

**Application by the Patent Regulation Board and the Trade Mark Regulation Board to the Legal Services Board under the Legal Services Act 2007 (section 51) for approval of practising fees for 2024**

## I. Summary and overview

This section asks for background information relating to the proposed PCF.

- Briefly summarise the proposed fee structure and levels and state whether the proposal is for an increase, decrease or no change to the PCF relative to the previous year. Include an explanation of why the fee level has changed (if applicable).
1. This application requests the approval of the practising fees for 2024 for individual attorneys and for regulated firms.
  2. The proposal for the practising fees for 2024 is for an 8% increase for both individual attorneys and regulated firms with the exception of the not in active practice fee category (see paragraph 25). This will increase practising fee income from the budgeted income for 2023 of £1,106k to £1,247k for 2024 (an increase of £141k). At its July 2023 meeting, the IPReg Board considered different scenarios for setting the 2024 fees and the draft Business Plan for 2024/2025. The fee options were: reducing fees by 2%; holding fees level; or increasing fees by 6% or 8.7% (the then rate of CPI). These scenarios would have resulted in projected operating deficits of between £51.4k and £5.1k and surpluses of between £41.1k and £72.3k for the respective increases. Any operating deficit would have to be funded from our reserves. The IPReg Board agreed to build on the successful implementation of the new Regulatory Arrangements and to adopt a more ambitious Business Plan. It decided that it would be necessary to increase resources on its work on education and provide additional resources (such as external support) for work on topics such as the planned thematic reviews following the successful implementation of our new regulatory arrangements. In addition, the IPReg Board considered the need to ensure that the impact of inflation on expenditure is accounted for in the budget and to ensure that reserves are sufficient to deal with unexpected changes. The IPReg Board determined that an increase of 8% would meet all the objectives and considerations. The 2024 budgeted income has been calculated by applying an 8% increase to an estimate of the final level of 2023 practising fee income and includes an adjustment for attorney admissions and voluntary/other removals.
  3. IPReg will retain the ability to waive practising fees for attorneys who are facing financial hardship. This was introduced for the 2021 practising fees as a result of the Covid-19 pandemic for attorneys who had been made redundant or were furloughed and the waiver was retained in 2022. For the 2023 practice fee renewals, the IPReg Board broadened the waiver to include attorneys suffering hardship for other reasons.
  4. The IPReg Board also consulted on two other proposals:
    - a. Introducing an application fee for registered bodies to be admitted to the register so that they pay the same as licensed bodies. This can be introduced under our existing Standard Operating Procedure;
    - b. Abolishing the fee waiver period (1 November – 23 December)<sup>1</sup> for applications from individuals and entities to be admitted to the registers. This removes the automatic waiver that we have applied in the past, although we will be able to waive fees in cases of hardship.

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<sup>1</sup> The IPReg office shuts between Christmas and New Year and there are no admissions during that period.

Further information about these changes is at Annex 1.

5. The proposed level of practising fees and the draft Practice Fee Regulations (redrafted so they are consistent with IPReg's new Regulatory arrangements) can found in Annex 2 and Annex 3 respectively; these were both included in the consultation document (which is reproduced Annex 4 of this application).

*An application by the approved regulator must satisfy the LSB of all the matters in Rule 29 for the LSB to approve the PCF. Rule 30 provides that if the approved regulator fails to satisfy the LSB of any of the matters in Rule 29, the LSB may refuse to approve the entire or part of the practising fee and/or require the approved regulator to resubmit the application addressing the matter(s) set out in Rule 30.*

- Explain the arrangements in place for the continued operation of the approved regulator in the event that the practising fee is not approved and as a consequence, collection of practising fees is not authorised within the intended timeframe.

6. In the event that the application is not approved within the intended timeframe, IPReg would use its uncommitted reserves to finance its activities. At its meeting in July 2023, the IPReg Board decided to allocate an additional £70k to this reserve to achieve its aim of having approximately 3 months' operating expenditure (£270k) in the event that we are unable to collect the practising fees. Our Reserves Policy is at Annex 5. Our Reserves Policy specifically addresses this point, and more detail is provided in Section IV on Reserves.

- Please state how this application addresses concerns raised by the LSB in the previous year's PCF application, or under the regulatory performance assessment framework (if applicable).

7. The following comments were made in the LSB's 2023 practising fee decision letter, and the actions taken by IPReg are noted below:

***i. Budget and financial information:***

***We consider it would be helpful for IPReg to continue to provide the actual income and expenditure for the last completed year alongside future PCF applications (Para 15).***

Action taken by IPReg:

The Actual v Budget comparison for the year ended 31 December 2022 is included as Annex 6.

***ii. Alterations to Practising Fee Regulations:***

***We ask that IPReg include in its next Practising Fee application, details of the number of fee waiver requests received and granted in 2023. If the use of the waiver becomes material, or IPReg decides that some form of formal hardship fund or similar is required, we would expect a full rule***

***change application from IPReg to set out further alterations to regulatory arrangements related to waivers.***

Action taken by IPReg:

- We confirmed in the consultation on the 2024 practising fees that we would retain the fee waiver process for attorneys who are experiencing hardship;
- We received three fee waiver applications in 2023 of which two were granted. The rejected application did not provide evidence of hardship and subsequently renewed his registration paying the full fee;
- Prior to 2023 we had only received four applications for fee waivers of which one was declined because the attorney had retired and was not practising - the individual subsequently applied for voluntary removal;
- Given the very low number of fee waiver applications that IPReg has received since its introduction of this process in 2021, IPReg does not consider that a formal hardship fund will be required.

- If any potential issues were identified in informal engagement with the LSB prior to the submission of an application, please state these, and how they are addressed, in the application.

8. IPReg submitted a draft application to the LSB on 12 September 2023. In its reply at the relationship management meeting on 13 September, the LSB said that it had no substantive comments on the draft application and that it could now be submitted formally.

## **II. Allocation of practising fee to permitted purposes (rules 8, 14-16)**

Section 51(2) of the Act makes clear that an approved regulator may only apply amounts raised by practising fees for one or more of the *permitted purposes*. Further, as a regulatory function the level of the PCF must be set and applied for by the approved regulator in accordance with section 28 of the Act.

- Provide an outline and explanation of the programme of activity<sup>2</sup> to be funded by the PCF during the practising fee year and which permitted purpose(s) each activity within the programme of activity is relevant to.
- For approved regulators with both representative and regulatory functions, set out the amount of the practising fee which will be allocated to the regulatory body and the amount to be retained. Where there are shared services between the approved regulator and the regulatory body, it

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<sup>2</sup> 'Programme of Activity' is defined in the Rule 1 (Definitions) as the activities which the approved regulator intends to carry out during the practising fee year and will be funded, in whole or in part, by the practising fee.

should be made clear the costs that are shared services and the basis of the apportionment of cost.

- A template for setting out this information is provided below, which is optional to use.

Description of activity	% of total practising fee (and actual figure) allocated to activity	Permitted purpose	Strategic objective it is relevant to/ or expected benefit	Representative or Regulatory activity
e.g.				

- Pursuant to Rule 16, if any amounts raised by the PCF will fund an activity for multiple purposes, one or more of which is not a permitted purpose, please explain the basis on which the approved regulator is satisfied that the funding of that activity is nonetheless in compliance with section 51(2) of the Act.
- Description of how the activities that the fee will be applied to which are regulatory functions are consistent with the regulatory objectives (as far as reasonably practicable).

9. The 2024 budget is attached at Annex 7. We have made changes following the consultation and these are set out in paragraph 25 of this document. The proposed 2024 Budget was also included in the consultation document. The draft Business Plan for 2024/25 was also included in the consultation document; there was general support for it from respondents to the consultation and the following changes to this is that we consider:

- that we need to start considering the impact of artificial intelligence on the regulation of intellectual property legal services. We will start this work in 2023 and work undertaken in 2024 will be financed through our reserves;
- It would be appropriate to conduct a diversity survey in order to provide up to date information to support the work on education;
- Providing more explanation of projects and workstreams to better inform consumers.

10. In relation to the points that the LSB has set out:

- IPReg is a regulatory body and all the income we receive is therefore only used for permitted purposes;

- The income is allocated to carry out IPReg’s regulatory functions which are all permitted purposes;
- IPReg is self-funding. IPReg does not remit any portion of the fees to either CIPA or CITMA nor does it rely on either CIPA or CITMA to provide any shared resources or services;
- As in previous years, the 2024 Budget includes some budget lines for which ring-fenced reserves have been set aside e.g. the website upgrade/redevelopment. This is our normal practice when projects are clearly identifiable and allowed us flexibility in the way that we budget. It should be noted that the 2024 budget is set at a level which will generate a small operating surplus which will increase our reserves. However, in case the website upgrade/redevelopment costs more than amount that has been allocated in the budget we consider it prudent to provide a ring-fenced IT/Website reserve. It is our usual practice that other income (e.g. licensed body application fees) which are not within IPReg’s control, are not included in the proposed budget and this may provide some additional income to cover costs and may reduce the reduce the reserves offsets. The IPReg Board makes a decision on reserve offsets on completion of the audit on preceding year’s financial results (normally at its July meeting);
- The LSB stated in its decision on the 2022 practising fees that IPReg should provide more information on the allocation of costs to different activities. The IPReg staff underwent a staff restructure to the team undertaking regulatory work to ensure that IPReg could meet its regulatory obligations. There are now 7 members of the team, of which 5 work part time and 2 full time and we also have external support for data monitoring/evidence gathering. As in previous applications, it should be noted that as a small team working across a range of activities, it is more difficult to apportion costs than in a larger organisation with roles dedicated to specific activities. Nevertheless, we have made the following changes to reallocate staff costs to the activity that best describes their role – see table below. Where a proportion is allocated, the applicable % is shown. The amount allocated includes the salary and applicable proportion of employers’ National Insurance.

Staff	Allocated to Activity	Proportion of Costs incl: Employers NI
Chief Executive	Policy & Governance	80%
	Resources	20%
Regulatory Officers <sup>3</sup>	Policy & Governance	100%

Please note, all other staff costs including administrative staff salaries, Directors’ remuneration, related employers’ National Insurance, staff benefits, and pension costs remain included in the Resources section;

- A table showing how the 2024 budgeted expenditure is allocated including items that may be covered from ring-fenced reserves is set out overleaf. Please note:
  - The letters (a) - (f) used for the permitted purposes in the table below correspond to those in s51(4) of the Legal Services Act (LSA) which forms the basis of Rule 8 of the LSB’s Practising Rules;

<sup>3</sup> These are: Head of Registration, Director of Policy, Education and Diversity Officer; the Compliance and Authorisations Officer and external support for data monitoring/evidence gathering.

- The numbers used for the regulatory objectives (R01 etc) correspond to the [LSB's paper on Regulatory Objectives](#) taken from the [LSA's Regulatory Objectives](#) . Please see Annex 8 for a list of the regulatory objectives;
- The 2024 budgeted expenditure total is £1,239,070;
- All our operational costs are required in the performance of the planned activities which fulfil our statutory duty to, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives, and which we consider most appropriate for the purpose of meeting those objectives.

Description of activity	% of total practising fee (and actual figure) allocated to activity	Permitted purpose	Strategic objective it is relevant to/ or expected benefit	Representative or Regulatory activity
<b>Policy &amp; Governance</b> incl. Conduct & Disciplinary, Diversity Initiatives, Education & Legal Choices. Also included are all regulatory officer salaries as well as 80% of the CEO salary and the related employers' National Insurance, as an apportionment of time spent on policy and governance	48.07%      £595,559	( a )	Core regulatory activity	All ROs
<b>Resources</b> incl. Directors' Remuneration, Administrative Staff Salaries, 20% of CEO salary and other associated staffing/directors' expenses (related employers' National Insurance, benefits, pensions etc.)	19.55%      £242,241	( a )	Core operational activity	Enables all Ros
<b>Operational Costs</b> incl. Corporation Tax, Financial Expenses, General administrative Expenses, IT Expenses, CRM Expenses and Legal and Professional	24.75%      £306,670	( a )	Core operational activity	Enables all ROs
<b>Legal Services Board and Legal Ombudsman Levy</b>	7.39%      £91,600	( b )	Core regulatory activity	RO1, RO3, RO4
<b>PR/Communications</b>	0.24%      £3,000	( a )	Core regulatory activity	RO4, RO6, RO7

11. Our draft Business Plan 2024/25 was included in the consultation document and sets out the following key activities for 2024; Annex 8 includes all the Regulatory Objectives for reference:

- a. [Driving forward our work on Education \(see paragraph 5 to 12 of the consultation document\)](#)

The IPReg Board wants to maintain the momentum it has built up on education issues and to support and drive initiatives to improve equality, diversity and inclusion in the professions. We have previously sponsored organisations that support and encourage young people into STEM (science, technology, engineering and maths) careers.

- We have identified some regulatory policy concerns in the route to qualification for patent

attorneys (particularly at the advanced level). We will be looking at evidence of the benefits of and the issues raised by the current approach; what different routes to qualification may look like and how to develop these. We will be working with stakeholders including firms, CIPA, CITMA, the IP Practice Directors' Group, the IP Federation, academics, education experts, IP Inclusive and students;

- We will continue our work with education providers to ensure accreditation recommendations and quality assurance mechanisms are in place and ensuring courses and examinations meet required standards. Reaccreditation assessments (typically every 5 years) will be undertaken. In addition, we will also be considering the outcome of the review of European Qualifying Examinations and the impact on our qualification requirements;
- Review of the Accreditation Handbook which sets out the requirements for qualification agencies to deliver qualification courses and/or examinations. This work will be extended to include the advanced level qualifications;
- Review of the Competency Framework for both professions. The patent attorney competency framework review will be carried out as part of the review of the barriers to entry, but the review of the trade mark attorney competency framework will be a standalone project.

This level of planned work will require significant input from external advisers (academics, qualified attorneys and analysts with expertise in education syllabi). The IPReg Board has allocated a budget of £90,000 to support all the work on education.

This activity supports the regulatory objective in the LSA to encourage an independent, strong, diverse and effective legal profession.

b. Thematic Reviews (see paragraphs 13 to 14 of the consultation document.)

IPReg has undertaken a review of its regulatory arrangements over the past three years and the new arrangements came into force on 1 July 2023. The proposed thematic reviews will provide evidence of the effectiveness of the new arrangements.

- Continuing Competence – this has changed from a system based on hours to one where attorneys are required to assess, bearing in mind their skills and the nature of their work, how to maintain their competence. The review will be based on random sampling to assess how well the requirements have been embedded and to identify any barriers to compliance with them.

IPReg has allocated a budget of £15,000 for the work to be supported/conducted by an independent external body to ensure impartiality.

- Transparency Requirements – the new rules require attorneys provide their clients with appropriate explanations of any financial benefits that they receive (e.g. commissions, foreign exchange uplifts) and referral arrangements or fee sharing arrangements. The explanations must be clear, accurate and enable clients to make informed decisions when they instruct.

We will be developing our approach to this review with the assistance of external advisors to assess the effectiveness of the transparency requirement. IPReg has budgeted £30,000 for this work.



- Implementing the Professional Indemnity Insurance (PII) sandbox – the PII sandbox will enable alternative PII arrangements from insurers who are not on IPReg’s list of participating insurers. We will monitor closely how the sandbox is working throughout 2024 and report on it in the Annual Report for 2024. A wider thematic review is likely to be conducted in 2025 once the sandbox has been operational for at least 18 months, depending on the nature and extent of applicants and entrants.

IPReg has allocated £10,000 to cover any external advice that we may need (e.g. from an insurer or actuary).

The thematic review work supports all the regulatory objectives in the LSA.

c. Building our evidence base (see paragraphs 15 to 17 of the consultation document)

In addition to the data and evidence gathering outlined above, IPReg will continue to gather data and evidence on the nature of the IP legal sector.

This will support all the regulatory objectives in the Legal Services Act 2007 (LSA).

d. Website redevelopment (see paragraphs 18 to 20 of the consultation document)

The new CRM system was implemented in November 2019 on a “lift and shift” approach (the content was moved with no significant changes to it). The current platform is Drupal 7 which will be unsupported from early 2025 and will be replaced by Drupal 10.

The IPReg Board decided that it would be a significant risk to have an unsupported website and has explored alternative approaches and costs. The redevelopment will be a significant project and will also require external support.

The Board has allocated a budget of £70,000 and there is also a ring-fenced reserve of £60,000.

This supports the regulatory objectives of: protecting and promoting the interests of consumers; improving access to justice and increasing public understanding of the citizen’s rights and duties.

e. Diversity (see paragraphs 21 to 25 of the consultation document)

We will be developing our approach to data gathering/research with other stakeholders in the IP sector. This will include how to improve the diversity data that we hold for firms and individuals to better inform our EDI and education workstreams and to develop a long-term EDI strategy. We will also continue to work with and contribute to cross-sector work on EDI.

The IPReg Board had allocated a budget of £17,000 (£7,000 for funding initiatives and £10,000 for diversity data gathering respectively) for our work on diversity. On review of the consultation responses, the Board decided to conduct a diversity survey in 2024, in particular to underpin its education work and has increased the budget for diversity work by a further £10,000. There is also a ring-fenced reserve of £20,000 to fund suitable diversity initiatives such as IP Inclusive’s operating costs and sponsoring young people from disadvantaged backgrounds on the In2Science summer scholars’ programme.

This supports the regulatory objective of: encouraging an independent, strong, diverse and effective legal profession.

- f. [Responding to the LSB consultations and related work \(see paragraphs 26 to 28 of the consultation document\)](#)

In order to ensure that IPReg can respond effectively to the LSB work programme and to ensure that the regulated IP sector's specific characteristics are considered, we have restructured the Executive Team and the Director of Policy now undertakes this work along with other policy matters.

The LSB Quarterly Activity Schedule for 2023/2024 and the LSB Business Plan for 2023/2024 both have a significant number of issues that IPReg will need to engage with and respond to.

This activity supports all the regulatory objectives in the LSA.

### III. Financial information (rule 17)

This information must be prepared on the basis of accruals rather than cash, if reasonably practicable.

- **Income and expenditure forecasts**, including practising fee income, for the year in which the PCF will be levied. Where the approved regulator expects a material change in circumstances the income and expenditure forecast will need to cover three years from and including the year in which the PCF will be levied. The income and expenditure forecast should incorporate:
  - total income from all sources (PCF income and other sources), including any commercial income arising from PCF funded permitted purposes.
  - anticipated expenditure, including the payment of levies imposed on the approved regulator and expenditure on non-permitted purpose activities.
  - summary of how the budget was arrived at, including any consultation between the regulatory and representative arms.
- **Financial information for the previous year and actual expenditure**, including a comparison of actual and budgeted income and expenditure. Financial information provided for the previous year should include:
  - forecasted budget and actual expenditure and income
  - PCF income collected and a breakdown of how it was allocated or spent by activity.
  - an explanation of any variation in total PCF spending.

## 2024 Budget

12. The 2024 Budget (see paragraph 25) showing income and expenditure is included in Annex 7 and also shows the comparative 2023 budget:

- Other than an increase in the level of practising fees as a consequence of the increase in the rate of inflation and the subsequent increase on costs and the need to fund its work programme, the Board does not expect any material change in income and expenditure. We have relied on paragraph 61 of the LSB's Practising Fees Guidance and not provided any forecasts for 2025 and 2026 given the current uncertain economic environment;
- The budget is prepared using the accruals basis as is our normal practice. All figures are inclusive of VAT; IPReg is not registered for VAT as all our income is either exempt from VAT or is non-business and non-taxable (consistent with paragraph 62 of the Practising Fees Guidance);
- The budgeted income shown is from practising fees. Although IPReg does have other small sources of income (all from permitted purposes), the budget, as is our usual practice, does not show an estimate for this because they are outside IPReg's control (e.g., the number of applications from entities for entry to the registers).

13. Practising fee income:

- The 2024 budgeted practice fee income has been calculated by applying an 8% increase to an estimate of the final level of 2023 practising fee income and also includes an evidence-based estimation for attorney admissions and voluntary and other removals. An adjustment to the figure included in the consultation has been made to take into account the IPReg Board's decision not to increase fees for registrants who are in the "not in active practice" category. No estimate has been made for practising fees from new firms being registered/licensed - this is unquantifiable because decisions on whether and when to enter the market are not within IPReg's control;
- IPReg has the discretion to waive practising fees for attorneys who are facing financial hardship under our broad waiver power in the new regulatory arrangements. This was introduced (in the then Practising Fee Regulations) for the 2021 practising fees as a result of the Covid-19 pandemic for attorneys who had been made redundant or were furloughed and was broadened in 2022 to include attorneys suffering hardship for other reasons.

14. Other Income – as is our usual practice, no estimate for other income from bank interest or income from role holder/ licensed body applications and costs awards/ fines from disciplinary cases as these are outside our control.

15. All expenditure is on permitted purposes. In particular:

- LSB Levy: the charge in the budget is made up of levy figures from two different levy periods as the LSB financial year is to 31 March. When IPReg consulted on the 2024 budget, IPReg had not received any indication of the levy to 31 March 2024 (2023/2024) from the LSB. IPReg applied a 9.1% increase to the 2022/2023 levy (the same increase as in the LSB Budget for 2023/2024) to estimate the levy to the year ended 31 March 2024. A similar increase was applied for the levy to 31 March 2025 and the prorated figures for both levy years were calculated to represent our financial year resulting in a levy charge of £84,900. The indicative levy for the year ended 31 March 2024 has now been confirmed and represents 1.7% of all authorised persons across all

Approved Regulators. The percentage of authorised persons remains the same as the figure used for the 2022/2023 levy however the levy is 10.34% higher. We have updated the levy budget line using the indicative levy and applied a similar % increase for the following year resulting in an increase to £86,600 (£1,700 increase);

- LeO/OLC levy remains at £5,000. This is the lowest possible amount and reflects the fact the LeO/OLC receive very few complaints about IPReg-regulated attorneys and firms (there have been none in the past three years);
- The diversity initiatives budget line includes an estimate for diversity evidence gathering/research and also a diversity survey of our regulated community; (see paragraph 13e);
- General administration costs include increases due to the rate of inflation including a provision an increase for the costs of the licence for the IPReg office and associated services;
- IT Support includes a budget for costs associated with the redevelopment of the website (see paragraph 13d);
- Legal & Professional – includes the costs in relation to thematic reviews and the implementation of the PII sandbox (see paragraph 13b) and actuarial and legal costs in respect of the compensation fund.

#### 16. Development of the budget:

- The budget was developed following consideration of the business objectives that had been prioritised for 2024;
- The Board considered the level of any proposed increase as well as the proposal to hold fees level or to reduce fees. However, in order to undertake the programme of work, in recognition that IPReg's own costs will increase as a consequence of inflation and to maintain reserves, the Board considered an 8% increase to be proportionate.

#### **Financial information for the previous year and actual expenditure**

17. The audited financial statements for the year ended 31 December 2022 can be found at [Companies House](#). Also included is an Actual v Budget comparison in Annex 6. The results for the year returned an operating surplus of £29,023. This was more favourable than the deficit shown on the projection provided with the 2023 practising fee application and on the original 2022 budget. This was largely due to:

- Practising fees being higher than budgeted;
- Other Income received – no estimate for this is included in the budget process as these are outside our control (e.g. licensed body application fees, costs awards from disciplinary cases);
- Some expenditure budget lines e.g. IT support and legal and professional being less than budgeted.

These factors enabled IPReg to absorb any increase from other budgeted expenditure lines without the need to call on reserves.

