

AGENDA



ICAEW Regulatory Board

DATE & TIME: 14 October 2021, 10 am

LOCATION: By Zoom

CHAIR: Michael Caplan

ALTERNATE CHAIR Steve Barrow

VICE CHAIR Philip Nicol Gent

SECRETARY: Tracy Stanhope

ATTENDEES

BOARD MEMBERS

STAFF

Andrew Goldsworthy

Ann Wright

Anthony Pygram

Asif Patel

Jane Titley

Jonathan Williams

Michael Sufrin

Parjinder Basra

Philip Nicol-Gent

Steve Barrow

Thomas Palm

Duncan Wiggetts

Mathew Downton

APOLOGIES None

OBSERVERS None

ITEM DETAILS

1. To approve the minutes of the previous meeting held on 10 August 2021
2. The IRB approved the minutes.
3. Matters arising from the minutes not dealt with elsewhere
4. The secretary confirmed that the response to the Legal Services Board (LSB) Consultation on applications for rules changes would be uploaded to the shared IT platform, Diligent. In addition, the confidentiality policy would also be uploaded into Diligent. Work was also ongoing in the background to streamline information available in the reading room on Diligent.
Matthew Downton updated the IRB that he expected to be able to share some analysis of complaint numbers with the IRB at its next meeting.

The Chair provided an update on a meeting he, the vice-chair and Andrew Goldsworthy had had with the ICAEW President and Chief Executive at the behest of the Board to discuss the future shape of the IRB. The meeting was described as amicable and helpful. The ICAEW Board was described supportive of the IRB and changes to its terms of reference, name and website. Further, financial support would be made available to make these changes. However, the ICAEW Board disagreed that there was a need for further separation of functions. The President and Chief Executive indicated that they would be happy to attend a meeting of the IRB and answer any questions. The President had invited the vice-chair, in his Project Light role, to discuss the IRB's terms of reference.

5. Professional Standards Department (PSD) Chief Officer update

Duncan Wiggetts provided the update. The IRB had been provided with a note of the headline matters included in the update, covering the following subjects:

General

Most staff had returned to working in the office at least two days a week; some have continued working from home due to concerns linked to Covid and individual circumstances. Following several successful recruitments, PSD has a full complement of staff. This included a new lawyer joining the Committee and Tribunals team.

Regulated areas

Audit

The government response to the White Paper was expected to be published in January. However, there had been some suggestions that the proposals in the White Paper may be being changed.

The FRC public inspection report was likely to be published in two to three weeks. Separately, the FRC indicated that they wished to attend at least one IRB meeting each year as part of a continuous RSB/RQB governance review.

The FRC intends to introduce the dual licensing system in June 2022. There had been discussions around the need for grandfathering in changes.

Insolvency

There was no update on the single regulator consultation. No further information had been received from the Insolvency Service on the Common Sanctions Guidance. The IRB discussed whether it was sensible, as proposed elsewhere, that any fine levied should reflect whether there was an indemnity in place. PSD was currently resisting the proposal.

Legal services

The LSB had agreed to the probate fee increase proposed by ICAEW. If feasible, plans were being made for the new IRB chair to attend the next LSB chairs meeting.

Anti-Money Laundering

Since the last IRB meeting, there had been an announcement that HMRC would be collecting the economic crime levy.

Departments – Professional Conduct, Quality Assurance, Regulatory Practice and Policy

There were 60 complaints in September 2021 decrease from 91 in 2020 and 83 in 2019. Up to 14 October 2022, there have been 40 complaints received.

A technical issue meant that the disciplinary database was unavailable, and a record had been displayed which shouldn't have been. A review of the information displayed on the database was being verified for any other anomalies.

Miscellaneous

Matthew Downton would update the risk subcommittee on developing the dashboard out of the main IRB meeting.

Finance

Matthew Downton provided the IRB with an update on finance. PSD was self-financing in 2021, and that it was predicted that there would be a budget surplus. In response to a question about the department's ability to invest in improvements under the self-financing model, it was confirmed that there was some flexibility for future projects. However, it was noted that any development of a regulatory website or branding for the IRB would require additional funding.

6. Adverse developments in the regulation of an insolvency practitioner

The IRB agreed that this matter be treated as confidential.

The IRB firstly discussed whether it was proper to consider the matter in light of possible legal proceedings.

It was agreed that the IRB would seek legal advice before considering the matter in any detail. There was general support for reviewing the process followed once legal advice had been taken. It was agreed that advice should be sought about a possible assurance review and when it would be appropriate to undertake the review.

It was agreed that the IRB Chair and Vice-Chair would consider the matter further as a matter of urgency after the meeting to consider what legal advice the IRB needed to take.

