

IPReg

**The Intellectual Property Regulation Board  
Consultation: 2019 Business Plan, Budget and Practice  
Fees**

**August 2018**

## Introduction

1. Throughout 2018, we have been reviewing how we perform our core regulatory activities and identifying opportunities to improve as an organisation. As a small regulator (we have 7 part-time staff) with a substantial amount of “business as usual” activities, we have had to take difficult decisions about our priorities going forward and we have decided to prioritise three workstreams in 2019:
  - Our review and independent external IT advice has led us to the conclusion that our current database (which supports the operation of the statutory registers of patent attorneys and trademark attorneys) is no longer fit for purpose and needs to be replaced. Development of a new database will provide improved functionality for registrants and better information for consumers; current indications are that this work should be complete by the third quarter of 2019;
  - Our regulatory arrangements (i.e. our rules and regulations) have developed over the last 8 years and we have identified a number of opportunities for revising them to ensure that they reflect best regulatory practice and minimise regulatory burdens; this work is likely to continue into 2020 (and possibly 2021 depending on our overall resources); and
  - Assessing the advantages and disadvantages of moving offices when our lease expires in February 2020.
2. More details of this work and our day to day activities are set out in our draft 2019 Business Plan (see page 7).

## Context

3. In order to achieve our objectives, it is essential that we are able to recruit and retain high calibre staff (competition for them is fierce in terms of salary and benefits) and, inevitably, this means that our employment costs have risen.
4. We have identified opportunities for more efficient use of our resources. For example, we have reduced reliance on external legal advice - some of this is related to disciplinary matters, but we are also making better use of web-based resources such as Practical Law. However, we have noticed an increase in the number of complaints made to us (we have already received 9 in 2018 compared to 6 in the whole of 2017). We are not yet sure of the reasons for this but, as with most regulatory disciplinary matters, these cases are normally very complex. This means that we need to ensure that those conducting our disciplinary processes have sufficient training and support for their role; best practice requires that this is done by external experts, with an associated need to budget for it.
5. IPReg sub-lets two small offices from CITMA on the top floor of Outer Temple. Over the past few years, we have outgrown the offices and now have to hire rooms externally for activities such as Board meetings, disciplinary hearings, recruitment interviews and training. In addition, the offices are inaccessible to anyone with mobility difficulties. Our lease expires in February 2020 and we therefore need to decide in the first half of 2019 whether we should move. If we do decide to find new offices, this will take time, money and resources. We have therefore established a “relocation reserve” of £25k to cover additional operational/search costs.

6. In the meantime, the costs associated with room hire are largely out of our control, as are costs such as travel costs and employers' pension contributions. In addition, the LSB has told us that the levy that we have to pay to it is likely to rise by 9.1% (as the overall number of authorised persons has dropped, our percentage funding of the LSB's costs has increased).

### Impact on practising fees

7. We said in our consultation on the level of fees for 2018 that "from 2019 onwards, any increases in practice fees are expected to be limited to no more than RPI, in the normal course of events". The development of a new database and revision of our regulatory arrangements are essential – but they are not "normal events". Although the capital expenditure on the new database will be funded from our reserves, additional staff time will be needed during the development, testing and implementation phases. Similarly, staff time will be needed in order to ensure that our revised regulatory arrangements are "fit for the future" - we intend to undertake extensive dialogue and consultation throughout our regulated community and with other interested parties. Therefore, realistically, this is at least a two-year project.
8. Given all of this background and context, we have revised our Reserves Policy and defined minimum levels to support the organisation and provide adequate funds in the event of legal challenge to a decision. These changes will allow us to release around one third of our reserves to fund the key projects. Nonetheless, we have come to the view that we will still need to increase practice fees for 2019. This will be the first increase since 2016.
9. For 2019, we are considering two options:
  - An increase of RPI: 3.8%.<sup>1</sup> This would provide an anticipated practice fee income for 2019 of £862k.<sup>2</sup> This is an increase of £32k over a "standstill" practice fee,<sup>3</sup> but would still result in a budget shortfall of around £11k which would have to be funded from reserves; or
  - An increase of RPI + (up to) 10%. The maximum increase (of RPI + 10%) would provide an anticipated practice fee income for 2019 of £945k.<sup>4</sup> Although this would be a significant increase, it would enable us to make progress on our priority workstreams more quickly than would otherwise be the case. We anticipate that any increase above RPI would be for 2019 only and we would aim to reduce practice fees in subsequent years. The increased income of £83k would be used to: (i) fund a paralegal who could take over many of the more routine tasks that the regulatory officers currently undertake, freeing them up to focus on our priorities; and (ii) funding additional working days (on a temporary basis) for those regulatory officers. However, this would still mean that work on revising the regulatory arrangements will extend into 2020 (and possibly 2021).

