

The Intellectual Property Regulation Board

Consultation

2023/24 Business Plan, Budget and Practising Fees

19 July 2022

This consultation closes at 12 noon on Monday 22 August 2022

Introduction

This consultation asks for your views on our proposals for our revised Business Plan for 2023/24. We anticipate that the main areas of work will be:

- Implementing the changes to our regulatory arrangements once they have been approved by our regulator the Legal Services Board (LSB);
- Consideration of changes to the compensation fund;
- Building our evidence base about the IP sector;
- Developing our website;
- Funding diversity initiatives;
- Responding to consultations and information requests from the LSB;
- Continuing our work on education including:
 - A review of the Accreditation Handbook; and
 - Scoping a review of IPReg's competency framework to consider whether the required competencies remain fit for purpose.

We are also seeking your views on increasing practising fees in 2023 by 6% to take account of the current level of inflation and to finance our planned activities. This would be the first increase in fees since 2020. The impact on each fee category is set out in **Annex A**. This would increase our budgeted income from practising fees from £1,013,213 in 2022 to £1,106,462 in 2023 (an increase of £93,249);

In addition, we are proposing to retain the ability for IPReg to waive practising fees for attorneys who are facing hardship. This was introduced as a result of the Covid-19 pandemic for attorneys who had been made redundant or were furloughed. We welcome views on whether we should retain the waiver and broaden it to help attorneys suffering hardship for other reasons.

If you have any comments on the Business Plan, budget or practising fees, please send them to: info@ipreg.org.uk by **12 noon on Monday 22 August 2022**. If you would like to discuss the plan with us or would like further information, please contact us online using this [form](#).

Draft Business Plan – 2023/24

IPReg's strategic priorities

1. In March 2019, the IPReg Board met to discuss its strategic priorities for the period from 2019 – 2021; these were reconfirmed at its strategy meeting in November 2021. The Board has achieved two of its initial priorities - to implement a new CRM system in 2019 and move to offices that have more suitable facilities and better accessibility.
2. In setting its strategic priorities 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 2022 to consider whether changes need to be made as a result of developments in the IP sector and the regulatory environment. Any revised strategic objectives will be published after that meeting.

Implementing the Review of regulatory arrangements

4. Our main project for the last three years has been the Review of our regulatory arrangements. This has now reached the stage of finalising our approach and preparing our rule change application to the Legal Services Board (LSB). However, once approval has been given, there will be a significant programme of work to implement the changes and to ensure that registrants and others that IPReg regulates are aware of their responsibilities under the new Code. We have allocated £30k in the budget to cover the cost of this work.
5. At the time of writing this document, it seems likely that if the LSB agrees our rule changes, the key areas on which we will need to work during 2023 are:
 - a. Developing and implementing the transition to new CPD arrangements. We consider it likely that we will have transitional arrangements in place for 18 – 24 months in order to give attorneys and firms sufficient time to become familiar with the new arrangements;
 - b. Implementing the new disciplinary procedures. This will include recruiting external Complaint Examiners – a new role which will undertake the preliminary decision-making stage and, if

necessary, recruiting more members of the professional members of the disciplinary panel.¹ We anticipate that recruitment will take place during the second half of 2023;

- c. Developing our approach to reviewing the effectiveness of new transparency requirements which will provide better information to clients and prospective clients about costs. This is likely to take the form of a thematic review around 18 months after the requirements have come into force;
 - d. Implementing the professional indemnity insurance (PII) Sandbox which will facilitate testing alternative PII arrangements. We anticipate that this will be operational very quickly if the LSB approves it;
 - e. For the avoidance of doubt:
 - New requirements on diversity monitoring will be subject to further consultation with stakeholders;
 - Changes to practising categories will not be implemented before the 2025 fee collection starts (in December 2024) because they will require further consultation and changes to our CRM system;
 - Litigation skills – when we consulted on changes to our regulatory arrangements we asked for views on the principle of moving the training on basic litigation skills for patent attorneys into the pre-admission phase (and therefore amending the current requirement to obtain a basic litigation certificate prior to admission or within three years of admission to the register). There was a range of views on this suggestion and the IPReg Board has decided that the issue would best be explored (including with education providers) as part of a possible wider review of our regulatory arrangements relating to education. This means that the current approach will remain in place for the time being.
6. This work supports all the regulatory objectives in the Legal Services Act 2007 (LSA).²

Compensation fund review

7. As of 31 October 2021, IPReg has had a compensation fund of £100,000 in place following a decision by Royal Sun Alliance not to renew the insurance policy that had previously provided compensation arrangements for fraud or failure to account (the annual cost of which was ~£30k). In order to ensure that there is sufficient funding, our approach has been to transfer money from our operating budget to the Compensation Fund Reserve and where possible release the same amount back to restore the level of our other reserves. The Board considers that this approach should continue in 2023. At the time of drafting this document, no claims had been made on the compensation fund.
8. In reaching its decision to agree the changes to our compensation arrangements, the LSB required us

¹ Neither of these roles will be IPReg employees. Currently JDP members are paid at the same rate as IPReg Board members:£392 a day, pro-rated as appropriate. We anticipate that the new Complaint Examiners will also be paid at this rate.