18. The financial information provided is for 2023. We have included an actual v budget comparison for the six months ended 30 June 2023 and a projection to the end of the year (Annex 9).<sup>4</sup>

19. The following points should be noted in relation to the financial position for 2023:

- The renewals process is undertaken in the first three months of the year and accounts for approximately 98% of total practice fees. The actual practice fee income for the six months includes admissions of which there were more than at the same point last year. Budgeted income for the six months to 30 June 2023 is calculated as 99% of the total annual budget line. As noted in paragraph 15 and 16, fees from new entities and income from other sources are not included in the budget;
- The projection to 31 December 2023 includes:
  - The practising fee income is a projection of the practising fees that could be collected. Please note the projection is based on the custom and practice that IPReg waives fees for applications for admission to the Register(s) from 1 November;
  - Projections of costs to the end of the year.
- The notes to Annex 9 include some detail about these figures and we have also set out below explanations for the variances of more than 5% between projected 2023 expenditure and budgeted 2023 expenditure:
  - Conduct and Disciplinary including Assurance and Litigation – variance of £35,078 over budget, which is made up of external costs and hearing costs as well as training of panel members (see note d.). The projection considers all the ongoing complaints and estimates legal and hearing costs for case examinations and disciplinary hearings (if referred to by the new role of case examiners) – variance of £37,422 over budget. IPReg had budgeted at the same level as in the previous two years which our experience has shown is a reasonable approach. We are still dealing with the complex case highlighted in the 2023 practising fee application. The conduct and disciplinary overspend has been slightly offset by a variance of £2,344 under budget for the training of the panel members;
  - Corporation Tax – IPReg pays corporation tax on the interest received. Due to interest rate increases, the projection for tax is higher than when the budget was prepared;
  - Diversity Initiatives – variance of £5,800 over budget. IPReg budgeted at the same level as 2021 for initiatives to promote diversity. To date, IPReg has provided £2,500 to support IP Inclusive’s 2022/2023 running costs, £10,000 to in2science to support 10 young people through their 2023 work placement programme and £300 donation to Jonathan’s Voice which aims to reduce the stigma associated with mental health issues;
  - Education – variance of £4,035 over budget. The variance comprises the costs of the review of Queen Mary University London’s delivery of the implementation plan for changes that were recommended following IPReg’s reaccreditation exercise. These costs are met by the University and were recharged to it (see Other Income in note a.). Because the costs are recovered from the University, they are not included in the calculation of the Education budget line;

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<sup>4</sup> The Board considers this information on a quarterly basis so this is the most recent information available.

- General Administration Expenses – variance of £6,715 below budget, see note i. The budget provided for an increase in the licence and service fee when the office licence agreement was renewed in March 2023, however we were able to extend the licence with no increase. Budgeted other office costs anticipated increased depreciation costs for new IT equipment in 2023 required for new staff following the proposed restructure and the replacement of fully depreciated IT equipment, which is now likely to be sourced in 2024. Lastly, the write back of the provision against the recoverability of a disciplinary costs award of £900 which was not provided for;
- IT Support (office and website) – this is £25,381 below budget as a result of the reduction in projected CRM enhancement expenditure which anticipated that the website redevelopment project would have started earlier in 2023 than is the case given the need to identify a more appropriate supplier for the work;
- Legal and Professional – variance of £17,685 below budget. The main underspend derives from the decision to not recruit case examiners but to use the disciplinary board pool (recruited in 2022) for both case examinations and hearings;
- Staff Costs – variance of £41,454 below budget. The budget reflected the proposed staffing restructure which has now been implemented but with a different structure than originally proposed. This and the withdrawal of the 1.25% Health and Social Care levy have offset the higher than budgeted staff salary increase of 9.3%.

#### IV. Reserves (rules 18-22)

An approved regulator must hold any reserves generated from surpluses of the practising fee separately from any other funds.

- Explain the reserves policy. In particular, this should address:
  - how the target for the level of reserves is set and managed
  - the different types of reserves held, which must clearly distinguish practising fee reserves from other reserves
  - the target level for committed and uncommitted reserves
  - how the approved regulator will manage any accumulated reserves to date.

If there was any variance at the end of the previous year between the target level of reserves and accumulated reserves, please provide an explanation of how this has been taken into account as part of this application.

20. IPReg's Reserves Policy is included in Annex 5:

- The policy explains the Board's approach for setting and managing the level of reserves. It is important to note that the reserves have been built up over time from practising fees and other regulatory activities (e.g. licensing application fees);

- IPReg considers that the Compensation Fund Reserve falls within the scope of the LSB’s concept of “committed” reserves since it fulfils a specific statutory duty to provide compensation arrangements. More detail on the Compensation Fund Reserve is specifically outlined in the Reserves Policy. The target level for this reserve is currently £100k (this is based on actuarial advice). However, as we stated in the consultation document this may need to be increased if our review of the compensation scheme which will start in the second half of 2023 indicates that the fund should be increased;
- The balance of the reserves is considered “uncommitted” and the IPReg Board will use “uncommitted” reserves to offset against operating deficits if required. The Board considers the Business Plan and programme of work to be necessary to fulfil its statutory obligations. It may adjust or re-allocate the uncommitted reserves as appropriate in accordance with Directors’ duties under the Companies Act 2006.
- The IPReg Board’s custom and practice was to allocate “uncommitted” reserves to ring-fenced reserves for specific projects. Upon completion of the project, unused reserves are released and reallocated to new reserve funds. In July 2023, the IPReg Board reviewed the “uncommitted” reserves and decided to:
  - Increase the General Contingency Reserve to £270k to provide approximately 3 months budgeted expenditure. This can be used in the event that there is a problem with the collection of practising fees;
  - Maintain the following ring-fenced reserves - Assurance Disciplinary & Litigation Reserve, Funding Diversity Initiatives Reserve and IT/Website Reserve. These specific workstreams may be funded by using the reserves rather than through the practising fees and can also mitigate the impact of unexpected costs;
  - Amalgamate all the other reserves into a new General Operational and Research Reserve.

See Annex 10 for more detail.

21. The IPReg Board considers that the level of the reserves is sufficient to ensure that IPReg can finance its activities and remain a going concern. The 2024 budget has been prepared with the expectation that as we progress through 2023 and 2024, some of these reserves will be utilised.

#### **V. Consultation and engagement on PCF (rules 23-24)**

This section requires information in respect of Rules 23 and 24 which requires approved regulators to consult with relevant authorised persons about the programme of activity to which the practising fee will be applied and the level of the practising fee, and engage effectively with as many relevant authorised persons as reasonably practicable.

- Description of the consultation process conducted with relevant authorised persons on the programme of activity and the level of PCF<sup>5</sup>. To include:

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<sup>5</sup> Approved regulators should consult annually on their programme of activity irrespective of whether if they are proposing a fee increase, if the fee has been static or has fallen.

- o length of time the published consultation was open
- o the level of engagement and responses from relevant authorised persons
- o summary of consultation responses
- o summary of how consultation responses have been taken into account, including changes to the PCF proposals as a result of consultation responses
- o details of consultation with non-commercial bodies (e.g. Law centres federation, Citizens Advice etc.) or an explanation of why their views had not been sought.

22. We consulted on the 2024/25 business plan, budget and practising fees between 19 July 2023 and 5pm on 21 August 2023.

- IPReg considers direct notification to our attorneys and stakeholders by email to be the most effective way to alert them to our consultations. We take a targeted and proportionate approach to the consultation on fees as around 88% of our attorneys work in private practice or in industry and their practising fees are normally paid or reimbursed by their employer. This means that the fees or the level of fees does not impact these attorneys directly and there is little incentive to engage with the consultation process;
- CIPA and CITMA were given advance notice of the consultation on 14 July 2023;
- On 19 July 2023, we emailed all attorneys and regulated bodies on the registers including the Heads of Legal Practice and Heads of Finance and Administration to bring the consultation to their attention. An email was also sent to the Legal Services Consumer Panel, IP Federation, IP Inclusive, IP Practice Directors Group and was brought to the attention of the IPO. We also included in the consultation an invitation to contact us directly - saying: "If you'd like to discuss anything in the consultation, please contact us" and provided a link to the online contact form. Our CRM mailing list shows the results of this mailing against previous years:

	2024 Consultation <sup>6</sup>	2023 Consultation	2022 Consultation	2021 Consultation
Successful deliveries	100%	100.00%	100.00%	99.9%
Unique opens	43.04% (1520 recipients)	[44.19] <sup>7</sup> %	35.66%	28.32%
Click-throughs	14.30% (505 recipients)	33.04%	13.31%	14.34%

Although the number of unique opens was around 43% in 2022 and 2023, the level of click throughs has decreased to the levels of the consultations conducted in 2020 and 2021. It is unclear why this is, but one explanation could be that in the interests of transparency, the email sent out this year (i.e. 2023) provided information about the key projects that we plan to undertake and the

<sup>6</sup> Figures as of 23 August 2023

<sup>7</sup> In the 2023 application to the LSB this figure was stated to be 43.818%. As the mailing report only provides two decimal places this figure was incorrect and probably should have been 43.81%. As of 11 August 2023, the figure is 44.19%.



proposed level of the practising fee increase. It may therefore be that recipients considered that they had sufficient information in the body of the email itself to decide whether they wanted to read the consultation document. Nevertheless, there were around 500<sup>8</sup> recipients who clicked through to the consultation document. Of course, recipients may also have accessed the consultation document directly from the website.

Around 88% of attorneys have their practising fees paid or reimbursed by their employer. This may influence the level of engagement on fees. This contrasts, for example, with issues that directly affect attorneys' practice such as the recent webinar on the changes to our regulatory arrangements which attracted over 400 participants.

- Reminder emails were sent on 14 August 2023, bringing the closing date of the consultation to their attention. The CRM mailing report shows that this email had:

Reminder Email	2024 Consultation <sup>9</sup>	2023 Consultation
Successful deliveries	100.00%	100.00%
Unique opens	43.64% (1552 recipients)	38.71%
Click-throughs	20.33% (723 recipients)	18.10%

The lower number of unique opens and click-throughs to this final email is probably for two main reasons. Firstly, that those who have already responded or read the consultation would simply have disregarded the reminder email. Secondly, that those who were disinclined to respond to the consultation in any event, would have disregarded the second reminder email.

23. We received 33 responses to the consultation. These numbers are low, but as we have noted before, the regulated community will engage with IPReg, the most recent example being the webinar with CIPA and CITMA to present IPReg's new Regulatory Arrangements which had over 600 registrations.
24. The consultation responses and IPReg's comments are noted in Annex 11a. The responses received from CITMA, CIPA and IP Inclusive are included as Annex 11b.
25. Changes made following consideration of responses to the consultation are as follows:
  - 2024 Budget - Annex 7:
    - Practice fees for the not in active practice category of registrants will remain at the 2023 fee level i.e. £171 for attorneys on a single register and £273 for attorneys on both registers compared to the proposed fees of £185 and £295 respectively. The impact to budgeted income is approximately £1,550 and the budget has been amended;
    - LSB Levy - the charge in the budget is made up of levy figures from two different levy periods as the LSB financial year is to 31 March. When IPReg consulted on the budget, IPReg had not received any indication of the levy for 31 March 2024 (2023/2024) from the LSB. IPReg applied a 9.1% increase to the 2022/2023 levy (using the same increase in the LSB Budget for

<sup>8</sup> 13.84% of 3,532 recipients

<sup>9</sup> Figures as of 23 August 2023

2023/2024) to estimate the levy to the year ended 31 March 2024. A similar increase was applied for the levy to 31 March 2025 and the prorated figures for both levy years were calculated to represent our financial year resulting in a levy charge of £84,900. The indicative levy for the year ended 31 March 2024 has now been confirmed and is 10.34% higher than the 2022/2023 levy. We have updated the levy budget line using the indicative levy and applied a similar % increase for the following year resulting in an increase to £86,600 (£1,700 increase);

- Diversity Initiatives – the Board has decided to undertake a diversity survey (last undertaken in 2021) and increased the budgeted expenditure by £10,000;
- Board Remuneration – this remained at the 2020 level following a decision made by the IPReg Board in 2021 to take into account the impact of the pandemic. At its July meeting, the Board considered whether Board members’ fees should be increased but decided to postpone that decision until its September meeting to consider a paper from the Executive. At the September meeting, the Board considered the matter further and decided that it would be consistent and proportionate to adopt a policy which increased Board members’ fees by CPI each year with effect from 1 January.<sup>10</sup> The budget has been adjusted to include a 5% increase in Board remuneration (the same % increase as applied to staff salaries) and this has increased budgeted expenditure by £3,650.
- Business Plan in Annex 12 – adjustments (which are shown in tracked changes) have been made to include:
  - the Diversity Survey referenced above;
  - a workstream to consider the impact of artificial intelligence on the regulation of intellectual property legal services. We currently plan to finance this additional workstream through reserves;
  - Providing more explanation of projects and workstreams to better inform consumers.
- For the avoidance of doubt, IPReg has made no change to the Business Plan in respect of funding Legal Choices. IPReg considers that this work supports the Legal Services Act’s regulatory objectives of: protecting and promoting the public interest; and increasing public understanding of the citizen’s legal rights and duties.

## VI. Impact assessments (rules 25-28)

This section requires information in respect of Rules 25-28 which collectively, stipulate that initial equality assessments must be carried out and set out in the circumstances in which full impact assessment must be conducted. These provisions also require that approved regulators consider the impact of the level of the fee on the conduct of legal services.

- Summarise the initial and (where applicable), full equality impact assessment carried out and the findings. In particular, this summary should cover how the proposed PCF may potentially impact on various groups, especially those with protected characteristics under the Equality Act

<sup>10</sup> Its approach prior to the pandemic had been to use RPI as the index.

2010 within the approved regulator's membership.

- Summarise the consideration – proportionate to the harm as determined by the approved regulator - given to the impact of the level of the fee on the provision of legal services by authorised persons, and any significant circumstance or event impacting on that.
- Provide details of any action taken as a result of findings, or an explanation as to why this was not necessary or practicable.

26. The amended (which are shown in tracked changes) Equality Impact Assessment is shown on Annex 13.

## VII. Transparency of PCF information to relevant authorised persons

- Description or a copy of the information that will be provided to those who will pay the fee. This should be clear and accessible and include the following:
  - the level of the PCF
  - how the PCF has been set
  - a breakdown of how the PCF income will be allocated to non-regulatory/regulatory and shared services
  - an explanation of why commercial income arising from PCF funded permitted purposes is to be used for non-permitted purposes.
  - an accurate presentation and representation of the LSB and Office for Legal Complaints (OLC) levies so the regulated community is clear about the proportion of PCF attributable to the levies

27. The consultation document included the following details:

- The draft Business Plan 2024/25;
- The proposed budget, level of practising fees and the amount of reserves;
- Context on how practising fees are spent, our income and expenditure;
- The reasoning behind the budget and practising fee levels;
- The budget shows how the practising fees will be utilised and also includes details about our reserves and Reserves Policy;
- The LSB Levy and LeO/OLC Levy are shown as separately and an explanation of the figures is also included;

- The drafting changes to the Practice Fee Rules were also included as part of the consultation.

28. When we email registrants about the 2024 Annual Renewal process, we will draw attention to our final budget and business plan. We expect the email will be: <sup>11</sup>

*Dear [Name]*

*I'm writing to let you know that the Legal Services Board (LSB) has agreed to IPReg's proposal that its practising fees should be increased in 2024 by 8%. Please see the 2024 Budget, Business Plan (link) and Practice Fees Regulations 2023 (link) for further details.*

*Your practising fee includes a levy to pay for the LSB and the Legal Ombudsman. IPReg does not have any control over the amount of these levies. IPReg's contribution to the LSB levy for its financial year 2023/2024, is estimated to be £80,344. Our contribution to the Legal Ombudsman's costs is set at the minimum amount of £5,000 because it receives so few complaints about IPReg registrants (and in the last three years it has received none at all). The LSB and Ombudsman levies together comprise around 7.39% of our total expenditure.*

*All the income we collect from practising fees funds our regulatory activities; if you are a member of CIPA and/or CITMA, they will collect your membership fee separately and use it to fund their own activities. You do not have to be a member of CIPA or CITMA to be on IPReg's register(s).*

*Fees are due for payment on 1 January 2024 and all fees must be paid by 31 January 2024. Attorneys and firms that have outstanding fees on 1 March 2024 will be suspended from the register and attorneys may have to pay a late payment fee payment of 50% of the practising fee (up to a maximum of £250) in addition to the practising fee in order to renew their registration after this date.*

*If you are suffering hardship, you can ask us to waive your practising fee. Please contact us [LINK] for more information.*

*If you do not wish to renew your registration, you must complete the Voluntary Removal form in your IPReg account.*

## VIII. Checklist – Enclosures

<b>Income and expenditure forecasts</b> , including practising fee income, for three years from and including the year for which the practising fee is to be levied.	x Enclosed
<b>Financial information for the previous year</b> , including a comparison of actual and budgeted income and expenditure.	x Enclosed
<b>Copy of the information that will be provided to fee paying members</b> (if description is not provided in section VII).	x Enclosed

<sup>11</sup> Note that this draft may change.

Details of any other supporting documents provided with the PCF application (optional):

<b>Annex 1</b>	Registered Bodies and waiver period
<b>Annex 2</b>	Proposed 2024 Practising Fees
<b>Annex 3</b>	Practice Fee Regulations 2023
<b>Annex 4</b>	Consultation Document – 2023 business plan, budget and fees
<b>Annex 5</b>	Reserves Policy
<b>Annex 6</b>	Actual v Budget comparison year ended 31-12-2022
<b>Annex 7</b>	2024 draft Budget - post consultation
<b>Annex 8</b>	Regulatory Objectives – LSA 2007
<b>Annex 9</b>	Actual v Budget 6 me 30-6-2023 and ye 31-12-2023 projection
<b>Annex 10</b>	Reserves 30-6-2023
<b>Annex 11a</b>	Consultation Responses – Analysis and IPReg response
<b>Annex 11b</b>	Consultation Responses from CITMA, CIPA and IP Inclusive
<b>Annex 12</b>	2024/25 Business Plan - post consultation
<b>Annex 13</b>	Final Equality Impact Assessment

## IX. Compliance Statement

Applications must include the following compliance statement and be dated and signed by a representative of the approved regulator:

- ✓ I certify that the information provided in this application is accurate and complete to the best of my/our knowledge and I/we have taken reasonable steps to ensure that the application complies with the Rules.

Please include contact name(s) for the application.

Karen Duxbury  
Finance Officer

Fran Gillon  
CEO

## Registered bodies and waiver period:

The consultation also proposed:

- a. Introducing an application fee for registered bodies to be admitted to the register so that they pay the same as licensed bodies.

We do not currently charge an application fee to entities that are wholly owned and managed by lawyers (registered bodies). However, we do charge an application fee to entities that are not wholly owned and managed by lawyers (licensed bodies). Our experience is that the work involved in considering both types of application is similar, and we are therefore proposing to make the application fees for registered and licensed bodies the same, with effect from 1 January 2024.

Our Admission and Authorisation Standard Operating Procedure enables us to make this change. It applies to registered and licensed bodies and states in the General Requirements at paragraph 33:

*An application for registration will not be processed until the fee, equivalent to the annual practising fee in the relevant practice category together with the compliance officer fees (where applicable), has been received.*

Nevertheless, on the interests of transparency, we considered it would be appropriate to consult on the change.

Using the proposed 2024 fee structure, the application fees from 1 January 2024 will be:

- a. Registered bodies through which only a single registered attorney provides services (employing no other registered attorneys or other professionals): £158;
- b. Any other registered body: £404 + £81 for each attorney practising in the entity + £324 for each other professional practising in the entity).

If a charge had been levied in 2022, it would have generated almost £3,000 in additional fees. However, it is not possible to predict the level of fees that could be generated because IPReg does not know when entities will apply for admission to the registers.

- b. Abolishing the fee waiver period (1 November – 23 December) for applications from individuals and entities to be admitted to the registers.

Our custom and practice has been that applications for admission from attorneys and entities that are submitted between 1 November and 23 December<sup>1</sup> have their practising fee waived for that year, even though the process to admit them is the same as if they had

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<sup>1</sup> The IPReg office closes after this date until 1 January, so no applications are processed during that period.

applied earlier in the year. In order to maximise our income, we proposed that we should not routinely use this waiver power.

If applicants had been required to pay these fees in 2022, it would have generated £1,744 in additional fees, based on seven applications at 2023 rates. In 2021, there were 17 applications during that period, which would have meant over £4,000 in additional income.

We acknowledge that this change may result in some applicants delaying their application until the start of the following year. However, exam results are generally published in August and October and it seems that some applicants may deliberately delay their application to avoid paying their practising fee. Our approach to date has, in effect, been to automatically exercise our waiver power each year on this issue. We will no longer do this, but the broad waiver power in the new regulatory arrangements will enable us to waive fees if the circumstances in a particular case justify it.

This change requires alterations to our CRM and so we do not plan to implement it until November 2024. We will liaise with CIPA and CITMA to publicise this change.

## Annex 2 IPReg 2024 PCF application to LSB

### Proposed 2024 Fees

Proposed % increase for all categories except Registered attorneys not in active practice

8%

Attorneys/Individuals	2023 Fees		Proposed 2024 Fees	
	Single register	Both registers	Single register	Both registers
Registered attorney solely undertaking corporate work	£188	£300	£203	£324
Registered attorney in private practice	£228	£374	£246	£404
Registered attorney not in active practice	£171	£273	£171	£273
Registered attorney practising as a sole trader attorney not employing other registered attorneys or other professionals	£374	£534	£404	£577
Registered attorney practising as a sole trader and employing other registered attorneys or other professionals :	£374	£534	£404	£577
employing other registered attorneys - add fee per attorney	£75	£75	£81	£81
employing other professionals - add fee per professional	£300	£300	£324	£324

Registered Bodies and Licensed Bodies	2023 Fees	Proposed 2024 Fees
	Single or both registers	Single or both registers
Registered or licensed bodies through which only a single registered attorney provides services (employing no other registered attorneys or other professionals)	£146	£158
Any other registered body or licensed body		
Base Fee	£374	£404
add fee per registered attorney	£75	£81
add fee per other professional practising via the registered or licensed body	£300	£324



### IPReg Practice Fee Regulations 2023

These regulations set out *IPReg's* requirements in relation to practice fees payable by *registered persons* on entry to the *register(s)* and on annual renewal of registration to the *register(s)*. They also set out the penalty fees that *IPReg* will apply in the event that a *registered attorney* fails to renew their registration by the *prescribed* date, and the penalty fee that *IPReg* may direct to be payable by an individual applicant seeking restoration to the *register(s)* following removal for failure to renew registration.

These regulations relate to provisions set out at Chapter 3 of *IPReg's* Core Regulatory Framework, and associated requirements set out in *IPReg's* Standard Operating Procedure in respect of admission and authorisation, and Chapter 6 of the Core Regulatory Framework, and associated requirements set out in the Standard Operating Procedure in respect of applications to waive the practice fees set out in these regulations.

#### **Registered attorneys: entry onto the register and annual renewal of registration**

1. The *prescribed* practice fee for:
  - a. Applicants seeking entry onto the *register(s)* in accordance with 1.3 of Chapter 3 of the Core Regulatory Framework and paragraph 2 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements; and
  - b. *Registered attorneys* seeking renewal of their annual registration in accordance with 4.1 of Chapter 3 of the Core Regulatory Framework and paragraph 73 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements,

shall be in accordance with Table 1 below.

Table 1: *Registered attorneys*: practice fees for entry onto the relevant *register(s)* or annual renewal of registration

	For entry onto a single <i>register</i> , or renewal of registration for, a single <i>register</i>	For entry onto both <i>registers</i> , or renewal of registration for, both <i>registers</i>
<i>Registered attorney</i> solely undertaking corporate work	£203	£324
<i>Registered attorney</i> in private practice	£246	£404

<i>Registered attorney</i> not in active practice	£171	£273
<i>Registered attorney</i> practising as a sole trader and not employing other <i>registered attorneys</i> or other professionals *	£404	£577
<i>Registered attorney</i> practising as a sole trader and employing other <i>registered attorneys</i> or other professionals *	£404 + £81 for each registered attorney employed by the sole trader + £324 for each other professional employed by the sole trader	£577 + £81 for each registered attorney employed by the sole trader + £324 for each other professional employed by the sole trader

\* For the purposes of these Regulations, “other professional” shall mean a *manager* or *employee* based in the UK who is: (i) not a *registered attorney* but holds the qualifications necessary for registration; (ii) a qualified European patent and/or trade mark attorney; (iii) a barrister of England and Wales; or (iv) a solicitor of England and Wales.

**Registered attorneys: penalty fee for failure to renew registration by the prescribed date**

2. In accordance with 4.1 and 4.2 of Chapter 3 of the Core Regulatory Framework, and paragraphs 73 to 80, inclusive, of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements, the penalty fee that will apply to *registered attorneys* who have not renewed their registration before the *prescribed* date in each year, shall be equal to 50% of the corresponding practising fee for entry on to or renewal for the *register(s)* in accordance with Table 1, up to a maximum penalty fee of £250.
3. In accordance with 5.3.7 of Chapter 3 of the Core Regulatory Framework and paragraph 98 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements, the penalty fee that *IPReg* may direct an individual applicant who is seeking restoration to the *register* following removal for failure to renew registration to pay, shall be equal to 50% of the corresponding practising fee for entry on to or renewal for the *register(s)* in accordance with Table 1, up to a maximum penalty fee of £250.

**Registered attorneys: waivers in respect of practising fees**

4. In accordance with 2 of Chapter 6 of the Core Regulatory Framework and associated requirements set out in the part of the *IPReg* Standard Operating Procedure relating to

waivers, a *registered attorney* may apply to *IPReg* for all or part of their relevant practice fees as set out in Table 1 to be waived.

