its work in corporate governance, professional ethics and liability, sustainability and business law.

Robert was educated at the Manchester Grammar School and Corpus Christi College, Oxford where he studied Philosophy, Politics & Economics. In 1980, he joined Arthur Andersen where he qualified as an ICAEW chartered accountant in 1983 and became a partner in 1992. He joined ICAEW in October 2002.

Since 2007 Robert has been a member of the board of the International Federation of Accountants (IFAC) and from 2000 to 2004 represented the UK accounting profession as a vice-president of the European Federation of Accountants (FEE) and as chairman of its Auditing Working Party. Prior to that he chaired ICAEW's Financial Reporting Committee.

Vernon Soare, executive director, professional standards

Vernon is responsible for ICAEW's regulatory and quality assurance work covering the statutory regulation of audit, insolvency and investment business, including interactions with the relevant regulatory bodies e.g. FRC and FSA.

He is responsible for the Practice Assurance Scheme which encompasses audit quality monitoring for ICAEW member firms and the Professional Conduct (Disciplinary) Scheme. Leading the implementation of ICAEW's strategy as a business services regulator, he is currently working on the Institute's application to become a regulator of probate and Alternative Business Structures (ABS) under the Legal Services Act 2007.

Vernon also heads up ICAEW's international capacity building work assisting professional accountancy bodies in developing and emerging economies. Vernon has executive oversight responsibility for ICAEW's Middle Eastern activities, as well as for Asia and Africa and he leads on ICAEW's role in CCAB (Consultative Committee of Accountancy Bodies).

Prior to joining ICAEW, Vernon was policy and technical director at the Chartered Institute of Public Finance and Accountancy (CIPFA) and also worked for the Audit Commission.

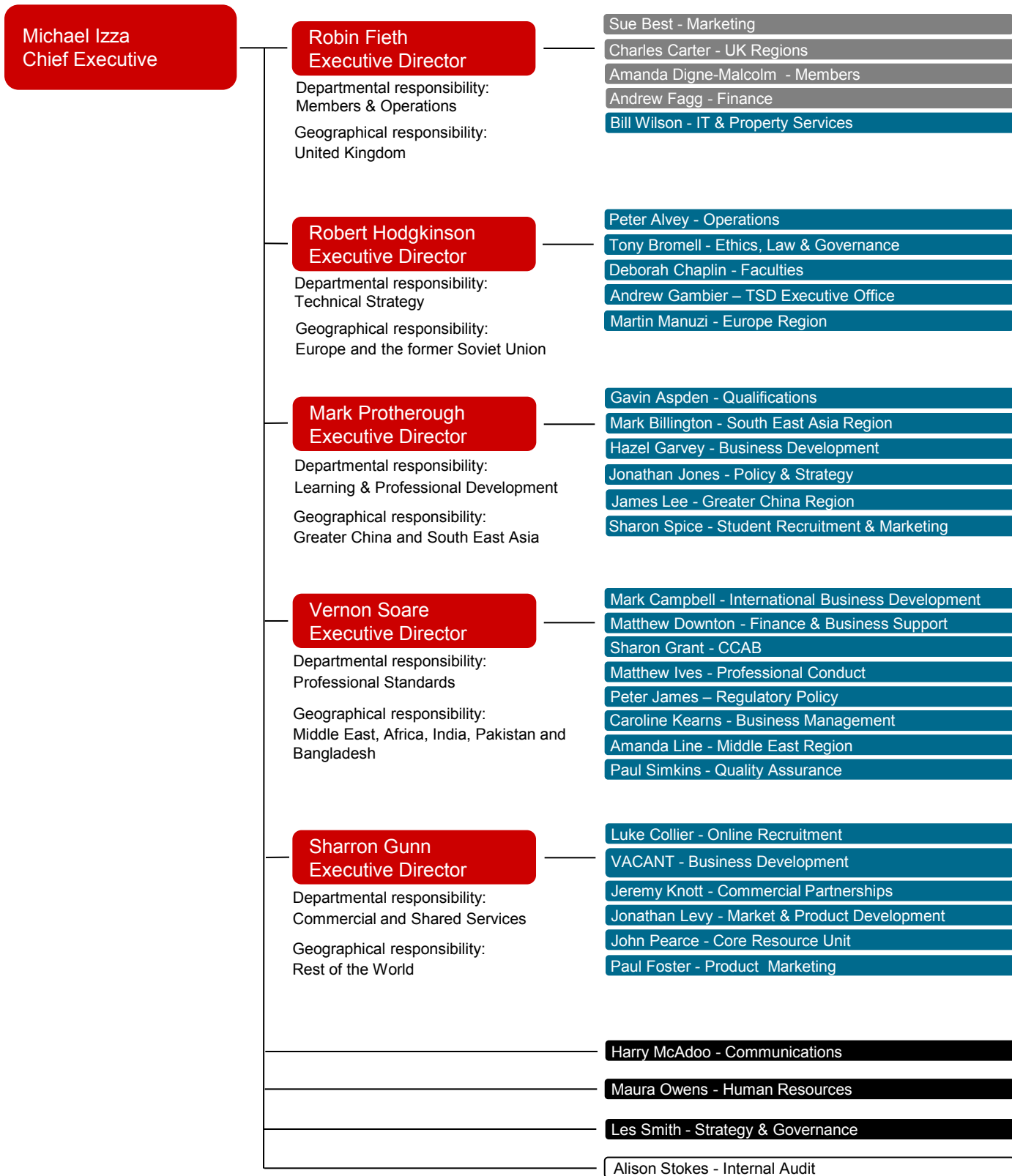
Vernon is an ICAEW board member and ICAEW Chartered Accountant. He is married with three children.

Mark Protherough, executive director, learning and professional development

Mark is responsible for ICAEW's learning and development work, covering qualifications including the flagship ACA qualification, professional and academic education, and accountancy careers information.

He is a member of ICAEW's Assessment Committee, Learning and Professional Development Board and the Institute Board.

Prior to joining ICAEW, Mark was managing director - education, training and development at the Association of Chartered Certified Accountants, where he had substantial international experience. Mark is married with five children and has an MBA from Henley.



- Chief Executive and Executive Directors (Board members)
- Direct Report to the Chief Executive and a Corporate Management team member
- Direct Report to an Executive Director and a Corporate Management team member
- Direct Report to an Executive Director
- Direct Report to the Chief Executive