

Application to approve a non-authorised owner of a probate licensed firm - individual application

To ensure we have all the information we need to process your application, please ensure you are completing the latest version of this form. The most up to date version is linked from icaew.com/regulatoryapplications, or please email regulatorysupport@icaew.com for a copy.

We aim to provide a decision on your application as soon as possible. This is usually within 8-12 weeks of receiving a fully completed application form and all supporting documentation.

INTRODUCTION

Please use this form to apply to ICAEW for approval of a person as a non-authorised owner with a material interest in a licensed firm.

In accordance with the Legal Services Act 2007 (the Act) and the Legal Services Regulations, ICAEW is required to approve all 'owners' of a licensed firm who are not authorised to undertake probate work prior to the acquisition of the material interest under Legal Services Regulation 6.1. This only applies in cases where the applicant (either on their own or together with their associates) holds, or intends to hold, a material interest in the firm or a parent undertaking of the firm. Such applicants, together with their associates, need to be approved as 'fit to own' a material interest in a licensed firm. For definitions of a material interest and associates, please see below.

A firm wishing to apply to ICAEW to become a licensed firm must be satisfied, and confirm to the ICAEW, that each non-authorised owner with a material interest (together with their associates) is fit to own.

In addition, a firm that is already licensed must seek prior approval for any non-authorised owner who, together with any associates, intends to hold a material interest in the firm, under Legal Services Regulation 6.1.

If ICAEW has approved a non-authorised owner to hold a specific type of material interest and that person then acquires a different kind of material interest, this needs to be approved by making a further application. **No approval** is needed if an existing material interest is increased or decreased but, under Legal Services Regulation 2.7I, notification is required.

An application is needed even if the person was previously approved as a non-authorised principal or shareholder of another licensed probate firm.

The firm may not conduct probate work until it has received formal notification from ICAEW that this application has been approved.

If the firm is already licensed and an entity intends to hold a material interest in the firm, that person must be approved **before** the interest is acquired.

We will carry out a standard Disclosure and Barring Service check on each individual who holds a material interest in the parent entity of the probate accredited firm. You will need to pay a fee for this check.

HOW TO COMPLETE THIS APPLICATION FORM

The Head of Legal Practice should complete sections 1, 6 and 7 on behalf of the firm and sign section 8.

The person to be approved should complete sections 2 to 5 and sign section 9.

Each associate of the person to be approved should complete a copy of section 5 and sign section 9.

Where necessary, we give guidance before each section. Please read the guidance before you complete the question.

Fill in this form electronically, using the TAB key to move from one answer to the next.

If you need more space for an answer, please attach additional sheets.

In these notes, the 'Act' refers to the Legal Services Act 2007.

If you have any questions as you fill in the form, please call +44 (0)1908 546 302. This may avoid delays in dealing with your application.

1 FIRM DETAILS

Firm name

Firm number **C0**

Please note that this is the firm that is, or is requesting to be, accredited for Probate.

2 PERSON TO BE APPROVED

Please give details in the following table of the person to be approved as a non-authorised owner of a licensed firm. In the column 'Type of material interest', please enter the corresponding letter – see list below.

Material interest

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

Full name (including title)

Name of all professional bodies

Professional body member numbers
(if known)

Individual's email address

Individual's home address

Address of firm's office that individual will be located at

Date of birth

Is this individual ☐ a principal in the firm? ☐ an employee? ☐ Other (give details)

Confirm which address you would like to be shown on ICAEW's records as your primary address: ☐ Home address ☐ Firm address

Type of material interest

Shares

% of material interest, including number and nominal value of shares allocated. This includes voting and non voting shares.

Voting rights

Management board

So that we are able to get a wider view of the firms structure amendments and update our systems appropriately, please provide a full updated structure of the probate licensed firm.

'Please confirm you have enclosed a breakdown of the firm's current structure?'

YES

NO

Already approved?

Has any person in this section already been approved as a non-authorised owner or shareholder in this form?

YES

NO

If 'Yes', please give the types of existing material interest that the applicant has in the firm. See list on previous page.

3 ASSOCIATES

Please give details in the following table of the person(s) to be approved as an associate of a non-authorised owner of a licensed firm. In the column 'Associate status', please enter the corresponding letter - see list below. The associate(s) will need to sign the confirmation at the end of this application.

