

# **The Intellectual Property Regulation Board**

## **Consultation**

### **2022 Business Plan, Budget and Practising Fees**

**6 September 2021**

**This consultation closes at 5pm on 4 October 2021**

## Introduction

1. This consultation asks for your views on our proposals for:
  - a. not increasing practising fees in 2022;
  - b. extending by 12 months (until 31 December 2022) the ability for IPReg to waive practising fees for attorneys who are facing hardship as a result of the Covid-19 pandemic;
  - c. our revised Business Plan for 2022/23 and our budget for 2022.
2. If you have any comments on the Business Plan, budget or practising fees, please send them to: [info@ipreg.org.uk](mailto:info@ipreg.org.uk) by **5pm on 4 October 2021**.

## Context

3. Our current priority project is the Review of our regulatory arrangements. This is now proceeding well, having been postponed due to the start of the pandemic. In 2021, we established a new post to lead the Review work. However, the extent of the Review means that it will involve all members of the IPReg team to some extent (in addition to their business as usual work). We are therefore confirming our decision in the 2021 Business Plan not to plan to undertake any new areas of work during 2022.
4. We moved into a new office in December 2019, just before the start of the pandemic. The current licence expires at the end of March 2022. The IPReg Team successfully made the transition to working from home, supported by appropriate IT and the new CRM system which means that we can access information about our registrants online. At the time of publishing this document, it seems likely that we will move to a form of hybrid working. We will be considering what this means for our accommodation needs, but for budgeting purposes we have assumed that we will maintain the current premises in 2022.
5. In August 2021, we started a consultation on changes that we needed to make to our compensation arrangements following a decision by Royal Sun Alliance (RSA) not to renew the insurance policy that had previously underpinned them (the annual cost of which was ~£30k). We are proposing to set up a new compensation fund of £100,000 with effect from 31 October 2021. This would comprise an initial “seed” funding of £11,641 (i.e. the underspend of the 2021 Budget line) and the balance of £88,359 has come from our existing Reserves. This has necessitated the re-allocation of some ring-fenced Reserves. We propose to transfer ~£30k from next year’s operating activities to the Compensation Fund Reserve and release the same amount back to restore the level of our other Ring-fenced Reserves. The Board will consider whether such a provision should be made in each year’s operating activities.
6. The unexpected cost of ~£35k of the actuarial and legal work needed to set up the compensation fund shows the importance of having sufficient reserves to be able to adapt to unexpected changes to the regulatory landscape and we therefore consider it prudent to keep our total reserves at a similar level to 2021. Once the committed compensation fund reserve is reduced at the start of 2022, the IPReg Board will consider where the additional money should be reallocated. Due to the need to reallocate reserves to the committed compensation fund

reserve, the IPReg Board considers that, in its judgement, it is proportionate not to increase the level of the General Contingency Reserve at the moment.

7. IPReg has noted an increase in the number of complaints received about registered attorneys and has worked to increase its efficiency in investigating and resolving these complaints. From April 2018-March 2019 the average resolution time was 202 working days; from April 2019-March 2020 this was 126 working days; and April 2020-March 2021 this was 53 working days. For cases actively requiring investigation, the numbers demonstrate a steady increase in efficiency over the last 3 financial years: 304 working days, then 244 working days and then 141 working days to resolve.
8. The Legal Services Board (LSB) charges a levy on all legal regulators to cover its annual running costs. The levy is calculated with reference to the LSB's financial year which is 31 March. Each year, to assist the legal regulators with setting their budgets, the LSB provides an indicative levy for its current financial year. The levy is based on IPReg's proportion of the total number of regulated lawyers and the levy may change when the number of regulated lawyers is finalised in January 2022. The indicative levy for the year to 31 March 2022 is £67,426 which is 3.98% higher than the levy charged for the year ended 31 March 2021. IPReg's budget covers the year to 31 December therefore the budgeted levy figure is made up of two levy years - the indicative levy prorated to the end of March and an estimate of the next year's levy prorated to end of December. The 2022 Budget uses the indicative levy to 31 March 2022 and with an estimated 3.98% increase in the levy to 31 March 2023. By way of comparison, the 2021 Budget figure estimated a much larger increase in the levy to 31 March 2022 than the 3.98% that has been advised. The levy paid to the Legal Ombudsman remains unchanged at the minimum £5,000 to reflect the low number of complaints received about IPReg-regulated attorneys.
9. The Legal Services Board (LSB) has introduced a requirement for an equality impact assessment (EIA) to be included with applications to it for approval of practising fees. A draft EIA is at Annex A which uses data from IPReg's 2021 diversity survey. IPReg is not proposing to conduct a diversity survey in 2022 since we do not expect the overall results to have changed significantly in the intervening period.

### **Proposed 2022 budget**

10. The draft 2022 budget (and comparison with the 2021 budget) (Appendix C) that we have published alongside this document is based on keeping the 2022 fees at the same level – this is the second year that the fees have not been increased. This should be read alongside our revised Reserves Policy (Appendix D). As a result of setting up a compensation fund, the Board has adjusted the amounts held in the ring-fenced reserves (Appendix E) from those noted on the Financial Statements as at 31 December 2020.
11. We have set up a new "Compensation Fund Reserve" which can be used to make up any shortfall in our separate compensation fund in the event that a grant exceeds the amount held in the fund.<sup>1</sup> The LSB has introduced a requirement for regulators to identify "committed" and "uncommitted" reserves. We consider that the Compensation Fund Reserve should be considered a "committed" reserve since it supports the statutory requirement to provide

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<sup>1</sup> The actuarial risk model that we are using means that the maximum amount of grants that can be paid in any one year is £100k.

compensation arrangements.

