

## **The Patent Regulation Board and the Trade Mark Regulation Board**

### **Agenda**

**Thursday 11 July 2024 at 1.00 pm**

Gatehouse Chambers, Gray's Inn, 1 Lady Hale Gate, London WC1X 8BS and online

**Please note that our external auditors, Griffen Stone Moscrop & Co will attend at the start of the meeting to present the audited accounts.**

1. Apologies
2. Notification of any conflicts of interest

#### **Items for decision/discussion**

3. Presentation of IPReg Limited 2023 accounts (KD)
4. Minutes of May 2024 meeting and matters arising
5. 2025 Business Plan, Budget and practising fees (FG/KD)
6. IT system update (SE) – no paper
7. Education:
  - a. Education review project
    - i. Recruitment to Head of Review project (FG/SE) – no paper
    - ii. EQE mapping and exemptions (FG/GS) – no paper
  - b. Apprenticeships (FG) – no paper
8. Diversity Action Plan 6 month review (GS)
9. Risk Working Group:
  - a. Analysis of Board and Team priorities exercise (FG)
  - b. New risk policy and risk register (VO/VS)
10. IPReg 2023 Annual Report (FG/VS)
11. Complaints update (SE)

12. CEO's report (FG)

13. LSB Consumer Empowerment policy – progress update (VS/FG)

14. Board effectiveness review – appointment (FG)

**Items to note**

15. Action Log (FG)

16. Finance report (KD) – paper to follow

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17. Regulatory Statement

Confirmation that, except where expressly stated, all matters are approved by the Patent Regulation Board and the Trade Mark Regulation Board.

## Board Meeting 11 July 2024

### Financial Statements for IPReg Limited

#### Agenda Item: 3

**Author:** Karen Duxbury (karen.duxbury.ipreg.org.uk)

#### This paper is to note.

*Annex A, B, C to this Board paper will not be published. The Financial Statements will be published at Companies House.*

#### Summary

1. The pre audit response to Griffin Stone Moscrop & Co (GSM) (Annex A)
2. The Financial Statements for the year ended 31 December 2022 (Annex B)
3. Letter of Representation (Annex C)

#### Recommendation(s)

4. The Board is asked to:
  - a. Note the pre-audit response provided to GSM:
  - b. Approve the Financial Statements for the year ended 31 December 2023 for signature and subsequent filing at Companies House
  - c. Approve the letter of representation to be signed.

#### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	This will provide confirmation of IPReg's financial position as at 31 December 2023.	The financial statements have been subject to audit.
<b>Legal</b>		
<b>Reputational</b>	The undertaking of an annual audit underlines IPReg's commitment to transparency.	N/A
<b>Resources</b>	The Chief Financial Officer will continue to deal with financial matters under the direction of the CEO and the Board.	N/A

## Background

5. Although IPReg falls below the threshold requirement for an audit, the Board, has as a matter of best practice, chosen to have an audit every year to provide assurance to the Board and the regulated community and to aid transparency.
6. As part of the pre-audit procedures, enquiries are made to the Board regarding the entity and the environment in which it operates. This was circulated to all board members on 23 May 2024 and Victor Olowe responded to GSM (Annex A).
7. The draft figures for the year ended 31 December 2023 presented to the Board in March 2024 showed an operating surplus of £136,244. The operating surplus has been amended now to £134,887 (see Financial Statements in Annex B) as a result of adjustments in respect of the identification of additional accrued costs for the disciplinary case and an overprovision of accrued costs in respect of the CRM enhancement project. The figures on the website will be adjusted to reflect this.
8. The Letter of Representation confirms that there were no other material misstatements (Annex C).

## Options

9. No options required.

## Discussion

10. The Board is asked to note the information provided and to approve the Financial Statements and Letter of Representation for signing.

## Next steps

11. The Financial Statements will be filed at Companies House on our behalf by GSM.
12. The Actual v Budget comparison for 2023, Reserves and Financial Statements and the link to Companies House on the website, will be updated accordingly.

## Supporting information

### Links to strategy and business plan

13. N/A

### Supporting the regulatory objectives and best regulatory practice

14. The audited Financial Statements will be filed at Companies House and will promote transparency of IPReg's financial position.

## **Impacts**

15. N/A

## **Monitoring, Evaluation and Key Metrics**

16. N/A

## **Communication and engagement**

17. N/A

## **Equality and diversity**

18. N/A

## **Evidence/data and assumptions**

19. N/A

## Board Meeting 11 July 2024

### 2025/26 business plan, budget and practising fees

#### Agenda Item: 5

**Author:** Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk))

#### This paper is for decision/discussion

**The Annexes to this paper will not be published – they are for later consultation.**

#### Summary

1. This paper and Annexes set out the proposed business plan and budget for 2025 for consultation; it proposes that we raise practising fees by 2% with the exception of the not in active practice category<sup>1</sup> (we are proposing that this remains unchanged from 2024). The proposed business plan does not anticipate any areas of new work (other than those initiated by the LSB), allowing us to focus on our education work.
2. The draft consultation document is at **Annex A**. The draft 2025 budget and comparison with 2024 is at **Annex B**. The second tab on this spreadsheet allows the % change to be adjusted to assess the impact of different levels of increase. This Board paper also sets out the impact of different levels of increase as well as holding fees level, a decrease of 2% and an increase of at 4% (see table at paragraph 15). The draft Practice Fee Regulations are at **Annex C**; they will be included in the consultation document. The impact on the fees for different practice categories of a 2% increase is shown on the spreadsheet at **Annex D**.
3. Our reserves policy is at **Annex E**. This paper proposes the following changes to the uncommitted reserves (**Annex F**) - an additional:
  - a. £50,000 to General Contingency Reserve. This will mean that we have reached the reserves policy requirement to hold at least 3 months' expenditure as a reserve in case of difficulty collecting the practising fees;
  - b. £20,000 to the Assurance Disciplinary & Litigation Reserve. This is because costs are rising and we cannot rely on costs awards from all cases. This will help to mitigate the impact of costs if they are not awarded;
  - c. £20,000 to General Operational & Research Reserve to further enhance our data and evidence gathering capacity.

The committed reserve for the Compensation Fund remains at £100,000.

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<sup>1</sup> As at 1-7-2024 there are 117 attorneys in the not in active practice fee category of which 108 are on a single register and 9 on both registers.

4. We are also proposing the following changes:
  - a. Abolishing the fee paying category “Registered attorney practising as a sole trader and employing other registered attorneys or other professionals”. There is currently one attorney in this category. The reason for proposing the abolition of this category is that our understanding is that the category was originally created to cater for a much larger number of attorneys who practised in this way. Over time, those people have either ceased to practise or they have changed their business model and set up a limited company. We will contact the attorney concerned to talk through the impact of the proposed change. We will also email all 110 sole traders separately to draw their attention to the proposal, in case there are additional people in this category that we are not aware of. It is unlikely that there will be much impact on IPReg’s income or on attorneys themselves.
  
5. We have also considered the following options but are not recommending them for the reasons set out below:
  - a. Introducing a category for attorneys who are consultants – by which we mean someone who is not instructed directly by a client. Typically, these attorneys provide advice to firms that they have worked at previously and are normally included in that firm’s PII. However, some do provide advice through more than one firm, for example the provision of advice on an IP strategy. Currently, consultants are classed as sole traders; creating a separate category would enable them to be considered as the equivalent of being in private practice and therefore pay a lower practising fee. This is a change that some consultants have asked for in previous years. However, there is no evidence that the current situation is causing any consumer confusion. Any change would require changes to the CRM (or some workarounds) and, given the other projects that we have underway, it does not seem to be good value for money;
  - b. Increasing the late payment penalty which is currently set at 50% of the corresponding practising fee for entry on to or renewal for the register(s) up to a maximum of £250. In 2022 and 2023 we imposed 24 and 9 late payments respectively and in 2024 there were 3 late payments. This reduction could be as a result of the deterrent effect of the level of the late payment fee and/or better messaging about the implications of not paying on time and/or increased awareness of the practising fee requirements. Whatever the reason, there does not seem to be any reason to increase the late payment fee;
  - c. Restricting to two years the time that an attorney can remain in the “not in active practice” category. There are currently 117 attorneys in this category. The reasons for being not in active practice vary considerably from attorneys who have been retired for many years to people on sabbatical to maternity leave or sick leave. In cases where it was necessary for the attorney to remain on the register (e.g. to ensure that they can continue to be insured under a sickness absence scheme by their employer), we would have the power to waive the 2 year rule. We want to discuss this change with CIPA and CITMA in more detail to understand whether it would have any impact on attorneys’ ability to retain chartered status. We may also do a survey of attorneys in this category to understand more about their reasons for wanting to remain on the registers. The reason for considering this change is that the

register is an important consumer information tool to identify who might be able to provide them with IP legal advice. Once an attorney is no longer practising, if they do not intend to return to the register (e.g. because they have fully retired) there is no regulatory reason for allowing them to remain on it. We could implement this change using the existing functionality on the CRM.

6. For the avoidance of doubt, because the priority area of project work over the next 2 - 3 years will be education we consider that we should not review the remaining practising fee categories in the near future (as previously proposed). This would be a disproportionate amount of work, requiring detailed modelling of the impact of different changes and significant changes to the CRM system. All of these would add cost and it is not currently clear that there would be a tangible benefit. Although the current categories may not reflect all the different methods of working, they are familiar to most attorneys and employers. Given that 85% of attorneys work in private practice and have their fees paid by their employer, there will be very little impact from not conducting this work; using our resources in areas of work that are more likely to have a positive impact on the regulatory objectives.

## Recommendation(s)

7. The Board agrees to consult on the proposed 2025 business plan and budget including:
  - a. Increasing practising fees by 2% with the exception of the not in active practice fee category;
  - b. Abolishing the fee paying category “Registered attorney practising as a sole trader and employing other registered attorneys or other professionals”.
8. The Board agrees the changes to the uncommitted reserves at paragraph 17.

## Risks and mitigations

	Risk	Mitigation
Financial	<p>The proposed increase in fees is insufficient to cover all expected and any unexpected costs.</p> <p>There is significant uncertainty about the cost of the Regulatory Information Service RIS (part of Legal Choices) that the LSB is requiring the frontline regulators to implement. The cost is currently subject to discussion.</p>	<p>The Board will increase its reserves over time to reflect increases in inflation and the need to ensure that unexpected events can be financed.</p> <p>We have allocated £20k for the RIS work. The final contribution levels may be clearer by the September Board meeting.</p>
Legal	[REDACTED]	[REDACTED]



<b>Reputational</b>	<p>(a) A fee increase of 2% is in line with the current level of inflation (CPI: 2% May 2024) and follows a 6% increase for the 2023 fees. Nevertheless, any increase may be unwelcome given that registrants' other costs will be increasing as well. Not in active practice fee paying category remains at same level as 2023.</p> <p>(b) The LSB has previously criticised us for what it considers to be low levels of responses to the practising fee consultation.</p>	<p>(a) The consultation document sets out in detail how we plan to spend the fees and use our reserves. This is important for transparency.</p> <p>(b) We will email a wide range of stakeholders to notify them of the consultation. However, around 85% of attorneys have their practising fees paid by their employer and this is likely to be the reason that they do not engage with this particular consultation. Our evidence from webinars is that we get very good levels of engagement on matters that directly affect registrants' day to day work.</p>
<b>Resources</b>	The education work requires additional resources given the inter-linkage between the various elements of the project.	We are increasing the resources needed to conduct the education project. These will continue into 2025/26.