² The LSA section 28(2) imposes an obligation on IPReg to, so far as is reasonably practicable, act in a way (a) which is compatible with the regulatory objectives, and (b) which [IPReg] considers most appropriate for the purpose of meeting those objectives. The regulatory objectives in the LSA section 1(1) are: (a) protecting and promoting the public interest; (b) supporting the constitutional principle of the rule of law; (c) improving access to justice; (d) protecting and promoting the interests of consumers; (e) promoting competition in the provision of [legal] services; (f) encouraging an independent, strong, diverse and effective legal profession; (g) increasing public understanding of the citizen's legal rights and duties; (h) promoting and maintaining adherence to the professional principles [in LSA section 1(3)].

to introduce a “sunset clause” requiring a further application to ensure new long-term regulatory arrangements are in place by 30 April 2024. The LSB stated in its [Decision Notice](#) that it expects IPReg to obtain evidence about those who might need to access the compensation fund and to develop a long-term solution to coincide with the expiry of the sunset clause. The LSB also said that it was concerned that, in order to ensure that the cost of the compensation fund did not increase, the IPReg Board had decided to limit eligibility to make a claim on the fund to individual consumers and micro-businesses.³ The LSB stated that “IPReg needs to prioritise its work to ensure a longer-term solution is found that will provide ongoing and sustainable consumer protection for a wider range of consumers of legal services provided by persons authorised by IPReg”.

9. IPReg’s decision on the size of the compensation fund and the criteria for eligibility to make a claim on it were informed by actuarial advice. During 2023 we propose to work with the actuary to inform our evidence gathering to develop further our risk model. This will then enable the actuary to advise us on the likely cost of making the fund available to a wider range of consumers and we will then be able to assess if this will impact the 2024 practising fees. We will be consulting on our future approach to the fund during the second half of 2023.
10. We have budgeted £30k for the actuarial advice needed for the additional risk modelling and any associated legal costs.
11. This activity supports the regulatory objectives of: protecting and promoting the interests of consumers; promoting competition; and improving access to justice.

Building our evidence base

12. In addition to the data and evidence gathering work that we plan to undertake for the review of compensation arrangements, we will continue to gather data and evidence about the nature of the IP legal sector.
13. We have analysed the LSB’s data on small businesses that identified that they had a IP legal need. Although there were only 25 respondents out of a total survey of 10,000+, the data confirmed our understanding that IP legal advice is primarily provided on a B2B basis.
14. We are considering what further analysis of the LSB data might be useful. We are also exploring the possibility of appointing an external adviser who will review relevant research by the other regulators, the Legal Services Consumer Panel and other bodies to evaluate whether it should be incorporated into IPReg’s evidence base.
15. This work supports all the regulatory objectives.

Website redevelopment

16. When we implemented the new CRM system in November 2019, we took a “lift and shift” approach to our website – moving the content without making significant changes to it. The current website runs on a platform called Drupal 7. This will be unsupported from late 2023 and will be replaced by Drupal 9.
17. The IPReg Board has decided that it would be a significant risk to the organisation to have an unsupported website. We have therefore been exploring alternative approaches and the cost of them. IPReg will need external support in order to develop the new website. We have allowed £60k for the

³ See UK Government [definition](#). A company is a micro-business if it has any 2 of the following: a turnover of £632,000 or less; £316,000 or less on its balance sheet; 10 employees or less.

redevelopment and external support in the budget; this is supported by a reserve.

18. This work supports in particular the regulatory objectives of protecting and promoting the interests of consumers; and increasing public understanding of the citizen's rights and duties.

Diversity

19. 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 £20k.
20. We also plan to undertake further data gathering on diversity during 2023. We will be developing our approach to this during 2022 with other stakeholders in the IP sector – for example IP Inclusive, CIPA, CITMA and the IP Federation. This work will be led by a new Education and Diversity post (see paragraph [29]). We have allocated £10k for this work.
21. This work supports in particular the regulatory objective of encouraging an independent, strong, diverse and effective legal profession.