12. The IPReg Board considered carefully whether it would be possible to reduce fees for 2022. However, following a decision by RSA not to renew the insurance policy that underpinned our compensation arrangements, we had to obtain actuarial and legal advice about setting up a compensation fund. The cost of this advice had not been anticipated or budgeted for. To date, the total cost of this advice has been ~£35k. Additional actuarial support is likely to be required during 2022 (and 2023). To ensure that we can smooth this expenditure over time we do not consider that it would be appropriate to reduce fees in 2022.
13. The IPReg Board also considered carefully whether it would be appropriate to increase the 2022 fees. In particular the Board considered:
  - a. The fact that the Covid-19 pandemic may yet have an adverse impact on the number of attorneys entering the registers, particularly if firms reduce trainee numbers;
  - b. Over the next 2-3 years, there are a number of policy work areas that may require additional resources. For example:
    - Elements of the Review of Regulatory Arrangements such as supporting the implementation of new continuing competence requirements;
    - Recruitment of a new Panel to consider complaints;
  - c. The Education Working Group programme plan;
  - d. The anticipated number of LSB consultations and other activities;
  - e. The need to alter the allocation of its reserves as a result of establishing a compensation fund;
  - f. Its approach to financing its operating deficit from reserves.
14. Having considered all these matters, the Board considered that, in the exceptional circumstances of the pandemic, it would not be appropriate to increase fees in 2022.
15. The proposed budget makes the following assumptions and cost-reduction measures:
  - a. we will have fewer face to face Board meetings and will hold the remainder online. This will reduce costs for travel and subsistence and room hire;
  - b. there will be no increase in Directors' fees (for the second year running);
  - c. Consistent with our usual practice, the budget makes no estimate for other income from role-holder/licensed body applications and costs awards/fines from disciplinary cases as these are outside our control. Depending on the final operating balance, the Board will determine the overall level of ring-fenced reserves. The potential ring-fenced reserves offsets that can be utilised if required is shown below:
    - Legal Choices website £5,800;

- Conduct and Disciplinary - recruitment and training of disciplinary panel members and training of Board members £15,000 (carried forward from 2021);
- Diversity Initiatives £7,000;
- Projects – external legal support for review of regulatory arrangements £26,000;
- Website – CRM CAPEX - £20,000 for enhancements.

**Question 1. What are your views on the proposal to keep practising fees at the 2021 level?**

### **Financial hardship caused by the pandemic**

16. We recognise that some attorneys may be experiencing financial hardship if they have been made redundant or been furloughed because of the pandemic. We understand that remaining on the registers may be a significant advantage to those attorneys in finding a new job. In 2021 we introduced a process whereby for these attorneys, the IPReg Chief Executive would have the discretion to waive the practising fee whilst the attorney remains on the register in the “not in active practice” category.
17. We received 4 applications for waivers; 3 of these were granted.
18. Although we anticipated that the waiver process would only be in place until 31 December 2021, it is possible that this measure may continue to be needed in 2022 as the effects of the pandemic and its impact on our registrants continue to be felt. We are therefore proposing to extend this waiver process for 2022.

**Question 2. What are your views to continue the process for waiving fees for individual attorneys who are facing hardship as a direct result of the pandemic?**

**Question 3. Do you have any evidence of the impact that each of these proposals will have on different categories of individuals or firms? In particular, do you have any evidence of the potential impact on the diversity of the profession? Do you have any comments on the EIA at Annex A? Do you agree that we should not conduct a diversity survey in 2022?**

### **Proposed 2022 practising fees**

19. Consequential changes to the drafting of the Practising Fee Regulations are set out in Annex B.

The practising fees in 2022 would be:

*Individual and entity fees*

	Proposed 2022 fee For entry on or to remain on a single register	Proposed 2022 fee For entry on or to remain on both registers
Attorney solely undertaking corporate work	£177	£283
Attorney in private practice	£215	£353
Attorney not in active practice	£161	£258
Sole trader attorney not employing other attorneys or professionals	£353	£504
Sole trader attorney employing other attorneys or professionals	£353 + £71 for each attorney employed by the sole trader attorney + £283 for each other professional employed by the sole trader attorney	£504 + £71 for each attorney employed by the sole trader attorney + £283 for each other professional employed by the sole trader attorney

*Registered bodies (this includes ABS and non-ABS firms)*

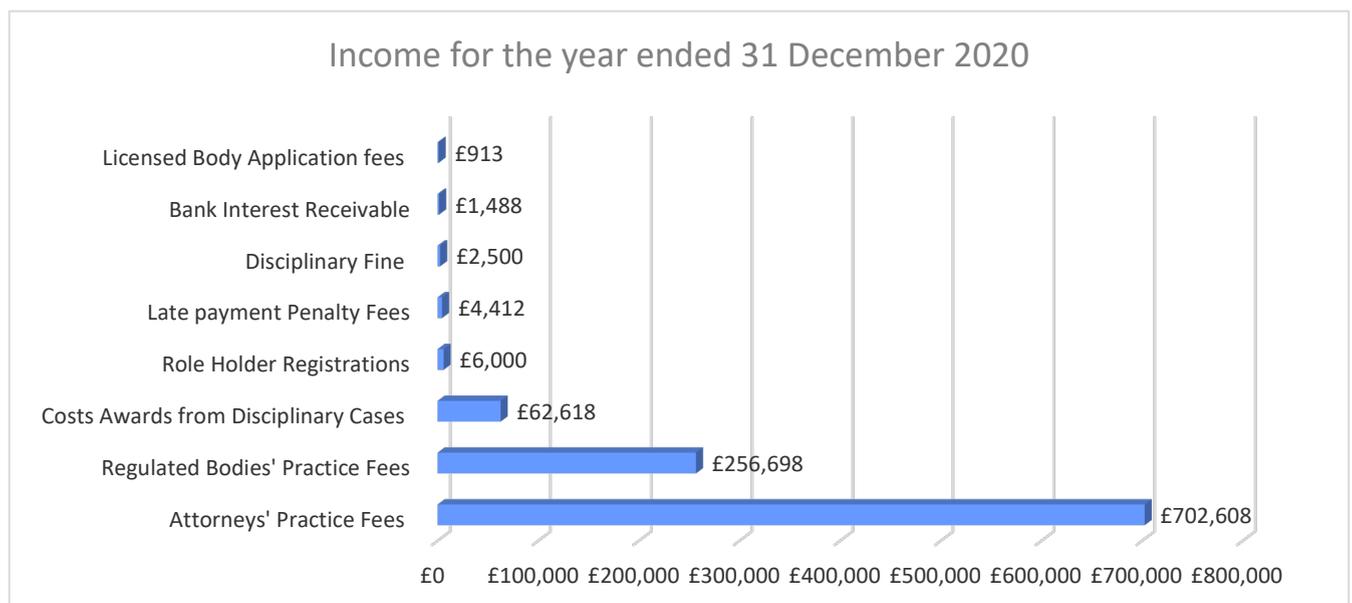
	Proposed 2022 fees For entry on or to remain on a single register or both registers
Registered body through which only a single attorney and no other attorneys or other	£138