## Background

9. The Business Plan and practising fees run on a calendar year basis. We are required under LSA s51 to obtain LSB approval for the level of fees. In order to ensure that we allow sufficient time for the LSB to consider the application, we will run a 6-week consultation over the summer on the proposed business plan, budget and fees and report back at the September Board meeting.

## Discussion and options

### *Business plan consultation (Annex A)*

10. The draft Business Plan sets out the following main areas of work for 2025 together with the budgeted expenditure. The main areas of work will be:
- a. Continuing our work on education including taking forward the work we have already started on:
    - Assessing the impact of the changes to the patent attorney European Qualifying

Exams (EQE) on our approach to exemptions from the final diploma exams set by the Patent Examination Board (PEB);

- Widening participation in the patent attorney profession and improving its diversity;
  - Reviewing the Accreditation Handbook which sets out our approach for accrediting providers of attorney qualification training courses and outlines the core syllabus for the foundation level qualification;
  - Our work with stakeholders on the feasibility of developing an apprenticeship route to becoming a patent attorney.
- b. Monitoring the implementation of the new regulatory arrangements following their introduction on 1 July 2023;
- c. Continuing to build our evidence base about the IP sector;
- d. Funding diversity initiatives;
- e. Responding to consultations and information requests from the Legal Services Board (LSB);
- f. Business as usual work such as admissions to the registers, investigating complaints, taking disciplinary action and responding to enquiries.

## **2025 Budget (Annex B)**

### *Practising fees*

11. The current level of inflation is CPI 2.0% and CPIH 2.8% (May 2024).
12. We will need to increase practising fees this year to meet our business plan commitments and to cover our costs which are all being increased as a result of inflation and to ensure that we have sufficient reserves to cover costs in the event that we are unable to collect practice fees. An increase equivalent to CPI may appear unnecessary, particularly given the 6% increase for 2023. However, the LSB has increased its budget by 10% and we contribute to that through the levy. Other costs have also increased although we have managed to make some savings (e.g. on the cost of our accommodation by moving to a smaller office). Annex B (second tab) allows for the impact of different % increases on the budget to be seen. Annex D shows the impact of the increase on each practice fee category.
13. The calculation is based on estimated 2024 practice fee income with a net projection of 109 new attorneys (186 attorney applications less 77 removals & voluntary removals), increased by 2% (adjusted for attorneys not in active practice fee not increasing).
14. In a change from our usual practice, the budget makes an estimate for other income such as role/holder/licensed body/registered body applications and interest. Having analysed this income over the last three years, we have included £14,000 for this.

## Expenditure

15. Significant expenditure items are likely to be:

- a. LSB Levy. This is the third largest item of IPReg's expenditure after staff and directors' costs. At the time of drafting this paper, we have not been given the indicative LSB levy figure for 2024/2025 (due in July). The 2023/2024 levy was 9.87% higher than the previous period. We have applied the same percentage to estimate the levy for 2024/2025<sup>2</sup> and 2025/2026. The indicative LSB levy is based on the number of IPReg's authorised persons as a percentage of the total number of all authorised persons. These figures may change when the numbers of authorised persons are finalised for all the regulators;
- b. Staff salaries have been calculated with a 5% increase for all staff. The Bank of England's most recent [monetary policy report](#) notes that pay settlements are likely to average 5.5% this year.<sup>3</sup> The Office for Budget Responsibility's most recent [forecast](#) is for inflation to remain below 2% throughout 2025.
- c. Education – we have budgeted £85,000 for external assistance.
- d. We have assumed that we will remain at Little Britain, having negotiated with Office Space in Town a move to a smaller office from September 2024 with an associated reduction of £15.2k (~19%) a year in our licence and service fees;
- e. We have budgeted £30k for the recruitment costs in replacing the Chair in September 2025 when Lord Smith of Finsbury will have completed his second term of office and step down.
- f. Legal Choices – we have budgeted the same amount (£5800) for IPReg's contribution to the running costs of Legal Choices website (unchanged from 2024) and a further £25,000 for IPReg's share of the costs for the development and maintenance of a Regulatory Information Service required by the LSB. The latter is subject to ongoing discussions between the frontline regulators and the LSB.

16. In order to assist the Board in deciding what level of fees is required, we have considered the impact of different fee changes and this is shown on the table overleaf and also be found on the tab “% comparisons” on the excel version of the Annex B.

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<sup>2</sup> The LSB has advised that they will provide an indicative levy for 2024/2025 in July. The budget will be updated accordingly.

<sup>3</sup> See section 2.4 of the report. Staff contracts provide for a discretionary annual increase of RPI.

	<u>0%</u>	<u>2%</u> <u>DRAFT</u> <u>BUDGET</u>	<u>4%</u>	<u>-2%</u>
Projected Practice Fee Income	1,292,310	1,317,737	1,343,164	1,266,464
Other income	14,000	14,000	14,000	14,000
<b>TOTAL INCOME</b>	1,306,310	1,331,737	1,357,164	1,280,464
Budgeted Expenditure	1,281,350	1,281,350	1,281,350	1,281,350
Projected Operating Balance and impact on Reserves	24,960	50,387	75,814	-886

## Reserves

17. Our custom and practice has been to allocate reserves to specific projects that we plan to undertake. However, given the 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) it is difficult to predict at this point in 2024 what we might need to draw on from our reserves for our day to day work in 2025. It is nevertheless important to have some specific reserves and we are proposing to add:
- a. £50,000 to the General Contingency Reserve. This will mean that we have reached the reserves policy requirement to hold at least 3 months' expenditure as a reserve in case of difficulty collecting the practising fees;
  - b. £20,000 to the Assurance Disciplinary & Litigation Reserve. This is because costs are rising and we cannot rely on costs awards from all cases. This will help to mitigate the impact of costs if they are not awarded;
  - c. £20,000 to General Operational & Research Reserve to further enhance our data and evidence gathering capacity.

Annex F sets out these changes.

## Next steps

18. The next steps are to:

- a. Publish the consultation document with the associated publicity;
- b. Start work on the application to the LSB. This will be considered at the September Board meeting.

## Supporting information

### Links to strategy and business plan

1. The proposal sets out our business plan for 2024/25.

### Supporting the regulatory objectives and best regulatory practice

2. The proposed business plan sets out which activities support each of the regulatory objectives.

### Impacts

3. The consultation includes a draft impact assessment and asks for comments on it.

### Communication and engagement

4. We will draw attention to the consultation by emailing and offering to discuss with:
  - a. All registrants;
  - b. IP Practice Directors Group;
  - c. IP Inclusive;
  - d. CIPA;
  - e. CITMA;
  - f. IP Federation;
  - g. Legal Services Consumer Panel.

### Equality and diversity

5. The consultation document includes an equality impact assessment.

### Evidence/data and assumptions

6. We have used evidence from:
  - a. Our Performance Management Database and CRM about the likely level of admissions for individuals and for entities;
  - b. The Bank of England Monetary Policy Committee and the OBR about projected salary increases and the level of inflation;
  - c. The LSB about the levy to finance its activities;
  - d. ONS about current levels of inflation.

## **Monitoring, Evaluation and Key Metrics**

7. Please see budget information in the relevant annexes.

## Board Meeting 11 July 2024

### Diversity Action Plan Update – For Information

Agenda Item: 8

Author: Gurdas Singh Sually, Education and Diversity Policy Officer ([Gurdas.Sually@ipreg.org.uk](mailto:Gurdas.Sually@ipreg.org.uk))

To be published

#### Summary

1. Update on the activities set out in the Diversity Action Plan

#### Recommendation(s)

2. This update is for noting.

#### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	No financial risks as a result of this update.	N/A
<b>Legal</b>		
<b>Reputational</b>	There may be reputational damage as a result of failing to deliver diversity actions set out in IPReg’s Diversity Action Plan.	Regular updates to the Board on the progression on our diversity workstreams enables us to keep on track to deliver the actions set out in the Diversity Action Plan.
<b>Resources</b>	There are no risks to resources as a result of this update.	N/A

#### Background

3. Following the approval of the EDI Policy and Action Plan at the IPReg Board meeting in January 2024, we committed to providing an update on the Action Plan every six months. The Action Plan (below) covers general EDI work, stakeholder engagement and EDI data.

#### Discussion

Diversity Action Plan Update:

Action	Update
<u>General</u>	
Review the IPReg website to ensure that information on about our approach to EDI is consistent and up to date	Information on the IPReg website has been reviewed and is up to date regarding our current policies and approach to EDI, setting out the recent Diversity Action Plan and EDI Policy and Strategy, and our work with other IP stakeholders.