Definition of associate

In determining if an interest is material, the interest held by a person in a firm will consist of the total of the interest held by that person and the interest held by any of their associates. If a person holds more than one type of material interest and has different associates for different types of interest, all must be listed. Each associate, by virtue of Schedule 13 of the Act, effectively becomes a non-authorised person in their own right. **This form is designed to deal with their approval without the need for a separate form.**

Associate status

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 the definition of material interest above; or 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 the definition of material interest above.

Name	Address	ICAEW no. (if known)	Email address	Date of birth	Associate status	% of shares held	% of voting rights held	Role Held
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4 OTHER LICENSED FIRMS

Has the applicant (or any associate) previously been an owner in another licensed firm?

YES

NO

If 'Yes', please fill in one row for every licensed firm in which the applicant (or any associate) was or is an owner.

Firm name	Firm number (if known)	Firm's supervisory body	Period as a principal or shareholder From To
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5 FITNESS TO OWN AN INTEREST IN A LICENSED FIRM

The individual listed in section 2, and in section 3 must answer the following questions. **Please complete and submit a copy of this section for the person listed in section 2.**

The Act requires persons with an interest in accredited probate firms to be fit to own. A person who holds a material interest in a licensed firm must satisfy ICAEW that they are fit to own.

If you have any doubts about your fit and proper status, please call +44 (0)1908 248 250 for advice.

If you answer 'Yes' to any of the questions in this section, you will not automatically be refused authorised status. However, the Legal Services Committee may wish to make further enquiries before reaching a decision.

If the Legal Services Committee subsequently finds out about any matters which you did not disclose, this will be viewed very seriously.

If you answer 'Yes', you will need to give further details on a separate sheet.

All persons listed in section 2 must answer all questions.

Associates of persons to be approved as non-authorised owners do not need to mention offences which are spent for the purposes of the Rehabilitation of Offenders Act 1974, offences committed before the age of 17 (unless committed within the last 10 years) or road traffic offences that did not lead to a prison sentence.

Persons to be approved as non-authorised owners (not their associates) must disclose spent convictions and cautions but should not disclose protected* cautions or convictions or road traffic offences that did not lead to a prison sentence.

* The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) was amended in May 2013 to bring it in line with the European Convention on Human Rights. The main changes were the introduction of 'protected' cautions and convictions. As a result of the changes, questions we ask about convictions and cautions do not apply to protected cautions and convictions. Failure to disclose such convictions and cautions cannot be considered as prima facie evidence of dishonesty. The Disclosure and Barring Service (DBS) will filter any protected convictions and cautions, so they will not appear on standard disclosures.

Guidance and criteria on the filtering of these cautions and convictions can be found on the Disclosure and Barring Service website at gov.uk/government/publications/dbs-filtering-guidance

Person's name

Questions 1-10 apply to the person to be approved as a non-authorised principal or shareholder.

Financial integrity and reliability

1. Have you, within the last 10 years, in the UK or elsewhere, failed to satisfy any debt adjudged due and payable by you as a judgment debtor under an order of a court in the United Kingdom or elsewhere; or made any compromise or arrangement with your creditors; or otherwise failed to satisfy creditors in full?	YES	NO
2. Have you ever been declared bankrupt or been the subject of a bankruptcy court order in the United Kingdom or elsewhere, or has a bankruptcy petition ever been served on you?	YES	NO
3. If 'Yes', has this order been discharged?	YES	NO
4. Have you ever signed a trust deed for a creditor, made an assignment for the benefit of creditors, or made any arrangements for the payment of a composition to creditors?	YES	NO

Convictions or civil liabilities

5. Have you at any time pleaded guilty to, or been found guilty of, any offence?	YES	NO
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If 'Yes', please give details of the court which convicted you, the offence, the penalty imposed and date of conviction and attach additional sheets if necessary.