professionals provide services	
Any other registered body	£353 + £71 for each attorney practising via the registered body + £283 for each other professional practising via the registered body

### Context – how the practising fees are spent

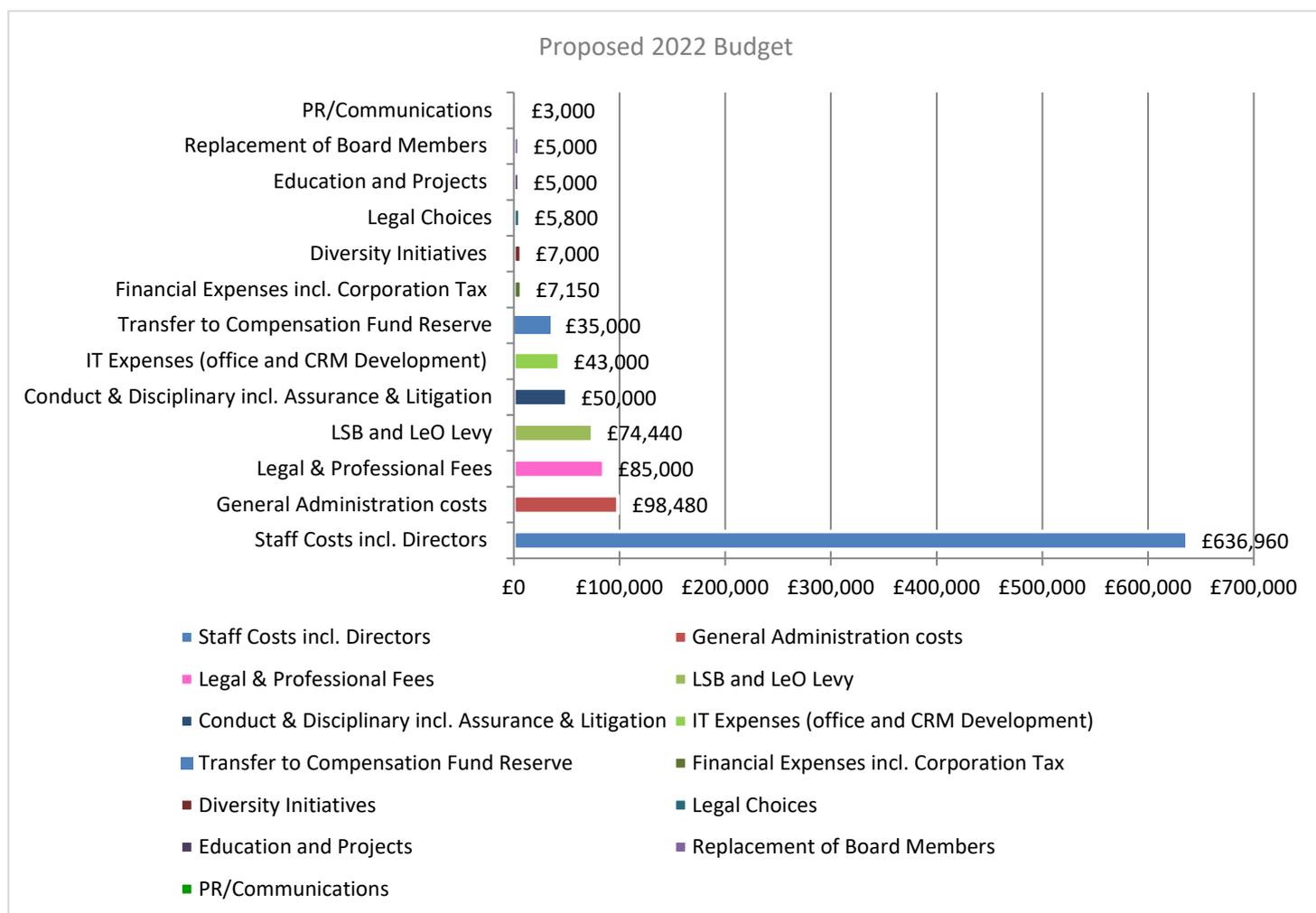
20. Each year, we publish an [Annual Report](#) that sets out what we have done and how we spend the practising fees and other income that we receive. The most recent information is for [2020](#). Most of our income comes from the practising fees paid by registrants. We also receive some income from applications from alternative business structures. The chart below gives more detail about our sources of income in 2020:

*Figure 1 – Breakdown of Income for 2020*



21. More detail about our proposed budget (Appendix C) for 2022 and a comparison with the budget for 2021 has been published alongside this document. Our proposed budget for 2022 is shown in this chart:

Figure 2 – Proposed 2022 Budget including transfer to Compensation Fund



### Staff Costs

Staff costs include salaries, directors’ remuneration, employer’s National Insurance, staff benefits and pension costs.