Responding to LSB consultations and related work

22. The LSB is IPReg's (and the other legal regulators') regulator. The volume of work that is generated by the LSB has increased significantly over the last 3 years. Prior to that, we were able to accommodate this work as part of our normal day to day business as usual. However, the current volume of work means that this approach is no longer possible and additional resources are needed. The IPReg Board has therefore decided that in order to try to ensure that the IP sector is taken into account appropriately in the LSB's approach to regulation, IPReg should designate a post that is specifically tasked with focus on the LSB's agenda and that the current Director of Policy will undertake this work as well as work on wider policy issues. The work the Director of Policy currently undertakes on education policy will be covered by the new Education and Diversity post (see paragraph [29]).
23. The LSB's Business Plan for 2022/23 and the related activity schedule (which includes the period January – March 2023) shows that there are a significant number of areas where IPReg will need to respond to the LSB's work. In the first quarter (January to March) of 2023 these include:
 - a. Market Transparency Coordination and Oversight Group ([MTCOG](#)) – this has been established by the LSB to coordinate activity by the legal services regulatory bodies, facilitate collaboration and monitor and assess progress on empowering consumers and improving transparency in the legal services market. IPReg attends MTCOG meetings and responds to related requests for information from the LSB;
 - b. Technology and Innovation – reviewing and responding to the implications of the LSB's "proof of concept" findings on desirable outcomes for regulators and LSB guidance on technological applications;
 - c. Continuing competence – analysis/implementation of the requirements of the LSB's Statement of Policy which will be published later in 2022. (Please see this link to the LSB's [consultation document](#) and [draft Statement of Policy](#));
 - d. Regulatory Performance Framework Review – analysis/implementation of the revised framework which is expected to be published in autumn 2022. The LSB's consultation closed on 1 July and can be seen [here](#); IPReg's response to the consultation can be seen [here](#);

- e. Financial protection (PII and compensation arrangements) – responding to LSB consultation on the policy framework;
 - f. Disciplinary and enforcement processes – considering findings of the LSB’s information gathering exercise;
 - g. Consumer redress (LSA s112 review) – analysis/implementation of the LSB’s revised rules and guidance;
 - h. LSB education and training guidance – responding to LSB consultation on new guidance.
24. The LSB’s business planning cycle follows the financial year and so the list above only covers the first three months of 2023, but we expect that the nature and volume of this activity will continue throughout 2023/24.
25. In addition, the LSB issues a number of requests for information during the course of a year which we need to engage with and respond to.
26. The LSB also publishes a significant amount of research which IPReg needs to analyse to consider whether it is relevant to the IP sector (see paragraph [14] for the additional resources we plan to allocate to this activity).

Developing our education policy

27. The IPReg Board wants to maintain the momentum it has built up on education issues. 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 2023;
 - b. Working with providers to ensure that online delivery of courses meets the required standards;
 - 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;
 - e. We will consider the outcomes of the European Qualifying Examinations Modernisation Discussions and Proposals which may be implemented during 2023.
28. In addition, we plan to scope out what a full review of our policies on education and training (excluding CPD which has already been consulted on) might entail and to discuss that with key stakeholders.
29. In order to ensure that sufficient focus is placed on education policy, the IPReg Board has decided to establish a new post covering the education and diversity portfolio and recruitment will begin soon.
30. This work supports in particular the regulatory objective of encouraging an independent, strong, diverse and effective legal profession.

Our day to day activities

31. In addition to the specific areas of work set out above, the IPReg team carries out a wide range of “business as usual” activities. These include:
 - a. considering applications from individuals and entities for registration on, and removal from, the registers;
 - b. providing advice on our regulatory arrangements;
 - c. investigating complaints and taking disciplinary action where necessary;
 - d. dealing with enquires to our CRM system and our “Info” email box.
32. These activities support all of regulatory objectives.

Impact of Covid-19: IPReg’s office and Board meetings

33. We are working on a hybrid basis: members of the IPReg Team work in the office for some of their working time and work from home for the remainder. The IPReg Board decided to renew the licence at our office for a further year to the end of March 2023 (our provider agreed that there would not be any increase in the licence fee or service charges). For budgeting purposes we have assumed that we will maintain the current premises throughout 2023.
34. The Board is hoping to be able to continue its return to face to face meetings in London for its 7 scheduled meetings in 2023. This means that there will be additional expenditure on room bookings, travel and subsistence compared to 2022.

Question 1 What are your views on the proposed Business Plan?

Equality Impact Assessment

35. 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 B** which uses data from IPReg’s 2021 diversity survey.

Question 2 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 B?

