

ICAEW Regulatory Board



TERMS OF REFERENCE: June 2024

Purpose and accountability

1. ICAEW Council has delegated oversight of ICAEW's regulatory work and ICAEW's disciplinary scheme to the ICAEW Regulatory Board (IRB) to separate these responsibilities from other activities of ICAEW so as to ensure a greater degree of independence in substance and in appearance.
2. Pursuant to a resolution by ICAEW Council on 27 March 2024, the IRB is accountable to the ICAEW Board which is, in turn, responsible to ICAEW Council for ensuring that ICAEW's regulatory work and the administration of ICAEW's disciplinary scheme is carried out effectively and in the public interest.

Composition

3. The IRB shall comprise of up to a maximum of twelve members, including a Chair and Deputy Chair, with a good proportion of members having prior experience of serving on one or more of the PSD Regulatory and Disciplinary Committees¹, with this determined through an IRB Skills Matrix created and updated by the ICAEW Board Nominations Committee in consultation with the IRB Chair.
4. For non-legal services matters, the IRB will be formed of a parity of lay² and non-lay members. The quorum for a meeting will be four; two lay and two non-lay members. In the event that there is no parity, the Chair will use their discretion as to whether matters of gravity or public interest should be delayed to another meeting or taken to vote at that meeting.
5. For legal services matters, the IRB will be formed of a lay³ majority and a lay chair. If a decision on regulatory functions relating to legal services is taken at a meeting where there is either not a lay majority or not a lay chair (or both), this decision will be ratified at the next IRB meeting when there is both a lay majority and a lay chair. Ratification will however take place out of meeting if waiting for the next IRB meeting when there is both a lay majority and lay chair would cause unnecessary delay.

¹ PSD Regulatory Committees are the Audit Registration Committee, the Insolvency Licensing Committee, the Legal Services Committee, the Investment Business Committee, the Practice Assurance Committee and the Review Committee. PSD Disciplinary Committees include the Conduct Committee, the Tribunals Committee, the Appeal Committee and the Fitness to Practise Committee.

² 'Lay' for non-legal services matters means someone who is not and never has been a member, affiliate or employee of the ICAEW or any other accountancy body and such further relevant restrictions as may be appropriate to enhance public confidence in the regulatory process.

³ 'Lay' for legal services matters means someone who is not and never has been - (a) an authorised person in relation to an activity which is a reserved legal activity under the Legal Services Act 2007, for example, a solicitor or barrister (b) a person authorised to provide services which are regulated claims management services under the Compensation Act 2006 (c) an advocate in Scotland; (d) a solicitor in Scotland; (e) a member of the Bar of Northern Ireland; (f) a solicitor of the Court of Judicature of Northern Ireland.

6. All appointments including the appointment, removal and renewal of terms, of IRB members shall be made by the ICAEW Board Nominations Committee.
7. The IRB Chair shall be an experienced board/committee chair appointed on the basis of being the person best suited for the position, judged on merit without regard to whether they have an accountancy background. If the IRB Chair would be non-lay for legal services matters, the Deputy Chair must be lay and will chair the IRB for all discussions and decisions on legal services matters.
8. IRB members shall usually be appointed for a term of 3 years and can serve a second term if they wish to do so and their request for renewal is agreed by the ICAEW Board Nominations Committee but cannot continue beyond the end of the second term (unless they are appointed as IRB Chair or Deputy Chair).
9. If an IRB member is appointed either as IRB Chair or IRB Deputy Chair at any point during their time on the board, that member's existing term will be reset and will run for three years and can be renewed for a second three year term if they wish to continue their roles for a second term and their request for renewal is agreed by the ICAEW Board Nominations Committee.
10. No IRB member can also hold a concurrent position on ICAEW Council and ICAEW Board and there will be a period of at least one year between ceasing to be a member of Council or ICAEW Board and being appointed to the IRB. IRB members may not also concurrently be members of any of the PSD Regulatory and Disciplinary committees.
11. IRB members shall be remunerated for the skills, knowledge and expertise they bring with the remuneration being set by ICAEW Board Remuneration Committee.