5. Waivers in respect of practice fees will only be granted where the *registered attorney* provides evidence of hardship.
6. A *registered attorney* whose practice fee is waived under this regulation will remain on the *register(s)* and must continue to comply with *IPReg's regulatory arrangements*, including, but not limited to, the requirement set out in 3.10 and 3.11 of the Code of Conduct in Chapter 2 of the Core Regulatory Framework, to take out and maintain a policy of Professional Indemnity Insurance and, where necessary, run-off cover insurance.
7. A *registered attorney* who has had their practice fee waived under this regulation must notify *IPReg* within 14 days of a change in their circumstances, such as an increase in income, becoming employed or resuming trading. In such event, their full practising fee will become payable to *IPReg* within 28 days of their notification to *IPReg* of their change in circumstances.

**Registered and licensed bodies: entry onto the *register(s)* and annual renewal of registration**

8. Subject to Regulation 5, the *prescribed* practice fee for:
  - a. Applicants seeking entry onto the *register(s)* in accordance with 2.1 of Chapter 3 of the Core Regulatory Framework and paragraph 33 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements; and
  - b. *Registered* and *licensed bodies* seeking to renew their annual registration in accordance with 4.1 of Chapter 3 of the Core Regulatory Framework and paragraph 73 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements,

shall be in accordance with Table 2 below.

Table 2: *Registered* and *licensed bodies* practice fees for entry onto the *register(s)* or annual renewal of registration

	For entry onto either or both <i>register(s)</i> , or renewal of registration
<i>Registered bodies</i> through which only a single <i>registered attorney</i> provides services (employing no other <i>registered attorneys</i> or other professionals) *	£158

Any other <i>registered and licensed bodies</i>	£404 + £81 for each <i>registered attorney</i> practising via the <i>registered or licensed body</i> + £324 for each other professional practising via the <i>registered or licensed body</i> *
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\* For the purposes of these Regulations, “other professional” shall mean a *manager or employee* based in the *UK* who is: (i) not a *registered attorney* but holds the qualifications necessary for registration; (ii) a qualified European patent and/or trade mark attorney; (iii) a barrister of England and Wales; or (iv) a solicitor of England and Wales.

9. *Registered bodies and licensed bodies* will be subject to an application fee for entry onto a single or both *register(s)*, which shall be equal and in addition to the relevant practice fee payable.

#### **Commencement provisions**

10. The fees set out in these regulations shall apply from 1<sup>st</sup> January 2024 until further amended or substituted by further regulation.

#### **Supplemental notes**

These Regulations are made 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.

# **The Intellectual Property Regulation Board**

## **Consultation**

### **2024/25 Business Plan**

### **2024 Budget and Practising Fees**

**19 July 2023**

**This consultation closes at 5pm on 21 August 2023**

## **Introduction**

1. This consultation asks for your views on our proposals for our Business Plan for 2024/25. We anticipate that the main areas of work will be:
  - a. Building on our work on education including:
    - A new project to consider how to lower barriers to entry in the patent attorney profession and improve its diversity;
    - A review of the Accreditation Handbook. The Handbook sets out our approach for accrediting providers of attorney qualification training courses and outlines the core syllabus for the foundation level qualification;
  - b. Monitoring the implementation of the new regulatory arrangements following their introduction on 1 July 2023. In particular, conducting thematic reviews of the new requirements for transparency of charges and the new approach to continuing competence;
  - c. Continuing to build our evidence base about the IP sector;
  - d. Developing our website given the need to upgrade from Drupal 7 to Drupal 10;
  - e. Funding diversity initiatives;
  - f. Responding to consultations and information requests from the Legal Services Board (LSB);
  - g. Business as usual work such as admissions to the registers, investigating complaints, taking disciplinary action and responding to enquiries.
2. We are also seeking your views on:
  - a. Increasing practising fees in 2024 by 8%. This increase will, in the IPReg Board's judgment, allow us to finance our planned activities. In addition, we consider it important that our reserves are sufficient to enable us to respond to unexpected changes in our workload caused by external events (e.g. government action on sanctions) and to take into account the impact of inflation on our day to day operating costs (e.g. by increasing the general contingency reserve). The impact of the proposed increase on each fee category is set out in **Annex A**. This would increase our budgeted income from practising fees from £1,106,462 in 2023 to £1,249,331 in 2024 (an increase of £142,869);
  - b. Introducing an application fee for registered bodies to be admitted to the registers so that they pay the same as licensed bodies;
  - c. Abolishing the fee waiver period (1 November – 23 December)<sup>1</sup> for applications from individuals and entities to be admitted to the registers.
3. We will 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 and was broadened in 2023 to help attorneys suffering hardship for other reasons.

<sup>1</sup> The IPReg office shuts between Christmas and New Year and so there are no admissions during that period.

**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 21 August 2023. If you would like to discuss anything in this consultation with us or would like further information, please contact us online using this [form](#).**

## **Draft Business Plan – 2024/25<sup>2</sup>**

### **IPReg’s strategic priorities**

4. In January 2023, reflecting the progress made in achieving its initial strategic priorities, the Board set the following new strategic priorities:
  - a. To carry out our regulatory activities proactively, effectively and inclusively, ensuring the efficient use of resources;<sup>3</sup>;
  - b. To increase the range of good quality education providers accredited by IPReg, in particular as a tool to increase the diversity of the trade mark and patent attorney professions;
  - c. To increase the public profile of IPReg to the regulated community and users of IP legal services.

### **Driving forward our work on education**

5. The IPReg Board wants to maintain the momentum it has built up on education issues. In particular we want to support and drive initiatives to improve equality, diversity and inclusion in the professions. Our main focus to date has been to sponsor organisations that support and encourage children and young adults into science, technology, engineering and maths careers. In the course of our work on diversity, we have identified a number of regulatory policy concerns in the route to qualification for patent attorneys (particularly at the advanced level). We therefore consider that it is appropriate to turn our focus (and resources) to exploring the issues raised about the patent attorney qualification route.
6. In the second half of 2023 we will start gathering evidence about the benefits of, and issues raised by, the current approach, what different routes to qualification might look like and how we could encourage their development. This will involve extensive discussions with stakeholders including firms, CIPA, CITMA, the IP Practice Directors’ Group, the IP Federation, academics, education experts, IP Inclusive and students.
7. This work is still at a very early scoping stage and we will publish more details about our approach and timescales as the project develops. We anticipate that we will want to consider:
  - a. Whether the current competency framework correctly identifies the minimum competencies (i.e. knowledge and skills) required for a “day one” qualified patent attorney and the level at which they have to demonstrate their competence;
  - b. The appropriate principles for bodies that (a) set; and (b) assess qualification pathways at the foundation and advanced levels;
  - c. Whether there could be alternative routes to qualification such as (a) the development of [equivalent means](#); and/or (b) whether the IP sector should develop an apprenticeship route to qualification as a patent attorney and if so, what initial steps need to be taken.

It is likely that this project will start formally with a Call for Evidence in Q1 or Q2 of 2024.

<sup>2</sup> Note that all dates are for the calendar year.

<sup>3</sup> This was amended by the Board on 13 July 2023 from: to carry out its regulatory activities in a more proactive way and to perform well. In order to do so we will ensure that IPReg has the necessary staff, IT external expertise and other resources



8. In addition, 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 key stakeholder 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 2024/25;
  - b. Working with providers to ensure that online delivery of courses and examinations 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 and the extent to which any changes impact on our qualification requirements (e.g. in relation to exemptions).
9. We will start a review of the Accreditation Handbook. The Handbook sets out the requirements for qualification agencies (such as universities and the Patent Examination Board) to deliver qualification courses and/or examinations which meet our standards. It also outlines the core syllabus for the Foundation Level Qualifications. However, currently the Handbook does not include requirements for the advanced level qualifications and we consider that it would be appropriate to include these as well. Some of this work is closely related to the work on barriers to becoming a patent attorney.
10. In addition, we will review the IPReg Competency Frameworks for both professions. The review of the Patent Attorney Competency Framework will be carried out as part of the project looking at reviewing barriers to entry to the profession, while the review of the Trade Mark Attorney Competency Framework will be a standalone project. We have considered whether reviewing both frameworks was too ambitious given the other work to which we have committed, but we think it is important that both are reviewed at the same time, and at the earliest opportunity, to ensure consistency and to reflect the requirements of the new Core Regulatory Framework.
11. We anticipate that this work will need significant input from external advisers such as academics, qualified attorneys and analysts with expertise in education syllabi and the development of competency frameworks. We have therefore allocated £90,000 to this work in the budget.
12. This work supports in particular the regulatory objective in the Legal Services Act 2007 (LSA) of encouraging an independent, strong, diverse and effective legal profession.<sup>4</sup>

<sup>4</sup> 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)].

## Thematic reviews

13. Our main project for the last three years has been the review of our regulatory arrangements. These were approved by the LSB in February 2023 and came into force on 1 July 2023. We are committed to reviewing the effectiveness of the new arrangements by conducting thematic reviews of:

- a. Continuing competence – attorneys are now required to: assess, bearing in mind their existing skills and the nature of their practice, how they will maintain their competence. This means that they regularly:
  - reflect on their professional knowledge and skills and identify any development needs;
  - plan how these needs can be addressed through appropriate activities, training and other learning; and
  - record the assessments and evaluate the activities they have undertaken in the light of those assessments.

Attorneys will have to confirm to IPReg annually that they have met these requirements and, if requested, provide to us their records or other material which demonstrates that they have met the requirements. We will have transitional arrangements on enforcement of these requirements in place for approximately 18 months in order to give attorneys and firms sufficient time to become familiar with the new arrangements.

We will conduct random sampling of attorneys' records or other material to assess how well the new requirements have been embedded and identify any barriers to compliance with them. We anticipate that this will be done in Q1 or Q2 of 2024 with a report on the findings and lessons learned to be considered by the IPReg Board in July (one year after the arrangements came into force). This will enable the IPReg Board to consider when the transitional arrangements should end.

It might be appropriate for this work to be supported/conducted by an independent external body to reassure registrants about its impartiality. We have therefore budgeted £15,000 for this work.

- b. Transparency requirements – these will provide better information to clients and prospective clients about costs. The new rules came into force on 1 July and require that attorneys give appropriate explanations to their clients about any financial benefits that they may receive as a result of the work that they do. This includes commissions, foreign exchange rate uplifts or discounts or rebates. Attorneys also need to inform their clients about any referral arrangements in place such as payment of a referral fee and fee sharing arrangements. Although it will be for attorneys/firms to decide how to provide this information, it must be clear, accurate and sufficient to enable clients and prospective clients to make informed decisions about how to instruct. During Q2 of 2024 we anticipate developing our approach to this thematic review with a view to conducting the review in Q3 and reporting on its findings, lessons learned in Q4 of 2024 or Q1 of 2025.

We have budgeted £30,000 for this work to enable us to obtain external advice on the best way to structure the review, to analyse the information we obtain and evaluate the effectiveness of the requirement. We may also use an independent party to undertake the review to provide reassurance to firms about its impartiality.

- c. Implementing the professional indemnity insurance (PII) sandbox. This will enable testing alternative PII arrangements by providing a way for firms or sole traders to obtain PII from insurers who are not on IPReg's list of participating insurers. This will then enable them to apply to be admitted to, or remain on, the IPReg registers and be regulated. It may also be of interest to firms who are able to obtain cover from a participating insurer but who want to make alternative arrangements (perhaps for commercial reasons).

We will monitor closely how the sandbox is working throughout 2024 and report on it in the Annual Report for 2024. A wider thematic review is likely to be conducted in 2025 once the sandbox has been operational for at least 18 months, depending on the nature and extent of applicants and entrants.

We have budgeted £10,000 for this work in case we need to take external advice (e.g. from an insurer or actuary).

14. This work supports all the regulatory objectives in the LSA.

### **Building our evidence base**

15. In addition to the data and evidence gathering work that we plan to undertake for the thematic reviews on continuing competence and transparency, we will continue to gather data and evidence about the nature of the IP legal sector.
16. We have appointed 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.
17. This work supports all the regulatory objectives.

### **Website redevelopment**

18. 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 early 2025 and will be replaced by Drupal 10.
19. 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 £70,000 for the redevelopment and external support in the budget; this is also supported by a reserve.
20. This work supports in particular the regulatory objectives of protecting and promoting the interests of consumers; improving access to justice and increasing public understanding of the citizen's rights and duties.

### **Diversity**

21. 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.
22. We will be developing our approach to data gathering/research with other stakeholders in the IP sector – for example IP Inclusive, CIPA, CITMA, the IP Practice Directors' Group and the IP Federation. This will include identifying ways to improve the diversity data we hold for individuals and firms to get

a clearer picture of the makeup of the profession. This will provide a platform that will inform our EDI workstreams and enable us to develop a longer-term EDI strategy.

We have allocated £10,000 for this work.

23. We will be using our work on diversity to inform our education workstreams. Understanding the barriers to entry and progression in the profession will be a key factor in exploring different routes to qualification for patent attorneys. Identifying barriers to entry and progression and ensuring that this information forms a key part of our education workstream will give us the ability to improve the opportunities at the earliest stages of education and training.
24. We will continue to work with, and contribute to, the cross-sector work on EDI. This will enable us to learn from other regulators as well as share our research and experiences to work towards a collective approach to gathering data, identifying barriers to entry to the legal profession and the sector's approach to designing, implementing and evaluating interventions.
25. 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**

26. The LSB is IPReg's (and the other legal regulators') regulator. In order to ensure that we can respond effectively to the LSB's work programme and ensure that the regulated IP sector's specific characteristics are taken into account, we have restructured the Executive Team and the Director of Policy now undertake this work in addition to work on wider policy matters.
27. The LSB's [Quarterly Activity Schedule](#) for 2023/24 shows a significant number of issues where IPReg will need to engage with and respond to the LSB's work. In the first quarter (January to March) of 2024 these include:
  - a. Considering the impact of the LSB's new statement of policy on equality, diversity and inclusion;
  - b. Engagement on expectation on professional ethics;
  - c. Consideration of the LSB's thematic review of disciplinary and enforcement processes of the frontline regulators;
  - d. Consideration of the impact of the LSB's policy framework on PII and compensation funds;
  - e. Consideration of any proposed changes to the LSB's education and training guidance;
  - f. Engaging on scoping proposals for evaluating the Internal Governance Rules concerning the separation of regulatory and representative functions of Approved Regulators;
  - g. Responding to proposed changes to the LSB's enforcement policy.
28. In addition, the LSB's [Business Plan](#) for 2023/24 includes the following issues where IPReg will need to engage with and respond to the LSB's work:
  - a. Reviewing regulators' existing approaches to encouraging diversity and dismantling barriers to a fair and inclusive profession. Consulting on a statutory statement of policy on equality, diversity and inclusion;
  - b. Consultation on new statutory guidance promoting technology for access;

- c. Development of a toolkit for regulators to ensure their financial protection arrangements are fit for purpose and sustainable in the long term;
- d. Implications of any changes to the LSB's rules for first tier complaints handling;<sup>5</sup>
- e. Responding to LSB work on improving access to justice where relevant to the IP sector;
- f. Responding to requests for information about IPReg's compliance with the LSB's new [regulatory performance framework](#);
- g. Other requests for information during the course of the year.

### **Our day to day activities**

29. 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.
30. These activities support all of regulatory objectives.

### **Impact of Covid-19: IPReg's office and Board meetings**

31. 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. We have considered whether it would be appropriate not to have a fixed base in London and to work permanently from home, booking regular meeting spaces as required. However, because IPReg is a small team, the IPReg Board considers that it is important to ensure that staff overlap as much as possible and our experience of returning to the office after the lockdowns is that it is highly beneficial to be in the office with colleagues when developing policy issues or generating ideas. Nevertheless, we recognise that our office licence fee and related services costs is a significant proportion of the budget and we will continue to look for ways to manage that more efficiently, including a smaller office if one becomes available with our current provider. The budget for 2024 has provided for a 5% increase in the licence fee and services.

We have budgeted £82,170 for our licence fees and services.

32. The Board will continue its practice of holding hybrid meetings for its 7 scheduled meetings in 2024.

During the course of 2024, two Board members (Sam Funnell and Emma Reeve) will complete their second terms of office and will step down from the Board. We will run an open recruitment campaign for their successors (one patent attorney and one trade mark attorney) and use an external recruitment consultant to help us with this process. We have budgeted £14,000 for this.

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

<sup>5</sup> First Tier Complaints are complaints which are made to firms and sole trader attorneys. These are reported to IPReg annually as part of the Annual Return process.

## Equality Impact Assessment

33. The 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. We consider that this data is still relevant to support the EIA since there are unlikely to have been significant changes in the diversity of the profession since the survey was undertaken.

**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?**

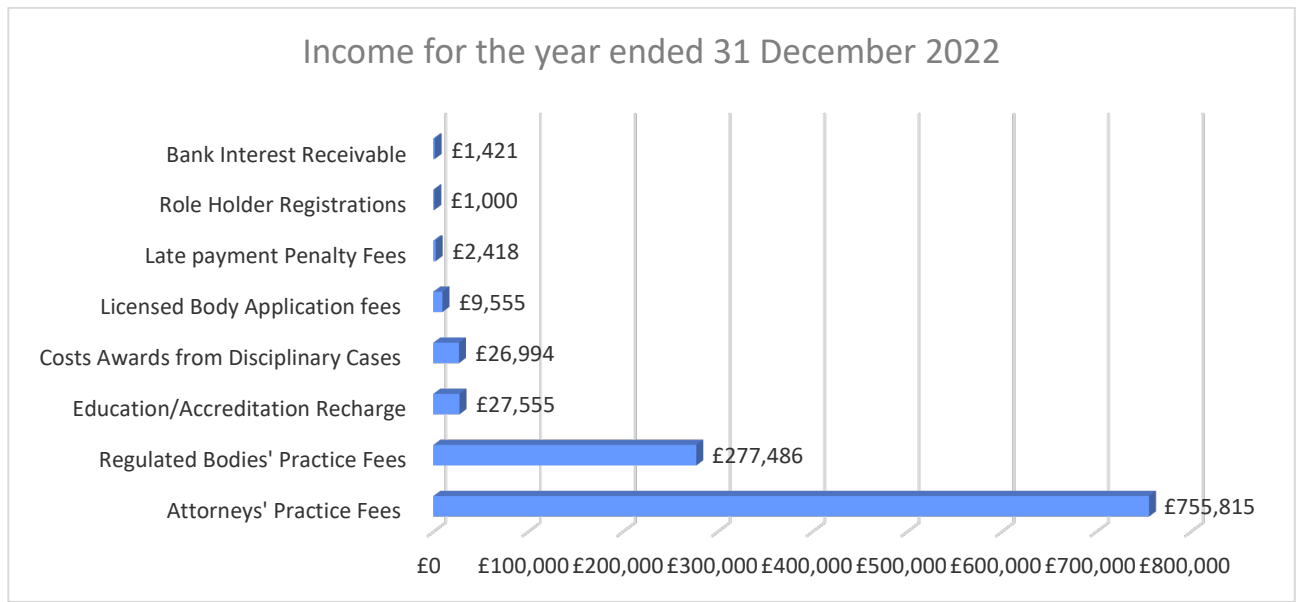
## **Proposed 2024 budget**

34. The draft 2024 budget (and comparison with the 2023 budget) (**Annex C**) is based on an increase in fees of 8% in order to take account of the impact of inflation and to finance our planned activities.
35. The proposed budgeted expenditure for 2024 is £100,890 more than the 2023 budget with a projected operating surplus of £25,611. The Board has committed to using reserves to offset against operating deficits if and when required. Our Reserves Policy is at **Annex D** and our Reserves as at 30 June 2023 are at **Annex E**. It is likely that as we progress through 2023 and 2024, some of these reserves will be utilised.
36. Our custom and practice has been to allocate reserves to specific projects that we plan to undertake. However, given the wide range of projects that we work on and the need to consult in the summer about our plans for next year (to allow time for the LSB approval process prior to starting the fee collection process) it is difficult to predict at this point in 2023 what we might need to draw on from our reserves for our day to day work in 2024. The IPReg Board has therefore decided to:<sup>6</sup>
- a. Maintain the General Contingency Reserve and allocate an additional £70,000 to it to achieve our policy of having 3 months' operating expenditure (£270,000) in the event that we are unable to collect practising fees. The increase of £70,000 will be funded by:
    - Closing the Regulatory Review Reserve since the work involved in implementing the new arrangements is largely complete and reallocating it to this Reserve; and
    - Reallocating brought forward Income & Expenditure by £20,000.
  - b. Maintain the Assurance, Disciplinary and Litigation Reserve at £210,000. This ensures that we have sufficient funds in the event that one of our decisions is challenged through the courts;
  - c. Maintain a Diversity Reserve of £20,000 to underpin our commitment to funding diversity initiatives;
  - d. Set the IT/website reserve at £60,000 given the work that the website upgrade will entail. If we underspend this budget in 2023, we will have the option to allocate any underspend to this reserve at future date.
  - e. Set up a new General Operational and Research Reserve of £76,000 funded by:
    - Closing the Governance Reserve of £16,000 since this work has largely been completed;
    - Closing the Disciplinary Panel Recruitment & Training Reserve of £15,000 since this exercise has been completed;
    - Adding to it the Research Reserve of £25,000 and the Board & Chairman's Appointments/Communications Reserve of £10,000;
    - Re-allocating brought forward Income & Expenditure by £10,000.

<sup>6</sup> For the avoidance of doubt, the committed Compensation Reserve remains at £100k but this may need to be increased if our review of the compensation scheme in the second half of 2023 indicates that the fund should be increased.

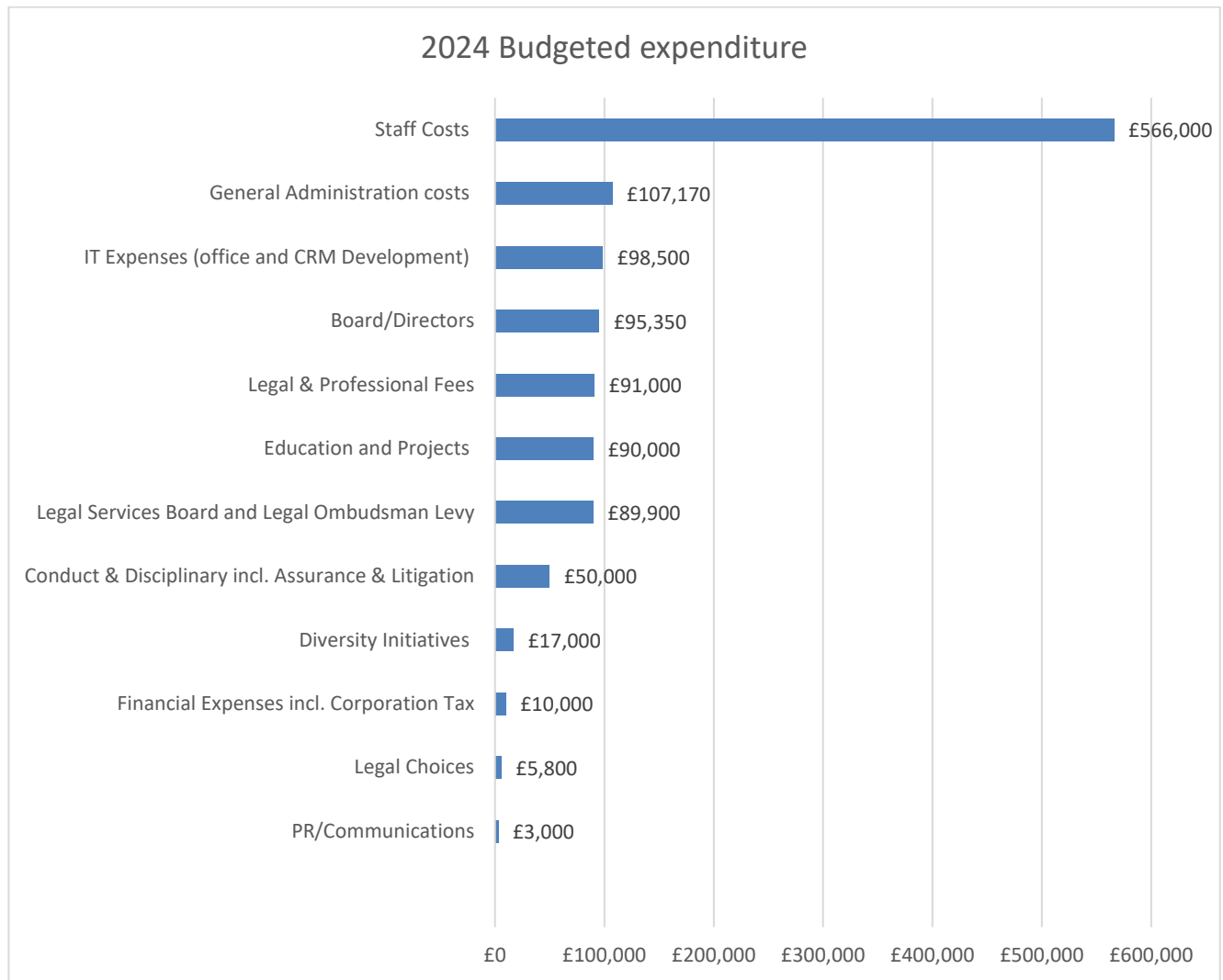
### Context – how the practising fees are spent

37. 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 [2022](#). Most of our income comes from the practising fees paid by registrants. We also receive some income from applications for entry to the register(s) from alternative business structures. The chart below gives more detail about our sources of income in 2022:





The main expenditure from our budget in 2024 is expected to be:



These costs are explained below:

Staff Costs

Staff costs include salaries (projected increase of 5%), 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.