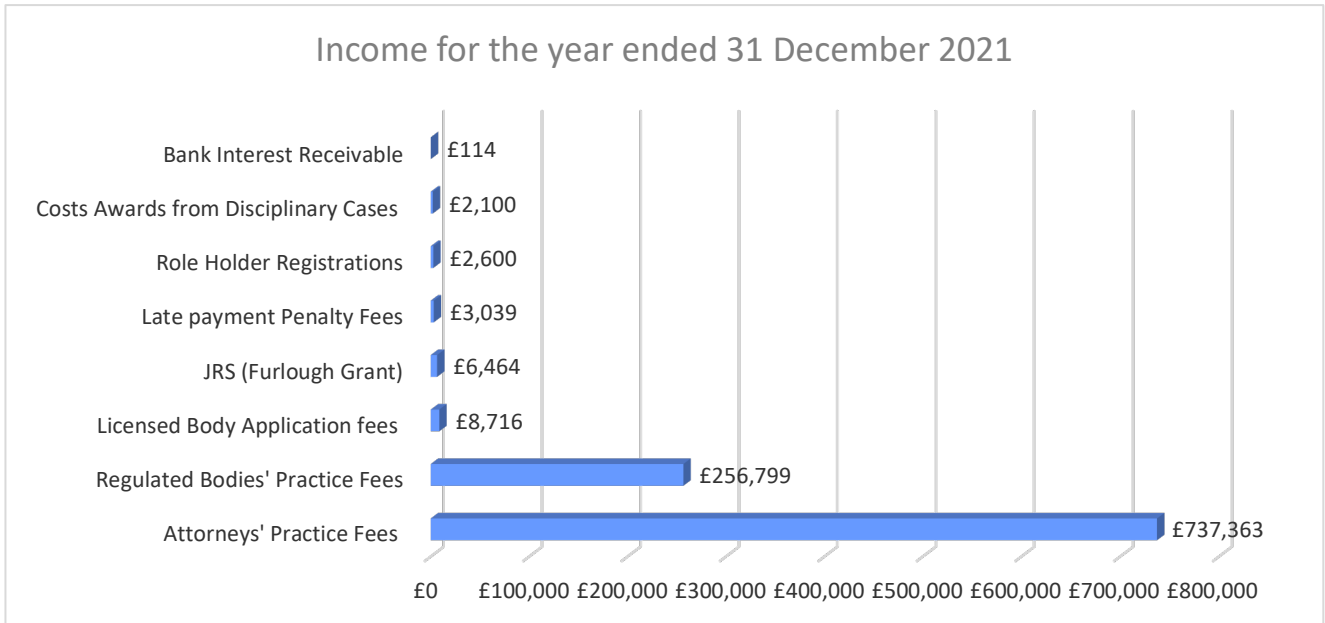
Proposed 2023 budget

36. The draft 2023 budget (**Annex C**) (and comparison with the 2022 budget) is based on an increase in fees of 6% in order to take account of the current level of inflation and to finance our planned activities. This would be the first increase in fees since 2020. A table showing the proposed changes is at **Annex A**.
37. The proposed budget for 2023 is £93,249 more than the 2022 budget. We are predicting an operating deficit of ~£16k and the Board has committed to using reserves to offset against the operating deficit if required. Our Reserves Policy is at **Annex D** and our Reserves as at 30 June 2022 are at **Annex E**. We have maintained our General Contingency reserve at £200k; this represents around 2 months' total expenditure which would be used in the event that there is a delay in collecting practising fees.
38. The main changes that we have made to the reserves are:
- a. Allocating £60k to the IT/website reserve to help fund the website upgrade;
 - b. Combining the different research reserves that we have previously had into one research reserve of £25k;
 - c. Abolishing the Legal Choices reserve. This was established in case additional expenditure was needed for the [Legal Choices website](#). However, we have funded our contribution (currently £5.8k) from the relevant year's practising fees for several years now and so the reserve is no longer needed. The Board has allocated the money from that reserve (£16k) to a new Governance Reserve. This will be used to fund the Action Plan that we have adopted as part of our response to the LSB's performance assessment of IPReg. The Action Plan identifies improvements to IPReg's governance and transparency in the light of its [performance](#) within the Well Led dimension of the LSB's annual performance assessment.