	The results of the diversity survey held in 2021 is also available on the website, and when the 2024 survey is complete, that will also be added to the website.
Hold annual mandatory training for the Executive Team and Board on EDI	This is to be arranged.
Continue to sponsor and support organisations working to improve EDI in the IP and STEM sectors	We continue our sponsorship and support of IP and STEM Sector organisations such as IP Inclusive, Generating Genis and In2Science. We attended IP Inclusive’s AGM & Annual conference on 16/04/2024. We shared the work we are planning, including the diversity survey. We joined break-out groups where discussions focused diversity data; participants shared the differing challenges of collecting data in different sized firms and organisations. We also joined IP Inclusive’s workshop on how to start conversations on EDI in firms.
Consider how EDI could be included in the planned thematic reviews on CPD, transparency and the PII sandbox	To be completed We are due to embark on the thematic review of CPD. Over the next few weeks we set out a how the EDI implications of the changes to CPD can be assessed.
Consider how EDI could be included in the Review of regulatory arrangements post-implementation impact assessment, planned for Q4 2024 - Q1 2025.	To be completed
<b><u>Stakeholder Engagement</u></b>	
Increase our stakeholder engagement on EDI issues including identifying organisations that we have not worked with previously	<p>We have been engaging with new organisations to explore how we might be able to work together to further EDI initiatives for the sector.</p> <p>We have met with organisations to make contacts and build networks for both our specific EDI workstreams as well as the work linked with other aspects of the Business Plan, such as Education.</p> <p><b>O-Shaped</b> – Met with on 02/02/2024. O-Shaped is an organisation that aims to improve the legal sector for those working in it, and those entering the profession. To date they have worked with a number of organisations and firms using research they have undertaken to outcomes for individuals as well as for firms.</p>



	<p>Their work has predominantly focused on the solicitor’s profession, but there could be space for collaboration on the EDI aspects of our Education workstreams.</p> <p><b>Good Fridaze</b> – this is a relatively new organisation that has recently got in touch. They are exploring ways to increase inclusion in the workplace by raising awareness on issues such as socialisation around alcohol, as well as raising awareness of mental health issues related to drinking culture. We have been in communication with them and will meet with them in the next few weeks to explore what they are wishing to achieve and where we might be able to collaborate.</p>
<p>Collaborate with other stakeholders on EDI issues.</p>	<p>We have engaged with the Senior Leader’s Diversity Think Tank, which is hosted by IP Inclusive. The meeting on 27/02/2024 was attended by IPReg, CIPA, CITMA and the UK IPO and diversity leads from the IP Practice Directors Group. The group has been working to produce a diversity survey template that can be used by the sector, as well as producing guidance to go alongside the survey template.</p> <p>We continue to engage and collaborate with the Legal Regulators EDI Forum. Meetings with the forum on 12/03/2024 and 28/05/2024 where discussions and communications have focussed on data collection and reporting across the sector, sharing how each regulator currently collects and analyses data against previous surveys and national benchmarks. Regulators have also shared experiences, challenges and successes in trying to increase participation in data gathering. Regulators have also discussed how each has ‘customised’ their surveys and the questions so we can explore why we collect data, what aspects may not be as relevant and what additional questions have been asked in order to gain useful data sets.</p> <p>The LSB has appointed a new EDI lead, who we met with on 04/04/2024. At the Regulators EDI</p>

	<p>Forum the LSB has proposed hosting a wider discussion about diversity monitoring and reviewing its current EDI expectations it has for regulators. However, the initial discussion was pushed back after the announcement of the election given the MoJ have also been discussions with the LSB. It is expected this will be picked up after the election.</p>
<p><u>Data</u></p>	
<p>Develop an EDI data collection policy which makes clear the reasons for data collection and the outputs from that process. This will include a greater understanding of why we collect data on protected characteristics and why some protected characteristics may not be relevant to our work as a regulator</p>	<p>We have been holding discussions with stakeholders in the IP sector and the wider legal sector around EDI data collection policies.</p> <p>When working to produce our Diversity Survey, these discussions helped focus what areas might be particularly relevant to the IP sector, where we might wish to gain more insight, and areas that might not be as pertinent. It was highlighted that it would be useful to have more information on the prevalence of neurodiversity in the profession, and to have a greater insight into the educational background of attorneys.</p> <p>These discussions are helping to shape our thinking about a specific EDI Data Collection Policy.</p>
<p>Conduct regular surveys of registered attorneys and publish information from them about the diversity of the professions</p>	<p>IPReg committed to conducting a diversity survey in the 2024/25 business plan. At the May Board Meeting, the Board approved the appointment of Enventure Research to assist in running the survey and analysing the survey results.</p> <p>Since the last meeting, a contract has been agreed and signed with Enventure, including a timetable for the project. The table below sets out the project milestones, dates, and confirmation the milestone has been completed</p>
<p>Adapt the CRM to enable appropriate diversity data to be captured securely: (a) on registration and (b) as part of the annual return process</p>	<p>Following the completion of the Diversity Survey, we will look to see how best to include the diversity data capturing during the annual return process. It was decided that this year we</p>

	should complete a full diversity survey, rather than attach it to the annual returns completed by attorneys this time round.
Identify other sources of data on EDI in the legal sector to provide a source of information for IPReg and others	The Legal Regulators EDI forum has been a useful starting point for accessing data collected by other regulators in the legal sector. The group has also been discussing sources of EDI data that could be useful for IPReg to utilise. In addition, we have looked into EDI research conducted by others in the STEM fields, e.g. research by O-Space and Stem Returners, to see what insights can be extrapolated for use by IPReg.

## Diversity Survey 2024 – Project Plan

<u>Action</u>	<u>IPReg/Enventure</u>	<u>Date</u>	<u>Completed</u>
Project set up meeting	IPReg & Enventure	6 June	Completed
Contract and Data Sharing Agreement signed	IPReg & Enventure	w/c 10 June	Completed
Confirmation/finalising of questionnaire and email invitations	IPReg & Enventure	By 21 June	Completed
Supply of registrant contact database	IPReg	w/c 24 June	Completed
Online testing	IPReg & Enventure	w/c 24 June	Completed
Provision of open survey link for promotion	Enventure	1 July	Completed
Survey launce (starting with soft launch)	Enventure	2 July	Completed
Three targeted reminders	Enventure	Staged throughout survey duration	
Survey close	Enventure	30 July	
Quality checks and data preparation	Enventure	31 July	
Provision of final topline report	Enventure	1 August	
Analys of survey data and report writing	Enventure	1-16 August	

Provision of draft survey report	Enventure	w/c 19 August	
Confirmation of research report	IPReg	ASAP	

## Supporting information

### Links to strategy and business plan

7. The 2024/25 Business Plan sets out three major themes:

- a. Developing our approach to data gathering/ research with stakeholders in the IP sector
- b. Conduct a diversity survey of the profession
- c. Continue our cross-sector work on EDI with other in the legal profession

### Supporting the regulatory objectives and best regulatory practice

8. This work supports the following regulatory objective(s):

- a. Encouraging an independent, strong, diverse and effective legal profession
- b. Protecting and promoting the public interest
- c. Protecting and promoting the interests of consumers

### Impacts

9. This work will have a positive impact on the diversity of the profession and should help to increase awareness of the benefits of a diverse profession. The results from the diversity survey will be able to be compared to the 2021 survey to identify any changes.

### Monitoring, Evaluation and Key Metrics

10. Diversity Action Plan updates will be presented to the Board every six months.

### Communication and engagement

11. Ongoing communication and engagement with stakeholders. There will be additional communication and engagement with the profession in relation the diversity survey, as set out above.

### Equality and diversity

12. This work is expected to have a positive impact overall on equality and diversity.

### Evidence/data and assumptions

13. We will use the results of the diversity survey (and those of other organisations) to inform our work. In addition to the analysis that Enventure will provide, we will consider asking David Bish to conduct further analysis of the survey data.

## Board Meeting 11 July 2024

### Decision Paper: Risk Management Policy and Risk Register

#### Agenda Item: 9b

**Lead Board Member:** Victor Olowe, Chair of Risk Working Group

**Author:** Victoria Swan, Director of Policy ([victoria.swan@ipreg.org.uk](mailto:victoria.swan@ipreg.org.uk))

*The Risk Management Policy at Annex A will be published, the Risk Register at Annex B and the Meeting Note at Annex C, are internal documents and will not be published.*

#### Summary

1. This paper sets out the Risk Working Group's proposed Risk Management Policy (**Annex A**) and new Risk Register (**Annex B** (upon Board endorsement, this will replace the current Risk Register)).
2. The policy will be published on the IPReg website. The register will be an internal document which the Executive Team will actively manage and monitor through a dedicated monthly meeting. Each meeting of the Board will be provided with a commentary on the red residual risks. Then every 6 months, the Board will review the full risk register and be asked to confirm they are content with the target risks. As now, the red (residual) risks and any commentary will be shared with the representative bodies of the Chartered Institute of Patent Attorneys (CIPA) and the Chartered Institute of Trade Mark Attorneys (CITMA). The Risk Management Policy itself, and its assumptions, will be annually reviewed. Should this review identify any change, the updated Policy will be shared with CIPA and CITMA prior to being published.
3. As suggested at its 16 May 2024 meeting, each board member will be asked, immediately prior to this Board meeting, to identify the 3 main risks they consider IPReg faces and this will aid the discussion regarding the proposed new Risk Register (**Annex B**).

#### Recommendation(s)

4. The Board endorses the proposed Risk Management Policy (**Annex A**) and the new Risk Register (**Annex B**), subject to any revisions the Board considers would be beneficial, including, but not limited to, the discussion informed by the 3 risks exercise mentioned at item 3.

## Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	We procured 2 quotes from risk consultant agencies for taking forward the risk work, the highest of which was for [REDACTED] and the other was [REDACTED]. We did not hear back from 2 of the consultant agencies we contacted. Neither proposal seemed particularly tailored to, nor proportionately costed, to an organisation of IPReg’s purpose, size and income. <a href="#">Sayer Vincent</a> , as an auditor and adviser to charities and social purpose organisations was recommended as a possibility to consider.	The Chief Executive and the Director of Policy met with [REDACTED] of Sayer Vincent on 24 November 2023. His approach was for IPReg to lead on, and own, the risk register development, with Sayer Vincent providing a critical friend role, approach to consider positive elements of risk (not just negative), using “risk intelligence” to inform decision-making and less focus on minutiae of process or mathematical scoring, focusing instead on how risk integrates in our day-to-day business. We very much welcomed this tailored approach. [REDACTED]
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	Our approach to risk management is not currently transparent.	We have developed a Risk Management Policy and will publish this on the IPReg website.
<b>Resources</b>	There is a variation of experience in risk management within the Risk Working Group. Whilst we had originally planned for an external agency to lead on the review, given the high cost of the first two estimates, and their generic approach, ultimately we determined a tailored and hybrid approach would be best.	The 5 meetings of the IPReg Board Risk Working Group which took place in 2024 were attended by a representative from Sayer Vincent, an agency experienced in working with not for profit, and social purpose, smaller, organisations. The representative provide  Additionally, the Executive team can manage the day-to-day operation of the risk register within existing resources.

## Background

- Risk Working Group:** IPReg’s comprehensive governance review, combined with the Board’s desire to encourage innovation in the provision of intellectual property legal services with the intention of a bolder risk appetite, informed the decision by the Board to establish a dedicated working group to review and re-develop the organisation’s approach to risk management. The resulting Risk Working Group

[REDACTED]



(RWG) is chaired by Victor Olowe, and its members are Justin Bukspan, Sam Funnell (became an adviser after her departure from the board), and Samantha Peters with executive attendance of Fran Gillon, Shelley Edwards, Victoria Swan and Benedict Newman. The RWG first met on 1 September 2023, and has met 8 times in total, with the 5 meetings held in 2024 being attended by [REDACTED] an independent risk specialist from Sayer Vincent who has provided critical friend input and challenge. Please see **Annex C** for a note of the last meeting of the Risk Working Group which took place on 20 June 2024.