### IT Expenses (office and CRM)

This is largely made up of costs relating to maintenance of Customer Relationship Management (CRM) system. Also included are costs to support and maintain the office IT platform and software licences. The 2022 budget anticipates expenditure to enhance our CRM arising from the regulatory review and this expense is supported by a ring-fenced reserve.

### General Administration Costs

This includes general office costs, licence and services.

### Legal Services Board and Legal Ombudsman Levy

In common with other legal regulators, IPReg pays a “levy” to cover the costs of the [Legal Services Board \(LSB\)](#) the body with statutory oversight of the legal regulators. The levy is based

on IPReg's proportion of the total number of regulated lawyers, not just the number of patent and trade mark attorneys.

Additionally, the running costs of the [Legal Ombudsman](#) are met by regulated lawyers using a three-year reference period ending 31 March to calculate the average number of complaints made to the Ombudsman. Each regulator contributes a minimum of £5,000 unless there were 10 complaints or more in the rolling three-year period in which case the cost increases. IPReg's contribution is the £5000 minimum.

#### Conduct & Disciplinary incl. Assurance and Litigation

This relates to external legal costs and internal costs associated with assurance and disciplinary matters and includes Board member fees and expenses for committee hearings and associated costs such as photocopying and room hire. The 2022 also includes a budget for the recruitment and training of a disciplinary panel. This has been carried over from 2021 and this expense is supported by a ring-fenced reserve.

#### Compensation Arrangements

IPReg previously had an insurance policy under which grants may be made to compensate consumers for losses or hardship suffered due to a registered attorney or an employee/manager of a registered firm, either as a result of fraud or other dishonesty, or a fraudulent or dishonest failure to account for money. This policy was in place as these type of losses are typically not covered by the professional indemnity insurance which the registered attorney and registered firms are required to have. This arrangement will remain in place until 30 October 2021 when it will be replaced by a compensation fund.

#### Legal and Professional Fees

This relates to costs for legal advice on areas such as audit and accountancy services and contracts, as well as costs such as insurance, Practical Law and Westlaw subscriptions. Practising fees for the professionally qualified members of staff are also included here. The 2022 budget includes a provision for an annual actuarial report and any further costs in relation to the compensation scheme arrangements.

#### Financial Expenses including Corporation Tax

This includes bank charges, card provider service charges and corporation tax on bank interest.

#### Legal Choices

This is a funding instalment for the [Legal Choices website](#) (a joint project undertaken by all the legal regulators to provide consumers with information on legal services to help them make an informed decision).

#### Diversity Initiatives

IPReg has a statutory objective to promote a diverse legal profession and accordingly supports initiatives aimed at promoting this objective.

#### Education Projects

This will also include Board Education Group member costs and expenses.

PR/Communications

Costs associated with Board members' activities with the profession and students.

## Draft Business Plan 2022/23

### Introduction

1. IPReg is undertaking a significant project to review our regulatory arrangements. In addition, although the regulated IP sector appears to have weathered the pandemic relatively well, the overall impact of the pandemic in the coming 1-2 years remains unknown. This continues to create uncertainty for us in terms of the amount of practising fees that we will be able to collect. We therefore consider that it is appropriate to continue to focus on improving the way we conduct core activities and to limit the number of new initiatives that we start.

### IPReg's strategic priorities

2. In March 2019, the IPReg Board met to discuss its strategic priorities for the period from 2019 – 2021. The Board has achieved two of its priorities - to implement a new CRM system and move to offices that have more suitable facilities and better accessibility. In setting its strategic priorities (as part of that review and more widely) the Board wants to be more externally focused to ensure that its regulatory framework encourages and supports innovation:
  - a. In the provision of services that providers are able to offer consumers and the ways in which those services are provided, including the use of law tech. We will do this by ensuring that our review of regulatory arrangements focuses on setting reasonable standards but does not 'gold plate' them;
  - b. By encouraging the entry of new providers of education courses (at both the foundation and advanced levels). We want people who want to become trade mark attorneys and patent attorneys to have a variety of routes into the profession (including apprenticeships). We want these to be provided using different delivery methods and to introduce new subjects (e.g. law tech). We consider that, over time, this will help to increase diversity, improve quality and lower costs. We also want to review on a more regular basis the quality and performance of existing accredited education providers;
  - c. By ensuring that its requirements for continuing competence, in addition to protecting consumers, are relevant to the changing way in which legal services are provided and the commercial requirements of regulated individuals and entities.
3. A further strategy day is planned for November 2021. Any revised strategic objectives will be published after that.

### Our day to day activities

4. The IPReg team carries out a wide range of "business as usual" activities. These include:
  - considering applications from individuals and entities for registration on, and removal from, the registers;
  - providing advice on our regulatory arrangements;

- investigating complaints and taking disciplinary action where necessary;
- dealing with enquires to our CRM system and 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;
- developing policies following recommendations from external bodies (e.g. the CMA).

These activities occupy most of the team’s time over the course of a typical year. The activities support a number of regulatory objectives including: protecting and promoting the interests of consumers; promoting competition; encouraging an independent, strong, diverse and effective legal profession; promoting and maintaining adherence to the professional principles.