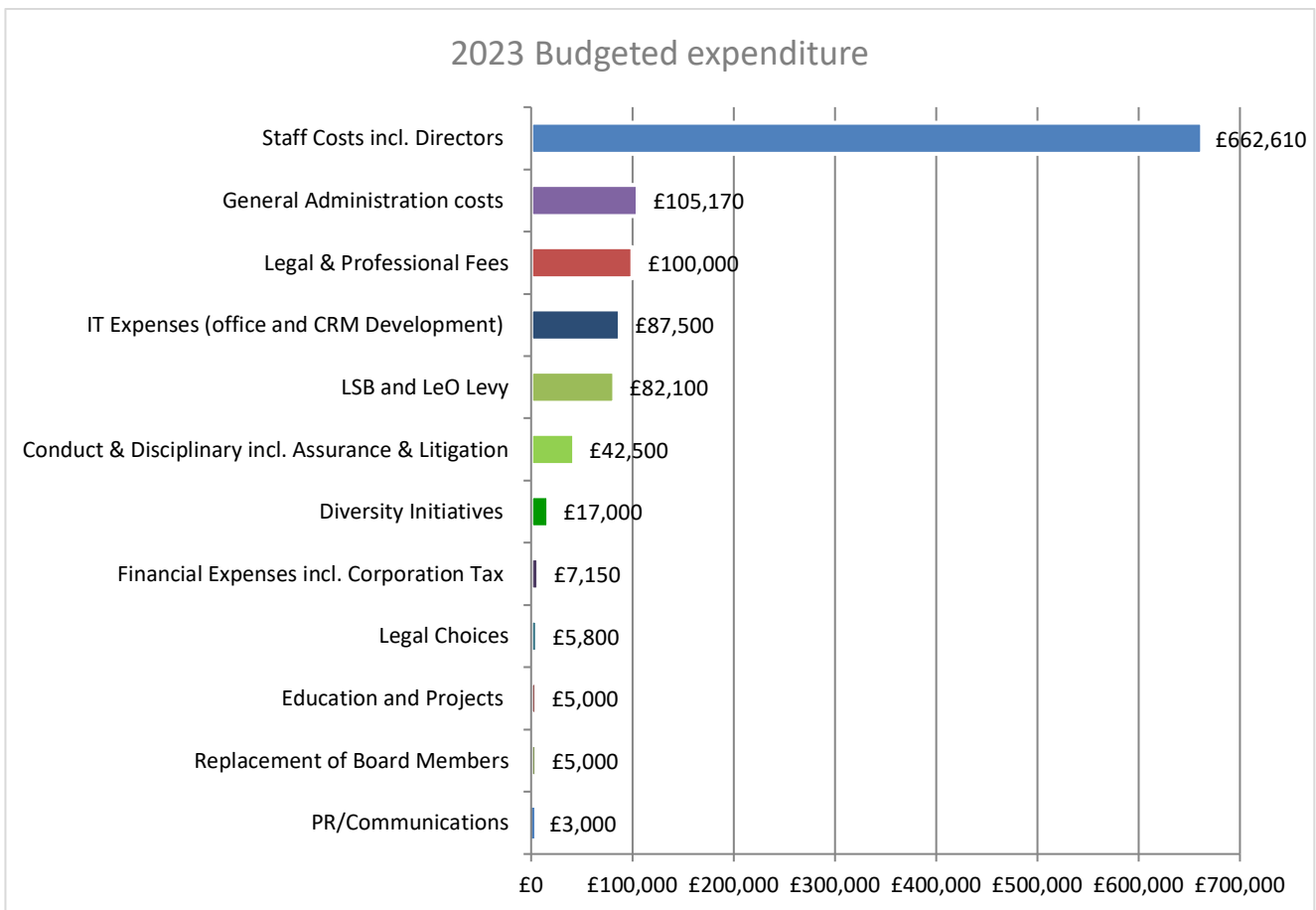
Context – how the practising fees are spent

39. 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 [2021](#). 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 2021:

Figure 1 – Breakdown of Income for 2021



40. The main expenditure from our budget is:



Staff Costs

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

General Administration Costs

This includes general office costs, licence and services. We have estimated a 5% increase in the licence fee and service charges for our office.

Legal and Professional Fees

This relates to costs for 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 2023 budget includes a provision for advice, an annual actuarial report and any further costs in relation to the compensation fund arrangements.

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 2023 budget anticipates expenditure to enhance our CRM arising from the regulatory review and this expense is supported by a ring-fenced reserve. Although we made provision for this in 2022, we did not need to alter the CRM as the Review will not be implemented until 2023.

Legal Services Board and Legal Ombudsman Levy

The 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 2023. The indicative levy for the year to 31 March 2023 is £72,816 which is 7.85% higher than the levy charged for the year ended 31 March 2022. IPReg's budget covers the year to 31 December therefore the budgeted levy figure is made up of two levy years - the actual levy prorated to the end of March and an estimate of the next year's levy prorated to end of December. IPReg's 2023 Budget uses the indicative levy to 31 March 2023 and with a similar 7.85% increase in the levy to 31 March 2024. By way of comparison, the 2022 Budget figure estimated a smaller increase (3.98%) in the levy to 31 March 2023 than the 7.85% that has now been provided to us by the LSB. The levy paid to the Legal Ombudsman remains unchanged at the minimum £5,000.⁴ For the period 2019/20 to 2021/22, no complaints were made to the Ombudsman about IPReg-regulated attorneys.

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.

⁴ The Legal Services Act 2007 (Levy) (No.2) (Amendment) Rules 2014

Diversity Initiatives

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

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).

The LSB's 2022 [Statement of Policy](#) on consumer empowerment states:⁵

Regulators are expected to put in place an effective programme of activity to support the regulatory objective of increasing public understanding of the citizen's legal rights and duties. This should be with a particular focus on public legal education that supports people to understand where they have a legal problem and how to access the professional help they need to resolve it.

Regulators are expected to make meaningful contributions to cross-sector initiatives, such as Legal Choices, that are subject to appropriate mechanisms to ensure they are effective. Regulators should be able to demonstrate suitable investment, reach and impact of such initiatives following evaluation.

Education Projects

This includes Board Education Group member costs and expenses.

Replacement of Board members

This is for the replacement of board members and the recruitment costs is also supported by a reserve of £10,000.

PR/Communications

This is in respect of any costs associated with communicating with the community.