Responsibilities of the IRB

12. The overarching responsibilities of the IRB are:
 - a. To oversee the regulatory work carried out by the senior management and staff within the ICAEW Professional Standards Department (PSD) and by the PSD Regulatory Committees (including the administration of the Practice Assurance Scheme, the Use of Description Regulations and monitoring and enforcement work relating to the CPD Regulations); and
 - b. To oversee the work carried out by PSD and the PSD Disciplinary Committees in the administration of ICAEW's Disciplinary Scheme;

to ensure that, while having regard to the objectives of the profession as set out in ICAEW's Royal Charter, this work is carried out in the public interest.

13. The specific responsibilities of the IRB are:

- a) To set regulatory policies and strategy which adhere to, and support, the ICAEW's strategy, in particular, the strengthening of trust in chartered accountants and to review those strategic objectives on a regular basis (at least annually) to ensure that ICAEW is operating as an 'improvement regulator';
- b) To develop proposals for funding and resources required for professional standards activities as part of the budget preparation process having regard to the high-level budgeting principles set at Appendix A;
- c) To set the level of regulatory fees, Compensation Scheme contributions and the Practice Assurance fee, provided that it may not approve any increase in these fees above the level of inflation used by ICAEW for employment cost inflation, or any increase which represents a change in policy or any change by ICAEW to the budgeting principles as outlined at Appendix A without first discussing with the ICAEW Board;
- d) To provide support and constructive direction to PSD's Senior Management team and, in particular, to the PSD Chief Officer and to provide input into the objectives and performance of the PSD Chief Officer (as set out in paragraph 19);
- e) To seek continuous improvement in the effectiveness and efficiency of ICAEW's regulatory and disciplinary work;
- f) To monitor the performance of the Regulatory and Conduct Appointments Committee (RACAC) in its work in appointing persons with the appropriate expertise and experience to serve on ICAEW's disciplinary and regulatory committees and in taking decisions to remove or renew the terms of members. This will include a regular review of RACAC's Terms of Reference;
- g) To review at least once annually PSD's Risk Register and to provide comments to PSD staff on any additional risks or any concern about the mitigation activities to reduce any PSD risks for onward submission to the ICAEW Board Risk Committee;
- h) To monitor the implementation of changes required or recommended by any of ICAEW's oversight regulators to be made to the processes followed by PSD and/or any of the PSD Regulatory or Disciplinary Committees pursuant to inspections by those bodies or otherwise;
- i) To consider whether any changes to ICAEW Disciplinary Bye-laws, Principal Bye-laws or Royal Charter / Supplemental Charter should be recommended for approval by the ICAEW Board;
- j) To consider whether any changes to the Investigation and Disciplinary Regulations and any of the regulations governing ICAEW's regulatory work and the processes followed by any of the PSD Regulatory and Disciplinary Committees should be made;
- k) To support the growth of ICAEW's assurance outsourcing work for other professional bodies, public bodies and regulators in the UK and internationally

in order to improve the skillset of QAD reviewers and to produce revenue to assist in the discharge of ICAEW's regulatory responsibilities;

- l) To support the continuation and extension of PSD's educational activities (including PSD's educational film dramas) in order to try to improve the professional standards of ICAEW members and firms and to help them avoid regulatory failures and/or disciplinary actions;
- m) To monitor the effectiveness of the PSD Regulatory and Disciplinary Committees;
- n) To monitor the effective discharge by PSD staff of the regulatory and disciplinary work delegated to them by the PSD Regulatory and Disciplinary Committees through a range of mechanisms including, and not limited, to Delegated Powers' Reviews prepared by the PSD Regulatory and Disciplinary Committees and relevant performance KPIs to identify any areas for improvement;
- o) To liaise with the ICAEW Board in relation to consultations and/or policy statements issued by the Government or oversight regulators, which could impact the ambit of ICAEW's regulatory role, to determine whether there should be a separate response by the IRB. Where it is decided that the ICAEW Board will respond, it will seek the views of the IRB in formulating its response;
- p) To consult with the ICAEW Board before responding to (1) any substantive criticism by oversight regulators of actions/omissions by ICAEW which could lead to a sanction and (2) to any claims for damage/loss asserted by any third party, in order to agree an appropriate response;
- q) To conduct formal consultations, inviting the views of members, consumers and other stakeholder groups, on matters within IRB's remit;
- r) To forge and maintain constructive relationships with all of ICAEW's oversight regulators and relevant Government departments.