### Reviewing our regulatory arrangements

5. As we said when we consulted on the 2021 Business Plan, our regulatory arrangements (our 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 are reviewing our regulatory arrangements in their entirety based on the feedback we have received from the Call for Evidence as well as our own experience of applying the current rules. In doing so, we will make them more streamlined and consistent and will look to provide more flexibility for those we regulate where it is safe to do so.
6. This is a significant piece of work, both for IPReg and those we regulate and we have therefore established a new post to drive the work forward. We have also engaged external experts in the areas of diversity and inclusion, economic regulation, design and reform of regulatory frameworks (including impact assessment) and professional indemnity insurance, to support and challenge our thinking as the review progresses.
7. We will be providing more information about the Review over the coming months including a consultation on the proposed changes. Further details of the review can be found on our [website](#).
8. This work supports the regulatory objectives of: protecting and promoting the interests of consumers; promoting competition; encouraging an independent, strong, diverse and effective legal profession; promoting and maintaining adherence to the professional principles.

### Education work

9. We will continue to work on important issues concerning accredited attorney qualification providers:
  - a. Working with providers to ensure that accreditation recommendations are taken forward and quality assurance mechanisms are fit for purpose, including responding to student and client feedback. Where there are concerns, IPReg will

raise these with the provider to ensure that action is taken. This work will continue as necessary in 2022;

- b. Working with providers to ensure that online delivery of courses meets the required standards (a change in the method of delivery as had been triggered a result of the pandemic);
  - c. Working with stakeholders and potential providers to encourage new qualification pathway options;
  - d. We will continue to undertake reaccreditation assessments (typically every 5 years) of qualification providers. We will consider the outcomes of the European Qualifying Examinations Modernisation Discussions and Proposals and the Mercer Review.
10. The Call for Evidence at the outset of the review of regulatory arrangements identified the following education areas for review:
- a. we will continue to encourage more pathway providers to offer new qualification pathway options;
  - b. consider whether the Basic Litigation Skills Certificate requirement should be pre-qualification for patent attorneys;
  - c. review of the current arrangements regarding the Higher Courts (both Litigation and Advocacy) Certificates;
  - d. consider the impact of education and training requirements on diversity in the profession, to include apprenticeships.
11. This work supports in particular the regulatory objective of encouraging an independent, strong, diverse and effective legal profession.

### **Disciplinary panel recruitment**

12. IPReg has established a pool of independent lay and professional people to sit on our disciplinary panel. There are currently 3 lay members and 6 professional members in this pool. From time to time we need to recruit more members of this pool to replace people who have stood down. We plan to conduct this recruitment exercise in 2022 to ensure that enough people are available to hear cases; this was delayed from 2021 due to the pandemic.
13. We have allocated £15,000 from our reserves for the recruitment of panel members and for the training of Board members (who currently sit as Complaint Review Committee members) and panel members.
14. This work supports the regulatory objectives of: protecting and promoting the public interest; protecting and promoting the interests of consumers; promoting and maintaining adherence to the professional principles.

### **Diversity funding**

15. For the avoidance of doubt, we remain committed to keeping a ring-fenced reserve to fund suitable diversity initiatives. The reserve is currently set at £20,000.

16. This work supports in particular the regulatory objective of encouraging an independent, strong, diverse and effective legal profession.

**Question 4. Do you have any comments on the proposed Business Plan?**

**Question 5. Do you have any comments on the draft Practising Fee Regulations at Annex B?**

### Consultation questions

1. What are your views on the proposal to keep practising fees at the 2021 level?
2. What are your views to retain the ability to waive fees for individual attorneys who are facing hardship as a direct result of the pandemic?
3. Do you have any evidence of the impact that each of these proposals will have on different categories of individuals or firms? In particular, do you have any evidence on the potential impact on the diversity of the profession? Do you have any comments on the EIA at Annex A? Do you agree that we should not conduct a diversity survey in 2022?
4. Do you have any comments on the proposed Business Plan?
5. Do you have any comments on the draft Practising Fee Regulations at Annex B?

## **Annex A – draft equality impact assessment**

Protected Characteristic Group	Is there a potential for positive or negative impact	Please explain and give examples of any evidence/consultation/data used	Action to address negative impact (e.g. adjustment to the policy)
Disability	No	Our diversity survey indicates that there are very few attorneys who consider that they have a disability. In the survey, 4.43% of attorneys considered that they had a disability and 2.26% were not sure.	N/A  However, the level of reporting of disability was below the benchmark that the LSB has identified (15%) so there may be under-reporting (in common with other sectors of the legal services market).
Gender reassignment	Unknown	Data for this characteristic is very limited and so we are unable to draw any conclusions from it.	N/A
Marriage or civil partnership	Unknown	IPReg has taken a targeted and proportionate approach to its initial diversity data gathering and does not yet collect data on this characteristic.	N/A
Pregnancy and maternity	No	Anyone on maternity leave can apply to IPReg to be put in the “not in active practice” category with an associated reduction on practising fees (although the fees are not reimbursed if the change occurs mid-year)	This policy will remain in place
Race	No	Supplementary analysis of our diversity survey shows that there are proportionately more (8%) Asian attorneys compared to the LSB benchmark (5%). Black attorneys appear to be under-represented	N/A