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<sup>1</sup> <https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/dogd/mm23> Frequency: Year Percentage change over 12 months (June 2018 figure).

<sup>2</sup> Based on the projected 2018 practice fee income of £806k (including all expected admissions to the end of 2018) + RPI and a provision of £24k + RPI for admissions during 2019.

<sup>3</sup> Standstill practice fee = £806k + £24k for admissions during 2019.

<sup>4</sup> Based on the projected 2018 practice fee income + (RPI + 10%) and a provision of £24k + (RPI + 10%) for admissions during 2019.

10. The draft 2019 budget that we have published alongside this document is based on an increase of RPI.<sup>5</sup> In developing it, we have also taken the opportunity to ensure that other projected costs (for example office costs, increased staff costs during the annual return process and general IT support) reflect more accurately our likely expenditure. We have also published our Reserves Policy which includes our 2018 revised Reserves.

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<sup>5</sup> This includes the indicative increased LSB levy of £63,600 (2018: £58,700) and the Legal Ombudsman levy of £5,000 (2018: £5,000). This is an increase in the indicative LSB levy of 9.1% (£4,900). The increase is due to the fact that IPReg is now paying 1.7% of the levy (2,906 authorised persons out of a total of 170,445) compared to 1.6% in 2017/2018 (2,810 out of a total of 176,738).

*Impact on individual and entity fees*

11. The impact on practising fees would be:

Attorneys	<u>To remain on a single register</u>					<u>To remain on both registers</u>				
	2018 Fee	RPI 3.8% Increase	Proposed 2019 Fee	RPI 3.8% plus 10% Increase (13.8%)	Proposed 2019 Fee	2018 Fee	RPI 3.8% Increase	Proposed 2019 Fee	RPI 3.8% plus 10% Increase (13.8%)	Proposed 2019 Fee
Attorneys solely undertaking corporate work	£159	£6	£165	£22	£181	£255	£10	£265	£35	£290
Attorneys in private Practice	£193	£7	£200	£27	£220	£317	£12	£329	£44	£361
Attorneys not in active practice	£144	£5	£149	£20	£164	£232	£9	£241	£32	£264
Sole Trader not employing other attorneys or other professionals	£317	£12	£329	£44	£361	£453	£17	£470	£63	£516
Sole Trader employing:	£317	£12	£329	£44	£361	£453	£17	£470	£63	£516
other attorneys - add fee per attorney	£63	£2	£65	£9	£72	£63	£2	£65	£9	£72
other professionals - add fee per professional	£255	£10	£265	£35	£290	£255	£10	£265	£35	£290

<b>Registered Body Fees to remain on a single register or both registers</b>	<b>2018 Fee</b>	<b>RPI 3.8% Increase</b>	<b>Proposed 2019 Fee</b>	<b>RPI 3.8% plus 10% Increase (13.8%)</b>	<b>Proposed 2019 Fee</b>
Registered Body through which a single attorney and no other attorneys or other professionals provide services	<b>£124</b>	<b>£5</b>	<b>£129</b>	<b>£18</b>	<b>£142</b>
Any other registered body					
Base Fee	<b>£317</b>	<b>£12</b>	<b>£329</b>	<b>£44</b>	<b>£361</b>
add fee per attorney	<b>£63</b>	<b>£2</b>	<b>£65</b>	<b>£9</b>	<b>£72</b>
add fee per other professional practising via the registered body	<b>£255</b>	<b>£10</b>	<b>£265</b>	<b>£35</b>	<b>£290</b>

12. We also intend to stop our custom and practice of waiving fees for registrations between 1 November and 31 December. We can see no benefit in continuing our current approach and consider that it may introduce a perverse incentive to delay registration until the waiver period. We estimate that this change could raise around £4,700 a year.
13. We have also published our Annual Report for 2017. Our audit is also complete and we will publish the signed Financial Statements as soon as possible.