Proposed 2023 fees

41. IPReg is proposing to increase fees by 6% from their 2022 levels. This is lower than the current level of [inflation](#) (CPI) of 9.1%. The IPReg Board considered carefully whether it would be possible to hold fees level or reduce fees in 2023. However, the current level of inflation means that many of our costs will increase. In addition, the Board considers that all the work outlined in the draft Business Plan is essential to ensure targeted and proportionate regulation of the IP sector. This means that overall, in the Board's judgement, it would not be financially prudent to reduce fees or keep them at 2022 levels.

⁵ Paragraphs 14 and 15

42. The proposed budget makes the following assumptions:
- a. All Board meetings will be in person;
 - b. There will be no increase in Directors' fees (for the third 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.
43. The Board has allocated £100k to its Compensation Fund Reserve (this is a committed reserve and should not be used for any other purpose). Full details of the reserves are at **Annex E**.

The main changes from 2022 are:

- Increasing the IT/website reserve to £60k given the website upgrade that will be needed (see paragraph 16);
- Combining various research reserves into one reserve of £25k;
- Establishing a Governance Reserve of £16k to fund changes that are required as a result of the Board's review of its transparency and governance (see paragraph 38c). This is being funded by abolishing the Legal Choices reserve of £16k since the annual cost of IPReg's contribution to Legal Choices (£5,800) is funded from practising fees.

Question 3. What are your views on the proposal to increase practising fees by 6%?

Question 4 What are your views on the proposed 2023 budget (Annex C)?

Financial hardship – fee waiver

44. For the 2021 and 2022 fees, recognising that some attorneys may have experienced financial hardship if they had been made redundant or been furloughed because of the pandemic, we introduced a process whereby 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.
45. In 2021, we received 4 applications for waivers; 3 of these were granted. In 2022, we did not receive any applications.
46. Given that there were no applications for 2022, we do not consider that this arrangement will be required going forward in relation to the pandemic. However, we welcome views on whether we should retain the discretionary power to waive fees for attorneys who are experiencing hardship for other reasons.

Question 5 What are your views to continue the process for waiving fees for individual attorneys who are facing hardship?

Question 6 Do you have any comments on the draft Practising Fee Regulations at Annex F?

Consultation questions

Question 1. What are your views on the proposed Business Plan?

Question 2. 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 Equality Impact Assessment at Annex B?

Question 3. What are your views on the proposal to increase practising fees by 6%?

Question 4. What are your views on the proposed 2023 budget at Annex C?

Question 5. What are your views to continue the process for waiving fees for individual attorneys who are facing hardship?

Question 6. Do you have any comments on the draft Practising Fee Regulations at Annex F?

ANNEX A

Proposed 2023 Fees

Proposed % increase

6%

Attorneys/Individuals	2022 Fees		Proposed 2023 Fees	
	Single register	Both registers	Single register	Both registers
Attorney solely undertaking corporate work	£177	£283	£188	£300
Attorney in private practice	£215	£353	£228	£374
Attorney not in active practice	£161	£258	£171	£273
Sole trader attorney not employing other attorneys or professionals	£353	£504	£374	£534
Sole trader attorney:	£353	£504	£374	£534
employing other attorneys - add fee per attorney	£71	£71	£75	£75
employing other professionals - add fee per professional	£283	£283	£300	£300

Registered Bodies <i>(includes ABS and non-ABS firms)</i>	2022 Fees	Proposed 2023 Fees
	Single or both registers	Single or both registers
Registered Body through which a single attorney and no other or other professionals provide services	£138	£146
Any other registered body		
Base Fee	£353	£374
add fee per attorney	£71	£75
add fee per other professional practising via the registered body	£283	£300

Annex B – draft equality impact assessment

Results from the IPReg 2021 diversity survey are on our website [here](#).

The LSB’s diversity dashboard which compares data from all the regulators is on its website [here](#).

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 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	This policy will remain in place

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)
		(although the fees are not reimbursed if the change occurs mid-year)	
Race	No	<p>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 (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>	N/A
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	Data for this characteristic is very limited and so we are unable to draw any conclusions from it.	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)
Sex (gender)	No	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%).	Middle and junior level attorneys show proportionately higher numbers of women than men. No targeted action is required.
Age	No	The age profile of attorneys who are aged 55-64 and 65+ and are on both 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%)	The number of attorneys on both registers is low: 7.8% and mainly 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 2023 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		
<p>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.</p>		

DRAFT 2023 BUDGET

	<i>Note</i>	2023 Budget		2022 Budget comparative	
		£	£	£	£
PROJECTED INCOME	<i>a.</i>		1,106,462		1,013,213
PROJECTED EXPENDITURE					
LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN	<i>b.</i>		82,100		74,440
PROJECTED OPERATIONAL EXPENDITURE					
Replacement of Board Members			5,000		5,000
Conduct & Disciplinary incl. Assurance & Litigation	<i>c.</i>		42,500		50,000
Corporation Tax			150		150
Diversity Initiatives	<i>d.</i>		17,000		7,000
Education & Projects			5,000		5,000
Financial Expenses			7,000		7,000
General Administration Expenses	<i>e.</i>		105,170		98,480
IT Support (office and website)	<i>f.</i>		87,500		43,000
Legal & Professional	<i>g.</i>		100,000		85,000
Legal Choices	<i>h.</i>		5,800		5,800
PR/Communications			3,000		3,000
Staff Costs	<i>i.</i>		662,610		638,000
TOTAL PROJECTED EXPENDITURE			1,122,830		1,021,870
PROJECTED OPERATING DEFICIT			-£16,368		-£8,657