IT Expenses (office and CRM Development)

This is largely made up of costs relating to maintenance of Customer Relationship Management (CRM) system and the website redevelopment. Also included are costs to support and maintain the office IT platform and software licences.

### Board/Directors

Board members are also directors of The Intellectual Property Regulation Board Limited. Their remuneration has not increased since 2020. Also included is an estimate for travel and subsistence (grossed up and paid through payroll) to attend Board meetings in person and an estimate for the recruitment of two professional board members of £14,000.

### 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 and practising fees for the professionally qualified members of staff. Also included is the budgeted expenditure in relation to thematic reviews and the implementation of the PII Sandbox.

### Education & Projects

This includes Board Education Group member costs and expenses as well the costs associated with the development of different routes to patent attorney qualification, work on accreditations, updating the Accreditation Handbook and Competency Frameworks. We anticipate that this work will need significant input from external advisers, for example on the best approach to identify what should be included in the competency framework.

### 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 2024. At the point of writing this document, IPReg has not been given the indicative levy for 2023/2024. The LSB budget for 2023/2024 has increased by 9.1% and we have used this increase as the basis of our calculations. IPReg's budget covers the year to 31 December therefore the budgeted levy figure is made up of two levy years - the levy prorated to the end of March and an estimate of the next year's levy prorated to end of December. IPReg's 2024 Budget uses the 2022/2023 levy increased by 9.1% to estimate the levy to 31 March 2024 (2023/2024) and with a similar 9.1% increase to estimate the levy to 31 March 2025 (2024/2025). The levy paid to the Legal Ombudsman remains unchanged at the minimum £5,000.<sup>7</sup> No complaints have been received by the Ombudsman about IPReg-regulated attorneys since March 2020.

### Conduct & Disciplinary incl. Assurance and Litigation

This relates to external legal costs and internal costs associated with assurance and disciplinary matters and includes panellists' and Case Examiners' fees and expenses for attendance at hearings. While it is usually the case that hearings are conducted on the papers or remotely via videoconferencing, we have included a small amount of associated costs such as photocopying and room hire in the event a hearing needs to be conducted in person.

### Diversity Initiatives

IPReg has a statutory objective to encourage a diverse legal profession and accordingly supports initiatives aimed at promoting this objective. Also included is an estimated diversity research cost of £10,000. This work is supported by a reserve of £20,000.

<sup>7</sup> The Legal Services Act 2007 (Levy) (No.2) (Amendment) Rules 2014

### 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:<sup>8</sup>

*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.*

### PR/Communications

This is in respect of any costs associated with increasing IPReg's public profile.

## **Raising additional income**

### Introducing an application fee for registered bodies

38. We do not currently charge an application fee to entities that are wholly owned and managed by lawyers (registered bodies). However, we do charge an application fee to entities that are not wholly owned and managed by lawyers (licensed bodies). Our experience is that the work involved in considering both types of application is similar and we are therefore proposing to make the application fees for registered and licensed bodies the same, with effect from 1 January 2024.<sup>9</sup> Using the proposed 2024 fee structure, this would be:
- a. Registered bodies through which only a single registered attorney provides services (employing no other registered attorneys or other professionals): £158;
  - b. Any other registered body: £404 + £81 for each attorney practising in the entity + £324 for each other professional practising in the entity).

If a charge had been levied in 2022, it would have generated almost £3,000 in additional fees. However, it is not possible to predict the level of fees that could be generated because IPReg does not know which entities will apply for admission to the registers.

### **Question 3 – what are your views on whether we should introduce an application fee for registered bodies?**

<sup>8</sup> Paragraphs 14 and 15

<sup>9</sup> Our new Standard Operating Procedure (paragraph 33) enables us to make this change.

Abolishing the fee waiver period for attorney and entity applications

39. Our custom and practice has been that applications for admission from attorneys and entities that are submitted between 1 November and 23 December<sup>10</sup> pay no fee, even though the process to admit them is the same as if they had applied earlier in the year. If applicants had been required to pay these fees in 2022, it would have generated £1,744 in additional fees, based on seven applications at 2023 rates. In 2021, there were 17 applications during that period, which would have meant over £4,000 in additional income. We acknowledge that this change may result in some applicants delaying their application until the start of the following year.

**Question 4 – what are your views on whether we should abolish the waiver period?**

**Proposed 2024 fees**

40. IPReg is proposing to increase fees by 8% from their 2023 level. The IPReg Board considered carefully whether it would be possible to hold fees level, propose a smaller increase or reduce fees in 2024. However, the current level of inflation means that many of our costs have increased and will continue to do so. 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, increase them by a smaller amount or keep them at 2023 levels.
41. The proposed budget makes the following assumptions:
- a. All Board meetings will be hybrid with most Board members attending in person;
  - b. There will be no increase in Board members’ fees for the fourth year running;
  - c. Consistent with our usual practice, the budget makes no estimate for other income from role-holder/licensed body/registered body applications and costs awards/fines from disciplinary cases because these are outside our control.
42. The Board has allocated £100,000 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** and the changes are set out at paragraph 36 of this document.

**Question 5 - What are your views on the proposal to increase practising fees by 8%?**

**Question 6 - What are your views on the proposed 2024 budget (Annex C)?**

**Question 7 - Do you have any comments on the draft Practising Fee Regulations at Annex F?**

<sup>10</sup> The IPReg office shuts between Christmas and New Year and so there are no admissions during that period.

## **All 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 whether we should introduce an application fee for registered bodies?

Question 4 - what are your views on whether we should abolish the waiver period (1 November – 23 December)?

Question 5 -What are your views on the proposal to increase practising fees by 8%?

Question 6 - What are your views on the proposed 2024 budget at Annex C?

Question 7 - Do you have any comments on the draft Practising Fee Regulations at Annex F? These have been redrafted so that they are consistent with the new regulatory arrangements.

## ANNEX A

**Proposed 2024 Fees**

Proposed % increase

8%

Attorneys/Individuals	2023 Fees		Proposed 2024 Fees	
	Single register	Both registers	Single register	Both registers
Registered attorney solely undertaking corporate work	£188	£300	£203	£324
Registered attorney in private practice	£228	£374	£246	£404
Registered attorney not in active practice	£171	£273	£185	£295
Registered attorney practising as a sole trader attorney not employing other registered attorneys or other professionals	£374	£534	£404	£577
Registered attorney practising as a sole trader and employing other registered attorneys or other professionals :	£374	£534	£404	£577
employing other registered attorneys - add fee per attorney	£75	£75	£81	£81
employing other professionals - add fee per professional	£300	£300	£324	£324

Registered Bodies and Licensed Bodies	2023 Fees	Proposed 2024 Fees
	Single or both registers	Single or both registers
Registered bodies through which only a single registered attorney provides services (employing no other registered attorneys or other professionals)	£146	£158
Any other registered body or licensed body		
Base Fee	£374	£404
add fee per registered attorney	£75	£81
add fee per other professional practising via the registered or licensed body	£300	£324

**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

<b>Protected Characteristic Group</b>	<b>Is there a potential for positive or negative impact</b>	<b>Please explain and give examples of any evidence/consultation/data used</b>	<b>Action to address negative impact (e.g. adjustment to the policy)</b>
Disability	Unknown	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.	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). We recognise that the number (or proportion) of disabled people is not relevant to the question of whether, and to what extent, those people could be disadvantaged. The fee waiver provisions may help to alleviate hardship.
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. We also accept applications for moving to the "not in active practice" category from attorneys who are on adoption or parental leave.

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)
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



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)
Sexual orientation	Unknown	Data for this characteristic is very limited and so we are unable to draw any conclusions from it.	N/A
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 but it is important to note that all attorneys can apply to IPReg to be moved to the "not in active practice" category.
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	
<p>Is it possible that the proposed level of PCF could discriminate or unfairly disadvantage members of the regulated community?</p>	<p>Prior to consultation, we have not identified any evidence that the level of the fee or the proposal to increase it could discriminate against or unfairly disadvantage attorneys with protected characteristics.</p> <p>As part of the consultation on the level of 2024 practising fees we 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
<p>No barriers identified.</p>		
<p>Bias towards one or more groups</p>		
<p>Adapted practising fee to eliminate bias</p>		
<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 practising fee.</p>		

**2024 BUDGET - DRAFT**

	Note	<u>2024 Budget - Draft</u>		<u>2023 Budget comparative</u>	
		£	£	£	£
<b>PROJECTED INCOME</b>	<i>a.</i>		<b>1,249,331</b>		<b>1,106,462</b>
<b>PROJECTED EXPENDITURE</b>					
<b>LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN</b>	<i>b.</i>		89,900		82,100
<b>PROJECTED OPERATIONAL EXPENDITURE</b>					
Board/Directors	<i>c.</i>		95,350		89,700
Conduct & Disciplinary incl. Assurance & Litigation	<i>d.</i>		50,000		42,500
Corporation Tax			3,000		150
Diversity Initiatives	<i>e.</i>		17,000		17,000
Education & Projects	<i>f.</i>		90,000		5,000
Financial Expenses			7,000		7,000
General Administration Expenses	<i>g.</i>		107,170		105,170
IT Support (office and website)	<i>h.</i>		98,500		87,500
Legal & Professional	<i>i.</i>		91,000		100,000
Legal Choices	<i>j.</i>		5,800		5,800
PR/Communications			3,000		3,000
Staff Costs	<i>k.</i>		566,000		577,910
<b>TOTAL PROJECTED EXPENDITURE</b>			<b>1,223,720</b>		<b>1,122,830</b>
<b>PROJECTED OPERATING BALANCE</b>			<b>£25,611</b>		<b>-£16,368</b>

See notes overleaf

**2024 BUDGET - DRAFT**

Notes:

**a. Projected Income**

	<b>2024 Budget - Draft</b>		<b>2023 Budget comparative</b>	
	£	£	£	£
Budgeted Practice Fees - Attorneys & Entities		1,249,331		1,106,462
Other Income		0		0
		<u>1,249,331</u>		<u>1,106,462</u>

Budgeted Practice Fee Income for 2024 - based on a fee increase of 8% applied to the estimate of the final practice fee income for 2023 and also a provision for attorney admissions reduced by an estimate for voluntary removals/removals in 2024.

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**

	<b>2024 Budget - Draft</b>		<b>2023 Budget comparative</b>	
	£	£	£	£
LSB Levy		84,900		77,100
LeO/OLC Levy		5,000		5,000
		<u>89,900</u>		<u>82,100</u>

The LSB year end is 31 March, therefore the budget is made up of 2 levy years. The 2024 budget figure has been calculated by prorating the estimated levy for 2023/2024 (based 2022/2023 levy with an increase of 9.1% to reflect the LSB Budget increase of the same amount) and taking a prorated proportion of an estimated levy for 2024/2025 with a similar increase.

**c. Board/Directors**

	<b>2024 Budget - Draft</b>		<b>2023 Budget comparative</b>	
	£	£	£	£
Replacement of Board Members		14,000		5,000
Remuneration		67,100		67,100
Travel & Subsistence		10,500		13,400
Employer's National Insurance		3,750		4,200
		<u>95,350</u>		<u>89,700</u>

Board members are also directors of The Intellectual Property Regulation Board Limited.

Board Fees - remain at the same level as 2020.

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.

**d. Conduct & Disciplinary incl. Assurance & Litigation**

	<b>2024 Budget - Draft</b>		<b>2023 Budget comparative</b>	
	£	£	£	£
External Legal Costs and Hearing Costs		50,000		35,000
Recruitment/training of panel members		0		7,500
		<u>50,000</u>		<u>42,500</u>

Recruitment & Training of additional Professional Disciplinary Panel members.

**2024 BUDGET - DRAFT**

Notes (continued):

**e. Diversity Initiatives**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Donations		7,000		7,000
Diversity research		10,000		10,000
		<u>17,000</u>		<u>17,000</u>

**f. Education**

The budget also includes an estimate of £85,000 in respect of the work to consider the regulatory policy issues regarding the development of different routes to qualification particularly for the patent attorney qualification, accreditations, review of the Accreditation Handbook and review of the Competency Frameworks.

**g. General Administration Expenses**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Licence & Services		82,170		82,170
Other Office Costs		25,000		23,000
		<u>107,170</u>		<u>105,170</u>

Licence & Services - this is based on the same office space with a provision for a 5% increase when the licence and services agreement expires at end of March 2024.

**h. IT Support (office and website)**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Support		13,500		13,500
CRM - operational		15,000		14,000
CRM - website redevelopment & enhancements		70,000		60,000
		<u>98,500</u>		<u>87,500</u>

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

**i. Legal & Professional**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Legal & Professional Costs		26,000		20,000
Actuarial and Legal Costs in respect of Compensation Fund		10,000		30,000
Statistical Sampling in relation to Thematic Reviews		15,000		0
Costs associated with the implementation of PII Sandbox		10,000		0
Transparency Thematic Reviews		30,000		0
Recruitment for case examiners and other associated fees		0		20,000
Review of Regulatory Arrangements		0		30,000
		<u>91,000</u>		<u>100,000</u>

**2024 BUDGET - DRAFT**

Notes (continued):

j. **Legal Choices** - budgeted at the same level as 2022.

k. **Staff Costs**

	<u>2024 Budget - Draft</u>		<u>2023 Budget comparative</u>	
	£	£	£	£
CEO		96,600		88,410
Regulatory Officers		300,600		321,700
Administrative Staff		84,350		77,250
Employer's National Insurance		56,450		62,400
Pension Costs		12,000		13,150
Staff Benefits		11,000		10,000
Staff development and training		5,000		5,000
		<u>566,000</u>		<u>577,910</u>

Staff costs - the 2024 budget has a projected increase of 5% for current IPReg staff salaries. The 2023 Budget anticipated a 5% increase for staff. The IPReg Board decided in January 2023 that, given the then rate of inflation, staff salaries should increase by 9.3%.

The Board has committed to utilising Reserves to offset against an operating deficit 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. 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



## ANNEX E

**RESERVES AS AT 30 JUNE 2023**

Please note: the Operating surplus for the 6 months ended 30 June 2023 is a draft figure and is unaudited

	Note	£	£	Adjustments *	Adjusted Reserves
<b>COMMITTED RESERVES</b>					
Compensation Fund Reserve			<b>100,000</b>		<b>100,000</b>
<b>UNCOMMITTED RESERVES</b>					
Board & Chairman Appointments/Communications Reserve	1		<b>10,000</b>	-10,000	<b>0</b>
General Contingency Reserve	2,3		<b>200,000</b>	70,000	<b>270,000</b>
Assurance Disciplinary & Litigation Reserve			<b>210,000</b>		<b>210,000</b>
Funding Diversity Initiatives Reserve			<b>20,000</b>		<b>20,000</b>
Regulatory Review Reserve	2		<b>50,000</b>	-50,000	<b>0</b>
Disciplinary Panel Recruitment & Training Reserve	1		<b>15,000</b>	-15,000	<b>0</b>
Research Reserve	1		<b>25,000</b>	-25,000	<b>0</b>
IT/Website Reserve			<b>60,000</b>		<b>60,000</b>
Governance Reserve	1		<b>16,000</b>	-16,000	<b>0</b>
General Operational & Research Reserve	1,3		<b>0</b>	76,000	<b>76,000</b>
Income & Expenditure Account					
Brought forward at 1-1-2023		<b>35,947</b>			
Operating surplus for the 6 months ended 30 June 2023		<b>650,793</b>			
	2,3		<b>686,740</b>	-30,000	<b>656,740</b>
			<b>£1,392,740</b>		<b>£1,392,740</b>

The Board approved the following adjustments to the Reserves at the 13 July 2023 meeting:

- <sup>1</sup> To close the Board & Appointments/Communications Reserve, Disciplinary Panel Recruitment & Training Reserve, Research Reserve and Governance Reserve and to amalgamate the balances into a new Reserve called the General Operational and Research Reserve.
- <sup>2</sup> To transfer £50,000 from the Regulatory Review Reserve to the General Contingency Reserve.
- <sup>3</sup> To transfer £30,000 from the Income & Expenditure Account to the General Contingency Reserve (£20,000) and General Operational and Research Reserve (£10,000).

[See our Reserves Policy](#)

### IPReg Practice Fee Regulations 2023

These regulations set out *IPReg's* requirements in relation to practice fees payable by *registered persons* on entry to the *register(s)* and on annual renewal of registration to the *register(s)*. They also set out the penalty fees that *IPReg* will apply in the event that a *registered attorney* fails to renew their registration by the *prescribed* date, and the penalty fee that *IPReg* may direct to be payable by an individual applicant seeking restoration to the *register(s)* following removal for failure to renew registration.

These regulations relate to provisions set out at Chapter 3 of *IPReg's* Core Regulatory Framework, and associated requirements set out in *IPReg's* Standard Operating Procedure in respect of admission and authorisation, and Chapter 6 of the Core Regulatory Framework, and associated requirements set out in the Standard Operating Procedure in respect of applications to waive the practice fees set out in these regulations.

#### **Registered attorneys: entry onto the register and annual renewal of registration**

1. The *prescribed* practice fee for:

- a. Applicants seeking entry onto the *register(s)* in accordance with 1.3 of Chapter 3 of the Core Regulatory Framework and paragraph 2 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements; and
- b. *Registered attorneys* seeking renewal of their annual registration in accordance with 4.1 of Chapter 3 of the Core Regulatory Framework and paragraph 73 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements,

shall be in accordance with Table 1 below.

Table 1: *Registered attorneys*: practice fees for entry onto the relevant *register(s)* or annual renewal of registration

	For entry onto a single <i>register</i> , or renewal of registration for, a single <i>register</i>	For entry onto both <i>registers</i> , or renewal of registration for, both <i>registers</i>
<i>Registered attorney</i> solely undertaking corporate work	£203	£324
<i>Registered attorney</i> in private practice	£246	£404

<i>Registered attorney</i> not in active practice	£185	£295
<i>Registered attorney</i> practising as a sole trader and not employing other <i>registered attorneys</i> or other professionals *	£404	£577
<i>Registered attorney</i> practising as a sole trader and employing other <i>registered attorneys</i> or other professionals *	£404 + £81 for each registered attorney employed by the sole trader + £324 for each other professional employed by the sole trader	£577 + £81 for each registered attorney employed by the sole trader + £324 for each other professional employed by the sole trader

\* For the purposes of these Regulations, “other professional” shall mean a *manager* or *employee* based in the UK who is: (i) not a *registered attorney* but holds the qualifications necessary for registration; (ii) a qualified European patent and/or trade mark attorney; (iii) a barrister of England and Wales; or (iv) a solicitor of England and Wales.

**Registered attorneys: penalty fee for failure to renew registration by the prescribed date**

2. In accordance with 4.1 and 4.2 of Chapter 3 of the Core Regulatory Framework, and paragraphs 73 to 80, inclusive, of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements, the penalty fee that will apply to *registered attorneys* who have not renewed their registration before the *prescribed* date in each year, shall be equal to 50% of the corresponding practising fee for entry on to or renewal for the *register(s)* in accordance with Table 1, up to a maximum penalty fee of £250.
3. In accordance with 5.3.7 of Chapter 3 of the Core Regulatory Framework and paragraph 98 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements, the penalty fee that *IPReg* may direct an individual applicant who is seeking restoration to the *register* following removal for failure to renew registration to pay, shall be equal to 50% of the corresponding practising fee for entry on to or renewal for the *register(s)* in accordance with Table 1, up to a maximum penalty fee of £250.

**Registered attorneys: waivers in respect of practising fees**

4. In accordance with 2 of Chapter 6 of the Core Regulatory Framework and associated requirements set out in the part of the *IPReg* Standard Operating Procedure relating to

waivers, a *registered attorney* may apply to *IPReg* for all or part of their relevant practice fees as set out in Table 1 to be waived.

5. Waivers in respect of practice fees will only be granted where the *registered attorney* provides evidence of hardship.
6. A *registered attorney* whose practice fee is waived under this regulation will remain on the *register(s)* and must continue to comply with *IPReg's regulatory arrangements*, including, but not limited to, the requirement set out in 3.10 and 3.11 of the Code of Conduct in Chapter 2 of the Core Regulatory Framework, to take out and maintain a policy of Professional Indemnity Insurance and, where necessary, run-off cover insurance.
7. A *registered attorney* who has had their practice fee waived under this regulation must notify *IPReg* within 14 days of a change in their circumstances, such as an increase in income, becoming employed or resuming trading. In such event, their full practising fee will become payable to *IPReg* within 28 days of their notification to *IPReg* of their change in circumstances.

**Registered and licensed bodies: entry onto the *register(s)* and annual renewal of registration**

8. Subject to Regulation 5, the *prescribed* practice fee for:
  - a. Applicants seeking entry onto the *register(s)* in accordance with 2.1 of Chapter 3 of the Core Regulatory Framework and paragraph 33 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements; and
  - b. *Registered* and *licensed bodies* seeking to renew their annual registration in accordance with 4.1 of Chapter 3 of the Core Regulatory Framework and paragraph 73 of the part of the *IPReg* Standard Operating Procedure relating to admission and authorisation requirements,

shall be in accordance with Table 2 below.

Table 2: *Registered* and *licensed bodies* practice fees for entry onto the *register(s)* or annual renewal of registration

	For entry onto either or both <i>register(s)</i> , or renewal of registration
<i>Registered bodies</i> through which only a single <i>registered attorney</i> provides services (employing no other <i>registered attorneys</i> or other professionals) *	£158

Any other <i>registered and licensed bodies</i>	£404 + £81 for each <i>registered attorney</i> practising via the <i>registered or licensed body</i> + £324 for each other professional practising via the <i>registered or licensed body</i> *
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\* For the purposes of these Regulations, “other professional” shall mean a *manager or employee* based in the *UK* who is: (i) not a *registered attorney* but holds the qualifications necessary for registration; (ii) a qualified European patent and/or trade mark attorney; (iii) a barrister of England and Wales; or (iv) a solicitor of England and Wales.

9. *Registered bodies and licensed bodies* will be subject to an application fee for entry onto a single or both *register(s)*, which shall be equal and in addition to the relevant practice fee payable.

#### **Commencement provisions**

10. The fees set out in these regulations shall apply from 1<sup>st</sup> January 2024 until further amended or substituted by further regulation.

#### **Supplemental notes**

These Regulations are made 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.

## 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

## ACTUAL v BUDGET FOR YEAR ENDED 31 DECEMBER 2022

	Note	Actual		Budget	
		£	£	£	£
<b>INCOME</b>	<i>a.</i>		1,102,246		1,013,213
<b>EXPENDITURE</b>					
<b>LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN</b>	<i>b.</i>		76,491		74,440
<b>OPERATIONAL EXPENDITURE</b>					
Board/Directors	<i>c.</i>		98,502		78,000
Conduct & Disciplinary incl. Assurance & Litigation	<i>d.</i>		64,140		50,000
Corporation Tax			217		150
Diversity Initiatives	<i>e.</i>		10,600		7,000
Education & Projects	<i>f.</i>		24,729		5,000
Financial Expenses			6,307		7,000
General Administration Expenses	<i>g.</i>		123,515		98,480
IT Support (office and website)	<i>h.</i>		24,846		43,000
Legal & Professional	<i>i.</i>		57,434		85,000
Legal Choices			5,800		5,800
PR/Communications			699		3,000
Staff Costs	<i>j.</i>		579,943		565,000
<b>TOTAL EXPENDITURE</b>			<b>1,073,223</b>		<b>1,021,870</b>
<b>OPERATING BALANCE</b>			<b>£29,023</b>		<b>-£8,657</b>

See notes overleaf



## ACTUAL v BUDGET FOR YEAR ENDED 31 DECEMBER 2022

Notes:

## a. Income

	Actual		Budget	
	£	£	£	£
Practice Fees: Attorneys & Entities		1,033,301		1,013,213
Other Income:				
Licensed Body application fees	9,555			
Late payment penalty fees	2,418			
Role Holder application fees	1,000			
Bank interest receivable	1,421			
Costs Award from disciplinary cases (see note g)	26,994			
Education/Accreditation recharge (see note f)	27,555			
		68,943		0
		<u>1,102,244</u>		<u>1,013,213</u>

Budgeted 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

	Actual		Budget	
	£	£	£	£
LSB Levy		71,491		69,440
LeO/OLC Levy		5,000		5,000
		<u>76,491</u>		<u>74,440</u>

The LSB year end is 31 March, therefore the expense is made up of 2 levy years. The 2022 budget figure was been calculated by prorating the indicative levy for 2021/2022 and taking a prorated proportion of an estimated levy for 2022/2023 (based on a 3.98% increase).