If you have any comments on the 2019 Business Plan, Budget or Practice Fees, please send them to:

[Info@ipreg.org.uk](mailto:Info@ipreg.org.uk) by 12 noon on Friday 7 September 2018.

## Draft Business Plan 2019/20

1. The appointment in 2017 of a new Chief Executive and a Head of Registration provided the opportunity for IPReg to review the way in which it carries out its core regulatory activities. This review has highlighted a significant range of areas where we can improve our overall efficiency and effectiveness.
2. The changes that we have identified so far are likely to take time to implement; more changes may be identified in due course, particularly once our new Chair is in post and has had a chance to work with the Board and the executive team to develop IPReg's strategy for the medium term. This draft Business Plan therefore sets out key work that we need to do over the next 1-2 years. Once a new strategy is developed, we will consult on that and make any necessary consequential adjustments to our Business Plan.

### **Improving our efficiency and effectiveness**

#### Our "core regulatory activities"

3. The IPReg team carries out a wide range of "business as usual" activities. These include:
  - considering applications from individuals and entities for registration;
  - providing advice on our regulatory arrangements;
  - investigating complaints and taking disciplinary action where necessary;
  - dealing with enquires to our "Info" email box;
  - a rolling accreditation process of examination agencies and considering applications from new entrant agencies;
  - responding to LSB consultations and requests for information (e.g. on the regulatory performance framework and diversity);
  - developing policies following recommendations from external bodies (e.g. the CMA legal services market survey).

These activities occupy most of the team's time over the course of a typical year.

4. In addition, the annual re-registration process currently takes significant resources, particularly dealing with telephone and email queries from registrants. We estimate that over the period from December to March, around 80% of the team's time (including additional days worked) is spent on the re-registration process.
5. We have been reviewing how we carry out these "core" activities and have identified two key areas where we want to significantly improve how they are conducted. These are:

#### *Implementing a new IT system*

6. We have identified that the database which supports the operation and maintenance of the registers (and has been in use since 2013) needs significant improvements to its functionality. It would not be cost-effective to make the required changes on the current system and we are therefore in the process of scoping a new CRM system that will include our registers of individuals and entities. The improved functionality that it will offer should help to streamline our annual renewal process as well as improving the way in which we interact with registrants and reducing the number of queries that get. Inevitably, developing, testing and implementing a



new system will take a considerable amount of the team's time during 2019, particularly because we want to have it in place well in advance of the 2020 annual renewal process.

#### *Improving our regulatory arrangements*

7. Our regulatory arrangements (our Code, rules and regulations) have built up over time and, inevitably, there are areas where they could be improved. We do not plan to change our overall approach to regulation – risk-based, keeping prescriptive rules to a minimum and providing guidance to help understand the outcomes we are seeking. However, we need to review our regulatory arrangements in their entirety. In doing so, we will make them more streamlined and consistent. We will also consider whether a “lite” version of regulatory arrangements for in-house attorneys and overseas attorneys would be appropriate, taking into account the risk posed to consumers. In developing new regulatory arrangements, we will remove any actual or perceived barriers to providing *pro bono* advice, whilst ensuring that regulatory protection is afforded to consumers who are provided with *pro bono* advice.
8. This is a significant piece of work, both for IPReg and those we regulate and we would like to maximise the input we get from the consultation process. We will therefore programme the review over an 18 – 24-month period to enable sufficient time for consultation and discussions to take place. Our initial thinking on timing is:

Q1 – scoping the review (building on work already done in 2018) with input from CIPA, CITMA and other stakeholders

Q2 – initial consultation on proposed approach and outline of new regulatory arrangements

Q1 2020 – detailed proposals for new regulatory arrangements

Our aim would be to apply to the LSB for approval of the new regulatory arrangements in Q3 of 2020 with a view to them being in place in Q1 2021.