Protected Characteristic Group	Is there a potential for positive or negative impact	Please explain and give examples of any evidence/consultation/data used	Action to address negative impact (e.g. adjustment to the policy)
		<p>(1%) compared to the LSB benchmark (3%).</p> <p>However, for Black registrants, there is significant divergence between the patent (0%) and trade mark (5%) professions.</p>	
Religion or belief	No	<p>Our diversity survey showed that 42% of attorneys said that they did not have a religion; this is higher than the LSB benchmark (38%). In addition, 14% said that they are an atheist (no LSB benchmark data available). Attorneys who are Christians make up a smaller percentage (34%) than the benchmark (52%). Other religions are under-represented compared to the LSB benchmarks.</p>	N/A
Sexual orientation	Unknown	<p>Data for this characteristic is very limited and so we are unable to draw any conclusions from it.</p>	N/A
Sex (gender)	No	<p>There is a significant difference between the number of women trade mark attorneys (68%) compared to patent attorneys (38%); LSB benchmark: 47%. The professions' senior ranks reflect a higher (59%/40%) male/female ratio than the average for the professions as a whole (48%/42%).</p>	<p>Middle and junior level attorneys show proportionately higher numbers of women than men. No targeted action is required.</p>
Age	No	<p>The age profile of attorneys who are aged 55-64 and 65+ and are on both</p>	<p>The number of attorneys on both registers is low: 7.8% and mainly</p>

Protected Characteristic Group	Is there a potential for positive or negative impact	Please explain and give examples of any evidence/consultation/data used	Action to address negative impact (e.g. adjustment to the policy)
		registers is slightly higher (34% and 22%) than those who are only on one register (patent attorneys:10% and 2%; trade mark attorneys: 12% and 4%). However the sample size for both registers is small (~8.5%)	represents an historic grandfathering policy. Numbers are decreasing over time as it is no longer common practice to be dual-qualified.

Question	Explanation / justification	
Is it possible that the proposed level of PCF could discriminate or unfairly disadvantage members of the regulated community?	<p>Prior to consultation, we have not identified any evidence that the level of the fee or the proposal not to increase it could discriminate against or unfairly disadvantage attorneys with protected characteristics.</p> <p>As part of the consultation on the level of 2022 practising fees as are asking respondents if they have any comments on this equality impact assessment.</p>	
Final Decision	Tick the relevant box	Include any explanation / justification required
No barriers identified		
Bias towards one or more groups		
Adapted PCF to eliminate bias		
Barriers or impact identified but having considered all options carefully, there appear to be no other proportionate ways to achieve the policy aims in the programme of activity but by charging this level of PCF.		

## Annex B – Proposed changes to the Practising Fee regulations

## IPREG PRACTICE FEE REGULATIONS 2021

The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Chartered Institute of Trade Mark Attorneys working jointly together as the Intellectual Property Regulation Board (IPReg) now make the following provisions under section 275A of the Copyright Designs and Patents Act 1988 and section 83A of the Trade Marks Act 1994, respectively (pursuant to sections 185 and 184 of the Legal Services Act 2007) and section 21 of the Legal Services Act 2007.

### Regulation 1 - Interpretation

In these regulations, unless context otherwise requires:

“2007 Act” means the Legal Services Act 2007;

“ABS” means a licensable body as defined in section 72 of the 2007 Act;

“Patent Attorney Register” means (together) in respect of Registered persons other than ABS, the Register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended and in respect of ABS, is part of IPReg’s Register of licensed bodies for the purpose of section 87 of the 2007 Act;

“Trade Mark Attorney Register” means (together) in respect of Registered persons other than ABS, means the register kept under section 83 of the Trade Marks Act 1994 as amended and in respect of ABS, is part of IPReg’s Register of licensed bodies for the purpose of section 87 of the 2007 Act;

“attorney” means registered patent attorney or registered trade mark attorney;

“practising via a body” means providing services to clients via the body or being employed by or being a manager of the body;

“manager”, in relation to a body, has the same meaning as in section 207 of the 2007 Act;

“patent and/or trade mark work” means work undertaken in the course of business as an attorney;

“corporate work” means patent and/or trade mark work undertaken by an employed attorney acting solely as an agent on behalf of —

- a) their employer;
- b) a company or organisation controlled by their employer or in which their employer has a substantial measure of control;
- c) a company in the same group as their employer;
- d) a company which controls their employer;
- e) an employee (including a director or a company secretary) of a company or organisation under (a) – (d) above, where the matter relates or arises out of the work of that company or organisation; or
- f) another person with whom a person under (a) to (e) above has a common interest;

“in private practice” means undertaking patent and/or trade mark work which is not solely corporate work;

“inactive attorney” means an attorney who is not available to conduct any patent and/or trade mark work for a client or employer

“registered body” means a body (corporate or unincorporated) entered (or where clear in the context, applying to be entered) in the Patent Attorney Register or the Trade Mark Attorney Register, and:

- (a) a body which is an ABS and is entered in the Register, becomes upon entry a licensed body under the 2007 Act;
- (b) “Registration” and “Registered” shall be construed accordingly and shall mean, in respect of ABS, “licensing” and “being licensed” for the purpose of the 2007 Act; and
- (c) for the avoidance of doubt references to “Registration” and “Register” in these regulations are to initial registration and any renewal of registration;

“sole trader attorney” means an attorney in private practice based in the UK who is practising other than via a registered body or a body regulated by another legal services regulator;

“other professional” means an individual who is:

- (a) not a registered patent attorney or a registered trademark attorney;
- (b) based in the UK; and
- (c) qualified as a:
  - i) European patent attorney;
  - ii) European trademark attorney;
  - iii) barrister;
  - iv) solicitor; or

- v) is qualified to be a registered patent attorney or a registered trademark attorney but is not registered as such.