6. Have you ever been the subject of any civil action relating to your professional or business activities which has resulted in a judgment or finding against you by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against you and the payment of its costs) being agreed?	YES	NO
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7. Have you ever been disqualified by a court from being a director, or from acting in the management or conduct of the affairs, of any company?	YES	NO
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Good reputation and character

8. Have you ever been disqualified by a court from being a director, or from acting in the management or conduct of the affairs of any company?	YES	NO
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a. refused the right, or been restricted in the right, to carry on any trade, business or profession for which a specific licence, registration or other authority is required or decided not to continue with an application;	YES	NO
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b. investigated about allegations of misconduct or malpractice in connection with your professional activities which resulted in a formal complaint being proved but no disciplinary order being made;	YES	NO
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c. the subject of disciplinary procedures by a professional body or employer resulting in a finding against you;	YES	NO
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d. reprimanded, excluded, disciplined or publicly criticised by any professional body which you belong to or have belonged to;	YES	NO
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e. refused entry to, or excluded from membership of, any profession or vocation;	YES	NO
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f. dismissed, or asked to resign, from any office, employment or firm;	YES	NO
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g. reprimanded, warned about future conduct, censured, disciplined, or publicly criticised by any regulatory body, or any officially appointed enquiry or any other body concerned with the regulation of a financial, professional or other business activity;	YES	NO
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h. the subject of a court order at the instigation of any regulatory body, or any officially appointed enquiry concerned with the regulation of a financial, professional or other business activity?	YES	NO
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10. Are you currently undergoing any investigation or disciplinary procedures as described above?	YES	NO
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Disqualification

The applicant to be approved must answer the following questions

Have you (or any associate listed in section 2) previously been disqualified from being a principal, employee, Head of Legal Practice or Head of Finance and Administration in a licensed firm?	YES	NO
Has a licensing authority ever objected to you (or any associate listed in section 2) holding a material interest in a licensed firm?	YES	NO
Has a licensing authority ever imposed conditions on you (or any associate listed in section 32) holding an interest in a licensed firm?	YES	NO
Have you (or any associate listed in section 2) ever been disqualified as an authorised person?	YES	NO
If 'Yes', please give details of the dates of the licensing authority's decision(s); the reasons for the decision(s); and whether the restriction/disqualification is still in place.	YES	NO

Questions 11–15 apply to your current firm and any previous firms (including sole practices) in which you were a partner, member, director or shareholder at the time any of the events occurred.

Financial integrity and reliability

11. In the last 10 years, did any such firm make any compromise or arrangement with its creditors, or otherwise fail to satisfy creditors in full?	YES	NO
12. In the last 10 years, was any such firm the subject of any insolvency proceedings?	YES	NO

Civil liabilities

13. In the last five years, was any such firm the subject of any civil action relating to its professional or business activities which resulted in a judgment or finding against it by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against it and the payment of its costs) being agreed?	YES	NO
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Good reputation and character

14. In the last 10 years, was any such firm	YES	NO
a. convicted by a court of any criminal offence;	YES	NO
b. refused or restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;	YES	NO

c. refused entry to any professional body or trade association, or did it decide not to continue with an application;	YES	NO
d. reprimanded, warned about future conduct, disciplined or publicly criticised by any professional or regulatory body;	YES	NO
e. made the subject of a court order at the instigation of any professional or regulatory body;	YES	NO
f. investigated on allegations of misconduct or malpractice in connection with its professional or business activities that resulted in a formal complaint being proved but no disciplinary order being made?	YES	NO
15. Is any such firm currently undergoing any investigation or disciplinary procedures as described above?	YES	NO
16. Is there any other information relevant to any of the questions above, which you should disclose to ICAEW? (If 'Yes', please supply details on a separate sheet)	YES	NO

Please give the number of 'fitness to own' forms included with this application.

6 THE REGULATORY OBJECTIVES

This section should be completed by the firm's Head of Legal Practice.

The Act's regulatory objectives and professional principles are contained in section 1 (legislation.gov.uk/ukpga/2007/29/section/1).

Are you aware of any issues that may compromise the regulatory objectives or professional principles set out in the Act if this application is approved? For example, is the applicant to be approved subject to any other duties that may conflict with the Act's regulatory objectives?

YES NO

If 'Yes', please give details of the possible issue and the steps that you have or will take to address this.

7 REGULATORY PERSONS

This section should be completed by the firm's Head of Legal Practice.

The Act requires non-authorised persons (whether principals, employees or shareholders) to comply with the duties set out in section 90 of the Act (legislation.gov.uk/ukpga/2007/29/section/90).

Essentially, this requires firms to ensure that non-authorised persons do not do anything which may lead the firm or any authorised individual to breach the Legal Services Regulations or their regulatory responsibilities under the Act

Are you aware of any issues that may compromise the ability of the firm or any authorised individuals to comply with the Legal Services Regulations if this application is approved? YES NO

If 'Yes', please give details of the possible issue and the steps that you have or will take to address this.