In discharging these responsibilities, the IRB will discuss significant matters with the ICAEW Board and relevant departmental boards and will take into account the importance of inclusion and diversity in all of its actions and decisions.

Specific delegation of powers by the IRB

Delegation to the Legal Services Committee

14. The IRB shall delegate the following powers to the Legal Services Committee as they pertain to probate activities:
 - a) ICAEW's functions as an approved regulator and licensing authority as set out more fully in the Legal Services Regulations which include:
 - i. Considering and determining applications for probate accreditation;
 - ii. Considering and determining applications for authorised individual, Head of Legal Practice, Head of Finance and Administration, non-authorised owner or probate affiliate status;
 - iii. monitoring compliance with the Legal Services Regulations;

- iv. taking regulatory action as required to secure compliance with the Legal Services Regulations;
 - v. referring matters to ICAEW's disciplinary committees as required;
 - vi. compiling and maintaining a register of licensed firms and supplying this information to the Legal Services Board (LSB) as required.
- b) ICAEW's functions under the Legal Services Compensation Scheme Regulations in determining applications for grants.

Other delegations

15. The IRB shall delegate responsibility for:

- a) Detailed work on the coordination of policy on the regulation of audit to the Joint Audit Committee;
- b) The maintenance, improvement and promotion of insolvency standards and guidance to the Joint Insolvency Committee;
- c) Detailed work on the coordination of policy between the chartered bodies on regulations relating to professional indemnity insurance to the Joint Professional Indemnity Insurance Committee; and
- d) Detailed work on the assessment of claims for compensation arising from investment business transactions by authorised firms and from exempt regulated investment business transactions by licensed firms to the Chartered Accountants Compensation Scheme Limited.

Interaction between the IRB and the ICAEW Board

16. Meetings shall be held between the IRB Chair and the ICAEW Board Chair at a convenient date between IRB meetings to update each other on relevant developments and any emerging issues impacting ICAEW's regulatory or disciplinary work.
17. The IRB Chair shall invite the ICAEW Board Chair and the ICAEW Chief Executive Officer (CEO) to attend one IRB meeting during each year and the ICAEW Board Chair shall invite the IRB Chair to attend at least one ICAEW Board meeting each year to coincide with the presentation by the IRB Chair of the Regulatory and Conduct Annual Report.

Relationship between the IRB and the PSD Chief Officer

18. The PSD Chief Officer will report to the IRB Chair (and the IRB) for the work that they carry out on ICAEW's regulatory and disciplinary matters. The PSD Chief Officer will report to the ICAEW CEO for all other matters.
19. The IRB Chair shall:
- a) be co-opted, with the IRB Deputy Chair, onto the panel for the appointment of the PSD Chief Officer;

- b) set the PSD Chief Officer's annual objectives in respect of PSD's regulatory and disciplinary work (providing a copy of these objectives to the ICAEW CEO);
 - c) carry out an annual appraisal of the PSD Chief Officer's performance in relation to the objectives set and the PSD Chief Officer's performance generally (providing a copy of that appraisal to the ICAEW CEO); and
 - d) provide input to the ICAEW CEO in the annual (or any ad hoc) review of the remuneration of the PSD Chief Officer to help inform the ICAEW CEO's recommendation to the ICAEW Board Remuneration Committee.
20. The PSD Chief Officer will provide the ICAEW CEO and the ICAEW Board with regular updates in respect of key developments in ICAEW's regulatory and disciplinary work to:
- a) Provide the ICAEW CEO and the ICAEW Board with assurance regarding the proper discharge of ICAEW's responsibilities as a regulator and the proper administration of the ICAEW Disciplinary Scheme (given the ICAEW Board's overall responsibility for these matters); and
 - b) Assist the ICAEW CEO in their interaction with other professional bodies, oversight regulators and government departments.
21. In the event of any disagreement between the PSD Chief Officer and the IRB Chair, or between the ICAEW CEO and the IRB Chair, in respect of any aspect of the PSD Chief Officer's work (including, for example, prioritisation of objectives), this should be referred for consideration and determination to the ICAEW Board.