See notes overleaf

DRAFT 2023 BUDGET

Notes:

a. Projected Income

	2023 Budget		2022 Budget comparative	
	£	£	£	£
Budgeted Practice Fees - Attorneys & Entities		1,106,462		1,013,213
Other Income		0		0
		<u>1,106,462</u>		<u>1,013,213</u>

Budgeted Practice Fee Income for 2023 - based on a fee increase of 6%. Budgeted Practice Fee Income for 2023 based on an estimate of the final practice fee income for 2022 with a provision for attorney admissions reduced by an estimate for voluntary removals/removals in 2023.

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. Legal Services Board and Legal Ombudsman

	2023 Budget		2022 Budget comparative	
	£	£	£	£
LSB Levy		77,100		69,440
LeO/OLC Levy		5,000		5,000
		<u>82,100</u>		<u>74,440</u>

The LSB year end is 31 March, therefore the budget is made up of 2 levy years. The 2023 budget figure has been calculated by prorating the indicative levy for 2022/2023 and taking a prorated proportion of an estimated levy for 2023/2024 (based on a similar 7.85% increase on the indicative levy for 2022/2023).

c. Conduct & Disciplinary incl. Assurance & Litigation

	2023 Budget		2022 Budget comparative	
	£	£	£	£
External Legal costs and hearing costs		35,000		35,000
Recruitment/training of panel members		7,500		15,000
		<u>42,500</u>		<u>50,000</u>

Recruitment & Training of additional Professional Disciplinary Panel members.

d. Diversity Initiatives

	2023 Budget		2022 Budget comparative	
	£	£	£	£
Donations		7,000		7,000
Diversity survey		10,000		0
		<u>17,000</u>		<u>7,000</u>

e. General Administration Expenses

	2023 Budget		2022 Budget comparative	
	£	£	£	£
Licence & Services		82,170		78,480
Other Office Costs		23,000		20,000
		<u>105,170</u>		<u>98,480</u>

Licence & Services - based on the assumption that we will remain at same office. The licence and services agreement will expire at end of March 2023 and an estimated 5% increase has been budgeted for the new licence.

DRAFT 2023 BUDGET

Notes (continued):

f. IT Support (office and website)

	2023 Budget		2022 Budget comparative	
	£	£	£	£
Support		13,500		10,000
CRM - OPEX		14,000		13,000
CRM CAPEX		60,000		20,000
		<u>87,500</u>		<u>43,000</u>

CRM CAPEX - estimated expenditure in respect of the website redevelopment & enhancements arising from the regulatory arrangements review.

g. Legal & Professional

	2023 Budget		2022 Budget comparative	
	£	£	£	£
Legal & Professional Costs		20,000		20,000
Actuarial and Legal Costs in respect of Compensation Fund		30,000		15,000
Recruitment for case examiners and other associated fees		20,000		0
Review of Regulatory Arrangements		30,000		50,000
		<u>100,000</u>		<u>85,000</u>

Legal & Professional Costs - Review of regulatory arrangements covers anticipated expenditure in respect of advice on diversity, advice on Professional Indemnity insurance, costs and other ancillary costs.

h. Legal Choices - budgeted at the same level as 2022.**i. Staff Costs**

	2023 Budget		2022 Budget comparative	
	£	£	£	£
CEO		88,410		82,250
Regulatory Officers		321,700		322,300
Administrative Staff		77,250		74,100
Directors' Remuneration		67,100		67,100
Directors' Travel & Subsistence		13,400		2,000
Employer's NI and Health & Social Care Levy - staff		62,400		57,650
Employer's NI and Health & Social Care Levy - directors		4,200		3,900
Pension Costs		13,150		12,700
Staff Benefits		10,000		8,000
Staff development and training		5,000		3,000
Staff Recruitment		0		5,000
		<u>662,610</u>		<u>638,000</u>

Staff costs - the 2022 budget has a projected increase of 5% for current IPReg staff salaries. The 2022 Budget anticipated a 2.5% increase for staff.

Directors' fees - remain at the same level as 2020.

Directors' travel & subsistence - an estimate for travel and subsistence (grossed up and paid through payroll) to attend all board meetings in person is shown separately and not part of Directors Remuneration for transparency. The 2021 comparative was based on two in-person meetings.

The Board has committed to utilising Reserves to offset against the operating deficit if required.

[See our Reserves](#)

[See our Reserves Policy](#)

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. 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.