6. **Defining risk:** a horizon scanning/benchmarking exercise was undertaken, identifying a range of risk definitions including those of the Information Commissioner’s Office (ICO), the National Audit Office, the Open University and the UK Government’s Orange Book. Ultimately, the RWG created its own definition of risk based upon an amalgamation of other definitions: **‘Risk is the effect of an uncertain event or set of events on the achievements of objectives’**.
7. **Differentiating types of risk:** the RWG looked at examples of risk to the 3 Strategic Objectives of IPReg, the regulatory objectives, and the organisation as a whole, using the risk types as applied by the [UK Government's Orange Book: Management of Risk - Principles and Concept](#): strategy, governance, operations, legal, financial, people, technology, data and information security, project/programme, reputational, social and environmental. This helped create a long list of 49 risk examples.
8. **Consolidating, clarifying and scoring the risks:** the examples long list was reviewed, refined and consolidated into 12 actual risks, which in turn were differentiated into strategic and operational. Sayer Vincent’s advice was that a scientific formula-based approach to risk scoring, such as rating against likelihood and severity, has the potential to distract. Instead, the proposed simpler grading system of high, medium and low, is likely better suited to IPReg and its focused list of risks. The Risk Register at **Annex B** proposes 5 high-level/red *potential* (without controls) risk items, 4 medium/amber, and 3 low/green risk items.

Risk 1	[REDACTED]
Risk 2	[REDACTED]
Risk 3	[REDACTED]
Risk 4	[REDACTED]

Risk 5	[Redacted]
Risk 6	[Redacted]
Risk 7	[Redacted]
Risk 8	[Redacted]
Risk 9	[Redacted]
Risk 10	[Redacted]
Risk 11	[Redacted]
Risk 12	[Redacted]

9. Controls: this shortlist of risks has been mapped across to proposed controls (what's in place already and what's required in the future (if anything) to mitigate the likelihood and/or impact of the risk), leading to a High/Medium/Low risk assessment of the residual risk, that is the level of risk that is left with current controls. To provide a clear sense of the direction of travel in relation to a risk we have also added a target risk (where we are planning to be on the risk when all available controls have been actioned). Therefore, the proposed risk register has 3 strength risk columns: potential, residual and target. We have highlighted whether a control relates to mitigating the likelihood of a risk occurring, and/or its impact.

10. Proposed Risk Register: the proposed risk register has 3 residual red risks:

[Redacted]

[Redacted]





11. Going forward, as red residual risks, these would be reported to each meeting of the Board, along with any update on the journey towards the target risk. Very shortly after the Board meeting, they would also be reported to CIPA and CITMA very shortly after each meeting of the Board.
12. Proposed Risk Management Policy: IPReg does not currently have a Risk Management Policy. The proposed policy (**Annex A**) seeks to set out the purpose, scope, intention, definition and approach of the organisation to risk. The policy will be published on the IPReg website.

### Options and discussion

13. The Board is asked to discuss and approve for adoption:
  - a. the proposed new Risk Management Policy (**Annex A**) and the format of the Risk Register (**Annex B**) it informs;
  - b. the risks identified within the Risk Register (**Annex B**), subject to any amendments as informed by the discussion;
  - c. the target risk scoring allocated to the risks, particularly the red residual risks (items 1, 3 and 7).

### Next steps

14. The Information Sharing Protocol requires us to notify CIPA and CITMA of a change of approach to risk, we will provide them with a copy of the Risk Management Policy ahead of its publication. We will also highlight, as is required, the red residual risks of the new risk register and the related current and planned/new controls. The CEOs meeting and the Regulatory Forum will be used to discuss the new approach. We will signpost the LSB to the new Risk Management Policy (Annex A) when published.
15. The November Board Strategy Day to include the first review of the policy, its assumptions and the risk register as a whole.

### Supporting information

#### Links to strategy and business plan

16. The risks to our strategic priorities and business plan were considered in the first iteration of the Risk Register, alongside the regulatory objectives as set out in the Legal Services Act 2007.

#### Supporting the regulatory objectives and best regulatory practice

17. The risks to the regulatory objectives were considered in the first iteration of the Risk Register, alongside our own strategic priorities and Business Plan objectives.
18. The Risk Management Policy (**Annex A**) supports all the regulatory objectives as it covers all the work that we undertake. It also supports the better regulation principle of transparency of regulatory activities.
19. The Risk Working Group undertook a good practice horizon scanning of effective approaches to risk management, including those of the Open University, the Government's Orange Book, the Information Commissioner's Office, the National Audit Office.

### Impacts

20. Each control item in the Risk Register (Annex B) is labelled so it is clear whether they seek to lower the 'likelihood' of the risk itself occurring, or to soften the 'impact' of it should it occur.

### Communication and engagement

21. We will publish the Risk Management Policy (**Annex A**) on the IPReg website and issue a dedicated News Item.
22. In keeping with our Information Sharing Protocol we will inform CIPA and CITMA of the red risks on the risk register shortly after reporting them to Board.

### Equality and diversity

23. The planned diversity profiling exercise, as discussed at the 16 May 2024 meeting of the IPReg Board, is a control for Risk 5 relating to Risk 10 regarding

### Evidence/data and assumptions

24. The Risk Management Policy (**Annex A**), and the Risk Register (**Annex B**) it informs, rely on a number of specified assumptions:
  - there will be no significant changes to the [Legal Services Act 2007](#) within the lifetime of the next government – this Act sets out the legal services regulatory landscape;
  - the regulatory objectives in the [Legal Services Act 2007](#) do not change – we have a statutory duty to, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives;
  - the IPReg team and Board members have the knowledge and confidence to act in a way which is compatible with the regulatory objectives and its strategic objectives;

- there will be no Judicial Reviews of decisions taken by the IPReg Board– our Board papers are transparent and consistent (due to a template) and include a range of data and information and considerations as to how a recommendation has been reached;
  - that the good working relationships with the professional membership/ representative bodies (CIPA and CITMA) remain positive and constructive;
  - there is no significant restructuring of, or long-term, multiple, concurrent absence or vacancies in, the IPReg Team;
  - the majority of those who use IP services continue to be businesses rather than individual consumers.
25. Should any of these assumptions change, the Executive Team will consider whether it should be included in the risk register.

### **Monitoring, Evaluation and Key Metrics**

26. The Risk Register (**Annex B**) will be monitored and reviewed monthly by the Management Team and then the red residual risks, and any new risks, will be reported to each meeting of the IPReg Board. The Board will then review the register itself every 6 months, beginning with the November Strategy Day (and so then the next May meeting).
27. The key metrics are capturing the movement towards, and ultimately attainment of, the target risks in all cases.

# The Intellectual Property Regulation Board

## Risk Management Policy

### Policy Purpose

1. This policy outlines our overall approach to the management of risks and how we operate the risk register. Together these two documents help the IPReg Team and the IPReg Board to manage risks.

### Policy Statement

2. This policy provides a common understanding of what we mean when we use the term “risk” and how we will manage risk. By risk we mean “*the effect of an uncertain event or set of events on the achievement of objectives*”. For IPReg, risks can be posed to the Legal Services Act’s regulatory objectives (legal services regulators such as IPReg must, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives), our strategic objectives, or to the organisation as a whole.

### Policy Scope

3. This policy applies to the IPReg Team and the IPReg Board. The CEO is the policy owner.

4. This policy is published on the IPReg website to provide transparency to our stakeholders, including our regulated community, the representative bodies (the Chartered Institute of Patent Attorneys (CIPA) and the Chartered Institute of Trade Mark Attorneys (CITMA)), and any other interested parties.

5. The risk register itself is a live risk management tool and is not for publication. In keeping with our Information Sharing Protocol established under the Internal Governance Rules, we will inform CIPA and CITMA of any residual red risks in the register.

### Risk Register

6. A risk register helps us identify, assess and manage risks. Our register sets out each headline risk, provides a narrative which sets out its root causes and effects and scores it on a traffic light system:

- red/high (very likely to occur and/or its potential impact would be high)
- amber/medium (likely to occur and/or its potential impact would be medium) or
- yellow/low (unlikely to occur and/or its potential impact would be low).

The register is easy to read and use. So, for instance, its risk scores, controls (how a risk will be managed) and other related columns all fit on one landscape page - and the narrative underpinning each risk provides context to new Team and Board members.

### Oversight/Governance

7. The Executive Team will review the risk register every month. If an emerging risk requires earlier consideration, the CEO will organise an earlier review. Each Board meeting will be provided with a commentary about any high/red residual or target risks and/or any risk rating that has significantly differed from the previous report and/or any new risks that have been identified for inclusion in the risk register. At each Board Strategy Day (typically held in November), the Board will be provided

with the full risk register and asked to confirm that it remains content with the target risk score of each risk. The May Board meeting each year will also include a discussion of the full risk register.

## Risk Scoring

8. Risks can be strategic or operational. A risk would be likely strategic when it would require significant Board discussion if it materialised. This is because it is a factor or event which could potentially make it difficult for IPReg to achieve its strategic and other objectives. A risk would be likely operational if it would result in disruption to the flow of regulatory and business activities delivered by the Team if it materialised. Our risk register lists the strategic risks first for ease of reference.

9. The risk score, both with and without controls, is recorded in the risk register. By controls we mean how a risk will be mitigated. Some controls focus on the likelihood of the root cause happening, whilst others seek to soften the impact before it occurs. The risk register specifies where a control is focused on impact, likelihood or both. Our risk register records 3 traffic light scores against each defined risk:

Potential risk score: the risk register first identifies the risk and its scoring without controls (that is, without any management action being taken).

Residual risk score: it then identifies the controls which are in place to help mitigate the risk; the risk strength that remains is the residual risk score.

Target risk score: it then sets out the risk level that we want to achieve on an ongoing basis, with all of the planned controls in place and working; this is known as the target risk score.

## Risk Appetite

10. By risk appetite we mean the *target risk score* we are prepared to accept i.e. where we want to be in relation to a risk when all planned controls are in place. It may not be possible or desirable to eliminate a risk completely. Indeed, a risk is not always a bad thing, it might present an opportunity. Or it might require disproportionate resources to reduce a risk's likelihood or impact. Or it might be a risk we are prepared to tolerate. The risk register helps us to determine both our appetite for a risk and our control of it.

11. In some instances, we will have to accept that we cannot influence the risk any further, that we are using all the controls available to us (or which are proportionate) and that medium (amber) - or even high (red) in certain circumstances - is the only target risk we can achieve. Each control is labelled so it is clear whether it is designed to mitigate the 'likelihood' of the risk itself occurring or to mitigate the 'impact'.

## Monitoring

12. Our Executive Team will actively manage and monitor the register at a monthly meeting. The register itself will be a live document. The Team and the Board are actively encouraged to identify any new and emerging risks.