Operation of the IRB

22. The IRB shall carry out its responsibilities within the framework of general duties and procedural requirements for committees as set out in the ICAEW Governance Handbook.
23. The IRB shall have the right to seek independent counsel or other specialist advice as is necessary to allow it to discharge its responsibilities and will work with the PSD Chief Officer to ensure that the additional advice required is procured from an appropriate specialist and on terms and conditions which are acceptable to ICAEW.
24. The IRB shall work with PSD senior management to produce an annual report regarding the work carried out during the preceding 12 month period. The IRB Chair shall, when invited, present that report to ICAEW Board and to ICAEW Council.

IRB meetings

25. The IRB shall meet at least 4 times and no more than six times per year unless additional meetings are necessary to conduct urgent business.

26. Agendas for IRB meetings shall be set by the IRB Chair following discussion with the PSD Chief Officer and shall be focused on strategic, not operational matters, and reflect the responsibilities and objectives of the IRB as set out in paragraphs 12 and 13. Papers will be approved by the IRB Chair prior to distribution to members.
27. Papers in respect of relevant agenda items shall be circulated to IRB members seven days before each meeting, late papers only by exception and with consent of the IRB Chair. All papers shall be concise with clear recommendations if a decision is required.
28. All papers shall be read by all IRB members prior to each IRB meeting and shall be taken as read at the meetings. Presentations by PSD staff shall focus only on developments since the papers were circulated or to emphasise areas of greatest importance within the reports, allowing more time for questions and discussion.
29. Minutes of each IRB meeting, with an action log, will be prepared by the IRB secretary as soon as possible after each IRB meeting and submitted to the IRB Chair for review and approval and minutes of the preceding meeting shall be made available to all IRB members in advance of the subsequent meeting for review and approval at the start of the subsequent meeting.
30. Sub-committees or task and finish groups will be set up , where deemed necessary, at the discretion of the IRB Chair.
31. The IRB will publish its agendas, papers and minutes to ensure it is meeting its transparency obligations (redacting those documents as necessary in order to avoid disclosing confidential information).
32. IRB will be serviced by the ICAEW Governance Office.

Ongoing appraisals and effectiveness reviews of the IRB and members

33. Every IRB member will complete an annual self-evaluation to be provided to the IRB Chair and discussed at their annual appraisal with the IRB Chair and the IRB Chair will document the appraisal of each member. These appraisals will be submitted to the ICAEW Board Nominations Committee for their review and reference when making determinations in relation to removal or renewal of term alongside soundings from other stakeholders including the PSD Chief Officer.
34. All IRB members shall complete a written annual appraisal of the IRB Chair which will be collated by the IRB secretary and submitted to ICAEW Board Nominations Committee and which may be taken into account by the ICAEW Board Nominations Committee when making decisions to remove or renew the term of the IRB Chair alongside soundings from other key stakeholders including the PSD Chief Officer.
35. A board appraisal form which considers the effectiveness of the whole board shall be completed by all members of the IRB after each IRB meeting. The comments should be summarised by the IRB Chair, discussed, where relevant, with the PSD Chief Officer and fed back to ICAEW Board Nominations

Committee when requested. In addition, at least one member of ICAEW Board Nominations Committee shall attend at least one IRB meeting each year to evaluate the effectiveness of the IRB.

Appendix A

IRB budget principles

1. While the regulatory activities of ICAEW are overseen by IRB, ICAEW operates as a unitary professional body.
2. The IRB will be provided with key details of the overall ICAEW budgetary framework, constraints and assumptions in order to assist with understanding and approval.
3. As part of its role, IRB will recommend a budget for regulatory activities including the fees required to discharge its responsibilities. This budget will be subject to the agreement of the ICAEW Board, for integration within ICAEW's overall budget.
4. The basis for recovering costs through regulatory fees should be confirmed from time to time between the ICAEW Board and IRB. All of PSD's regulatory work should normally be self-financing.
5. The number and scope of regulated services may vary from time to time subject to approval of business cases by both the ICAEW Board in the first instance and IRB.
6. Regulatory and disciplinary costs to be met will include both direct costs of those activities and a reasonable and proportionate share of ICAEW's overhead costs derived on a consistent basis across ICAEW.
7. Exceptional changes to costs or income encountered during a budget year should be discussed between PSD Finance Director and the ICAEW Chief Financial Officer in order to make proposals to IRB and the ICAEW Board for managing the event.