### Regulation 2 – Individual fees

The fees provided for under regulation 12.2 of the Patent Attorney and Trade Mark Attorney Qualification and Registration Regulations 2009, for individuals to be entered onto or to remain on the patent attorney register and/or the trade mark attorney register from 1st January 2022, shall be as follows:

	For entry on or to remain on a single register	For entry on or to remain on both registers
i) Attorney solely undertaking corporate work	£177	£283
ii) Attorney in private practice	£215	£353
iii) Attorney not in active practice	£161	£258
v) Sole trader attorney not employing other attorneys or other professionals	£353	£504
v) Sole trader attorney employing other attorneys or other professionals	£353 + £71 for each attorney employed by the sole trader attorney + £283 for each other professional employed by the sole trader attorney	£504 + £71 for each attorney employed by the sole trader attorney + £283 for each other professional employed by the sole trader attorney

### Regulation 3 – Late payment fees

The late payment fees provided for under regulation 7.5 of the Patent Attorney and Trade Mark Attorney Qualification and Registration Regulations 2009 shall be equal to 50% of the corresponding fee to be entered into or to remain on the patent attorney register or the trade mark attorney register which is being paid late up to a maximum late payment fee of £250.

## Regulation 4 – Registered body fees

The fees provided for under regulations 2 and 7 of the IPReg Registered Bodies Regulations 2015 for corporate or unincorporated bodies to be registered\* or to remain on the Patent Attorney Register or the Trade Mark Attorney Register shall be as follows:

	For entry on or to remain on a single register or both registers
i) Registered body through which only a single attorney and no other attorneys or other professionals provide services	£138
ii) Any other registered body	£353 + £71 for each attorney practising via the registered body + £283 for each other professional practising via the registered body

\* Please note that this excludes the fee for the first approval of licensed bodies which shall be equal to the practice fee payable upon approval for licensing.

## Regulation 5 – Commencement

The fees set out in these regulations shall apply from 1st January ~~2021~~2022 until further amended or substituted by further regulation.

## **Regulation 6 – waivers – Covid-19**

This Regulation 6 shall apply from the date these regulations come in to force until 31 December ~~2021~~2022.

The IPReg Chief Executive may, at her discretion and subject to appropriate evidence being provided, waive all or part of the individual fees set out in Regulation 2. Such waiver will only apply to cases of individual hardship resulting directly from the Covid-19 pandemic.

A registrant whose fee is waived under this regulation will remain on the register(s) and will be subject to the regulatory requirements that apply to attorneys who are not in active practice. In addition, sole trader individuals or firms who have suspended their practice must maintain PII in accordance with Rule 17 of the Rules of Conduct.

Attorneys who have had their fee waived under this Regulation 6 must notify IPReg within 14 days of becoming employed or resuming trading. If an attorney whose fee is waived under this regulation is subsequently employed or resumes trading during ~~2020-2021~~ or ~~2021~~2022, the full fee(s) for their new category will become payable within 28 days of notification to IPReg of becoming employed or

resuming trading. No late payment fee will be payable in these circumstances.

### **Guidance to Regulation 6 – waivers – Covid-19**

Attorneys will need to provide evidence of hardship. Acceptable documents include:

- a letter of redundancy from their former employer; and
- proof of payment to them of Universal Credit or other means-tested benefits;
- in the case of a sole trader or a sole practitioner firm:
  - evidence that they have either suspended trading or closed their business as a result of the pandemic;
  - if they have suspended trading, they have maintained appropriate PII ;
  - if they have ceased trading, they have put run-off cover in place or transferred all their clients to another firm which has included them in its own PII; and
  - if not in receipt of any benefits, their savings are below the threshold for any State benefits.

The Chief Executive may require additional information from the attorney or their former employer.

Fee waivers are not appropriate for attorneys who are working/employed. They must continue to comply with all the relevant regulatory arrangements including having compliant PII.

## PROPOSED 2022 BUDGET

	Proposed 2022 Budget			Note	2021 Budget comparative		
	£	£	£		£	£	£
<b>PROJECTED INCOME</b>							
Budgeted Practice Fees - Attorneys & Entities			1,013,213	a.			906,936
Other Income			0				0
			<u>1,013,213</u>				<u>906,936</u>
<b>PROJECTED EXPENDITURE</b>							
<b>LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN</b>							
LSB Levy		69,440		b.		69,310	
LeO/OLC Levy		5,000				5,000	
		<u>74,440</u>				<u>74,310</u>	
<b>OPERATIONAL EXPENDITURE</b>							
<b>Board Costs</b>							
Replacement of Board Members		5,000				8,000	
<b>CMA Market Study (Legal Choices) - supported by Reserve</b>							
		5,800		c.		4,850	
<b>Compensation Scheme Insurance Policy</b>							
		0		d.		35,000	
<b>Conduct &amp; Disciplinary incl. Assurance &amp; Litigation</b>							
External Legal costs and hearing costs	35,000				35,000		
Recruitment/training of panel members - supported by Reserve	15,000			e.	15,000		
		<u>50,000</u>				<u>50,000</u>	
Corporation Tax		150				150	
Diversity Initiatives - supported by Reserve		7,000				7,000	
Education & Projects		5,000				5,000	
Financial Expenses		7,000				7,000	
<b>General Administration Expenses</b>							
Licence & Services	78,480			f.	78,480		
Other Office Costs	20,000				20,000		
		<u>98,480</u>				<u>98,480</u>	
<b>IT Support (office and website)</b>							
Support	10,000				10,000		
CRM - OPEX	13,000				13,000		
CRM CAPEX - supported by Reserve	20,000			g.	0		
		<u>43,000</u>				<u>23,000</u>	
<b>Legal &amp; Professional</b>							
Legal & Professional Costs	35,000			h.	20,000		
Review of Regulatory Arrangements - supported by Reserve	50,000				40,000		
		<u>85,000</u>				<u>60,000</u>	
<b>PR/Communications - supported by Reserve</b>							
		3,000				3,000	
<b>Staff Costs</b>							
CEO	82,250			i.	80,100		
Regulatory Officers	321,750				285,640		
Administrative Staff	74,100				72,000		
Directors' Remuneration	69,100				71,100		
Employer's NI - staff	56,210				51,060		
Employer's NI - directors	3,750				3,800		
Pension Costs	13,800				12,100		
Staff Benefits	8,000				7,400		
Staff development and training	3,000				3,000		
Staff Recruitment	5,000				8,400		
		<u>636,960</u>				<u>594,600</u>	
<b>TOTAL PROJECTED EXPENDITURE</b>			<b>1,020,830</b>				<b>970,390</b>
<b>PROJECTED OPERATING BALANCE BEFORE RESERVE MOVEMENTS</b>			<b>-7,617</b>				<b>-63,454</b>
<b>Transfer to Compensation Fund Reserve</b>							
			-35,000	d.			0
			<u>-42,617</u>				<u>-63,454</u>
<b>Reserves offsets:</b>							
CMA Market Funding - Legal Reserves	5,800			j.	4,850		
Conduct & Disciplinary - Recruitment & training of disciplinary panel	15,000				15,000		
Diversity Initiatives	7,000				7,000		
Communication Reserve - PR/ Communication	0				3,000		
Review of Regulatory Arrangements	26,000				24,000		
Website - CRM CAPEX	20,000				0		
			<u>73,800</u>				<u>53,850</u>
			<u>31,183</u>				<u>-9,604</u>