7. ICAEW statement on engaging in public practice

The IRB agreed that this matter be treated as confidential.

The IRB discussed the proposed changes to the statement. Feedback was provided on the wording and considering whether developing a case study would be beneficial. It was

recommended that the financial services regulators in the Crown Dependencies be consulted on the changes.

The IRB expressed its support for the proposed changes.

8. Rethinking CPD

This item was treated as confidential and noted that the original paper had originated with the Education and Training Board.

The IRB considered the proportionality and cost of the changes. There was wide and varied discussion that included diversity enforcement process. There were mixed views expressed.

9. Professional Standards annual report

The IRB agreed that this matter be treated as open.

Matthew Downton introduced the item.

There was a general discussion that included tone and supporting the report with a postcard or similar to increase engagement with stakeholders.

Ann Wright and Parjinder Basra volunteered to review the annual report.

The IRB agreed that the annual report be structured as a joint IRB and departmental report.

The IRB also agreed on the timetable for the production of the annual report, as set out in the paper as follows:

Action	Key dates
PSD staff to provide draft content	1 December 2021
Duncan to draft the report	2 – 18 December 2022
First draft circulated to PSD staff and the IRB	4 January – 11 January 2022
Edits to first draft	12 – 21 January 2022
External writer to proofread/edit	24 January – 4 February 2022
Creation storyboard for animation	24 January – 4 February 2022
Draft approved – full report and animation	11 February 2022
Design – full report and animation	14 February – 21 March 2022
Publish	W/c 28 March 2022

10. Regulatory & Conduct communication activity presentation

The IRB was given a presentation on the department's communication activity.

The IRB thanked the communications team for their work during the year.

11. Update on the changes to the disciplinary framework project

The IRB confirmed the confidential status of the paper.

The IRB noted the decisions taken in principle on changes to the disciplinary framework by the subgroup and noted the changes to the timetable to introduce the new disciplinary framework.

The Chair thanked the subgroup for its work on the project.

12. Funding arrangements for the Probate Compensation Scheme

This item was treated as confidential.

The IRB agreed that Steve Barrow should chair this item as a legal services matter.

The IRB was updated on developments for the future of the probate compensation scheme.

The IRB agreed to retain current arrangements until September 2022.

13. Legal Services update

The IRB confirmed the status of the paper as open with redactions.

Steve Barrow chaired the item as alternate Chair.

The IRB agreed that the legal services working group could approve the final submission of the performance assessment outline.

Regarding the applications for regulation change, the question was raised whether the applications demonstrated in sufficient detail that the statutory objectives had been met either to the IRB or for the LSB's purposes.

Other points of detail would be fed back to staff separately.

Members of PSD had met with officials from the Ministry of Justice, and it was suggested that the ICAEW could meet the Minister. However, it was noted that should such a meeting occur, the IRB would need to take a view on how this should be handled.

Steve Barrow informed the IRB that it was proposed that the legal services subgroup would review the legal services strategy in the New Year. The IRB confirmed that it was content with this approach.

14. IRB quality assurance (QA) plan

The IRB decided this matter could be treated as open rather than confidential as the paper had been classified in the agenda.

IRB members discussed the revised plan.

It was agreed that each committee should be observed for a maximum of two meetings a year. It was also agreed that the Probate Committee should be reviewed every two years rather than every three years.

The IRB also discussed the reporting of 'unexpected decision'. It was agreed that the plan's wording should be amended to use less pejorative language. The IRB then discussed how the decisions of tribunal chairs could be benchmarked and how to address any perception that a tribunal chair was more lenient than their peers. Finding a means of assessing the performance of tribunal chairs was also discussed. It was suggested that the Chair of the Disciplinary Committee observe and assess tribunal chairs' performance.

As part of the discussion, the remuneration of committee members was raised and that the accountancy members were not paid. A suggestion was made that it should fall to the IRB (in consultation with RACAC) to approve the remuneration of committee members and that the IRB should have a review of remuneration policy. The point was made that remuneration policy should be linked to the annual regulatory fee setting exercise.

Separately, the secretary confirmed that a list of action points from the QA meeting was being drawn up. These follow-up actions were straightforward to progress. For the minutes, the secretary confirmed that the outcome of the QA meeting was that the committees reviewed operated effectively.

AOB

11. On behalf of the IRB, the vice-chair thanked Michael Caplan for his work as Chair of the IRB as this was his last meeting as Chair of the IRB.

12. Future meeting dates

2021

Thursday 9 December

2022

Thursday 10 February

Thursday 7 April

Thursday 9 June

Thursday 4 August

Thursday 6 October

Thursday 8 December