## Reporting

13. Each Board meeting will consider the residual red risks (those with the highest level of risk), the controls that are in place and, where applicable, any updated commentary. We will report residual red

risks to CIPA and CITMA through the Regulatory Forum established under the Internal Governance Rules.

## Assumptions

14. In developing the risk register we have made the following assumptions:

- there will be no significant changes to the Legal Services Act 2007 within the lifetime of the next government – this Act sets out the legal services regulatory landscape;
- the regulatory objectives in the Legal Services Act 2007 do not change – we have a statutory duty to, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives
- the IPReg team and Board members have the knowledge and confidence to act in a way which is compatible with the regulatory objectives and its strategic objectives;
- there will be no Judicial Reviews of decisions taken by the IPReg Board or CEO – our Board papers are transparent and consistent (through the use of a template) and include a range of data, information and explanations about how a recommendation has been reached;
- that the good working relationships with the professional membership/representative bodies (CIPA and CITMA) remain positive and constructive;
- the IPReg team - there is no significant restructuring of, or long-term, multiple, concurrent absence or vacancies in, the IPReg Team;
- the majority of those who use IP services continue to be businesses rather than individual consumers.

15. If any of these assumptions change, the Executive Team will consider whether it should be included in the risk register.

## Policy Review

16. The Risk Management Policy, and its assumptions (item 14), to be reviewed annually (if not before due to a significant change in assumptions).

## Board Meeting 11 July 2024

### 2023 Annual Report

#### Agenda Item: 10

**Author:** Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk)) and Victoria Swan, Director of Policy ([victoria.swan@ipreg.org.uk](mailto:victoria.swan@ipreg.org.uk))

**This paper is for decision/discussion.**

*Annex A to this Board paper will not be published – draft document.*

#### Summary

1. This paper proposes the IPReg Annual Report (**Annex A**) for the calendar year of 2023. The report looks at who we regulate and how, provides key facts and figures regarding the regulatory activities undertaken in 2023, as well as the financials for the year. It looks at the new regulatory arrangements brought in, our work streams, the Working Groups that were active during the year, as well as work taken forward in response to some of the Legal Services Board's information requests, consultations, issuing of guidance and policy statements over the period.
2. For the first time the report includes regulatory performance management information<sup>1</sup> such as timeframes taken to process applications to the register(s) and complaints. The 2024 Annual Report will be able to directly compare with this regulatory performance data. Also, for the first time, and reflecting the recommendations of our Governance and Transparency review, it includes attendance of directors at board and committee meetings and a section on our approach to risk management. In keeping with that same review, the key findings arising from the Board effectiveness evaluation scheduled for 2024 will be included in next year's annual report.
3. The timing of the report being brought to Board for consideration is directly informed by audit recommendation that the financial accounts need to have been both independently audited and Board-endorsed before they are included within the annual report – please see item 3 of this Board's agenda for presentation of the IPReg Limited 2023 accounts.
4. The report has been restructured so it no longer leads with the financial information, but is focused on how we performed, what we delivered and where we are heading. The last section sets out the income and expenditure for the year, as well as the fees and expenses of the Board and the salary and expenses of the Chief Executive. As last year, it is proposed that the report will be professionally redesigned prior to publication.

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<sup>1</sup> This information was previously captured in a separate dataset document, against the financial year, and was a historic requirement of the Legal Services Board.

## Recommendation(s)

- The Board agrees to the professional redesign, and publication of, the 2023 IPReg Annual Report (**Annex A**).

## Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	Two quotes have been obtained in relation to professional agencies presenting the report in a more user-friendly design. We are opting for the quote provided by Ocean which will be using the same template as it used for the <a href="#">2022 Annual Report</a> . This is at an estimated cost of [REDACTED] to design and lay out a 36 page report (as last year), and creating tables, charts and graphs, and infographics from the data sources provided in the Word version of the report ( <b>Annex A</b> ).	N/A
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	We aim for a user-friendly design of the report which is in keeping with our approach to organisational transparency.	N/A
<b>Resources</b>	Drafting of the report was managed within existing resources. As above, we will outsource the design of the final report.	N/A

## Background

- This Annual Report provides context to intellectual property legal services, and regulation, to a reader unfamiliar with them. It seeks to be a one-stop shop of IPReg’s activities for the calendar year of 2023, setting out our workstreams, regulatory performance, and financial accounts (the IPReg Limited 2023 Accounts, as reviewed and endorsed by this meeting of the IPReg Board, to be included). It has been restructured (for example, it is focused in the first instance on our regulatory performance, rather than the accounts) and has new features such as a dedicated section to activities undertaken in relation to the Legal Services Board’s oversight work programme as well as regulatory performance data.
- Regulatory performance data is data such as the timeframes in relation to processing admission applications and complaints (as opposed to the numbers of applications and complaints received, which have always been provided). As part of its previous oversight regulatory performance framework, the Legal Services Board required performance management datasets



(PMD) from each regulator based upon the financial year period of 1 April- 31 March. Upon the introduction of a new regulatory performance framework, and withdrawal of the PMD requirement, IPReg, undertook a [final standalone PMD 1 April 2022-31 March 2023](#). This included a trend analysis over 3 years, to complete the financial year review process. For the purposes of accountability and transparency, we have chosen, from this Annual Report onwards, to include performance data framed on a calendar year basis.

8. In keeping with the transparency recommendations of the IPReg Governance Review, the 2023 IPReg Annual Report includes attendance of directors at board and committee meetings and a section on our approach to risk management. In keeping with that same review, the key findings arising from the Board effectiveness evaluation scheduled for 2024 will be included in the 2024 annual report.

## 2023 IPReg Annual Report Structure

9. Introduction: sets out the purpose of the report and who we are, an introduction to our strategic objectives, our strategic direction and Board members.
10. Forewords: both the Chair and the CEO provide these. The Chair looks back at the successful regulatory arrangements review and corresponding rule change application, with the new arrangements in place as of 1 July. It looks at the education work, including Queen Mary University London's successful delivery of the accreditation implementation plan. It mentions two areas of regulatory focus – Artificial Intelligence and the diversity of the profession - going forward, says goodbye to Board members and welcomes others. The CEO looks at the new regulatory arrangements, particularly in relation to Continuing Professional Development (a reflective approach replacing what had been an hours-based requirement), the introduction of independent Case Examiners in our disciplinary arrangements, and the Regulatory Sandbox (safe space) for Professional Indemnity Insurance requirements. Looking forward to improving the diversity and inclusion of the profession and widening participation in the patent attorney profession.
11. Regulation: as at 31 December 2023, there were 3589 attorneys on the register (this compares with 3430 at 31 December 2022). Over two-thirds, 2543, were patent attorneys, 837 were trade mark attorneys and 209 were qualified as both. There were 255 firms on the registers, 198 of which were registered bodies (owned by attorneys) and 57 licensed bodies (an element of non-attorney ownership). It sets out our core regulatory activities, such as our registration requirements, ensuring ongoing competence, standards, rules and regulations, strategy, policy and performance review.
12. Regulatory Performance and Action: summarises the new regulatory arrangements brought in, including new Continuing Professional Development provisions (reflective, rather than hours based), new disciplinary procedures, new transparency requirements in relation to costs to help

inform consumer choice, and implementing the Professional Indemnity Insurance (PII) Regulatory Sandbox which enables firms to apply for a waiver of the standard PII requirements. It also mentions the well-attended webinars we hosted with CIPA and CITMA regarding these new regulatory arrangements.

13. It sets out some of the work undertaken in relation to the Legal Services Board's (LSB's) information requests, consultations, issuing of guidance and policy statements. These include responding to its consultations on Non-Disclosure Agreements and Technology and Innovation, and first-tier complaints. Also, our detailed responses to its regulatory performance information requests, one relating to Regulatory Standards 1 and 2 (as well as providing updates on progress against the Policy Statements relating to Empowering Consumers and Ongoing Competence), the other to enforcement powers and sanctions. We also undertook consultations regarding the compensation arrangements and practising certificate fees ahead of the related rule change applications made to the LSB.

14. Key facts and figures for 2023 include:

#### Admissions

- 225 admissions to the register (an increase from the 186 admissions in 2022), 178 of whom were entered on to the patent attorney register, 47 on to the trade mark attorney register;
- 57% of applications of admission to the register were processed within 1 day of receipt;
- 13 new firms were admitted on to the registers, with an average time of 7 working days taken to process applications;

#### Enquiries

- 304 regulatory enquiries, 94.4% (287) of which were answered within the 5 working days target, the majority of enquiries (192) related to how to qualify;

#### Webinars

- 8 June – this gave an overview of the new regulatory arrangements and had 480 attendees;
- 21 September – this focused on the new reflective approach to CPD and had 460 attendees;
- 16 November – this covered transparency of cost, service and quality and had 260 attendees;

## Complaints

- the First Tier Complaint theme most frequently reported by firms concerned costs (either that the costs were excessive or there was deficient information relating to costs), with 60 such complaints reported, a reduction from the 78 reported in 2022<sup>2</sup>;
- of the 11 complaints received by IPReg in 2023, the average time for dealing with them was 12 working days;
- 2 of the complaints related to inappropriate behaviour with a third party, these are novel complaints for us, prompted, we believe, by our regulatory arrangements review and the new rules which mean we can now investigate issues that arise in an attorney's private life where it is relevant to their practice as a regulated person;
- 8 complaints were closed, 3 of which had been opened in 2022, and one of which took 332 working days to close – this went to full disciplinary hearing and involved an attorney who was not represented and who would not engage with the process, ultimately absenting himself from the process and was removed from the register;
- we received no complaints about IPReg;

## Suspensions and removals from the register(s)

- we received 51 applications from attorneys for the [voluntary removal](#) of their name from the register due to circumstances such as retirement, ill health or career change;
- we suspended 33 attorneys for failing to renew their registration, another was suspended pending a disciplinary hearing (ultimately removed from the register) and one non-trading firm was suspended pending an orderly wind up of the business following a voluntary liquidation;
- we removed 17 attorneys from the register(s) because they had failed to renew their registration or advise us of their intention to cease practice, as above, one removal was made following a disciplinary hearing, additionally another removal was due to an individual passing.

15. Working Groups: summarises the workstreams, activities and outputs of the active working groups of Board – Data, Education, Governance and Transparency and Risk.

16. Financial Information: provides a breakdown of both our income and expenditure, meetings attended by the Board and the CEO, and a breakdown of the fees and expenses of the Board and the salary and expenses of the CEO.

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<sup>2</sup> The Consumer Empowerment paper elsewhere on the agenda proposes to include FTC reporting in the planned thematic review of the new transparency provisions to gauge the veracity and context of the FTC data reported.