## c. Board/Directors

	Actual		Budget	
	£	£	£	£
Replacement of Board Members		19,442		5,000
Remuneration		71,412		67,100
Travel & Subsistence		3,766		2,000
Employer's NI and Health & Social Care Levy		3,882		3,900
		<u>98,502</u>		<u>78,000</u>

Board members are also directors of The Intellectual Property Regulation Board Limited.

Fees - remain at the same level as 2020. Remuneration also includes fees in respect of activities relating to the Governance Working Group and meetings with the LSB. Fees for other activities have been allocated where applicable to relevant budget lines and not shown in remuneration.

Travel & subsistence to attend all board meetings in person (grossed up and paid through payroll) is shown separately and not part of Directors' Remuneration for transparency.

## ACTUAL v BUDGET FOR YEAR ENDED 31 DECEMBER 2022

Notes (continued):

**d. Conduct & Disciplinary incl. Assurance & Litigation**

	Actual		Budget	
	£	£	£	£
External Legal costs and hearing costs		29,067		35,000
Recruitment/training of panel members		35,073		15,000
		<u>64,140</u>		<u>50,000</u>

**e. Diversity Initiatives**

	Actual		Budget	
	£	£	£	£
Donations		10,600		7,000
		<u>10,600</u>		<u>7,000</u>

Donations were made to: IP Inclusive £2,600 and In2Science £8,000.

**f. Education & Projects**

Education and Projects: included are costs for the accreditation review of the Postgraduate Certificate in Intellectual Property Law, Postgraduate Certificate in Trade Mark Law & Practice and Masters of Science in Management of Intellectual Property Law Courses at Queen Mary University and also the costs for the accreditation review of the Patent Examination Board Diploma Examinations . These costs have been recharged to Queen Mary University and the Patent Examination Board (see note a) .

**g. General Administration Expenses**

	Actual		Budget	
	£	£	£	£
Licence & Services		79,200		78,480
Other Office Costs		17,321		20,000
Provision against the recoverability of costs awards (see note a)		26,994		0
		<u>123,515</u>		<u>98,480</u>

**h. IT Support (office and website)**

	Actual		Budget	
	£	£	£	£
Support		9,082		10,000
CRM - Operational		12,164		13,000
CRM - Enhancements		3,600		20,000
		<u>24,846</u>		<u>43,000</u>

## ACTUAL v BUDGET FOR YEAR ENDED 31 DECEMBER 2022

Notes (continued):

*i. Legal & Professional*

	Actual		Budget	
	£	£	£	£
Legal & Professional Costs		19,133		20,000
Actuarial and Legal Costs in respect of Compensation Fund		8,960		15,000
Review of Regulatory Arrangements		29,341		50,000
		<u>57,434</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 and other ancillary costs.

*j. Staff Costs*

	Actual		Budget	
	£	£	£	£
CEO		85,936		82,250
Regulatory Officers		319,061		322,300
Administrative Staff		77,068		74,100
Employer's NI and Health & Social Care Levy		48,394		57,650
Pension Costs		11,370		12,700
Staff Benefits		7,166		8,000
Staff development and training		948		3,000
Staff Recruitment		30,000		5,000
		<u>579,943</u>		<u>565,000</u>

Staff costs - staff salaries increased by 5%, the 2022 Budget anticipated a 2.5% increase.

**2024 BUDGET - DRAFT**

	Note	2024 Budget - Draft		2023 Budget comparative	
		£	£	£	£
<b>PROJECTED INCOME</b>	a.		1,247,781		1,106,462
<b>PROJECTED EXPENDITURE</b>					
<b>LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN</b>	b.		91,600		82,100
<b>PROJECTED OPERATIONAL EXPENDITURE</b>					
Board/Directors	c.		99,000		89,700
Conduct & Disciplinary incl. Assurance & Litigation	d.		50,000		42,500
Corporation Tax			3,000		150
Diversity Initiatives	e.		27,000		17,000
Education & Projects	f.		90,000		5,000
Financial Expenses			7,000		7,000
General Administration Expenses	g.		107,170		105,170
IT Support (office and website)	h.		98,500		87,500
Legal & Professional	i.		91,000		100,000
Legal Choices	j.		5,800		5,800
PR/Communications			3,000		3,000
Staff Costs	k.		566,000		577,910
<b>TOTAL PROJECTED EXPENDITURE</b>			<b>1,239,070</b>		<b>1,122,830</b>
<b>PROJECTED OPERATING BALANCE</b>			<b>£8,711</b>		<b>-£16,368</b>

See notes overleaf

**2024 BUDGET - DRAFT**

Notes:

**a. Projected Income**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Budgeted Practice Fees - Attorneys & Entities		1,247,781		1,106,462
Other Income		0		0
		<u>1,247,781</u>		<u>1,106,462</u>

Budgeted Practice Fee Income for 2024 - based on a fee increase of 8% applied to the estimate of the final practice fee income for 2023 for all practising fee paying categories (no increase applied to the not in active practice fee paying category) and also a provision for attorney admissions reduced by an estimate for voluntary removals/removals in 2024.

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**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
LSB Levy		86,600		77,100
LeO/OLC Levy		5,000		5,000
		<u>91,600</u>		<u>82,100</u>

The LSB year end is 31 March, therefore the budget is made up of 2 levy years. The 2024 budget figure has been calculated by prorating the indicative levy for 2023/2024 (which is 10.34% higher than the 2022/2023 levy) and taking a prorated proportion of an estimated levy for 2024/2025 with a similar increase.

**c. Board/Directors**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Replacement of Board Members		14,000		5,000
Remuneration		70,500		67,100
Travel & Subsistence		10,500		13,400
Employer's National Insurance		4,000		4,200
		<u>99,000</u>		<u>89,700</u>

Board members are also directors of The Intellectual Property Regulation Board Limited.

Board Fees - the 2024 budget has a projected increase of 5%. This is the first increase since 2020.

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.

**d. Conduct & Disciplinary incl. Assurance & Litigation**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
External Legal Costs and Hearing Costs		50,000		35,000
Recruitment/training of panel members		0		7,500
		<u>50,000</u>		<u>42,500</u>

Recruitment & Training of additional Professional Disciplinary Panel members.

**2024 BUDGET - DRAFT**

Notes (continued):

**e. Diversity Initiatives**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Donations		7,000		7,000
Diversity research and survey		20,000		10,000
		<u>27,000</u>		<u>17,000</u>

**f. Education**

The budget also includes an estimate of £85,000 in respect of the work to consider the regulatory policy issues regarding the development of different routes to qualification particularly for the patent attorney qualification, accreditations, review of the Accreditation Handbook and review of the Competency Frameworks.

**g. General Administration Expenses**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Licence & Services		82,170		82,170
Other Office Costs		25,000		23,000
		<u>107,170</u>		<u>105,170</u>

Licence & Services - this is based on the same office space with a provision for a 5% increase when the licence and services agreement expires at end of March 2024.

**h. IT Support (office and website)**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Support		13,500		13,500
CRM - operational		15,000		14,000
CRM - website redevelopment & enhancements		70,000		60,000
		<u>98,500</u>		<u>87,500</u>

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

**i. Legal & Professional**

	2024 Budget - Draft		2023 Budget comparative	
	£	£	£	£
Legal & Professional Costs		26,000		20,000
Actuarial and Legal Costs in respect of Compensation Fund		10,000		30,000
Statistical Sampling in relation to Thematic Reviews		15,000		0
Costs associated with the implementation of PII Sandbox		10,000		0
Transparency Thematic Reviews		30,000		0
Recruitment for case examiners and other associated fees		0		20,000
Review of Regulatory Arrangements		0		30,000
		<u>91,000</u>		<u>100,000</u>

**2024 BUDGET - DRAFT**

Notes (continued):

*j.* **Legal Choices** - budgeted at the same level as 2022.

*k.* **Staff Costs**

	<u>2024 Budget - Draft</u>		<u>2023 Budget comparative</u>	
	£	£	£	£
CEO		96,600		88,410
Regulatory Officers		300,600		321,700
Administrative Staff		84,350		77,250
Employer's National Insurance		56,450		62,400
Pension Costs		12,000		13,150
Staff Benefits		11,000		10,000
Staff development and training		5,000		5,000
		<u>566,000</u>		<u>577,910</u>

Staff costs - the 2024 budget has a projected increase of 5% for current IPReg staff salaries. The 2023 Budget anticipated a 5% increase for staff. The IPReg Board decided in January 2023 that, given the then rate of inflation, staff salaries should increase by 9.3%.

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

## Regulatory Objectives – Legal Services Act 2007

<b>RO1</b>	Protecting and promoting the public interest
<b>RO2</b>	Supporting the constitutional principles of the rule of law
<b>RO3</b>	Improving access to Justice
<b>RO4</b>	Protecting and promoting the interests of consumers
<b>RO5</b>	Promoting competition in the provision of services
<b>RO6</b>	Encouraging an independent, strong, diverse and effective legal profession
<b>RO7</b>	Increasing public understanding of the citizen’s legal rights and duties
<b>RO8</b>	Promoting and maintaining adherence (by authorised persons) to the professional principles



## ACTUAL v BUDGET FOR 6 MONTHS ENDED 30 JUNE 2023 AND PROJECTION v BUDGET YEAR ENDED 31 DECEMBER 2023

THESE FIGURES HAVE BEEN PREPARED FOR MANAGEMENT INFORMATION PURPOSES AND ARE UNAUDITED

	Note	6 ME 30-6-2023			YE 31-12-2023		
		Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
<b>INCOME</b>	<i>a.</i>	<u>1,130,881</u>	<u>1,095,397</u>	<u>35,484</u>	<u>1,148,661</u>	<u>1,106,462</u>	<u>42,199</u>
<b>EXPENDITURE</b>							
<b>LEGAL SERVICES BOARD AND LEGAL OMBUDSMAN</b>	<i>b.</i>	40,565	41,050	485	82,787	82,100	-687
<b>OPERATIONAL EXPENDITURE</b>							
Board/Directors	<i>c.</i>	38,412	44,850	6,438	77,921	89,700	11,779
Conduct & Disciplinary incl. Assurance & Litigation	<i>d.</i>	14,600	21,250	6,650	77,578	42,500	-35,078
Corporation Tax	<i>e.</i>	1,067	75	-992	2,467	150	-2,317
Diversity Initiatives	<i>f.</i>	12,800	8,500	-4,300	22,800	17,000	-5,800
Education & Projects	<i>g.</i>	5,211	2,500	-2,711	9,035	5,000	-4,035
Financial Expenses	<i>h.</i>	4,466	5,500	1,034	6,714	7,000	286
General Administration Expenses	<i>i.</i>	46,484	52,585	6,101	98,455	105,170	6,715
IT Support (office and website)	<i>j.</i>	22,776	43,750	20,974	62,119	87,500	25,381
Legal & Professional	<i>k.</i>	17,349	50,000	32,651	82,315	100,000	17,685
Legal Choices		2,900	2,900	0	5,800	5,800	0
PR/Communications		2,400	1,500	-900	3,000	3,000	0
Staff Costs	<i>l.</i>	271,058	288,955	17,897	536,456	577,910	41,454
<b>TOTAL EXPENDITURE</b>		<u>480,088</u>	<u>563,415</u>	<u>83,327</u>	<u>1,067,447</u>	<u>1,122,830</u>	<u>55,383</u>
<b>OPERATING BALANCE</b>		<u>£650,793</u>	<u>£531,982</u>	<u>£118,811</u>	<u>£81,214</u>	<u>-£16,368</u>	<u>£97,582</u>

See notes overleaf

**ACTUAL v BUDGET FOR 6 MONTHS ENDED 30 JUNE 2023 AND PROJECTION v BUDGET YEAR ENDED 31 DECEMBER 2023**

THESE FIGURES HAVE BEEN PREPARED FOR MANAGEMENT INFORMATION PURPOSES AND ARE UNAUDITED

Notes:

**a. Income**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
Budgeted Practice Fees - Attorneys & Entities	1,116,738	1,095,397	21,341	1,130,228	1,106,462	23,766
Other Income						
Interest Received	5,616	0	5,616	9,706	0	9,706
Late payment penalty fees	1,292	0	1,292	1,292	0	1,292
Role holder registrations	3,200	0	3,200	3,400	0	3,400
Accreditation Recharge	4,035	0	4,035	4,035	0	4,035
	14,143	0	14,143	18,433	0	18,433
	1,130,881	1,095,397	35,484	1,148,661	1,106,462	42,199

Budgeted Practice Fee Income for 2023 - 6% increase applied to the estimate of the final practice fee income for 2022, which includes a provision for attorney admissions and a reduction for voluntary removals/removals in 2023.

The renewals process is undertaken in the first three months of the year and accounts for approximately 98% of the total practice fees. The 6 month budget comparison has used 99% of the total practice fees. It should be noted that the number of individual applicants for admission to the Registers is higher than at the same point in previous years.

Other Income - no estimate has been made for budgeted 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. Included in Other Income is the recharge of costs for the review of the delivery of the implementation plan for the IPReg accreditation of patent and trade mark qualifications at Queen Mary University London.

**b. Legal Services Board and Legal Ombudsman**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
LSB Levy	38,065	38,550	485	77,787	77,100	-687
LeO/OLC Levy	2,500	2,500	0	5,000	5,000	0
	40,565	41,050	485	82,787	82,100	-687

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. Board/Directors**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
Replacement of Board Members	0	2,500	2,500	0	5,000	5,000
Remuneration	34,241	33,550	-691	69,359	67,100	-2,259
Travel & Subsistence	2,886	6,700	3,814	4,886	13,400	8,514
Employer's National Insurance	1,285	2,100	815	3,676	4,200	524
	38,412	44,850	6,438	77,921	89,700	11,779

Board members are also directors of The Intellectual Property Regulation Board Limited.

Fees - remain at the same level as 2020.

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.

Additional fees charged by directors have been allocated where applicable to the relevant budget lines and are not shown in Remuneration.

**d. Conduct & Disciplinary incl. Assurance & Litigation**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
External Legal costs and hearing costs	9,444	17,500	8,056	72,422	35,000	-37,422
Training of panel members	5,156	3,750	-1,406	5,156	7,500	2,344
	14,600	21,250	6,650	77,578	42,500	-35,078

**ACTUAL v BUDGET FOR 6 MONTHS ENDED 30 JUNE 2023 AND PROJECTION v BUDGET YEAR ENDED 31 DECEMBER 2023**

THESE FIGURES HAVE BEEN PREPARED FOR MANAGEMENT INFORMATION PURPOSES AND ARE UNAUDITED

Notes (continued):

**e. Corporation Tax**

Corporation Tax is payable on interest received which is higher due to the increase in interest rates (see Interest Received in note a.).

**f. Diversity Initiatives**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
Donations	12,800	3,500	-9,300	12,800	7,000	-5,800
Diversity Survey	0	5,000	5,000	10,000	10,000	0
	<u>12,800</u>	<u>8,500</u>	<u>-4,300</u>	<u>22,800</u>	<u>17,000</u>	<u>-5,800</u>

**g. Education & Projects**

Education includes the costs that were recharged to Queen Mary University in respect of the review of the delivery of the implementation plan for the IPReg accreditation of patent and trade mark qualifications (see note a.).

**h. Financial Expenses**

The largest component of the Financial Expenses budget line relates to commission on card transactions, which is predominantly incurred during the first three months of the year (the renewal process). The six month budget comparative has been adjusted to reflect this.

**i. General Administration Expenses**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
Licence & Services	39,600	41,085	1,485	79,200	82,170	2,970
Other Office Costs	7,184	11,500	4,316	20,155	23,000	2,845
Write back of provision against recoverability of costs awards	-300	0	300	-900	0	900
	<u>46,484</u>	<u>52,585</u>	<u>6,101</u>	<u>98,455</u>	<u>105,170</u>	<u>6,715</u>

Licence &amp; Services - the budget estimated a 5% increase when the licence &amp; services agreement expired at end of March 2023, however we were able to extend our licence to March 2024 with no increase.

**j. IT Support (office and website)**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
Support	4,642	6,750	2,108	11,804	13,500	1,696
CRM - Operational	6,613	7,000	387	13,794	14,000	206
CRM - Enhancements	11,521	30,000	18,479	36,521	60,000	23,479
	<u>22,776</u>	<u>43,750</u>	<u>20,974</u>	<u>62,119</u>	<u>87,500</u>	<u>25,381</u>

CRM - Enhancements - budgeted expenditure in respect of the website redevelopment &amp; enhancements arising from the regulatory arrangements review.

**k. Legal & Professional**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual £	Budget £	Variance £	Projected £	Budget £	Variance £
Legal & Professional Costs	12,127	10,000	-2,127	22,315	20,000	-2,315
Actuarial and Legal Costs in respect of Compensation Fund	0	15,000	15,000	30,000	30,000	0
Recruitment for case examiners and other associated fees	0	10,000	10,000	0	20,000	20,000
Review of Regulatory Arrangements	5,222	15,000	9,778	30,000	30,000	0
	<u>17,349</u>	<u>50,000</u>	<u>32,651</u>	<u>82,315</u>	<u>100,000</u>	<u>17,685</u>

Legal &amp; 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.

**ACTUAL v BUDGET FOR 6 MONTHS ENDED 30 JUNE 2023 AND PROJECTION v BUDGET YEAR ENDED 31 DECEMBER 2023**

THESE FIGURES HAVE BEEN PREPARED FOR MANAGEMENT INFORMATION PURPOSES AND ARE UNAUDITED

Notes (continued):

**i. Staff Costs**

	6 ME 30-6-2023			YE 31-12-2023		
	Actual	Budget	Variance	Projected	Budget	Variance
	£	£	£	£	£	£
CEO	46,005	44,205	-1,800	92,010	88,410	-3,600
Regulatory Officers	153,110	160,850	7,740	296,347	321,700	25,353
Administrative Staff	40,977	38,625	-2,352	81,517	77,250	-4,267
Employer's National Insurance	20,881	31,200	10,319	47,377	62,400	15,023
Pension Costs	5,338	6,575	1,237	11,227	13,150	1,923
Staff Benefits	4,087	5,000	913	7,318	10,000	2,682
Staff development and training	660	2,500	1,840	660	5,000	4,340
	<u>271,058</u>	<u>288,955</u>	<u>17,897</u>	<u>536,456</u>	<u>577,910</u>	<u>41,454</u>

Staff costs - the 2023 budget has a projected increase of 5% for current IPReg staff salaries. The IPReg Board decided in January 2023 that given the then rate of inflation, staff salaries should increase by 9.3%.

The budget for Regulatory Officers was based on estimates to implement the proposed restructure which is now in place and is slightly different to the budgeted plan.

Employer's National Insurance - the budget included the additional 1.25% Health & Social Care Levy which was reversed by the Government.

**RESERVES AS AT 30 JUNE 2023**

Please note: the Operating surplus for the 6 months ended 30 June 2023 is a draft figure and is unaudited

	Note	£	£
<b>COMMITTED RESERVES</b>			
Compensation Fund Reserve			<b>100,000</b>
<b>UNCOMMITTED RESERVES</b>			
Board & Chairman Appointments/Communications Reserve	1		<b>10,000</b>
General Contingency Reserve			<b>200,000</b>
Assurance Disciplinary & Litigation Reserve			<b>210,000</b>
Funding Diversity Initiatives Reserve			<b>20,000</b>
Regulatory Review Reserve	2		<b>50,000</b>
Disciplinary Panel Recruitment & Training Reserve	1		<b>15,000</b>
Research Reserve	1		<b>25,000</b>
IT/Website Reserve			<b>60,000</b>
Governance Reserve	1		<b>16,000</b>
Income & Expenditure Account			
Brought forward at 1-1-2023	3	<b>35,947</b>	
Operating surplus for the 6 months ended 30 June 2023		<b>650,793</b>	
		<hr/>	<b>686,740</b>
			<hr/> <hr/> <b>£1,392,740</b>

The Board approved the following adjustments to the Reserves at the 13 July 2023 meeting:

- 1 To close the Board & Appointments/Communications Reserve, Disciplinary Panel Recruitment & Training Reserve, Research Reserve and Governance Reserve and to amalgamate the balances into a new Reserve called the General Operational and Research Reserve.
- 2 To transfer £50,000 from the Regulatory Review Reserve to the General Contingency Reserve.
- 3 To transfer £30,000 from the Income & Expenditure Account to the General Contingency Reserve (£20,000) and General Operational and Research Reserve (£10,000).

[See our Reserves Policy](#)

## **Consultation Responses – Analysis and comments**

### **Introduction**

1. IPReg received 33 responses to the consultation.

Of these:

a. 33 made substantive comments. These were from:

<b>Respondent</b>	<b>Both Registers</b>	<b>Patent Register</b>	<b>Trade Mark Register</b>
Single attorney firm	2	2	1
Sole Trader	1	1	2
In house		5	2
Not actively practising			1
Small firm (< 10 attorneys)			
Medium firm (10 - 40 attorneys)	1		
Large firm (> 40 attorneys)	3		
Small firm employee	1		
Medium firm employee	1	1	
Large firm employee			1
IP Inclusive	n/a		
CIPA	n/a		
CITMA	n/a		
IP Federation	n/a		
Legal Services Consumer Panel	n/a		

b. A further 3 respondents acknowledged the consultation but did not provide detailed comments.

<b>Respondent</b>	<b>Number</b>
Trade Mark attorney in private practice	2
Patent Attorney in private practice	0
Firm on both registers	0
Trade Mark Attorney in-house	0
Patent Attorney in-house	1

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

2. There was generally broad support for the work set out in the Business Plan, in particular the work on education. More than one registrant respondent emphasised the importance of clients being represented by high quality, suitability qualified attorneys. Their concern is that reducing

barriers should not mean reducing standards and that once barriers have been identified it would be important to know which ones could or should be lowered. There was some scepticism about whether it would be possible to attract more education providers for the foundation level qualifications given the low number of new entrants to the profession each year.

3. Of the **registrant respondents** who raised specific points:

- a. A trade mark attorney in private practice suggested that IPReg should join CITMA in lobbying the SRA to obtain further exemptions for trade mark attorneys from the SQE exams. Alternatively, the registrant suggested that IPReg should support easier access and a less expensive route for trade mark attorneys to obtain litigators' rights;
- b. An in-house patent attorney provided detailed and supportive suggestions to inform our work on barriers to the patent profession. We have contacted the attorney direct to discuss their suggestions as part of our initial work seeking views on our approach. A patent attorney in private practice commented that holding qualifying exams once a year is a "serious diversity barrier" because the stress of only having "one shot" a year is "immense" and people feel obliged to sit the exams when they are not well enough to do so because their employer wanted them to or they did not want to fall behind their cohort. They suggested that the work on education should consider this;
- c. Registrants who commented on our planned work on diversity and inclusion were generally supportive. However, a patent and trade mark single attorney firm expressed concern that our proposed work on diversity was "mere virtue signalling" and asked what was meant by "improving the diversity of the patent attorney profession" and funding "diversity initiatives";
- d. An in-house patent attorney questioned the cost of the website upgrade and the overall staff costs;
- e. A large patent and trade mark firm provided detailed comments on the proposed work on education. Although it has no objection to IPReg considering the issue it should be done on a more cost-effective basis. Specifically:
  - The budget for the work of approaching £100,000 in the absence of any real evidence that the present system is seriously flawed. It cannot support that proposal together with an 8% fee increase;
  - The current system is effective at testing candidates' abilities and it is hard to envisage an effective system that does not test competence in the current four key areas of practice;
  - In practice no one can practise as a patent attorney in the UK unless they are qualified to act before the EPO (because most patent applications are filed there). The EPO requires patent attorneys to have a science degree (other than in certain limited circumstances). This means that the profession is inevitably at graduate-level entry;
  - Qualification routes now are analogous to an apprenticeship because trainees "learn by doing" in supervised practice, private study and optional attendance on courses whilst

being paid. This means that the profession is much more accessible to potential trainees with more limited financial means than other legal professions;

- Traditional supervised practice is the best way to train attorneys because so many of the skills are practical ones such as patent drafting. Compulsory classroom-based training would have an adverse effect on the accessibility of the profession to some candidates and would therefore have an adverse effect on diversity;
- The small size of the profession means that there is a limited market for training courses. Additional providers for the final examinations could risk the financial viability of the current providers.
- Another large patent and trade mark firm said that it welcomed the review of the current patent attorney qualification system including whether the current system is fit for purpose; it also welcomes the work on the accreditation of providers. It considers that there is a strong business case for attorneys to have a STEM degree since this enables them immediately to assimilate client instructions and fully understand inventions. It points out that many have already worked on research projects at universities. The firm does not consider that having an in-house system of training to the same level would be workable.