#### **Other activities**

9. There are also other areas where we consider that changes are needed. These are:

#### *Improving the application process for individuals and entities*

10. We receive applications from individuals and entities to be regulated. We have identified that we could make the application process more efficient overall. Our aim, once our new CRM is in place is to move to on-line applications for individuals and entities.
11. We have a statutory objective to promote competition in the provision of legal services and want to ensure that our application process for entities is not an unnecessary barrier to entry. We therefore want to review our approach – this could include new guidance and new application forms. Our initial thinking on timing for this review is:
  - Q2 – scoping the review and identifying areas for change/improvement
  - Q4 - consultation on proposed changes
  - Q1 2020 – application to the LSB for approval of the new arrangements
12. We are not planning any changes to the standard education requirements for qualification as an attorney (i.e. the foundation courses and subsequent specialised examinations). However, we

consider that it is appropriate to review whether the current system of exemptions (e.g. for qualifications and for litigators) is targeted, proportionate and consistent. This work is unlikely to start until 2020.

#### *More appropriate categories of registrant*

13. In reviewing the operation of the current register, we have identified that some categories of registrant need to be changed to reflect better the commercial framework within which they practise. This is particularly the case for some attorneys who are classified as sole traders. We also consider that it is appropriate to review whether attorneys who are “not in active practice” should be allowed to remain on the register indefinitely, or whether it would be more appropriate to restrict this category to events such as sabbaticals or maternity leave. Ideally, we would conduct this review in time for implementation before the 2020 annual renewal process. However, because we will probably be implementing a new CRM system during 2019 and need to get LSB approval for such changes, it may not be possible to complete this process during 2019. Nevertheless, we consider that it would be appropriate to start this consultation in 2019 since there are potential overlaps with the review of our regulatory arrangements (see paragraphs 7 and 8). Our initial thinking on timing is:

Q1 – initial discussions with CIPA, CITMA and other stakeholders about possible changes to registrant categories;

Q2 – consultation on proposed changes

Thereafter, implementing any changes will depend on progress on implementing the new CRM system and the need to provide certainty as to the level of fees in 2020.

#### *Moving offices?*

14. The lease on our current premises (which we sub-let from CITMA) expires in February 2020. We are considering whether we should move to other offices that could be more suitable for our needs. Any move would have to take place well before the start of the 2020 annual renewal process.

#### Doing less of some things

15. Inevitably, in re-focusing our priorities – and recognising our limited resources – we will have to stop doing some work and delay other initiatives:

- We no longer fund the ethics training that has been provided by Leeds University. This was run three times in 2015 and 2016, each providing three facilitated webinars and offering full CPD credit but did not attract the numbers initially expected. We took the decision to stop funding knowing that professional ethics is included in the attorney qualification pathway - the core subject syllabus requirements include at least one credit (equivalent to 10 hours learning) for this subject;
- Reduce the resources we allocate to education projects so that we can focus on other policy issues. Now that the Accreditation Handbook is in place and a cycle of reaccreditation is underway, we consider that the academic institutions are well placed to take forward the work required to maintain high standards. We will continue to rely on independent external expertise for advice on specific education issues;

- Delay the review of our CPD requirements until at least 2020.

### Diversity funding

16. For the avoidance of doubt, we will continue to keep a ring-fenced reserve to fund suitable diversity initiatives.

### Summary

17. In addition to our business as usual activities (see paragraph 3) and developing a new CRM system, we propose to do the following (colour coded for ease of reference):

<b>2019</b>	
Q1	<ul style="list-style-type: none"> <li>• Scope review of regulatory arrangements</li> <li>• Initial discussions on possible changes to registrant categories</li> </ul>
Q2	<ul style="list-style-type: none"> <li>• Initial consultation on new regulatory arrangements (high level)</li> <li>• Scope review of application process</li> <li>• Consultation on proposed changes to registrant categories<sup>6</sup></li> </ul>
Q3	<ul style="list-style-type: none"> <li>• Possible office move</li> <li>• New CRM system in place</li> </ul>
Q4	<ul style="list-style-type: none"> <li>• Consultation on proposed changes to application process</li> </ul>
<b>2020</b>	
Q1	<ul style="list-style-type: none"> <li>• Consultation on detailed proposals for new regulatory arrangements</li> <li>• Application to the LSB for approval of new application process</li> </ul>
Q2	
Q3	<ul style="list-style-type: none"> <li>• Application to the LSB for approval of new regulatory arrangements</li> </ul>
Q4	

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<sup>6</sup> Subsequent timings will depend on progress implementing new IT system.