## **Options and discussion**

17. The Board is asked to discuss the draft Annual Report and to indicate if any changes should be made.

## **Next steps**

18. We will arrange for the report to be professionally redesigned. We will then publish the Annual Report on the IPReg website alongside a short news item and to signpost its publication to key stakeholders.

## **Supporting information**

### **Links to strategy and business plan**

19. The Annual Report provides registrants and others with details about our regulatory activities, our strategic objectives, delivery of our Business Plan, as well as financial information and governance matters.

### **Supporting the regulatory objectives and best regulatory practice**

20. The Annual Report covers the regulatory activities undertaken by IPReg in 2023 to act in accordance with the regulatory objectives. It also supports the better regulation principle of transparency of regulatory activities.

### **Impacts**

21. There is no direct impact on any group of attorneys.

### **Monitoring, Evaluation and Key Metrics**

22. Where the same data type is reported as was in the 2022 Annual Report, and comparison is beneficial, it has been made, such as how many entries on to the registers, or how many complaints were processed. The report does not compare data with that reported in the 2022-23 Performance Management Dataset given it covers a different timeframe (based on the financial year, rather than calendar year). It is intended that the 2024 version of the Annual Report will compare the 2023 and 2024 performance data.

### **Communication and engagement**

23. The Annual Report is a key document about our activities. It will be published on the website, with a dedicated News item and we will draw it to registrants' attention. We will also provide a link to CIPA, CITMA and other stakeholders such as IP Inclusive.

### **Equality and diversity**

24. The user-friendly design seeks to make the Annual Report accessible.

### **Evidence/data and assumptions**

25. The annual report sets out a range of data and information relating to regulatory performance, use of regulatory tools and finance.

## Board Meeting 11 July 2024

### Complaints Update

Agenda Item: 11

Author: Shelley Edwards, Head of Registration (shelley.edwards@ipreg.org.uk 020 7632 7175)

This paper is to note

### Summary

1. This paper stands as an update on complaints received and processed by IPReg. From 1 July 2023, the complaints process is governed by Chapter 4 of the [Core Regulatory Framework](#) and the Investigation and Disciplinary Requirements [Standard Operating Procedure](#).
2. Annex A contains case-specific updates which are confidential and will not be published.

### Recommendation(s)

3. The Board agrees to note this paper.

### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	We have allocated a budget of £35,000 for costs associated with processing complaints and conducting disciplinary hearings. There is a risk that an unanticipated increase in cases will cause us to exceed the budgeted figure	It is IPReg's policy to seek the external costs incurred in bringing disciplinary cases before a tribunal from the respondent, and recover any debt as appropriate.
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	There may be a risk to IPReg's reputation if it were considered that IPReg was not conducting its investigation and enforcement process appropriately - pursuing cases with no evidential basis, not taking enforcement action where there is a clear breach of regulatory arrangements, poor decision-making at hearings etc.	IPReg has developed, in conjunction with legal advisers, a comprehensive decision-making policy to underpin its new enforcement and disciplinary procedures which form part of the regulatory arrangements review. A new Joint Disciplinary Panel has recently been appointed following a comprehensive recruitment campaign, and all new members have received training and induction.

<b>Resources</b>	IPReg manages the initial triage and investigation of cases internally, between the Assurance Officer and Head of Registration. There is a risk that a significant increase in cases will outstrip the internal capacity of the team	Analysis of complaints data over the last 6 years shows that whilst the number of complaints received seems to be increasing, IPReg has become more efficient at resolving these cases, resulting in cases being closed more quickly and the number of open cases in any given month holding steady or reducing
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## Background

- The Board has routinely been updated on Complaints information, including the number of new complaints received and closed per month with a focus on the nature of individual complaints and the anticipated timetable for resolving them. The Board has not, to date, received information about the subject of the complaint due to IPReg’s former disciplinary process which may have resulted in Board members sitting as decision makers on the Complaint Review Committee.
- The Board has indicated it would find it useful to understand how cases are being monitored and advanced, to ensure timeliness of case progression.

## Discussion

- The Board should note the information in this paper.

## Next steps

- The Board should note the information in this paper.

## Supporting information

### Links to strategy and business plan

- The investigation and enforcement of complaints made about regulated persons is an integral part of IPReg’s remit.

### Supporting the regulatory objectives and best regulatory practice

- A robust investigation and enforcement process protects and promotes the public interest by demonstrating that regulated persons who breach any of IPReg’s regulatory arrangements are appropriately investigated and taken through a fair and transparent disciplinary process. IPReg’s process supports the constitutional principle of the rule of law in that justice must be done and be seen to be done in accordance with the principles of natural justice. Publishing decisions about disciplinary matters, protects and promotes the interests of consumers, promotes competition within the regulated community and increases public understanding of their legal rights by allowing consumers to make fully informed choices about their legal representatives. A clear, transparent and proportionate enforcement policy encourages an

independent, strong, diverse and effective legal profession by creating a deterrent to poor practice or professional misconduct.

10. IPReg follows best regulatory practice in the identification, investigation and processing of complaints and disciplinary hearings. Internal decision makers have backgrounds in regulation and professional discipline, and one is a practising solicitor. Members of the [Disciplinary and Interim Orders Tribunal](#) receive regular training on best practice in decision making, and are supported by legal advisers with a regulatory and professional discipline specialism. Best regulatory practice is therefore at the forefront of all decisions across all aspects of investigation and the running of disciplinary hearings.

## Impacts

11. There are no specific impacts on any type of regulated person, consumer or group.

## Monitoring, Evaluation and Key Metrics

12. In addition to headline information reported in this paper, case progression information is reported at every Board meeting in a confidential annex (to ensure ongoing investigations are not prejudiced). The Board has oversight of the number of complaints made, how long they are open, case status, next steps and anticipated timeframes on ongoing investigations. Departures from timescales set out in the Investigation and Disciplinary Requirements [Standard Operating Procedure](#) are reported in the confidential annex.

## Communication and engagement

13. Disciplinary decisions are published on IPReg's website [here](#) and, where applicable, against the name of the attorney or firm on the [online register](#).

## Equality and diversity

14. There are no specific equality and diversity issues.

## Evidence/data and assumptions

### Cases by numbers

As at 08.05.24

- Total open cases 8
- Cases opened since last meeting 3
- Cases closed since last meeting 4
- Change (from last meeting) -1

Year to date (from 1 January 2024)

- Total cases received 6
- Total cases closed 7



## Legal Ombudsman

Complaints received in last month 0

Cases open 0

## Timeliness

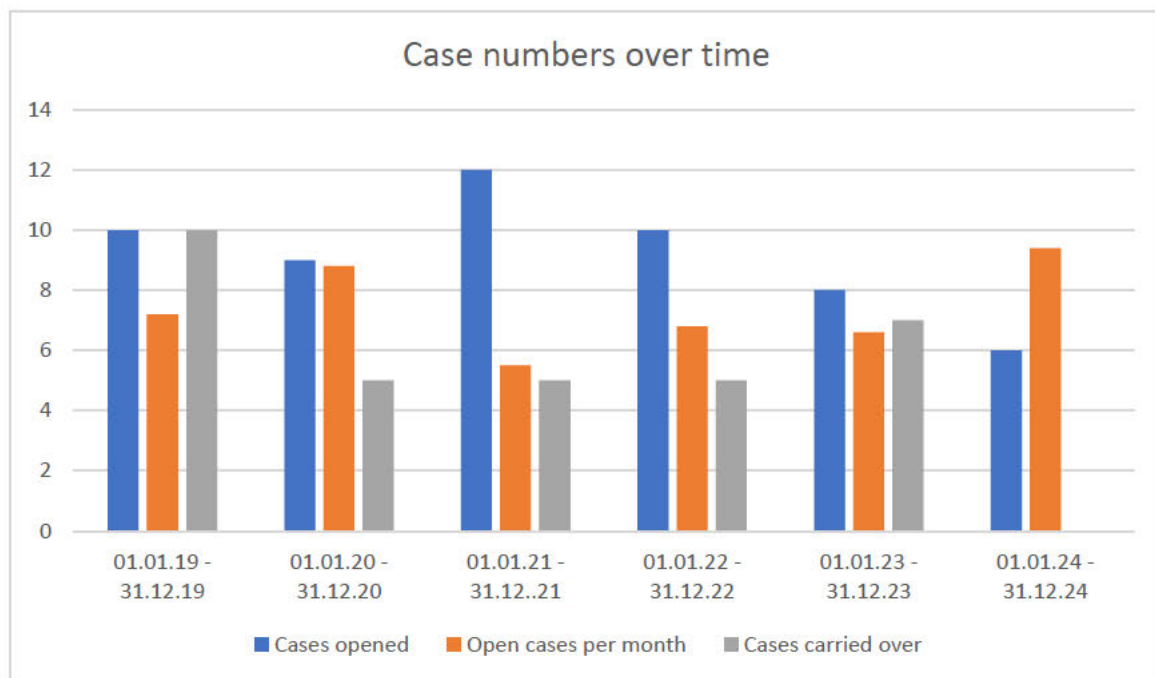
Oldest open case 192 weeks (3y 36w)

Newest open case 0 weeks

Mean 40 weeks

Median 38 weeks

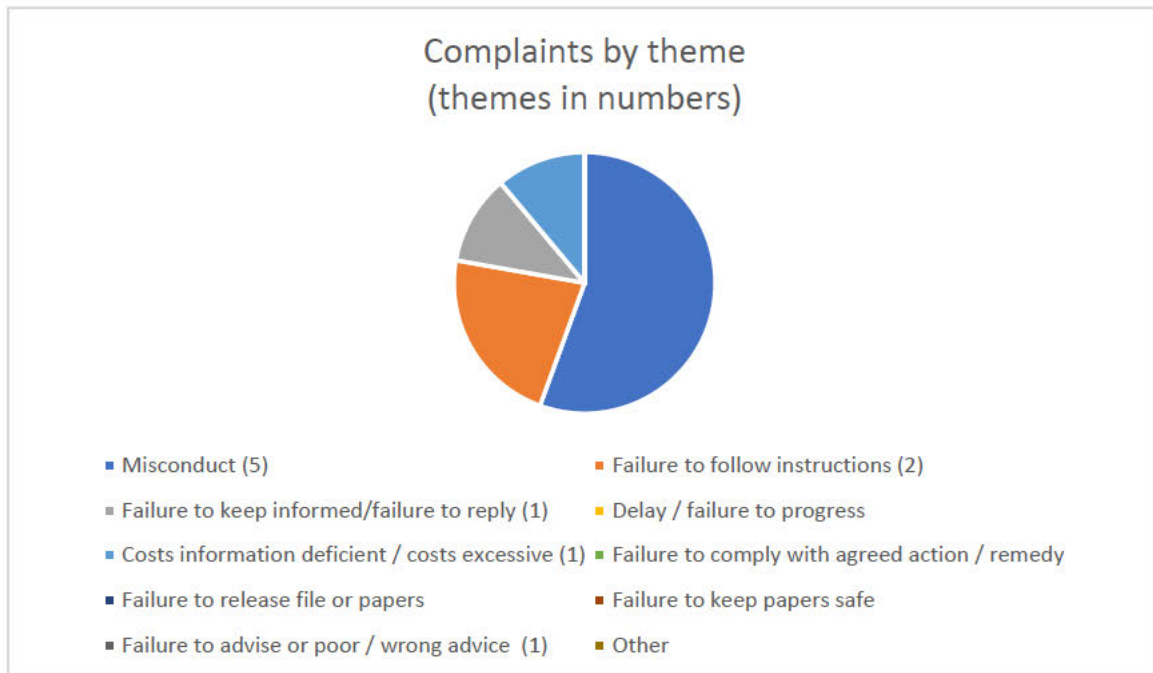
## Analysis and trends (12 month periods)



