



# Accountancy, masters of the MDP universe

ICAEW's intention to become a regulator for will-writing, probate and estate administration shows accountants are ahead of solicitors in the race to control the high street, says **Stuart Bushell**

The news that the Institute of Chartered Accountants in England and Wales (ICAEW) is applying to the Legal Services Board to become an approved regulator and licensing authority for probate activities under the Legal Services Act 2007 comes as no surprise. What is interesting is the accompanying announcement which provides an indication of how much more advanced the accountants are, compared to their solicitor counterparts, when it comes to recognising and pursuing the synergies of multi-disciplinary practice.

Accountants and solicitors have for long fought over the common ground of tax advice, with the accountants usually having the upper hand; and tax leads naturally into probate work. 'Probate activities' is defined in Schedule 2 of the Legal Services Act of 2007 (LSA) as the preparation of probate papers for the purposes of the law or in relation to any proceedings in England and Wales. The scope of the application, however, is restricted to applications for a grant of probate or letters of administration only (i.e. non-contentious probate work). ICAEW is not seeking authority to accredit firms wishing to oppose a grant of probate or letters of administration. Two other accountancy regulators, ACCA and ICAS, are already approved regulators but have vacillated on whether to allow their members to actually undertake probate work.

## No solicitors involved

ICAEW is commencing a consultation on its plans, which - following Legal Services Board requirements - will be principles-based, in the same way as the SRA regime, and will require the appointment of compliance officers for professional practice and for finance and administration. A single regulatory framework is envisaged, which will permit firms to be accredited on one of two alternative bases:

1. As authorised firms, in which all

principals and owners are individually authorised to conduct probate work; or  
2. As licensed bodies, in which not all principals and owners are authorised for probate (the ICAEW equivalent of the SRA's Authorised Professional Firms (ABS').

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An ICAEW survey suggests around 250 of its member firms might seek accreditation - 150 sole practitioners, who would have authorised firm status, and 100 larger practices, most of whom would look to become licensed bodies.

Two accompanying comments are striking. First, that "few firms responding to the survey indicated a clear intention to employ solicitors or other legally qualified staff to carry out probate work". It appears that most firms anticipate that probate work will be undertaken by accountancy staff, subject to just three-and-a-half days' training.

This echoes the comment by Co-op Legal Services that none of their board and few of their legal advisers are solicitors; the sad truth being that much legal work is not reserved and can be conducted by non-lawyers, and reserved activities can now be undertaken more cheaply by authorised persons with less exalted qualifications than solicitors.

Second, the ICAEW states that "The LSA opens up new opportunities for ICAEW Chartered Accountants by allowing new business structures between lawyers, accountants and other professionals (such as

IFAs)". In its approval of the SRA application to regulate ABS, the Legal Services Board made a similar remark (though it omitted specific reference to IFAs). ABS "have the potential to bring significant consumer benefits through diverse delivery methods, new investment, and new ways of running firms with better links to clients through association with other services," it said.

Clearly, in the event, it is the accountants who are appreciating the synergies between complementary professional disciplines and flying the flag for MDP. By contrast, the SRA was reticent to alter its 2011 decision to discontinue the status of dual SRA and FSA authorised professional firms.

## Professional advice mix

By contrast with the Law Society, the ICAEW has long recognised the relevance of financial advice in the professional mix, having established an active Financial Services Faculty some years ago, which runs conferences and workshops, and issues a quarterly glossy magazine. Its latest achievement is its recognition by the FSA as one of only a handful of bodies to which the FSA has delegated the task of administering financial advisers' CPD.

It is ironic to reflect that when the concept of MDP was first discussed and approved by the Council of the Law Society some 15 years ago, it was seen as a means of assisting solicitors to diversify and enhance their businesses, but in the event it is more commercially minded professionals who are picking up the ball and running with it. Chris Kenny of the LSB tells the story of the solicitor who protested to Sir David Clementi "I'm a professional, not a businessman". To which Sir David replied "If you don't think you're running a business, pretty soon you won't be".

Stuart Bushell is director of SIFA Legal ([www.sifalegal.co.uk](http://www.sifalegal.co.uk))