8 SIGNATURE AND CONFIRMATION OF THE HEAD OF LEGAL PRACTICE

Signature Guidance

Please note that we are unable to accept "snipped" or image signatures on application forms. Please ensure that application forms are signed by a verified electronic method (such as adobe electronic signatures, DocuSign etc), or by manually signing and scanning the signature page. Electronic signatures must be verifiable by email address.

I certify that, to the best of my knowledge and belief, the information in or provided with this application is a true and accurate statement of the firm's and the person's circumstances.

I confirm that:

- the person named in section 2 as a non-authorised owner holds or intends to hold, together with any associates, a material interest in this firm;
- the person's holding of the interest in this firm will not compromise the regulatory objectives set out in section 1 of the Act;
- the person's holding of the interest will not compromise the ability of this firm's principals and employees to comply at all times with the Legal Services Regulations and the professional principles contained in section 1 of the Act; and
- the person, together with any associates, is otherwise fit and proper to hold a material interest in this firm.

If this application is approved, I confirm that the person will be required to comply at all times with the Legal Services Regulations.

I confirm that (please tick the appropriate box):

☐ until this application and this firm's application to be licensed are approved, this firm will not conduct probate work; or

☐ as a licensed firm, the person(s) named in section 2 will not acquire a material interest until this application is approved.

I understand that none of ICAEW, its officers, staff, members of its Council or committees, their servants or agents, can be held liable to the firm, a person, or an individual, in damages for any act or omission arising out of the performance of any of their functions under the Legal Services Act 2007, or connected with the granting of authorisation or a licence, the enforcement of the Legal Services Regulations or the monitoring of compliance with the Legal Services Regulations in any respect, unless the act or omission is shown to have been in bad faith.

Name of the Head of Legal Practice

Signature

Date

9 SIGNATURE AND CONFIRMATION OF THE PERSON TO BE APPROVED

I certify that, to the best of my knowledge and belief, the information in or provided with this application that is relevant to me, is a true and accurate statement of my circumstances.

I understand that, if my interest in the firm ends, approval as a non-authorised owner will cease. I understand that, if I acquire a material interest in another accredited probate firm, or if I acquire another kind of material interest in this firm, I will need to submit a fresh application.

I acknowledge that ICAEW may make enquiries of, or about, me as it deems necessary (including carrying out verification checks of the information contained in this application).

I acknowledge that ICAEW may require me to provide documents/information in connection with my application or continued status as a non-authorised principal or shareholder and that any failure to provide this information is a criminal offence.

I acknowledge that ICAEW may disclose this information about me to other bodies as set out in Legal Services Regulation 2.26. If this application is approved, I undertake to comply with the Legal Services Regulations at all times.

I confirm that section 3 includes all my associates as defined at the beginning of this form, and I confirm that, to the best of my knowledge and belief, they are fit and proper persons.

I will not do anything that might compromise the integrity of probate work carried out by the firm.

Person to be approved	Name	Signature	Date
Associate	Name	Signature	Date

10 CHECKLIST

Before you return the completed application form, please check you have:

answered every question;	attached all additional sheets; and
checked that sections 8 and 9 have been signed;	attached separate fitness to own declarations for each associate.
made a copy of the completed form for your records;	

Now return your signed and completed form, with any additional sheets, to:

Regulatory Support
ICAEW, Metropolitan House
321 Avebury Boulevard
Milton Keynes
MK9 2FZ UK

T +44 (0)1908 546 302
E regulatorysupport@icaew.com

We will send you an acknowledgement when we receive your application.

USING YOUR PERSONAL INFORMATION

We will treat your personal information in accordance with data protection legislation. We will use your information to carry out our responsibilities as a regulator and as a professional body. We may, either as required by law or to carry out those responsibilities, share your personal information to comply with the requirements of government departments, agencies and regulators. Where necessary, we may transfer your information outside the UK or European Economic Area (EEA) eg, to one of our offices. These countries may not have similar data protection laws to the UK so, if we do transfer your information, we will take the necessary steps to ensure that your privacy rights are still protected. For more information about our data protection policy, please go to [icaew.com/dataprotection](https://www.icaew.com/dataprotection)

The Institute of Chartered Accountants in England and Wales (ICAEW), incorporated by Royal Charter RC000246 with registered office at Chartered Accountants' Hall, Moorgate Place, London EC2R 6EA