	<b>01.01.19 – 31.12.1 (4 cases carried over from previous period)</b>	<b>01.01.20 – 31.12.20</b>	<b>01.01.21 – 31.12.21</b>	<b>01.01.22 – 31.12.22</b>	<b>01.01.23 – 31.12.23</b>	<b>01.01.24 - 31.12.24</b>
<b>New cases opened / received</b>	10	9	12	10	11	6
<b>Total open cases during period</b>	14	19	17	16	17	15
<b>Overall case numbers open per month (range)</b>	5 - 9	5 - 12	3 – 8	6 - 9	5 - 9	8-10
<b>Overall case numbers open per month (avg)</b>	7.2	8.8	5.5	6.8	6.3	9.4
<b>Cases carried over to next period</b>	10	5	5	5	8	
<b>Cases closed/resolved within 12 weeks*</b>	10%	44%	50%	50%	60%	71%
<b>Cases closed/resolved within 26 weeks*</b>	50%	50%	58%	60%	70%	71%

\*Of cases closed this calendar year

## Open complaints by theme



### Misconduct includes:

- Misappropriation / mismanagement of funds (2 cases)
- Unprofessional / inappropriate conduct with a third party (2 cases)
- Conviction (1 case)

## Board Meeting 11 July 2024

### CEO report

#### Agenda Item: 12

**Author:** Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk))

**This paper is for discussion.**

All the Annexes will be published except Annex E (advice to Board).

### Summary

1. This report sets out information about IPReg’s activities that are not covered elsewhere in today’s agenda.

### Recommendation(s)

2. The Board is asked to:
  - a. Note this paper;
  - b. Approve the terms of reference for the Technology and Innovation Working Group (see paragraph 15 and Annex A).

### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	No specific financial risks	N/A
<b>Legal</b>		
<b>Reputational</b>	No specific reputational risks.	N/A
<b>Resources</b>	No specific resourcing risks	N/A

### Progress on the 2024 Business Plan

3. Although the Board receives regular updates on our work through the Board papers on specific policy areas and business as usual, one of the suggestions from the governance review was to provide specific updates on progress against the business plan. I have therefore drawn out the main areas of work set out in the 2024/25 plan and updated them – **Annex B**. These are the areas of work over which we have control; I have not included the work involved in responding to the LSB’s consultations and related work, or our business as usual activities.

## Meetings

### *CIPA and CITMA*

4. The 3 CEOs met on 29 May. They discussed:
  - a. IPReg Articles of Association;
  - b. IPReg external audit timing;
  - c. MoJ work on expanding eligibility for judicial appointments (see **Annex C** and paragraph 11);
  - d. PII – epi policy.
  
5. On 7 June the Chair and I attended the quarterly Regulatory Forum with CIPA and CITMA Presidents, Vice-Presidents and CEOs. The meeting discussed:
  - a. IPReg Articles of Association – advice from Kingsley Napley;
  - b. MoJ work on expanding eligibility for judicial roles;
  - c. IPReg diversity survey update;
  - d. Red risks – update from IPReg;
  - e. IPReg annual external audit – update;
  - f. Practising fees 2025 – consultation timing;
  - g. IPReg Board effectiveness review;
  - h. LSB review of IGRs;
  - i. Artificial Intelligence – opportunities for collaboration.

### *LSB engagement*

- *Relationship management meeting*

6. The relationship management meeting on 23 May discussed:
  - a. Regulatory performance framework (see paragraph 13);
  - b. Rationale for including climate change in the LSB's business plan;
  - c. LSB EDI dashboard not working;
  - d. Publication of LSB/TLS legal needs survey data and technical reports;
  - e. LSB review of Internal Governance Rules – request for information expected soon;
  - f. New LSB statutory rules, guidance and statement of policy on first tier complaints – rationale for requirement to consult on changes;
  - g. IPReg's proposed approach to compliance with LSB statement of policy on technology;
  - h. Future rule change applications: 2025 practising fees and first tier complaints.

- *Information requests*

7. The LSB requires an update on our compliance with its statement of policy on consumer empowerment by 30 September. Please see agenda item 13.

- *Correspondence*

8. Nothing additional to report.

### *IP Practice Directors Group (IPPDG)*

9. I attended the IPPDG meeting on 22 May to give an overview of our current work including:
  - a. New IPReg Board members;
  - b. Diversity survey – approach and timing. IPPDG members are very happy to help encourage participation in the survey;
  - c. Education work:
    - EQE mapping to exemptions from PEB final exams;
    - Apprenticeship work with CIPA;
  - d. LSB’s new requirements for first tier complaint handling – consultation/implementation during 2025;
  - e. Thematic reviews approach and timing of:
    - Continuing competence;
    - Transparency.

### *MoJ – increasing judicial diversity – expanding opportunities for attorneys*

10. On 31 May I met a MoJ policy adviser on the Judicial Diversity Team. This was in response to an email (**Annex C**) asking whether there might be any interest from patent attorneys and trade mark attorneys in applying for judicial roles beyond those for which they are already eligible (Chair or Deputy Chair of the Copyright Tribunal and Appointed Person in the Trademarks Registry Tribunal). This was also discussed at the Regulatory Forum with CIPA and CITMA.

### *Conferences/webinars attended by Team and Board members*

11. None to report.

### **Regulatory Performance**

12. We have received a letter from the LSB (**Annex D**) which states that the next performance review will cover the period from June 2023 – September 2024. We will receive the information

request – covering all three Standards – in September for submission by early November. When we met the LSB at the relationship management meeting on 23 May, we explained that the Board would want to review the response at its 7 November meeting before it can be submitted to the LSB.

## Waivers

13. PII Sandbox – no applications have been received.

## Technology, innovation and artificial intelligence

### *Technology and innovation working group terms of reference*

14. Please see **Annex A**. These have been drafted to follow the format for terms of reference of the other working groups.

## IPReg Limited – Articles of Association

15. We have now received from Kingsley Napley draft Articles of Association for IPReg Limited. These are being reviewed. Currently CIPA and CITMA are currently guarantors of IPReg Limited. They have both indicated informally that they may not want to continue in their roles. Kingsley Napley has advised that the process should be relatively simple, with resignation letters for each of CIPA and CITMA and then appointment letters for whoever is stepping in to replace them, plus the relevant Board minutes to accept the resignations and appointments and resolve to effect the Companies House filings and update the company books.

16. I have therefore formally asked CIPA and CITMA to decide whether they want to continue in their current roles. Subject to their responses, the new articles will be brought to the September meeting for consideration. Please also see the press article in paragraph 23.

## Horizon scanning and research

17. The External Market Update report is at **Annex E**.

## Impact of European Qualifying Exams (EQE) changes

18. Please see agenda item 7.

## Contracts and other expenditure (commercially confidential information about contracts will be redacted)

19. As agreed at the May Board meeting, I signed contracts for:

- a. £ [REDACTED] + VAT with Thewlis Graham to conduct the recruitment for the Head of Education Review;
- b. £ [REDACTED] + VAT with Enventure Research to conduct the diversity survey. We have decided that the proposed infographic will be useful; this will cost an additional £ [REDACTED] + VAT.

20. I have also agreed with:

- a. Sayer Vincent a review of our website privacy, cookie and terms and conditions. The estimated cost is £[REDACTED] + VAT;
- b. Ocean to format, including infographics, our 2023 Annual Report; estimated cost is £[REDACTED] + VAT. Ocean produced our 2022 Annual Report;
- c. Equantiis a further [REDACTED] + VAT to support the final stages of the Drupal upgrade;
- d. Office Space in Town for a smaller office from 1 September 2024 – 31 March 2026 at a cost of £[REDACTED] inc. VAT a month (a reduction from £[REDACTED] inc. VAT a month in our current office).

## Other matters

### *Legal Services Consumer Panel (LSCP)*

21. On 7 June, I had a very constructive introductory meeting with the new LSCP Chair, Tom Hayhoe. We discussed our recent benchmarking exercise against the LSCP good practice indicators, our emerging thinking on gathering evidence about unmet legal need and the planned thematic review of our transparency requirements. We agreed that it would be beneficial to meet at least every six months.

### *Diversity survey*

22. Work is underway with Enventure Research to design the questions for, and approach to, the survey. An **oral update will be provided at the meeting** on responses received so far.

### *IPO increased checks on addresses in trade mark applications*

23. The IPO has increased the checks on addresses provided in trade mark applications and introduced a process for reporting misconduct by unregulated agents. I understand that this is largely due to evidence provided to the IPO by CITMA.

### *Press reports and other published information*

24. The [latest developments](#) in the possible regulation by the SRA of CILEx members.



## Annex A

### **Technology and Innovation Working Group (TIWG)**

#### **Terms of Reference**

##### **Purpose**

1. To advise the Board on its approach to changes in the way technology is being used to provide legal services in the regulated IP sector.
2. To support the Board's strategic objective to carry out its regulatory activities proactively, effectively and inclusively, ensuring the efficient use of resources, including encouraging innovation and competition in the provision of regulated IP legal services.
3. The TIWG's work will include (but is not limited to):
  - a. Conducting regular horizon scanning to identify emerging technologies and innovative practices relevant to IP legal services regulation;
  - b. Evaluating the potential impact of these technologies on the IP legal services sector and regulatory processes;
  - c. Considering whether to recommend changes to IPReg's regulatory arrangements to accommodate technological advancements;
  - d. Consider what a targeted and proportionate approach to the LSB's requirements and those of Government would be in the context of regulated IP legal services.