## Notes:

- a. *Projected Income:*  
Budgeted Practice Fee Income for 2022 - no change to the level of fees. Budgeted Practice Fee Income for 2022 is based on an estimate of practice fee income for 2021 with a provision for attorney admissions reduced by an estimate for voluntary removals/removals in 2022.  
Budgeted Practice Fee Income for 2021 was calculated by taking our Practice Fee Income as at 7-8-20 and projecting a 5% reduction to simulate a potential fall in the regulated community through either COVID-19 and/or Brexit. Other income - no estimate has been made for other income from bank interest and as per our usual practice, from role holder/licensed body applications and costs awards/fines from disciplinary cases as these are outside our control.
- b. The LSB year end is 31 March, therefore the budget is made up of 2 levy years. The levy for 2022 has been calculated by prorating the indicative levy advised by the LSB for 2021/2022 and taking a prorated proportion of an estimated levy for 2022/2023 (based on a 3.98% increase). The 2021 levy figure estimated a larger increase for 2021/2022 levy year than has actually been advised by the LSB.
- c. CMA - Legal Choices - provided for at the same level of funding as in 2021.
- d. The Board has prepared the budget to enable up to £35k to be transferred to the Compensation Fund Reserve. The 2021 Budget was in respect of the premium for a Compensation Scheme insurance policy and related fees.
- e. Conduct & Disciplinary - Recruitment & Training of Disciplinary Panel members (2021 budget line) deferred to 2022 and shown as 2022 budget expense.
- f. Licence & Services - the existing licence and service agreement will be expiring in March 2022 and we have used the 2021 budget figures as our anticipated costs.
- g. CRM CAPEX - estimated expenditure in respect of enhancements arising from regulatory arrangements review.
- h. Legal & Professional costs includes a provision for an annual actuarial report and any further costs in relation to the compensation scheme arrangements.
- i. Review of regulatory arrangements covers anticipated expenditure in respect of advice on diversity, advice on Professional Indemnity insurance, costs for modelling fee structures and other ancillary costs.
- i. Staff costs - the 2022 budget has a projected CPI increase of 2.5% for IPReg staff salaries and costs - see "CPI June 2021" link below. Directors fees remain at the same level as 2020.  
CPI June 2021
- j. These are the potential ring-fenced reserve offsets that can be utilised if required.

## 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. In 2021, IPReg had to establish a reserve in respect of a Compensation Fund to comply with their statutory requirements to have appropriate compensation arrangements in place. This was previously met through a bespoke insurance policy which was withdrawn by the provider and no replacement policy can be found.

The amount of the fund is based on an actuarial assessment of risk. IPReg was able to set this fund up by utilising some of their existing Reserves and from a small transfer from operating activities.

Consequently, the Board will consider whether a provision should be made in each year's budget to facilitate the transfer from operating activities, to the Compensation Fund Reserve. This will enable the release of a corresponding amount back to the other Reserves, dependent on the fund level as advised by the actuarial assessment.

The Legal Services Board, the oversight Regulator, has required all regulators to identify "committed reserves" and IPReg consider this reserve to fall into this category. As such, points 3 and 4. will not be applicable to this Reserves.

3. 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.
4. Additionally, 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.

**RESERVES**

The Financial Statements for the year ended 31 December 2020 showed reserves of £667,763. In 2021, IPReg had to establish a reserve in respect of a Compensation Fund to comply with their statutory requirements to have appropriate compensation arrangements in place. This was previously met through a bespoke insurance policy which was withdrawn by the provider and no replacement policy can be found. The figures shown below reflect the adjustments made to the amounts held in ring fenced reserves in the Financial Statements as at 31 December 2020, to set up the Compensation Fund Reserve.

	£
Compensation Fund Reserve	<b>88,359</b>
Board & Chairman Appointments/Communications Reserve	<b>10,000</b>
IT/Website Reserve	<b>30,000</b>
General Contingency Reserve	<b>200,000</b>
Assurance Disciplinary & Litigation Reserve	<b>210,000</b>
Projects (including research) Reserve	<b>10,000</b>
Funding Diversity Initiatives Reserve	<b>20,000</b>
CMA Funding Reserve	<b>16,000</b>
Communication Reserve	<b>0</b>
Regulatory Review Reserve	<b>50,000</b>
Consumer Research Reserve	<b>15,000</b>
Disciplinary Panel Recruitment & Training Reserve	<b>15,000</b>
Income & Expenditure Account	<b>3,404</b>
	<b>£667,763</b>