



ICAEW Protocol for ensuring regulatory independence

INTRODUCTION

1. ICAEW is an Approved Regulator and Licensing Authority for legal services under the Legal Services Act 2007 (the Act) and therefore has both representative and regulatory functions.
2. The Legal Services Board's (LSB) Internal Governance Rules (IGRs), published on 24 July 2019 place an overarching duty on an Approved Regulator to ensure that;
 - the exercise of its regulatory functions is not prejudiced by any representative functions it may have;
 - it delegates the discharge of its regulatory functions in compliance with section 28 of the Act to a suitably independent body ("Regulatory Body"); and
 - it only retains a role to the extent that this is reasonably necessary to be assured that regulatory functions are being discharged in compliance with section 28 of the Act.
3. ICAEW Council has delegated responsibility for the supervision of its regulatory functions to the ICAEW Regulatory Board (IRB) and the IRB together with ICAEW's Professional Standards Department (PSD) will be regarded as the Regulatory Body under the IGRs.
4. The IGRs require the Regulatory Body to provide sufficient information to the Approved Regulator as is reasonably required for the Approved Regulator to be assured of the Regulatory Body's compliance with section 28 of the Act because the Approved Regulator remains ultimately accountable for compliance with the Act.

THE PROTOCOL

5. This protocol has been agreed and adopted by the Approved Regulator and the Regulatory Body and is designed to ensure compliance with the IGRs.
6. It is the responsibility of the Chief Executive Officer (CEO) of the Approved Regulator working with the PSD Executive Director and the Chair of the IRB to ensure the effective implementation and operation of this protocol and for delivering awareness at all levels of the Approved Regulator and Regulatory Body of the appropriate governance and action required to comply with the Act and the IGRs.

WORKING ARRANGEMENTS

7. The Regulatory Body is responsible for ensuring that the Approved Regulator is provided with sufficient information as is reasonably required for the Approved Regulator to be assured of the

Regulatory Body's compliance with section 28 of the Act and Rule 3 of the IGRs.

8. It is proposed that such assurance is provided by the Regulatory Body through the following three ways;
 - a. monthly meetings to be held between the PSD Executive Director and the CEO which will include updates on what actions the PSD Executive Director has taken to ensure compliance with the IGRs and the Act;
 - b. the attendance of the PSD Executive Director as an observer at ICAEW Board and other governance meetings; and
 - c. the publication of an annual report by the IRB on all of its activities as a regulator including its work as the Regulatory Board under the IGRs.
9. The CEO and the ICAEW Board may only require further information from the PSD Executive Director or the Regulatory Body as a whole if they have reasonable grounds to do so. Neither the CEO nor the ICAEW Board can require the PSD Executive Director to provide information which could undermine the Regulatory Body's independence or effectiveness; and the CEO and the ICAEW Board must not use the information they receive from the PSD Executive Director or the Regulatory Body for the representation, protection or promotion of the interests of the persons they represent unless and until they receive that information for that purpose or that information is made publicly available.
10. It is the responsibility of the PSD Executive Director and PSD senior managers to ensure that their respective members of staff have an understanding of this protocol and the IGRs and that they also understand the importance of abiding by them.

RESOLVING DIFFERENCES

11. Disputes which arise between the Approved Regulator and Regulatory Body, whether in relation to this protocol or otherwise will be resolved by the existing ICAEW Liaison Group. However, nothing in this protocol prevents either body from referring a dispute which cannot be settled between them to the LSB. As a matter of good practice, five working days' notice should be given to the other body if either body intends to refer a dispute to the LSB.