4. **CITMA** said it generally supported the proposed Business Plan. It also supported the new strategic priorities but wanted to see more specific work on the strategy to increase IPReg's profile to the regulated community and users of IP legal services. CITMA made a number of specific points:

- a. Findings from the work on the route to qualification for patent attorneys are recognised and potentially realised for the trade mark attorney qualification route. There should be no unintended consequences of any changes to the patent qualification route to that for trade mark attorneys;
- b. The importance of engaging with key stakeholders for the work on accredited qualification providers;
- c. Working closely with CITMA on the review of the competency framework;
- d. Support for the thematic reviews but noting that they would probably need to continue into 2025 to understand the full effectiveness of the measures introduced in the new regulatory arrangements;
- e. Whether the work on building the evidence base would include unregulated individuals and entities operating in the IP legal sector;
- f. The need to provide greater clarity and detail about what IPReg is trying to achieve from its work on diversity and how it can be achieved. However, it supports the work on developing our approach to gathering diversity information;



- g. The apparent increase in work responding to LSB consultations, whether this is likely to continue and the proportion of IPReg's overall time and annual expenditure spent on this matter;
- h. IPReg should add to the Business Plan work on:
  - The regulatory risks posed by Artificial Intelligence (“AI”) and how this is managed;
  - Net zero: how IPReg will move towards this, the need for IPReg to commit (either in 2024 or 2025) to a “robust plan to reduce its greenhouse gas emissions” and that IPReg has an important role to play in influencing and encouraging registrants to take positive steps to reduce greenhouse gas emissions.

5. **CIPA’s** response:

- a. Asked IPReg to reconsider its business plan and budget with a view to reducing costs. It suggested that areas where costs might be saved include the review of the patent attorney competency framework and consideration of the development of an apprenticeship framework. CIPA explained that its previous work on apprenticeships concluded that there would be limited potential for apprenticeships for patent attorneys because the post-graduate qualifying exams fall outside the scope of the current funding framework. CIPA also questioned why it was necessary to get external advisers to work on this project given the “challenging financial times for patent attorney firms”. CIPA subsequently clarified that it was not suggesting that IPReg should not review the competency framework but whether the review needed to be done in 2024, given the current financial position and if delaying could deliver a lower increase in fees;
- b. Supported the proposed thematic reviews and offered to work closely with IPReg on issues concerning ongoing competence and reflective practice;
- c. Encouraged IPReg to consider how it can incorporate the voices of smaller firms in its work, particularly on EDI.

6. **IP Inclusive** said that it is pleased to see that EDI plays “such a key part” in IPReg's proposed plans, particularly through the education-related projects. It particularly welcomed the intention in the strategic objectives to carry out our regulatory activities inclusively. It considers that there are a number of measures in the Business Plan that are likely to improve diversity and inclusion and that this work is therefore an appropriate use of IPReg's resources. Specific points on the Business Plan were:

- a. Particular support for the review of qualification pathways and barriers to entry to the patent profession including exploring alternative routes to qualification. It recommended that the review should include qualification routes for career changers including those who want to move from other IP and/or STEM-related roles;
- b. The review of the patent attorney competency framework will be crucial: it is important to identify the essential requirements before exploring routes to achieving them. A new

framework will also help employers to select and appoint more objectively as well as facilitating the design of continuing competency frameworks;

- c. The review of the accreditation handbook and ongoing reviews of accredited providers as well as encouraging new providers is welcome. Accredited providers should be required to conduct EDI impact assessments to ensure that their training and assessment processes are accessible – providers are required to provide EDI policies as part of the accreditation process and to provide EDI data as an element of the annual reporting mechanism;
  - d. Concern that the draft plan made no reference to gathering EDI-related data. IP Inclusive believes that it is vital that another diversity survey is undertaken in 2024. This will enable the data to underpin the education work and conduct more accurate Equality Impact Assessments (EIAs). EDI data-gathering should also be included in the annual return process;
  - e. The website redevelopment should ensure that best practice is followed on digital accessibility.
7. **The Legal Services Consumer Panel** (the Panel) provided detailed comments and suggestions on the Business Plan. At a high level the Panel’s view is that IPReg’s strategic priorities are not based on promoting consumer interests and it is therefore difficult to understand how the areas of work will impact on consumer interests. The Panel stated:
- a. Driving initiatives to improve EDI is of “vital importance”. The Panel also agreed that prioritising work on education and continuing competence was important. However, its view is that that the rationale for prioritising these areas of work should be the benefit to consumers;
  - b. On IPReg's work on transparency of information about financial benefits that firms receive, the Panel’s referred to its work on standardisation which emphasises that where practicable, information should be standardised to help consumers understand their rights or information better. The Panel said that regulators can help providers and consumers by designing templates or forms of words that give consumers a realistic chance of comprehending the information being provided. It noted that there may be good reasons for IPReg's decision not to require standardisation of the information that firms provide to consumers but those reasons had not been explained. The Panel hopes that the planned monitoring and evaluation of the transparency requirements would include testing consumers’ comprehension of the information provided;
  - c. That it supports the work IPReg is doing on the PII Sandbox but is concerned that work across the legal sector on this issue may not be joined up. It wants consumer protection to “be at the heart of the sandboxes”. It acknowledges that IPReg is adopting a “pragmatic approach” to this issue and wants IPReg to ensure that multiple insurance providers do not lead to unjustifiable gaps in protection or fragmentation. Monitoring and evaluation must consider any consumer protection issues that arise;
  - d. That it is disappointed that the Business Plan does not have any workstream for primary consumer research. It considers that IPReg's evidence base must include “direct intelligence” from the end-users of regulated services. The Panel encouraged IPReg to consider its report

on how regulators can be more consumer-focused and prioritise the interests of consumers in its regulatory activities;

- e. IPReg should be more advanced in terms of diversity data collection and there should be better defined outcomes and workstreams for achieving the goals described in the Business Plan. The Panel is not convinced that the workstream will address the “known deficiencies” in this area and that an EIA of the business plan areas of work could be useful to help IPReg to focus its work on practical diversity issues.

8. **The IP Federation** discussed the consultation in a meeting with IPReg on 24 August. It made the same point as CIPA in terms of the timing of the consultation. It noted that fees for in-house attorneys are already lower than those in private practice, reflecting the lower level of regulatory supervision that is generally required. The IP Federation expressed significant support for the proposed work on EDI and was particularly supportive establishing an apprenticeship programme. It also pressed IPReg to update its data on diversity. The IP Federation said that it would be very important to review the effectiveness of the new continuing competence framework through the thematic review that is planned. In addition, it underlined the increasing use of AI and the importance of IPReg being involved in discussions about the implications for the regulated IP legal sector.

#### **IPReg response**

##### ***Education***

9. We welcome the broad support of respondents for our planned activities and the recognition of the importance of the work we plan to do on education and its link to improving the diversity of the professions. The level of support for this work indicates that many people who are involved with the profession or who are practising attorneys recognise that there is evidence that the current approach may not be the optimum one. Our approach will be to try to get consensus on what aspects of the current system work well and what could be changed/improved. The budget that we have allocated to the work on education is an indication of the importance that the IPReg Board places on this topic and the fact that we will need external expertise on a number of different factors.
10. We are aware of the requirements of the EPO and our thinking around apprenticeships will include consideration of degree apprenticeships. We very much welcome the support of the IP Federation on this issue and will work closely with them and other stakeholders as we progress this work.
11. The work on barriers to qualifying as a patent attorney will identify the competencies that a newly qualified attorney must have and the standard that is expected of them. We agree with IP Inclusive that this is a crucial element in the project. IPReg recognises the importance of ensuring that all attorneys have the appropriate knowledge and skills to be admitted to the register. We plan to engage with a very wide range of stakeholders and will include those who may have concerns about our work and/or approach to ensure that their concerns are taken seriously. The pressure placed on candidates due to a single annual sitting of the examinations is a valid issue and one that will be included in the overall project scope.
12. All of this work may make this sector more attractive to training providers. However, we recognise that they will make commercial decisions whether to expand into the IP training sector.

13. We agree with CITMA that lessons learned from the work may be helpful in considering whether a similar project should be undertaken for trade mark qualifications. We look forward to working closely with CITMA and CIPA on the reviews of the competency frameworks.
14. In terms of the SRA's requirements for exemptions to the SQE, we will provide information to CITMA and the SRA if requested to do so. In terms of litigators' rights and the training for that qualification, when we consulted on this as part of the review of our regulatory arrangements there was no consensus about the appropriateness of the current tiered structure of litigation qualifications. We do intend to revisit this in due course as part of our work on education. In terms of the cost of the current courses, one of the current providers offers payment by instalments and we welcome applications from new providers that meet the relevant accreditation standards.
15. A key driver for the work on barriers to the patent profession is to improve its diversity. This is a major project for IPReg and is likely to be undertaken over at least the next two to three years and possibly longer given the dependencies on external parties such as education providers and employers. The results of this work in terms of the impact on the diversity of the profession will take some time to become evident – even if cause and effect can be established.

#### ***Building our evidence base including diversity data***

16. We note the comments about the importance of undertaking a diversity survey and that the results from that will be one element of the evidence base supporting the review of barriers to becoming a patent attorney. We have added an additional £10k to the budget for diversity work to enable us to undertake a survey in 2024.
17. In terms of building our evidence base more generally, we do not plan to undertake specific work on unregulated providers. However, where it is relevant to our work, we will have regard to work undertaken (for example) by the SRA and the LSB on unregulated providers of legal services. We note the Panel's view that we should undertake research work specifically on the needs of consumers who use IP legal services. However, market research is an expensive undertaking and work undertaken by the LSB and the Panel shows how few consumers and small businesses use regulated IP lawyers.<sup>1</sup> Given the other work that we propose to undertake, we therefore do not consider that it would be an appropriate use of our resources to undertake this type of research.

#### ***Website upgrade***

18. IPReg's website and Customer Relationship Management portal ("CRM") runs on a platform called Drupal. The current version of Drupal will no longer be supported and the new version of Drupal that must be used is not merely an upgrade in the software, but requires a complete migration of data to the new version. IPReg's CRM is intrinsically linked to its website. Attorneys can log into their IPReg accounts and update the information which is then immediately displayed on the public registers, as well as provide IPReg with other information as required. Both the website and the CRM therefore need to be migrated to the new system, and as IPReg has no internal IT expertise, external technical support is required.

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<sup>1</sup> The LSB's small business survey identified 25 businesses who had an IP legal need from a sample of 10,000. The Panel's 2023 [tracker survey](#) identified 1% of 3500 consumers who had used a patent attorney and 1% of consumers who had used a trade mark attorney (page 9).

19. We will include consideration of digital accessibility in the upgrade. Following IP Inclusive’s suggestion, we are actively reviewing whether we can make the documents that we publish on our website from now on more accessible.

### **Consumer interests**

20. The LSA requires us to consider eight regulatory objectives, one of which is to promote and protect the interests of consumers. The Panel recognises that consumers who use IP legal services are in general more likely to be relatively sophisticated in their understanding of the service they are seeking and more likely to be repeat customers. They are also more likely to shop around when seeking an adviser.<sup>2</sup> We review our strategic objectives each year at our strategy meeting, and our business plan sets out which of the regulatory objectives we consider to be most relevant to each workstream. Given the nature of the client base on the IP sector (predominantly business to business) our [guidance](#) on transparency states:

*“The level of detail that you will need to provide will depend on a number of factors. including whether you have a pre-existing relationship with that client or whether they are new to your firm. You will also want to consider the experience of the client or the person responsible within the client’s organisation who is instructing you. Long standing and sophisticated clients may require less detail at this stage than new clients. Lay clients are likely to require more detailed information and explanation than in-house counsel. Extra care should be taken when dealing with potentially vulnerable clients such as private individuals - in particular where there may be risk factors related to a person’s circumstances (e.g. bereavement, illness or disability, etc.) which increase the likelihood of the client being at a disadvantage or suffering detriment.”*

21. We consider that this approach is more targeted and proportionate than adopting a standardised approach. The thematic review that we plan should provide evidence about how this is working in practice.

### **Other**

22. In terms of CITMA’s response on other aspects of our work:
- a. LSB consultations: the LSB sets out its work in its business plan and consults on it each year. In terms of IPReg's resources, based on the LSB’s indicative levy for 2023/24 of £80,344 which is a 10.34% increase on 2022/23 levy, the estimated levy for 2024 is £86,600 (around 7% of the total budget ). We estimate that around 25% of our FTE policy resources (not including the CEO) are used on LSB activities;
  - b. We agree with CITMA’s suggestion that we should add consideration of the potential impacts of AI to the Business Plan. We have allocated £10,000 from our reserves to support this work initially;
  - c. Given the ambitious work that we have set out, we do not currently plan to undertake work on net zero. We will keep this under review as we go forward.
  - d. As part of our work reviewing our governance arrangements, we are developing a stakeholder engagement strategy. This should help to increase IPReg's profile to the

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<sup>2</sup> See the Panel’s response to our consultation on the new regulatory arrangements.

regulated community and users of IP legal services. We have also identified a group of smaller firms on LinkedIn (see CIPA’s comments) and have arranged an initial meeting with them in September.

**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?**

23. Of the **registrant respondents** who commented on this:

- a. One patent single attorney firm commented that there was no reference to social class in the EIA and that we should consider including it;
- b. A sole trader trade mark attorney said that IPReg should work more closely with schools, universities and Black representative groups to reduce the under-representation of Black attorneys. The same respondent suggested that there should be more attorneys aged 55+ years and that a “tapered down fee structure” might help to achieve that;
- c. A patent attorney in private practice made a number of observations:
  - Many people that would be considered disabled under the Equality Act 2010 do not consider themselves to be disabled. This means that the figure in the EIA for disability is likely to be erroneous;
  - A fee waiver may not be particularly helpful for people with disabilities whose fees are paid by their employer;
  - People who work part time (including those with disabilities and caring responsibilities) usually feel that they have to work harder than their peers to get the same recognition. The changes to the CPD system have made it harder for part time workers to know how much reflection should be carried out and many part time workers are likely to over-compensate; there could be more practical support for them;
  - A large patent and trade mark firm also commented on the under-representation of Black attorneys and suggested that IPReg should focus on this.

24. **CITMA** said that it did not have any particular evidence of the impact.

25. **CIPA** did not comment on the EIA.

26. **IP Inclusive** urged IPReg to conduct a new diversity survey before it consulted on the 2025 practising fees. It considered that for some protected characteristics there is relatively little statistically significant data and the drafting in the EIA was too specific in asserting that an increase in fees had no negative impact. IP Inclusive proposed specific changes to the wording on sex/gender and suggested that the availability of a reduced fee after retirement (for attorneys not in active practice) could be mentioned in the section on age.

**IPReg response**

27. The EIA is based on a template provided by the LSB as part of its requirements for consideration of practising fee applications. It includes all the protected characteristics but does not include other diversity measurements such as social mobility. However, the IPReg diversity data does include that information and we anticipate that we will also include it in the next survey. We will continue to support IP Inclusive in its work by contributing to its operating costs. We will also continue to support organisations such as In2Science working with disadvantaged groups. We have amended the EIA to take into account IP Inclusive’s suggestions.
28. We have considered carefully the impact of a fee increase on attorneys who are not in active practice. Attorneys may be in this category for a number of reasons such as retirement, long term sickness, career breaks, maternity leave, etc. We consider that not increasing the fees for attorneys who are not actively practising may have a beneficial EDI impact. The overall cost to IPReg is around £1,550.
29. We recognise that the fee waiver process may not benefit all attorneys but we consider that it is a targeted and proportionate regulatory tool to help attorneys whose fees are not paid or reimbursed by their employer.
30. We have a webinar arranged for 21 September to focus on the new approach to continuing competence and will specifically address what the changes mean for part time attorneys. IPReg has set out its approach to CPD and part time working on its [website](#).

**Question 3: what are your views on whether we should introduce an application fee for registered bodies?**

31. Of the **registrant respondents** who commented on this, eight supported the proposal and one did not.
32. **CITMA** supports the proposal.
33. **CIPA** commented that while this may seem to be a reasonable approach, it needs to be considered within the overall budget. It considers that without detailed analysis of how practice fee income is calculated, it is not possible to determine the impact of an application fee on IPReg's finances.
34. **IP Inclusive** did not comment.

**IPReg response**

35. We welcome support for this proposal which will provide for the same treatment of registered bodies and licensed bodies. The consultation document explained that we are not able to forecast how many applications we will receive in any one year from registered (or licensed) bodies. This is because decisions to enter the market or change company structure are commercial ones that we as a regulator are not party to.
36. We will include this proposal in the information that we provide to the LSB. We plan that it will come into force on 1 January 2024.

**Question 4: what are your views on whether we should abolish the waiver period (1 November – 23 December)?**

37. Of the **registrant respondents** who commented, six supported the proposal, two did not and one said that they had no strong view. A registrant who did not support the proposal said that they considered the current approach to be “fair and positive”. An in-house attorney who did not support the proposal said that because of the relatively small amount of fee income that would be generated, “the potential backlash from abolishing [the waiver] do not appear to be worth it”; they were also concerned that there might be a glut of applications in the new year.
38. **CITMA** does not have a strong view on this issue. It considers that this is predominantly an administrative issue and assumed that IPReg had looked at the practicalities of implementing the change as well as the costs and fee income benefits.
39. **CIPA** has no strong views on the proposal.
40. **IP Inclusive** did not comment specifically, but mentioned generally the importance of the waiver for cases of hardship.

#### **IPReg response**

41. We do not receive many applications during the waiver period. If applicants had been required to pay fees in this period, we have received an additional £1,744 in fees based on 7 applications at 2023 rates. That fact and the fact that we did not receive many comments on this proposal mean that we do not expect a backlash when it is implemented. The cost of changes to the CRM is expected to be around £1,350.
42. We will include this proposal in the information that we provide to the LSB. We plan that it will come into force on 1 January 2024 for applications made from 1 November 2024.

#### **Question 5: What are your views on the proposal to increase practising fees by 8%?**

43. Of the eight **registrant respondents** who commented that they **did not support the increase**, one is not in active practice, four are working in-house, two are sole traders and one is a single attorney firm:
- a. The trade mark attorney who is not actively practising said that they did not get any benefits from remaining on the register and asked that the fees for attorneys not actively practising should not be increased but should be “drastically decreased” to £10;
  - b. An in-house patent attorney said that their employer would not be happy with any increase because they are under financial constraints. The employer might conclude that they only had to be an EPA (and therefore not have to be on IPReg’s register). The firm had its own diversity policies and industry attorneys do not benefit from IPReg or CIPA. Another said that the proposed increase “seems entirely out of touch” with pay rises and saw very little value” in the fees paid to IPReg and CIPA;
  - c. An in-house trade mark attorney also objected to the proposed increase. The attorney objected to IPReg spending “non-defined money on projects which are not relevant to IPReg’s functions”. In terms of the proposed work on lowering barriers to the patent profession, the attorney considered that it is “not up to IPReg to dictate what kind of people the firms must employ and it is not up to IPReg to influence the attorney representation”. Also, the work on barriers to the patent professions was not relevant to trade mark



attorneys and they should not have to pay for it. The attorney stated that Brexit meant that EU IP work was no longer available for them;

- d. One of the in-house trade mark attorneys considered that an increase of 4% or 5% would be more reasonable;
  - e. Comments from the single attorney firm and sole traders were:
    - The increase was “quite high” for a small practice and that they often had to discount their fees to attract/retain business. Their preference would be to not have an increase for another two years or to have a lower (4%) increase in 2024;
    - The increase in fees would be passed on to clients and because cost was an obstacle to wider use of the patent system, this would further reduce the accessibility of the patent system;
    - Sole traders may work less than full-time for reasons such as childcare, lifestyle choices and fluctuating workflows. A large practising fee increase would therefore disproportionately impact sole traders;
    - An increase larger than the expected rate of inflation will tend to sustain higher levels of inflation more widely;
    - A lower increase could be funded by introducing a slight delay in the implementation of planned activities;
    - There should be a reduction/rebate for those with gross profit below £10,000.
44. A large patent and trade mark firm said that because of the increase in costs that firms had to cope with generally, “recognising that the planned increase in practising fees [of 8% is as a result of] a desire by the Regulator to establish new projects which may not ultimately meet with the professions operational requirements needs to be tempered”.
45. Of the six **registrants** who commented that **they supported an 8% increase**, two are single attorney firms, two are in-house, one is a sole trader and one is in private practice. One in-house patent attorney said that they would support raising fees by more than 8% to support the work on developing alternative routes for patent attorney qualification and “to better regulate the PEB” as well as investing more work on the website.
46. Other **respondent registrants** did not comment directly on the level of the fees but said:
- a. That they were concerned about the cost of regulation and wanted to ensure that it remains proportionate;
  - b. The increase should be as little as possible.
47. **CITMA** said that its overall position is, as in previous years, to hope that fees will be reduced over time. However, it recognises that the current economic climate and inflationary cost

increases cannot simply be absorbed or ignored and therefore considers the proposed increase to be a “reasonable approach”.

48. **CIPA** stated that IPReg should make a public commitment to reduce the cost of regulation and should set out how this will be achieved. It referred to a previous comment from the LSB that IPReg should be able to bring down the level of fees to reflect any reductions in costs and efficiency savings once priority projects identified in 2019 had been completed.<sup>3</sup> CIPA also said that the timing of the consultation over the summer period was disappointing. It accepted that IPReg was under pressure because of the LSB’s timing for considering budget submissions but IPReg should therefore start its budget setting process earlier to enable more time for consultation.
49. **IP Inclusive** did not comment on the proposed increase but emphasised the importance of the waiver for cases of hardship.
50. **The IP Federation** commented that any increase in fees is difficult and all their members were looking at their costs. However, it realised that IPReg’s costs had also increased and that funding was necessary to realise our proposed initiatives. The IP Federation confirmed that it had not had any strong response from their members on the proposed increase. It also commented that it considered work on EDI to be extremely important and was happy for fees to be spent on that area of work.

#### **IPReg response**

51. The IPReg Board considered a number of options for 2024 fees at its meeting [in July 2023](#). It considered the impact of: reducing fees by 2%; holding fees at their 2023 rates; and increases of 2%, 6% and 8.7% (the then level of CPI). The efficiencies that we have gained through the CRM have enabled us to target our resources more effectively to ensure that we are able to fulfil our statutory duties. In addition, there are some costs over which we have no control such as the LSB levy which has increased by 10.34% and now accounts for ~7% of our budget. In addition, around 25% of the team resources are dedicated to responding to LSB consultations, etc. Given these factors, the current economic climate, the recent rate of inflation and the ambitious work programme which received widespread support from respondents, in the IPReg Board’s judgement it would not be prudent to commit now to a reduction in fees at a later date.
52. We recognise that consultations over the summer holiday period are not ideal. We have previously put the consultation back to later in the year but this resulted in an exceptionally tight turnaround time between the LSB’s decision and the start of the annual renewal process. In our view, starting the budget setting process earlier than June/July would make it much harder to anticipate what work we would need to do the following year and much harder to set the budget for that work because so much could change before the end of the year.
53. Please see paragraph 28 for our decision not to increase practising fees for attorneys who are not in active practice. There is a cost to regulating attorneys who are not in active practice, as well as those who are. IPReg’s Overarching Principles which set out expected ethical behaviours, apply to attorneys in both their professional and private lives, insofar as it is relevant to their practice as a regulated person. The fee category for non-practising attorneys is designed primarily for those who are not practising for an intermediate to long term (e.g. 12-24 months)

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<sup>3</sup> There were: the new CRM; review of regulatory arrangements; moving to a more suitable office.

period, but who anticipate returning to active practice. It may also be appropriate for those who are newly retired and who may yet return to actively practising.