Compensation Fund Reserve

4. In 2021, IPReg had to establish a Compensation Fund Reserve to comply with its statutory requirement 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.
5. The Legal Services Board requires all regulators to identify “committed reserves” and IPReg considers that the Compensation Fund Reserve falls into this category. As such, points 2 and 3 do not apply to the Compensation Fund Reserve.
6. Basis of Claims: The compensation fund is a ‘claims made’ fund (replicating the terms of the previous insurance policy), i.e. it covers claims notified in the ‘contribution year’, irrespective of when the dishonesty occurred (because dishonesty may not be discovered until several years after the dishonest event occurred).
7. Funding Basis: The actuarial assessment is a (prudent) expected claims cost of £30k pa. Thus each year’s P&L (opex budget) will be charged £30k. In addition, for additional prudence, the fund will be fully funded on Day 1 for a maximum pay-out in Year 1 (£100k). This means an additional transfer from Reserves of c£70k in Year 1. If no claims are notified in Year 1, and the maximum pay-out in Year 2 remains £100k. This £30k opex cost in Year 2 will enable £30k of the additional transfer to be returned to Reserves. An actuarial review is planned by the end of Year 2 to determine if the claims experience warrants continuing to hold the maximum annual pay-out of £100k.

8. Funding Principles/third party oversight: Initial funding principles for the first 2 years for the new fund will be to ring-fence funds no less than the actuary's assessment of the risk of claims emerging from incidents at each future actuarial review assessment date, bearing in mind, as above, that dishonesty may not be discovered until several years later.
9. Fund Management/third party oversight: the Compensation Fund Reserve will be held in a separate bank account. No withdrawals will be made without actuarial and legal approval (e.g. to pay claims).
10. Fund Investment/third party oversight: IPReg's Compensation Arrangements Rules 2021 give it the power to invest and borrow against the Compensation Fund. However, initially (i.e. for Year 1 and Year 2) the Fund will be invested in cash until next actuarial review and no borrowing/investing will take place without actuarial and legal advice on the impact on claimant security.

September 2021

RESERVES AS AT 30 JUNE 2022

Please note: the Operating surplus for the 6 months ended 30 June 2022 is a draft figure and is unaudited

	Note	£	£
COMMITTED RESERVES			
Compensation Fund Reserve			100,000
UNCOMMITTED RESERVES			
Board & Chairman Appointments/Communications Reserve			10,000
General Contingency Reserve			200,000
Assurance Disciplinary & Litigation Reserve			210,000
Funding Diversity Initiatives Reserve			20,000
Regulatory Review Reserve			50,000
Disciplinary Panel Recruitment & Training Reserve			15,000
Projects (including Research) Reserve	1		10,000
Consumer Research Reserve	1		15,000
IT/Website Reserve	2		30,000
Legal Choices Reserve	3		16,000
Income & Expenditure Account			
Brought forward at 1-1-2022		36,924	
Operating surplus for the 6 months ended 30 June 2022		543,333	
		<hr/>	580,257
			<hr/> £1,256,257 <hr/>

The Board approved the following adjustments to the Reserves at the 14 July 2022 meeting:

- 1 To amalgamate the Projects (including research) Reserve and the Consumer Research Reserve into a new Reserve to be known as the Research Reserve.
- 2 To transfer £30,000 from the Income & Expenditure Account to the IT/Website Reserve.
- 3 To redesignate the Legal Choices Reserve as Governance Reserve.

[See our Reserves Policy](#)

Annex F

IPREG PRACTICE FEE REGULATIONS

~~2021~~2022

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~~2023, 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	£177188	£283300
ii) Attorney in private practice	£215228	£353374
iii) Attorney not in active practice	£161171	£258273
v) Sole trader attorney not employing other attorneys or other professionals	£353374	£504534
v) Sole trader attorney employing other attorneys or other professionals	£353-374 + £71-75 for each attorney employed by the sole trader attorney + £283-300 for each other professional employed by the sole trader attorney	£504-534 + £71-75 for each attorney employed by the sole trader attorney + £283-300 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 <u>146</u>
ii) Any other registered body	£353-374 + £71-75 for each attorney practising via the registered body + £283-300 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 ~~2022-2023~~ 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 further amended or substituted by further regulation.~~until 31 December 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 or indirectly 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 their practice category. 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 a change in their circumstances such as an increase in income, becoming employed or resuming trading. If an attorney whose fee is waived under this regulation is subsequently employed or resumes trading ~~during 2021 or 2022~~, the full fee(s) for their new category may become payable

within 28 days of notification to IPReg of becoming employed or resuming trading. If the income of an attorney whose fee is waived under this regulation increases, IPReg will consider whether the full fee should be paid. 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;
- proof of payment to them of Universal Credit or other means-tested benefits;
- evidence of hardship;
- in the case of a sole trader or a sole practitioner firm:
 - evidence that they have either suspended trading or closed their business or a significant drop in income ~~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.