**2019 BUDGET (DRAFT)**

	2019 Budget			2018 Budget comparative		
	£	£	£	£	£	£
<b>LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN LEVY</b>						
LSB Levy			58,600			53,700
LeO Levy			<u>5,000</u>			<u>5,000</u>
			63,600			58,700
<b>OPERATIONAL EXPENDITURE</b>						
<b>Board Costs</b>						
Chair	42,000			35,000		
Board Members Fees	40,000			40,000		
Chair & Board Expenses including Travel	10,000			10,000		
Replacement of Board Members	<u>5,000</u>			<u>5,000</u>		
			97,000			90,000
CMA Market Study (Legal Choices) (supported by Reserve)			0			0
Compensation Policy Insurance Premium			35,000			35,000
<b>Conduct &amp; Disciplinary incl. Assurance &amp; Litigation</b>						
External Legal costs and hearing costs	35,000			35,000		
Recruitment/training of new Panel Members	<u>10,000</u>			<u>0</u>		
			45,000			35,000
Corporation Tax			500			500
Diversity Initiatives (supported by Reserve)			0			0
Education & Projects			5,000			0
Financial Expenses			5,500			4,000
<b>General Administrative Expenses</b>						
Rent	30,000			30,000		
Rates & Service Charge	35,000			35,000		
Other Office Costs	<u>18,200</u>			<u>9,500</u>		
			83,200			74,500
IT Expenses (office and website)			15,000			15,000
Legal and Professional			20,000			15,000
PR/Communications			5,400			15,000
<b>Staff Costs</b>						
CEO	75,000			60,700		
Regulatory Officers	263,000			248,600		
Administrative Staff	79,000			64,300		
Employers NI	48,100			43,900		
Pension Costs	12,700			5,600		
Staff Benefits	6,000			0		
Temporary Staff (Renewal of Fees)	12,000			6,000		
Staff development and Training	<u>3,000</u>			<u>0</u>		
			498,800			429,100
<b>TOTAL OPERATIONAL EXPENDITURE</b>			<u>810,400</u>			<u>713,100</u>
<b>TOTAL BUDGETED EXPENDITURE</b>			<u>£874,000</u>			<u>£771,800</u>

## Reserves Policy

1. There is no statutory requirement to hold reserves or to ring-fence reserves for specific purposes. We consider that it is financially prudent to hold reserves for the following purposes:
  - a. to cushion against unexpected or exceptional increases in costs;
  - b. financing specific project commitments including capital and systems expenditure to promote the regulatory objectives and fulfil our regulatory functions;
  - c. alleviating any short-term pressure on the level of practising fee or fluctuations in the level of fees year on year;
  - d. ensuring sufficient funds to support regulatory and disciplinary actions;
  - e. covering costs of up to 3 months if we were unable to collect practising fees, for example as a result of an IT system failure.
2. Reserves are considered by the Board annually when the operating balance for the preceding financial year is identified. Decisions about the transfer of part or all of specific reserve(s) to or from the income and expenditure account will be considered and made by the Board at this meeting.
3. At the same meeting, the Board will review the level of financial risk that IPReg faces, using information available on its risk register and the results of the audit of its accounts for the preceding year. As a result of this review, project-related or allocated costs reserves may be adjusted or reallocated to other or new reserves.

### *Review of Reserves*

Following completion of the audit, the Board undertook a review at its July 2018 meeting and the Reserves were adjusted/reallocated.

The adjusted Reserves are shown on the next page.

<u>Reserves and Surplus</u>	At 1 January 2018 £	Adjusted Reserves £
Board & Chairman Appointments/Communications Reserve	50,000	<b>25,000</b>
IT/Website Reserve	16,394	<b>122,684</b>
General Contingency Reserve	225,000	<b>170,000</b>
Assurance Disciplinary & Litigation Reserve	150,000	<b>200,000</b>
Projects (including research) Reserve	50,000	<b>15,000</b>
Practice Development Reserve	31,290	<b>0</b>
Funding Diversity Initiatives Reserve	30,000	<b>30,000</b>
CMA Funding Reserve	30,000	<b>10,000</b>
Relocation Reserve	0	<b>25,000</b>
Communication Reserve	0	<b>5,000</b>
Income & Expenditure Account	28,769	<b>8,769</b>
	<hr/> <b>£611,453</b> <hr/>	<hr/> <b>£611,453</b> <hr/>

Please note the position above does not take into account any operating balance for the year ended 31 December 2018.