54. Attorneys who are retired or otherwise do not intend to return to active practice may consider that there is no benefit to them in remaining regulated by IPReg. Registration with IPReg authorises a person to use a protected title (Patent Attorney, Patent Agent, Registered Trade Mark Attorney or Registered Trade Mark Agent) and to carry on reserved legal activities. However, in practice these are benefits that are likely to be most relevant for those actively practising. Attorneys who do not intend to continue practising but who wish to remain associated with the professions, may wish to explore membership options with CIPA and CITMA as an alternative to regulation.
55. The email that we send to registrants informing them about the fee increase includes drawing to their attention that they do not have to be members of CIPA or CITMA to be on IPReg registers. It is a commercial decision for attorneys whether they want to be a member of a representative body. We will include in that notification email information about the ability to request a waiver in cases of hardship.

**Question 6: What are your views on the proposed 2024 budget (Annex C)?**

56. Of the **registrant respondents** who commented:
- a. An in-house trade mark attorney considered that it was not clear from the email that was sent out how much we had been quoted for the IT upgrade to Drupal 10. The same attorney noted that the Directors' and staff costs were considerably higher than any other expenses and seem out of proportion;
  - b. A large firm on both registers queried the cost of the website upgrade stating that it "seems quite high given its limited functionality". It also commented that the expenditure on the education review and accreditation "seems high especially where the obvious barrier [...] is a STEM degree".
  - c. A sole trader trade mark attorney said that the increase in Board/Directors expenditure from £89,700 to £95,350 seemed high. However, they noted that this was primarily related to the replacement of Board members;
57. **CITMA** had no substantive comments to make on the proposed budget.
58. **CIPA** raised some queries about the methodology that IPReg uses to set its budget. It considers that the calculation of projected income is "overly simplistic and does not contain sufficient information for year-on-year analysis". It notes that no estimate has been made for "other income".<sup>4</sup> CIPA says that the actual income from practising fees for 2023 was higher than IPReg budgeted (closer to £1.156m) and that the 2024 budget figure is an 8% uplift on that. CIPA states that without a detailed analysis of the growth of the regulated community it is difficult for it to support an 8% increase when IPReg's income is projected to increase by 12.9%.

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<sup>4</sup> This is income such as bank interest and application fees from entities and role holders.

59. **IP Inclusive** welcomed the proposed budgets for diversity initiatives and the continuation of a specific diversity reserve. It suggested that there should be a more concrete plan for a new diversity survey. In addition IP Inclusive would welcome the opportunity to work with IPReg to ensure that the diversity budget is appropriately spent on projects that will have a positive impact on the diversity of the professions.

**IPReg response**

60. In terms of the cost of website redevelopment, please see the comments at paragraph 18. We obtained quotes for two companies for the work and the IPReg Board has decided to contract with the lower quote; the proposed budget is based on this.

61. In response to CIPA’s query about IPReg’s income, the budget methodology that we followed in this consultation is consistent with that applied in previous years and was set out in the consultation document. We estimate the number of attorney admissions based on data from previous years and we estimate the number of attorneys who will come off the register (mainly voluntary removals and suspension for non-payment (followed by removal)), again based on data from previous years. We use the net figure in the budget calculations. For the 2024 budget consultation, we used projections of 170 admissions and 50 removals.

62. The actual figures for admissions and removals for the previous 5 years are set out in the table below:

Year	Admissions	Removals
2018	175	110
2019	173	57
2020	116	59
2021	240	67
2022	169	77

63. Both sets of figures appear to have been impacted by Covid and that seems to be continuing into this year. For 2023, admissions are currently above the figures that we estimated when we consulted on the 2023 budget. These figures are reflected in the budget updates that we publish on our website. We estimated 160 admissions in total for 2023. As of 25 August, we have admitted 175 attorneys and have a further 13 applications to process; more trade mark admissions are likely in October. We think that this increase may be due to people who postponed (or failed) their exams during the pandemic taking (and passing) them this year. If that is the case, then we would expect to see admissions in 2024 fall back to normal levels and this number was used for the projections.

64. If net admissions are higher than our best estimate based on the evidence that we have, then our income will increase from the projection used in the consultation. However, if net admissions are lower than our best estimate, we will have a shortfall and may have to use our reserves to cover it. In either case, the percentage increase in fees will have been the same.

**Question 7: Do you have any comments on the draft Practising Fee Regulations at Annex F? These have been redrafted so that they are consistent with the new regulatory arrangements.**

65. There were no comments on the drafting.

**IPReg response**

66. No changes have been made to the Practising Fee Regulations other than to keep the “not in active practice” fee at the 2023 level.

## **IPReg: 2024/25 Business Plan, 2024 Budget and Practising Fees consultation**

1. The Chartered Institute of Trade Mark Attorneys (CITMA) is responding to the consultation by IPReg on their 2024/25 Business Plan, Budget and Practising Fees in its capacity as an Approved Regulator, as defined in the Legal Services Act 2007 (the Act) and as the representative body for Chartered Trade Mark Attorneys and the wider trade mark and design profession. We are grateful to IPReg for the opportunity to comment.

2. Our response answers the specific questions asked in the consultation.

### **Question 1. What are your views on the proposal business plan?**

3. We generally support the proposed business plan.

4. We note the new strategic priorities the IPReg Board has set and would support these as the focus for IPReg, but we would also point out that there appears to be little in the business plan for 2024 in the way of activities to deliver against the third priority area:-  
*“To increase the public profile of IPReg to the regulated community and users of IP legal services.”*

5. There may be some indirect benefits from some of the activities in the business plan, but it would be helpful to see a clearer indication of what work IPReg is proposing to do to directly deliver against this strategic priority.

6. We understand there is a need to focus on aspects related to the route to qualification for Patent Attorneys (PA). We are keen that thought is given throughout this piece of work to the qualification route for Registered Trade Mark Attorneys (RTMA) to ensure that any findings, advancements or beneficial changes are recognised and potentially realised in respect of the RTMA qualification route (where applicable). It is important to ensure that there are no unintended consequences of changes to the PA qualification system on the RTMA qualification route or to RTMAs.

7. With regards to paragraph 8 (accredited attorney qualification providers) we would urge IPReg to ensure that they also engaging with key stakeholders as part of this work. In particular in relation to the areas set out in point 8(a), 8(b) and 8(d).

8. We support the proposal to review the competency framework for RTMAs at the same time as the competency framework for PA. We would welcome engagement from IPReg with CITMA and the profession in this piece of work. We would be happy to be involved to help IPReg with the resource and expertise needed. We will be undertaking a review of the [Advanced Competency Framework for Chartered Trade Mark Attorneys](#), therefore it would make sense to work closely with IPReg to ensure appropriate alignment.

9. A key aspect of IPReg’s work next year will be the bedding in of the new regulatory arrangements, therefore we support the proposed thematic reviews to ensure the new arrangements are effective and achieving the intended aims. Whilst there will be some information and evidence to draw on in 2024, we would envisage the reviews continuing into 2025 to understand the full effectiveness.

10. We would be keen to understand if the work around building the evidence base (paragraphs 15-17) will include unregulated individuals / entities operating in the IP legal sector?

11. We are pleased to see, once again, a ring-fence of reserves for diversity initiatives. It is important for IPReg to support and align with the broader work of the IP profession in this area.
12. We would encourage IPReg to provide greater detail and clarity about what they are trying to achieve and how they think this can be achieved. It would be useful to understand the priority areas and why these are the focus of attention. This is especially important now that “*increasing the diversity of the trade mark and patent attorney professions*” features within the strategic priorities.
13. We support IPReg’s ambition to develop its approach to data gathering as this continues to be an area where firms can struggle to gather data internally due to some small data subsets being exposed to the risk of de-anonymisation. Data collected by IPReg could help to avoid that problem and provide better quality data from which strategies and work can be planned and effective policies implemented.
14. We note the extensive amount of work expected to take place in responding to LSB consultations and related work and the restructuring which has taken place to resource this. The amount of work appears to have increased in recent years and we would be keen to learn if this is likely to continue, what the overall cost implications are as a result of this level of work, as well as the proportion of overall time and annual expenditure to IPReg.
15. We have identified two areas of work absent from the business plan.
16. Artificial Intelligence (AI) and future technology. Whilst AI has been in the pipeline for some time, it has burst on to the scene recently and is an area where there are many risks as well as opportunities. Regulation of AI in its broadest sense is under consideration by the UK Government, but there is no doubt that IPReg will need to consider the regulatory risks AI poses and how this is managed. There are several angles to look at and we hope that this is in IPReg’s purview, and the appropriate work will be undertaken accordingly.
17. Net zero. One area of work we would be keen to see IPReg consider and progress, is action to respond to the UK Government’s target to achieve net zero. The UK Government said in its [2021 ‘Net Zero Strategy’](#) that “The science could not be clearer: by the middle of this century the world has to reduce emissions to as close to zero as possible, with the small amount of remaining emissions absorbed through natural carbon sinks like forests, and new technologies like carbon capture. If we can achieve this, global emissions of greenhouse gases will be ‘net zero’.”
18. We believe that all organisations, including IPReg, need to be moving towards and achieving net zero in the near future.
19. We would like to see IPReg commit to putting in place a robust plan to measure and reduce its greenhouse gas emissions. In addition to this, IPReg has an important role to play in influencing and encouraging its registrants, both individuals and entities, to take positive steps to reduce greenhouse gas emissions.
20. We believe this should feature in IPReg’s 2024 business plan or there should be a commitment for work to commence in 2025.

**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?**

21. We do not have any evidence of the impact that each of the proposals will have on different categories of individuals or firms or any particular comments on the EIA.

**Question 3. What are your views on whether we should introduce an application fee for registered bodies?**

22. We support the proposal to introduce an application fee for registered bodies and the proposed fee structure appears sensible and proportionate.

**Question 4. What are your views on whether we should abolish the waiver period?**

23. We do not have a strong view on whether the waiver period should be abolished or not. We would consider this to predominantly be an administrative consideration and would assume IPReg have looked at the practicalities of administering the fee payments / impact on any subsequent renewal, as well as the costs and fee income benefits.

**Question 5. What are your views on the proposal to increase practising fees by 8%?**

24. In previous responses to practising fee consultations we made it clear that we hoped for a reduction in practising fees, all things being equal, in future years. This was something the LSB supported through an expectation that the cost of regulation would reduce over time. This remains our overall position, but we appreciate the current economic climate and inflationary cost increases cannot simply be absorbed or ignored. We therefore consider the proposal by IPReg to increase fees by 8% to be a reasonable approach.
25. We would hope that for future years IPReg would be able to lower fees or freeze fees to reduce the cost of regulation.

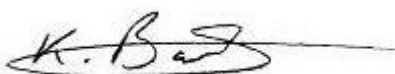
**Question 6. What are your views on the proposed 2024 budget at Annex C?**

26. We have no substantive comments to make on the proposed budget. The budget sets out clearly the income and expenditure forecast which aligns with the Business Plan.

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

27. We have no comments on the draft regulations.
28. We would be happy to discuss any of these points further with representatives from IPReg if it would be of assistance.

For and on behalf of the Chartered Institute of Trade Mark Attorneys



Keven Bader  
**Chief Executive**

21<sup>st</sup> August 2023





Fran Gillon  
Chief Executive  
Intellectual Property Regulation Board  
20 Little Britain  
London  
EC1A 7DH

21 August 2023

By email

Dear Fran,

### **Budget and Business Plan 2024/25**

Thank you for the opportunity to respond to the consultation on IPReg's budget and business plan for 2024/25. The Chartered Institute of Patent Attorneys (CIPA) is responding in its capacity as the Approved Regulator for patent attorneys, as defined in the Legal Services Act 2007, and as the representative professional body for Chartered Patent Attorneys. Whilst accepting that IPReg is under pressure to meet the LSB's deadline for budget submissions, CIPA wishes to record once more its disappointment that the consultation has taken place over the summer holiday period and with a tight deadline for responses. We suggest that IPReg commences its budget setting process earlier to enable more time for consultation.

In previous budget consultations, CIPA has set out the case that IPReg should aim to reduce practice fees, not increase them. This was supported by the Legal Services Board, through its expectation that IPReg should look to reduce the cost of regulation over time. The Legal Services Board was clear that IPReg *'would be in a position to bring down the level of fee to reflect any reductions in costs and efficiency savings'* once the priority projects identified in 2019 were completed. Whilst CIPA recognises that the current financial environment continues to impact on operational costs, we take the view that IPReg should make a public commitment to reduce the cost of regulation and should set out how this will be achieved.

Whilst on the surface it may seem reasonable to increase practice fees in line with inflation, CIPA asks that IPReg reconsiders its business plan and budget with a view to reduce costs. Areas where costs might be saved include the review of the Patent Attorney Competency Framework, as part of the project looking at reviewing barriers to entry to the profession, and IPReg's consideration of the development of an apprenticeship framework for patent attorneys.

CIPA looked at the use of modern apprenticeships for patent attorney training and concluded that, as the post-graduate qualifying examinations fall outside of the scope of the current apprenticeship funding regime, there would be limited potential. The proposed budgeted expenditure for 2024 is £100k more than in 2023 and IPReg has ringfenced £90k for these activities. CIPA questions whether it is necessary to increase practice fees to resource *'significant input from external advisers such as academics, qualified attorneys and analysts with expertise in education syllabi and the development of competency frameworks'*, particularly in these challenging financial times for patent attorney firms.

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CIPA believes that IPReg is right to be fully focussed on ensuring that the new regulatory arrangements are understood and embedded in the practice of patent attorney firms. We support the proposed thematic reviews and will continue to work with IPReg and CITMA on initiatives to ensure that the new arrangements are delivering the intended outcomes. We particularly look forward to working with IPReg in the area of ongoing competence and establishing reflective practice as the means of assessing individual continuing professional development (CPD). This is a significant cultural shift in professional learning, and we would expect there to be further work required to encourage compliance.

CIPA recognises that the LSB requires IPReg to take a proactive leadership role in the area of EDI and we note that IPReg has set aside £20k for diversity initiatives. This includes work on data gathering and research to improve the data IPReg holds for individuals and firms in order to establish a clearer picture of the profession. The business plan identifies key stakeholders in addition to CIPA and CITMA, such as the Intellectual Property Practice Directors Group (IPPDG) and the IP Federation. We urge IPReg to consider how it can incorporate the voices of smaller firms in this work. Larger IP firms will have the internal resources required to attend to data gathering and diversity initiatives, whilst smaller firms will need more targeted support.

In relation to the budget methodology adopted by IPReg, CIPA is concerned that the calculation of projected income is overly simplistic and does not contain sufficient information for year-on-year analysis. IPReg had a budgeted income for 2023 of £1.106m. The budgeted income for 2024 is £1.249m, an increase of 12.9% set against a proposed practice fee increase of 8%. The note on how the budget figure for 2024 is derived explains that an increase of 8% has been applied to the estimate of the final practice fee income for 2023 and that a provision has been made for attorney admissions reduced by voluntary removals/removals in 2024. No estimate has been made for other income.

We conclude from this that IPReg's actual income from practice fees for 2023 was higher than the budgeted figure, closer to £1.156m, and that the 2024 budget figure is an 8% uplift on this. If numbers of registered attorneys and entities are increasing, resulting in a higher income than budgeted for, CIPA would expect to see this in IPReg's budget, with the income being a combination of growth in the regulated community and the proposed increase in fees. In setting its annual budget, CIPA undertakes a detailed analysis of trends in membership growth and uses this to determine any increase in membership fees. Without a detailed analysis from IPReg of the growth in the regulated community, it is difficult for CIPA to support a proposed 8% increase in practice fees when IPReg's income is projected to increase by 12.9%.

In relation to the introduction of an application fee for registered bodies, whilst this may seem to be a reasonable approach and the proposed fee structure aligns with existing practice, this needs to be considered within the overall budget. Without a detailed analysis of how practice fee income is calculated, it is not possible to determine the impact of an application fee on IPReg's overall financial picture.

CIPA has no strong views on the proposal to abolish the waiver period, on the draft Practising Fee Regulations at Annex F and on the draft regulations.

Yours sincerely



Lee Davies  
Chief Executive

# IPReg’s 2024/25 business plan and budget: IP Inclusive consultation response

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## 1 Introduction

These submissions are made by the IP Inclusive initiative, in response to IPReg’s July 2023 consultation on its 2024/25 business plan, budget and practising fee proposals.

They are made on behalf of the UK-based IP professionals – including many registered patent and trade mark attorneys – who support IP Inclusive in its efforts to improve equality, diversity, inclusion and wellbeing across the UK’s IP sector.

## 2 General comments

We are pleased to see that equality, diversity and inclusion (EDI) play such a key part in IPReg’s proposed 2024/25 plans, in particular through its education-related projects (see 3.2 below). Increasing diversity is, we believe, beneficial for both the patent and trade mark professions and their clients, as well as one of the regulatory objectives under the Legal Services Act 2007.

We are also pleased to see the continued use of equality impact assessments in considering practising fee levels, although we recommend that the evidence base for these assessments be updated more frequently: see 6.1 below.

We applaud IPReg for highlighting, in its strategic objectives, an intention to carry out its regulatory activities inclusively. An inclusive regulator sets the tone for the regulated professions as a whole, and is vital for their strength and development.

## 3 The draft 2024/25 business plan

### 3.1 Improving diversity and access

The proposed 2024/25 business plan includes a number of measures likely to improve diversity and inclusivity in, and access to, the patent and trade mark professions. These we welcome as an appropriate use of IPReg’s resources, and one which is likely to have a significant positive impact on the regulated community.

We are pleased that “funding diversity initiatives” is one of the anticipated main areas of work, as well as “continuing to build our evidence base about the IP sector”. Regarding the latter, we hope to

see more progress in the gathering of EDI-related data during the next twelve months (see 3.4 below) and stand ready to help with that where we can.

We agree that it is important for IPReg to continue to work with, and contribute to, cross-sector work on EDI. Learning from others in the legal and wider professional services sectors, sharing research and experiences, establishing collective approaches to information gathering and to designing, implementing and evaluating interventions – these are all key, we believe, to the effective promotion of EDI. They are likely to be particularly valuable for smaller regulators such as IPReg, which need to identify resource-efficient solutions and avoid duplication of, or non-alignment with, relevant work being done elsewhere.

We would however urge IPReg to apply these learnings in a proportionate way and one that is appropriately tailored for the sector it regulates, in which EDI issues will not necessarily play out in the same way as in the wider legal sector. IPReg’s current consultative and collaborative approach to regulatory change should help ensure that happens.

## **3.2 Education-related projects**

### *3.2.1 General*

We are delighted to see IPReg’s proposed focus, in the next year, on education, training and routes of entry. We agree that the intended projects are likely to have a positive impact on diversity within the regulated sector and on its accessibility to a wider range of recruits; they therefore constitute a sensible use of IPReg’s resources in view of its regulatory objectives. We stand ready to work with IPReg on the design, implementation and evaluation of these projects, alongside our own ongoing efforts to improve diversity in the IP professions.

### *3.2.2 Qualification routes and barriers to entry and progression*

We particularly support the intended review of qualification pathways and barriers to entry into the patent profession. We welcome the chance to explore alternative routes to qualification that might improve access and in turn allow the profession to recruit a more diverse range of people, for example via “equivalent means” or apprenticeships.

We recommend that the review encompass qualification routes for career changers, including those who wish to move from other IP- and/or STEM-related (for example R&D or entrepreneurial) roles.

Crucial to this process, we believe, will be the review of the patent attorney competency framework (see 3.2.4 below). It is important to identify the essential requirements for qualifying as a patent attorney, before exploring the routes to achieving those requirements.

In paragraph 23 of the draft business plan, IPReg notes that it will be using its work on diversity – including the data it gathers from the regulated professions – to inform its education workstreams, to identify and understand barriers to entry and progression, and thus to improve opportunities in the early stages of education and training. We very much support this approach, so long as the data is sufficiently current: see 3.4 below.

### *3.2.3 The European Qualifying Examinations (EQEs)*

We are encouraged that IPReg intends to take account of changes to the EQEs. These can have a significant impact on the UK patent profession's ability to recruit, train and quality-assure its new attorneys, and as such we believe IPReg is an important stakeholder. We would be happy to collaborate with IPReg on measures to ensure the EQEs do not present an inappropriate barrier to entry into the profession.

### *3.2.4 The competency framework*

We also welcome IPReg's proposed review of its competency framework. This will provide a more sound basis for the recruitment of new talent into the regulated professions; help employers to select and appoint more objectively; reduce the risk of unconscious bias and other forms of discrimination; inform the creation of potential new routes of entry; and in turn improve access to the professions. It should also help education providers to build, and IPReg to accredit, appropriately tailored courses.

An accurate and up-to-date competency framework will, moreover, facilitate the assessment of trainee and qualified attorney development and the design of continuing competence safeguards. It is likely to be welcomed by many IP sector employers, in particular signatories to the IP Inclusive EDI Charter.

### *3.2.5 Education providers and their accreditation*

We applaud IPReg's ambition, in its strategic priorities for 2024/25, to "increase the range of good quality education providers" that it accredits. We agree that this – alongside an inclusive and accessible qualification regime and a range of qualification routes – can be a valuable way of increasing diversity in the trade mark and patent attorney professions. We therefore welcome IPReg's plans to review its accreditation systems and accredited providers, as well as those to work with accredited and potential providers to "encourage new qualification pathway options".

In order to reduce unnecessary, and potentially discriminatory, barriers to entry, we urge IPReg to require accredited providers to conduct EDI impact assessments; to ensure that their training and assessment processes are appropriately accessible; and generally to recruit, train and evaluate both fairly and inclusively.

## **3.3 Thematic reviews**

We note that IPReg proposes to conduct "thematic reviews" into a number of its regulatory arrangements, including the recently-introduced continuing competence provisions. We would appreciate being kept informed of outcomes relevant to EDI- and wellbeing-related training, as we are keen to understand their value to the regulated professions and to improve the available resources.

## **3.4 Diversity data gathering**

We welcome IPReg's intention to continue to build its evidence base about the IP sector, which we understand will extend to EDI-related data. We note, however, that the diversity data gathering

referred to in the 2023/24 business plan has not yet happened, and are concerned that the new draft plan makes no concrete commitment on this front.

IPReg has allocated £10,000 of its proposed 2024 budget for “diversity research”. The draft business plan refers to “developing our approach to data gathering/research” and “identifying ways to improve the diversity data we hold for individuals and firms to get a clearer picture of the makeup of the profession”. This is intended to “provide a platform that will inform our EDI workstreams and enable us to develop a longer-term EDI strategy.”

There is, however, no specific reference to the gathering of EDI-related data during the period in question. This was last done in 2021 and we believe it is vital that it be repeated soon, not only to inform the education-related projects discussed above but also to allow IPReg to conduct more accurate equality impact assessments for its future activities and plans. We disagree with IPReg’s position that the 2021 data is still relevant to its regulatory activities “since there are unlikely to have been significant changes in the diversity of the profession since the survey was undertaken”: see our comments at 6.1 below.

We therefore urge IPReg to commit to conducting a diversity survey of the regulated community in 2024.

In the longer term, we continue to recommend that an EDI data gathering process be incorporated into IPReg’s annual registration procedures. In these times of tremendous change, both within the regulated professions and outside as well as in IPReg’s own regulatory arrangements, a variation in diversity statistics can have a significant impact, especially if – as in the patent and trade mark sector – the statistics start from a relatively low diversity baseline. It is important that IPReg has up-to-date evidence, not only to inform its annual practising fees review but also to evaluate the impact of recent changes to its regulatory arrangements and the intended diversity-improving measures in its business plan. This will also help it to target its future EDI initiatives more effectively.

We remain of the view that for the patent and trade mark professions, it is the regulator that is best placed to gather this data and to provide accurate diversity benchmarks for its registrants, their businesses, their clients and other legal sector regulators. It therefore has a responsibility to do so. As before, IP Inclusive stands ready to assist in the development and promotion of EDI surveys, in ensuring alignment of approaches to EDI data gathering across the sector, and in optimising participation levels.

### **3.5 Website redevelopment**

IPReg plans to invest significant resources during 2024/25 in the redevelopment and enhancement of its website and underlying databases. We urge IPReg to ensure that these developments follow best practices on digital accessibility, in particular for disabled (including neurodivergent) people. In addition, people without reliable internet access, or who are otherwise unable or reluctant to use online services, should still be able to access regulatory information and support when necessary.

## 4 The proposed 2024 budget

### 4.1 General diversity work

We are pleased to see the inclusion, in the proposed 2024 budget, of a £7,000 allowance for supporting diversity initiatives in the regulated community, underpinned by the continuing £20,000 diversity initiatives reserve.

We note that £10,000 has also been allocated for “diversity research” but would like to see this accompanied by a more concrete plan to refresh the 2021 survey during the period covered by this budget: see our comments at 3.4 above.

Although the allowance for diversity initiatives has not increased in line with inflation since the previous budget, we believe that the additional focus on diversity in the education-related projects discussed above has the result that IPReg’s overall investment in, and commitment to, diversity is increasing. We believe this is important in the current climate, when EDI issues are growing in importance to regulated professionals, their employers, their clients and therefore also the Legal Services Board.

We have very much appreciated and thank IPReg for using some of its previous diversity budgets to assist with IP Inclusive’s operating costs as well as specific projects such as our 2018-2019 website upgrade. This has allowed us to continue our work to promote equality, diversity, inclusion and wellbeing in the UK’s IP sector – a sector which embraces not only IPReg’s regulated community but also the other IP professionals who work alongside them for the benefit of their clients. We hope that this funding can continue during 2024.

Similarly we thank IPReg for its support in promoting and participating in IP Inclusive’s work, in sharing relevant information and experiences, and in collaborating on projects where appropriate.

IP Inclusive, in particular through its regional networks<sup>1</sup>, communities<sup>2</sup> and Careers in Ideas outreach campaign<sup>3</sup> and their respective contacts, would welcome the opportunity to work with IPReg to ensure that the 2024 diversity budget is appropriately spent on projects that will have a positive impact on EDI in the patent and trade mark professions.

### 4.2 IPReg’s working arrangements

We applaud IPReg’s intention to hold its 2024 Board meetings as hybrid events. We believe this will widen accessibility for current Board members and facilitate the recruitment and retention of a diverse membership. This in turn will help the Board to make more rounded decisions, reflecting a range of perspectives from across the regulated professions and their client base.

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<sup>1</sup> See <https://ipinclusive.org.uk/our-regional-edi-charter-networks/>

<sup>2</sup> See <https://ipinclusive.org.uk/community/>

<sup>3</sup> See <https://ipinclusive.org.uk/careers-in-ideas/>

## **5 The proposed 2024 practising fees**

We have no comments on IPReg’s proposed increase to the practising fees in 2024, other than to stress the importance of the discretionary waiver (Regulation 4 of the draft Practice Fee Regulations). We welcome the fact that IPReg intends to maintain the waiver and its availability in any case of hardship. This represents a proportionate way of preventing the fee increase constituting a “back door” barrier to inclusion in the regulated professions.

The availability of such a scheme, to those who need it, is a matter of good practice in a sector that prides itself on its ethical principles and that strives to improve diversity, inclusion and access. We believe it will help the regulated professions to embrace and nurture a wider range of people, in turn contributing to their independence, strength, diversity and effectiveness.

## **6 The equality impact assessment (EIA)**

### **6.1 The evidence base for the EIA**

The draft EIA at Annex B of the consultation paper is supported by data from a 2021 diversity survey, which IPReg considers still relevant since it believes “there are unlikely to have been significant changes in the diversity of the profession since the survey was undertaken”.

We are concerned about this approach. In the absence of evidence as to how or whether diversity levels may be changing, there seems to be more risk in assuming that they are not than in considering that they may be. Given the importance of reliable EDI data to a number of its planned initiatives, we would urge IPReg to secure more timely data in support of future EIAs.

We note that the last few years have seen an increasing focus on EDI throughout the IP sector. This may well have led to changes in recruitment practices and downstream inclusivity, and in turn to changes not only in new admissions but also – we hope – in the retention and career development of existing registrants. The rate of change of declared diversity levels in the regulated community might therefore be expected to have increased compared to that observed historically. It would be helpful to monitor these changes relatively frequently to determine whether retention and progression are evenly spread. Moreover in a relatively small and less diverse sector such as the patent and trade mark professions, even small changes can have a proportionately large impact on overall diversity levels: such changes should be measured and taken into account in EIAs.

We therefore urge IPReg to update its diversity data as soon as possible, and in any case before it conducts an EIA to inform its next review of practising fees in 2024. The results are likely to be of value not only in setting fee levels but also for shaping and evaluating IPReg’s other regulatory activities, in particular those relating to education, training and access to the professions.



We refer again to the comments made in section 7 of our September 2021 submissions on IPReg’s 2022 business plan and budget<sup>4</sup> and section 3.2 of our August 2022 submissions on the proposed 2023 budget<sup>5</sup>, regarding the importance of the regulator gathering EDI data on a more frequent basis than it has done so far. See also 3.4 above.

## **6.2 The importance of the discretionary fee waiver**

Notwithstanding the above comments, there appear to be some protected characteristics for which IPReg has – and indeed may continue to have – relatively little statistically significant data. In these areas we believe it would be difficult for the regulator to say with confidence that proposed increases in practising fees had no negative impact.

We are therefore pleased to see that the discretionary fee waiver will be retained, and that IPReg intends it to apply generally in any case of hardship. As discussed at 5 above, we believe this will help guard against potential problems from the proposed fee increases, even in areas where their impact is currently difficult to assess. We see this as a sensible and proportionate way for a regulator of IPReg’s size to guard against detrimental effects on particular groups.

## **6.3 Disability**

We welcome IPReg’s recognition that the number (or proportion) of disabled people is not relevant to the question of whether, and to what extent, those people could be disadvantaged by fee increases. It is important to see supportive statements like this from the regulator. We agree that the discretionary fee waiver provisions should help alleviate potential negative impacts on disabled people in individual cases of hardship.

It seems likely, regardless of any under-reporting in IPReg’s 2021 diversity survey, that the patent and trade mark professions have a genuinely low proportion of disabled people compared to the LSB’s 15% benchmark. It is important, therefore, that IPReg’s proposed education-related projects take account of the accessibility of the professions for disabled people – including at the point of entry, during training and beyond.

We also believe that the potential under-reporting strengthens the case for IPReg to gather more up-to-date diversity data as soon as possible. Reporting levels may well have changed since 2021 due to increasing awareness and acceptance of disability in the legal professions.

## **6.4 Parenting (the “Pregnancy and maternity” section)**

We are delighted to see that IPReg now accepts applications for moving to the “not in active practice” category from attorneys who are on adoption and parental leave. We believe this will help parents of all genders and in a wider range of circumstances, thus improving diversity and inclusivity throughout the regulated professions. As stated in our 2022 submissions in response to IPReg’s consultation on its 2023/24 business plan and budget<sup>5</sup>, we believe this more gender-balanced approach will encourage a broader range of professionals to take leave to care for young children,

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<sup>4</sup> See <https://ipinclusive.org.uk/wp-content/uploads/2021/09/210930-ipreg-budget-consultation-ip-inclusive-response.pdf>

<sup>5</sup> See <https://ipinclusive.org.uk/wp-content/uploads/2022/08/220816-ipreg-2023-budget-consultation-ip-inclusive-response.pdf>

thus creating a more level playing field for professionals of all genders as they progress through their careers.

## 6.5 Sex/gender

In this section, the draft EIA states: “Middle and junior level attorneys show proportionately higher numbers of women than men.” We believe this needs clarification. It is our understanding that in the middle and junior tiers, there are higher *proportions* of women than there are at more senior levels, but there are not *more women than men*.

We are also unsure what is meant by the statement that “No targeted action is required but it is important to note that all attorneys can apply to IPReg to be moved to the ‘not in active practice’ category.” Is this perhaps a suggestion that some genders are more likely than others to remain on the register beyond their retirement from active practice? Or does it relate to the impact of the parenting provisions discussed above?

## 6.6 Age

We suggest that the availability of a reduced fee beyond retirement could also be mentioned in the “Age” section of the EIA.

## 7 About IP Inclusive

IP Inclusive is an association of individuals and organisations who share a commitment to improving equality, diversity, inclusion and wellbeing throughout the UK’s IP professions. Its founding organisations were the Chartered Institute of Patent Attorneys (CIPA), the Chartered Institute of Trade Mark Attorneys (CITMA), the IP Federation and The UK Association of the International Federation of Intellectual Property Attorneys (FICPI-UK), with active support and involvement from the UK Intellectual Property Office. The founding organisations do not have any ownership or control of IP Inclusive.

Our supporters span the IP-related professions and include patent and trade mark attorneys and paralegals, their business support colleagues, IP solicitors and barristers, and other professionals who work in or with intellectual property. Many CIPA and CITMA members are actively involved in the initiative, as are their organisations, which support us as Charter signatories and/or donors.

Our work, which is overseen by the governing body IP Inclusive Management<sup>6</sup>, includes:

- A voluntary best practice Equality, Diversity and Inclusion Charter<sup>7</sup>, which at the time of writing has 159 signatories from across the IP professions, and an associated “Senior Leaders’ Pledge”<sup>8</sup>.

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<sup>6</sup> See <https://ipinclusive.org.uk/ip-inclusive-management/>

<sup>7</sup> See <https://ipinclusive.org.uk/about/our-charter/>

<sup>8</sup> See <https://ipinclusive.org.uk/the-ip-inclusive-senior-leaders-pledge/>



- The “Careers in Ideas”<sup>3</sup> campaign, which raises awareness of IP-related careers in order to diversify the pool from which the professions recruit.
- Networking and support “communities”<sup>2</sup> for under-represented groups and their allies, which currently include our Women in IP community; IP & ME for professionals from minority ethnic backgrounds; IP Ability for disabled (including neurodivergent) people and carers; IP Futures for early-career IP professionals; and IP Out for LGBTQ+ professionals.
- EDI- and wellbeing-related resources<sup>9</sup>, training, news<sup>10</sup> and information, which we disseminate through our website, events<sup>11</sup> and regular updates to our supporters.

Our Lead Executive Officer Andrea Brewster is a Chartered Patent Attorney, European Patent Attorney, and former CIPA Council member and President. In the past she has served on the Institute’s Education and Business Practice Committees. She is regulated by IPReg but not currently in active practice.

For more information about IP Inclusive, please visit our website at <https://ipinclusive.org.uk/>, or email [contactipinclusive@gmail.com](mailto:contactipinclusive@gmail.com).

18 August 2023

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<sup>9</sup> See <https://ipinclusive.org.uk/resources/>

<sup>10</sup> See <https://ipinclusive.org.uk/newsandfeatures/>

<sup>11</sup> See <https://ipinclusive.org.uk/events/>

# The Intellectual Property Regulation Board

## 2024/25 Business Plan

### IPReg's strategic priorities

1. In January 2023, reflecting the progress made in achieving its initial strategic priorities, the Board set the following new strategic priorities:
  - a. To carry out our regulatory activities proactively, effectively and inclusively, ensuring the efficient use of resources;<sup>1</sup>
  - b. To increase the range of good quality education providers accredited by IPReg, in particular as a tool to increase the diversity of the trade mark and patent attorney professions;
  - c. To increase the public profile of IPReg to the regulated community and users of IP legal services.

### Driving forward our work on education

2. The IPReg Board wants to maintain the momentum it has built up on education issues. In particular we want to support and drive initiatives to improve equality, diversity and inclusion in the professions. Our main focus to date has been to sponsor organisations that support and encourage children and young adults into science, technology, engineering and maths careers. In the course of our work on diversity, we have identified a number of regulatory policy concerns in the route to qualification for patent attorneys (particularly at the advanced level). We therefore consider that it is appropriate to turn our focus (and resources) to exploring the issues raised about the patent attorney qualification route.
3. In the second half of 2023 we will start gathering evidence about the benefits of, and issues raised by, the current approach, what different routes to qualification might look like and how we could encourage their development. This will involve extensive discussions with stakeholders including firms, CIPA, CITMA, the IP Practice Directors' Group, the IP Federation, academics, education experts, IP Inclusive and students.
4. This work is still at a very early scoping stage and we will publish more details about our approach and timescales as the project develops. We anticipate that we will want to consider:
  - a. Whether the current competency framework correctly identifies the minimum competencies (i.e. knowledge and skills) required for a "day one" qualified patent attorney and the level at which they have to demonstrate their competence;
  - b. The appropriate principles for bodies that (a) set; and (b) assess qualification pathways at the foundation and advanced levels;
  - c. Whether there could be alternative routes to qualification such as (a) the development of [equivalent means](#); and/or (b) whether the IP sector should develop an apprenticeship route to qualification as a patent attorney and if so, what initial steps need to be taken.

It is likely that this project will start formally with a Call for Evidence in Q1 or Q2 of 2024.

5. In addition, 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

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<sup>1</sup> This was amended by the Board on 13 July 2023 from: to carry out its regulatory activities in a more proactive way and to perform well. In order to do so we will ensure that IPReg has the necessary staff, IT external expertise and other resources

and quality assurance mechanisms are fit for purpose, including responding to key stakeholder 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 2024/25;

- b. Working with providers to ensure that online delivery of courses and examinations 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 and the extent to which any changes impact on our qualification requirements (e.g. in relation to exemptions).
6. We will start a review of the Accreditation Handbook. The Handbook sets out the requirements for qualification agencies (such as universities and the Patent Examination Board) to deliver qualification courses and/or examinations which meet our standards. It also outlines the core syllabus for the Foundation Level Qualifications. However, currently the Handbook does not include requirements for the advanced level qualifications and we consider that it would be appropriate to include these as well. Some of this work is closely related to the work on barriers to becoming a patent attorney.
  7. In addition, we will review the IPReg Competency Frameworks for both professions. The review of the Patent Attorney Competency Framework will be carried out as part of the project looking at reviewing barriers to entry to the profession, while the review of the Trade Mark Attorney Competency Framework will be a standalone project. We have considered whether reviewing both frameworks was too ambitious given the other work to which we have committed, but we think it is important that both are reviewed at the same time, and at the earliest opportunity, to ensure consistency and to reflect the requirements of the new Core Regulatory Framework.
  8. We anticipate that this work will need significant input from external advisers such as academics, qualified attorneys and analysts with expertise in education syllabi and the development of competency frameworks. We have therefore allocated £90,000 to this work in the budget.
  9. This work supports in particular the regulatory objective in the Legal Services Act 2007 (LSA) of encouraging an independent, strong, diverse and effective legal profession.<sup>2</sup> In the medium to long term, any changes that we make should benefit users of IP legal services by ensuring that the attorneys that advise them continue to undertake appropriate training based on the required competencies.

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<sup>2</sup> 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)].

## Thematic reviews

10. Our main project for the last three years has been the review of our regulatory arrangements. These were approved by the LSB in February 2023 and came into force on 1 July 2023. We are committed to reviewing the effectiveness of the new arrangements by conducting thematic reviews of:

- a. Continuing competence – attorneys are now required to: assess, bearing in mind their existing skills and the nature of their practice, how they will maintain their competence. This means that they regularly:
  - reflect on their professional knowledge and skills and identify any development needs;
  - plan how these needs can be addressed through appropriate activities, training and other learning; and
  - record the assessments and evaluate the activities they have undertaken in the light of those assessments.

Attorneys will have to confirm to IPReg annually that they have met these requirements and, if requested, provide to us their records or other material which demonstrates that they have met the requirements. We will have transitional arrangements on enforcement of these requirements in place for approximately 18 months in order to give attorneys and firms sufficient time to become familiar with the new arrangements.

We will conduct random sampling of attorneys' records or other material to assess how well the new requirements have been embedded and identify any barriers to compliance with them. We anticipate that this will be done in Q1 or Q2 of 2024 with a report on the findings and lessons learned to be considered by the IPReg Board in July (one year after the arrangements came into force). This will enable the IPReg Board to consider when the transitional arrangements should end.

It might be appropriate for this work to be supported/conducted by an independent external body to reassure registrants about its impartiality. We have therefore budgeted £15,000 for this work.

[This work should benefit users of IP legal services by ensuring that the attorneys that advise them continue to maintain their competence throughout their career.](#)

- b. Transparency requirements – these will provide better information to clients and prospective clients about costs. The new rules came into force on 1 July and require that attorneys give appropriate explanations to their clients about any financial benefits that they may receive as a result of the work that they do. This includes commissions, foreign exchange rate uplifts or discounts or rebates. Attorneys also need to inform their clients about any referral arrangements in place such as payment of a referral fee and fee sharing arrangements. Although it will be for attorneys/firms to decide how to provide this information, it must be clear, accurate and sufficient to enable clients and prospective clients to make informed decisions about how to instruct. During Q2 of 2024 we anticipate developing our approach to this thematic review with a view to conducting the review in Q3 and reporting on its findings, lessons learned in Q4 of 2024 or Q1 of 2025.

We have budgeted £30,000 for this work to enable us to obtain external advice on the best way to structure the review, to analyse the information we obtain and evaluate the effectiveness of the requirement. We may also use an independent party to undertake the review to provide reassurance to firms about its impartiality.

This work should benefit users of IP legal services by providing us with evidence about whether the transparency requirements enable those users to make more informed decisions.

- c. Implementing the professional indemnity insurance (PII) sandbox. This will enable testing alternative PII arrangements by providing a way for firms or sole traders to obtain PII from insurers who are not on IPReg’s list of participating insurers. This will then enable them to apply to be admitted to, or remain on, the IPReg registers and be regulated. It may also be of interest to firms who are able to obtain cover from a participating insurer but who want to make alternative arrangements (perhaps for commercial reasons).

We will monitor closely how the sandbox is working throughout 2024 and report on it in the Annual Report for 2024. A wider thematic review is likely to be conducted in 2025 once the sandbox has been operational for at least 18 months, depending on the nature and extent of applicants and entrants.

We have budgeted £10,000 for this work in case we need to take external advice (e.g. from an insurer or actuary).

11. This work supports all the regulatory objectives in the LSA.

#### **Building our evidence base**

12. In addition to the data and evidence gathering work that we plan to undertake for the thematic reviews on continuing competence and transparency, we will continue to gather data and evidence about the nature of the IP legal sector.
13. We have appointed 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.
14. This work supports all the regulatory objectives.

#### **Website redevelopment**

15. 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 early 2025 and will be replaced by Drupal 10.
16. 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 £70,000 for the redevelopment and external support in the budget; this is also supported by a reserve.
17. This work supports in particular the regulatory objectives of protecting and promoting the interests of consumers; improving access to justice and increasing public understanding of the citizen’s rights and duties.

#### **Diversity**

18. 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.



19. We will be developing our approach to data gathering/research with other stakeholders in the IP sector – for example IP Inclusive, CIPA, CITMA, the IP Practice Directors' Group and the IP Federation. This will include identifying ways to improve the diversity data we hold for individuals and firms to get a clearer picture of the makeup of the profession. This will provide a platform that will inform our EDI workstreams and enable us to develop a longer-term EDI strategy.

We have allocated £10,000 for this work.

20. We will be using our work on diversity to inform our education workstreams. Understanding the barriers to entry and progression in the profession will be a key factor in exploring different routes to qualification for patent attorneys. Identifying barriers to entry and progression and ensuring that this information forms a key part of our education workstream will give us the ability to improve the opportunities at the earliest stages of education and training. To ensure we have up to date information about the diversity of the profession, we will conduct a diversity survey in 2024. We have allocated £10,000 to this work.
21. We will continue to work with, and contribute to, the cross-sector work on EDI. This will enable us to learn from other regulators as well as share our research and experiences to work towards a collective approach to gathering data, identifying barriers to entry to the legal profession and the sector's approach to designing, implementing and evaluating interventions.
22. 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**

23. The LSB is IPReg's (and the other legal regulators') regulator. In order to ensure that we can respond effectively to the LSB's work programme and ensure that the regulated IP sector's specific characteristics are taken into account, we have restructured the Executive Team and the Director of Policy now undertake this work in addition to work on wider policy matters.
24. The LSB's [Quarterly Activity Schedule](#) for 2023/24 shows a significant number of issues where IPReg will need to engage with and respond to the LSB's work. In the first quarter (January to March) of 2024 these include:
- a. Considering the impact of the LSB's new statement of policy on equality, diversity and inclusion;
  - b. Engagement on expectation on professional ethics;
  - c. Consideration of the LSB's thematic review of disciplinary and enforcement processes of the frontline regulators;
  - d. Consideration of the impact of the LSB's policy framework on PII and compensation funds;
  - e. Consideration of any proposed changes to the LSB's education and training guidance;
  - f. Engaging on scoping proposals for evaluating the Internal Governance Rules concerning the separation of regulatory and representative functions of Approved Regulators;
  - g. Responding to proposed changes to the LSB's enforcement policy.
25. In addition, the LSB's [Business Plan](#) for 2023/24 includes the following issues where IPReg will need to engage with and respond to the LSB's work:

- a. Reviewing regulators' existing approaches to encouraging diversity and dismantling barriers to a fair and inclusive profession. Consulting on a statutory statement of policy on equality, diversity and inclusion;
- b. Consultation on new statutory guidance promoting technology for access;
- c. Development of a toolkit for regulators to ensure their financial protection arrangements are fit for purpose and sustainable in the long term;
- d. Implications of any changes to the LSB's rules for first tier complaints handling;<sup>3</sup>
- e. Responding to LSB work on improving access to justice where relevant to the IP sector;
- f. Responding to requests for information about IPReg's compliance with the LSB's new [regulatory performance framework](#);
- g. Other requests for information during the course of the year.

### **Developing our understanding of Artificial Intelligence**

26. We will continue to build on the work we have started in 2023 to develop our understanding of Artificial Intelligence and an appropriate approach to its regulation in the IP sector. We will initially use our reserves to fund this activity.

### **Our day to day activities**

~~26-27.~~ 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.

~~27-28.~~ These activities support all of regulatory objectives.

### **Impact of Covid-19: IPReg's office and Board meetings**

~~28-29.~~ 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. We have considered whether it would be appropriate not to have a fixed base in London and to work permanently from home, booking regular meeting spaces as required. However, because IPReg is a small team, the IPReg Board considers that it is important to ensure that staff overlap as much as possible and our experience of returning to the office after the lockdowns is that it is highly beneficial to be in the office with colleagues when developing policy issues or generating ideas. Nevertheless, we recognise that our office licence fee and related services costs is a significant proportion of the budget and we will continue to look for ways to manage that more efficiently, including a smaller office if one becomes available with our current provider. The budget for 2024 has provided for a 5% increase in the licence fee and services.

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<sup>3</sup> First Tier Complaints are complaints which are made to firms and sole trader attorneys. These are reported to IPReg annually as part of the Annual Return process.

We have budgeted £82,170 for our licence fees and services.

29-30. The Board will continue its practice of holding hybrid meetings for its 7 scheduled meetings in 2024.

During the course of 2024, two Board members (Sam Funnell and Emma Reeve) will complete their second terms of office and will step down from the Board. We will run an open recruitment campaign for their successors (one patent attorney and one trade mark attorney) and use an external recruitment consultant to help us with this process. We have budgeted £14,000 for this.

**FINAL equality impact assessment**

**Changes made after the consultation are shown tracked.**

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	Unknown	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.	<p>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).</p> <p>We recognise that the number (or proportion) of disabled people is not relevant to the question of whether, and to what extent, those people could be disadvantaged. The fee waiver provisions may help to alleviate hardship.</p> <p><u>We note IP Inclusive’s view that it seems likely that the patent and trade mark professions have a genuinely low proportion of disabled people compared to the LSB’s benchmark and that it is therefore important that we include the accessibility of the professions for disabled people at the point of entry, during training and beyond.</u></p>
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	N/A

Annex 13 – IPReg 2024 PCF application to LSB

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)
		collect data on this characteristic.	
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. We also accept applications for moving to the “not in active practice” category from attorneys who are on adoption or parental leave.
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

Annex 13 – IPReg 2024 PCF application to LSB

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)
Religion or belief	No	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.	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
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%)	Middle and junior level attorneys show <del>proportionately higher numbers</del> <u>higher proportions</u> of women than men <u>compared to more senior levels</u> . <del>Although n</del> No targeted action is required, <u>it may be that the fact that but it is important to note that</u> all attorneys can apply to IPReg to be moved to the “not in active practice” category <u>may, over time, have some impact on these figures</u> .

Annex 13 – IPReg 2024 PCF application to LSB

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)
		male/female ratio than the average for the professions as a whole (48%/42%).	
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. <u>Attorneys who remain on the registers after retirement as “not in active practice” pay a lower fee than when they were practising.</u>

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 to increase it could discriminate against or unfairly disadvantage attorneys with protected characteristics.</p> <p>As part of the consultation on the level of 2024 practising fees we 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	<u>Correct</u>	
Bias towards one or more groups	<u>None</u>	

Annex 13 – IPReg 2024 PCF application to LSB

Adapted practising fee to eliminate bias	<u>NA</u>	
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 practising fee.	<u>NA</u>	