##### **Responsibilities**

4. Provide recommendations to the Board and, where appropriate, seek a steer from the Board.

##### **Membership**

5. The Group shall comprise at least three IPReg Board members.

##### **Quorum**

6. The quorum shall be two members of the Group.

##### **Frequency of Meetings**

7. The Group will meet at least quarterly.

## **Attendees**

8. The Group members, the Chief Executive, the Director of Policy and any nominated member of the Executive shall attend the meetings.
9. The Group may invite external attendees to join the TIWG to advise on any issues and to support the discharge of its duties.

## **Reporting**

10. The Chair of the Group will report to the Board on the progress of matters within its responsibilities.
11. Formal minutes are not required but notes of agreed actions points will be circulated.

[July 2024]

DRAFT

**CEO report July 2024 – Annex B – update on 2024/25 business plan**

Education			
Policy area	What we said we'd do	Timescale	Progress/plans to date
<b>Overall risk rating = red</b>			
Barriers to entry	It is likely that this project will start formally with a Call for Evidence	Q1 or Q2 of 2024.	Recruitment for Head of Education Review underway. Interviews scheduled for 10 July  Discussion with Hook Tangaza on 20 June re project support
Barriers to entry	Review the Competency Framework - patent	As part of barriers to entry project	See above on recruitment
Barriers to entry	Review the Competency Framework – trade mark	Links to work on patent competency framework. Need to ensure consistency where appropriate and also reflect the requirements of the new Core Regulatory Framework	See above on recruitment
Accreditation recommendations	Working with providers to ensure that accreditation recommendations are taken forward	As necessary in 2024/25	PEB – meeting scheduled for 26 June to discuss approach to implementation of some recommendations
New providers	Working with providers to ensure that online delivery of courses and examinations meets the required standards	During 2024/25	Discussions were held with one potential entrant in 2023, no further progress to date
New qualification pathways	Working with stakeholders and potential providers to encourage new qualification pathway options	During 2024/25	Likely to be included in barriers work.  Apprenticeships – CEO attended meeting on 10 June with other stakeholders.



			Significant support for developing graduate level apprenticeship. Next meeting scheduled for 23 July to look at the occupational duties of a part-qualified UK patent attorney
Reaccreditation	We will continue to undertake reaccreditation assessments (typically every 5 years) of qualification providers	During 2024/25	Following discussion in May we are evaluating our approach to evaluating the PEB foundation exams
Impact of EQE changes	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).	During 2024/25	EPO approved changes on 20 December 2023. Will be introduced in 2025.  NDA signed with Julia Gwilt. Timeline for project being developed.
Review Accreditation Handbook	Start a review of the Accreditation Handbook	During 2024/25	Not yet commenced. Links to apprenticeship work and development of what skills, knowledge and behaviours an apprentice needs.

Thematic Reviews			
Policy area	What we said we'd do	Timescale	Progress/plans to date
<b>Overall risk rating = green</b>			
Continuing competence	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.	Q1 or Q2 2024 conduct review  July 2024 – report to Board on the findings and lessons learned. [NB May Board meeting agreed	Sampling to get underway once Drupal 10 is live and fully operational. External sampling and external analysis. Results will be considered by the September Board meeting.

		that this should be considered in September]	
Transparency	Develop our approach and conduct the review	Q2 2024 develop our approach Q3 2024 conduct the review Q4 2024 or Q1 2025 report on findings	Discussion with David Bish on 10 May on approach.
PII Sandbox	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.	2025 – but depends on nature and extent of entrants	

Building our evidence base			
Policy area	What we said we'd do	Timescale	Progress/plans to date
<b>Overall risk rating = green</b>			
Data and evidence gathering	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.	Ongoing with support from external adviser	Ongoing

**Website redevelopment**

Policy area	What we said we'd do	Timescale	Progress/plans to date
<b>Overall risk rating = amber</b>			
Redevelop website	Move from Drupal 7 to Drupal 10 and associated changes	2024	Went live on 27 June. Bugs being resolved. Extended contract with Equantiis to support final stages of project.

Diversity			
Policy area	What we said we'd do	Timescale	Progress/plans to date
<b>Overall risk rating = green</b>			
Stakeholder engagement	Develop our approach to data gathering/research with other stakeholders in the IP sector	2024	No further update since May Board meeting
Diversity survey	We will conduct a diversity survey	2024	Enventure Research appointed. Work underway on approach. Survey started on 1 July.
Diversity Action Plan	Review the plan every 6 months <sup>1</sup>	Next review due in July 2024	Board agenda item 8 at July meeting

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<sup>1</sup> Note that this was not in the Business Plan but was agreed by the Board in January 2024.

Annex C

From: Rungapillay, Sherina <Sherina.Rungapillay@justice.gov.uk>  
Sent: 16 May 2024 13:33  
To: Fran Gillon  
Subject: Expanding eligibility for Legal Professions

Caution: This email originated from outside your organisation. Do not click on links or open attachments unless you recognise the sender and know the content is safe.

Dear Fran,

I hope you are well.

My name is Sherina Rungapillay and I am currently a Policy Adviser within the Judicial Diversity Team for the MoJ. We have an action to work to review the barriers faced by professional groups such as those regulated legal professions who are not currently eligible for judicial office (outlined within the Judicial Diversity Forum (JDF) Action Plan <https://judicialappointments.gov.uk/wp-content/uploads/2024/01/Judicial-Diversity-Forum-Priorities-and-Actions-for-2024.pdf>).

We have been in contact with both the Chartered Institute of Trademark Attorneys (CITMA) and Chartered Institute of Patent Attorneys (CIPA), who have expressed their interest in us progressing this action. Our contacts here are Keven Badar and Lee Davies. We are aware that Trademark/Patent Attorneys are only eligible for the below currently:

- Chairman or Deputy Chairman of the Copyright Tribunal
- Appointed person in the Trademarks Registry Tribunal.

To assist with us progressing this further, we are looking for the following information:

- 1) The interest/appetite there is for this within the profession.
- 2) The composition of the profession, specifically the diversity characteristics.
- 3) Whether there is an interest in a niche expansion for specific judicial roles, or general judicial roles? This in turn helps guide our recommendations.

I am happy to schedule a meeting with us to discuss these in more detail, or also content with you sending over information or queries you may have through email.

I look forward to hearing from you.

Many thanks,  
Sherina

Sherina Rungapillay  
Policy Advisor, Judicial Diversity Team  
Judicial and Legal Services Policy Directorate  
102 Petty France, Area 9.22, Westminster, London, SW1H 9AJ  
07742768891

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## Annex D

Fran Gillon, Chief Executive  
IPReg

[fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk)



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28 May 2024

Dear Fran

### **Regulatory Performance**

I write further to the LSB's latest Regulatory Performance Assessment Report, which we published in February 2024.

#### ***Next performance assessment***

Our next performance assessment process will begin in September 2024. It will cover the period June 2023 to September 2024. We intend to send you our request for assurance and specific information in mid-September. Your response will be due in early November. As usual, we will provide you with an opportunity to comment on our draft assessment's substance and factual accuracy and to raise any confidentiality concerns. We anticipate this will take place in February 2025, ahead of the publication of our final report in March 2025.

As we noted in our February 2024 report, our upcoming assessment will cover all three of our regulatory performance framework's standards: Well-Led, Effective Approach to Regulation and Operational Delivery. It will also focus on the common performance issues we identified in our February 2024 report. You will recall that the issue of transparency was among the common performance issues identified in our report, and that we committed to write to regulators to set out our expectations in this area.

#### ***Transparency***

The LSB considers that openness and transparency are key to an effective system of regulation. The need for progress on transparency has been a consistent theme of our regulatory performance reports in recent years, and while some regulators have made good progress, in some cases there is still a need for significant improvement.

In our February 2024 report, we again highlighted the need for regulators to increase transparency and said we would write to regulators about this. Our report highlighted that some regulators do not provide meaningful transparency about the decisions they take that affect their regulated communities, consumers, and the public. Despite regulators having policies that should enable them to provide sufficient transparency, in practice not enough

information is published or not published in a clearly accessible form. Lack of transparency of decision-making also impedes the LSB's ability to have assurance about the effectiveness of legal services regulation and to hold regulators accountable for their performance.

We expect regulators, in discharging their regulatory functions, to meet the regulatory objectives in section 1 of the Legal Services Act 2007, including protecting and promoting the public interest and the interests of consumers, and to have regard to the better regulation principles, including transparency. Those regulatory objectives and the transparency principle are reflected in Characteristic 5 of the Well-led Standard in our Regulatory Performance Framework, which states that regulators need to deliver high levels of transparency, including ensuring decisions are clear and accessible to all those with an interest, such as their regulated communities, consumers and the public.

We expect all regulators to be able to demonstrate high levels of transparency by the start of our next assessment in September 2024. Below, we set out our expectations of the steps legal services regulators should take to provide sufficient transparency about their decision making.

- Board papers should be published. They should include sufficient descriptions of evidence used to (1) inform regulatory activities and (2) support policy development to provide stakeholders with a clear understanding of the evidence regulators are relying on and their analysis of it. In this regard, any redactions in Board papers should be carefully considered, clearly reasoned and minimised wherever possible, having regard to legal and other obligations.
- Regulatory matters, such as consultations on proposals for changes to regulatory arrangements, responses to consultations and decisions on changes to regulatory arrangements, should be considered at Board meetings and minuted so it is clear how decisions have been reached.
- Any decisions taken outside of a Board or committee meeting should be clearly noted in the next set of minutes.
- Minutes of Board and other committee meetings should record key points of discussion. Where personnel, finance or other restricted matters are discussed, the minutes should describe the substance of the discussion in general terms.
- Minutes of Board and other committee meetings should be published promptly once approved with any redactions carefully considered.
- Regulators should publish consultation documents, non-confidential responses to consultation documents and decision documents.

I trust that setting out our expectations in this way is useful to you. If you have any questions about the matters raised in this letter, please don't hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Orpin', written in a cursive style.

Richard Orpin  
**Interim Chief Executive**

## Board Meeting 11 July 2024

### Legal Services Board Consumer Empowerment Policy Statement – IPReg implementation review

#### Agenda Item: 13

#### For discussion and decision

**Author:** Victoria Swan ([victoria.swan@ipreg.org.uk](mailto:victoria.swan@ipreg.org.uk))

*The paper and Annexes B and C will be published. Annex A will not be published – draft document*

#### Summary

1. This paper provides a review (**Annex A**) of IPReg’s compliance with the Legal Services Board’s (LSB) April 2022 [Statement of Policy on Empowering Consumers](#). That statement set out expectations for the regulators to ensure that legal services providers offer useful information to consumers about: the cost and quality of their services, redress and regulation. The LSB expects regulators to be compliant with the statement by 30 September 2024 (see **Annex B**).
2. In July 2022, we provided the LSB with an action plan which set out how we would comply with its requirements. We provided the Board<sup>1</sup>, the LSB, and the Market and Transparency Coordination Group<sup>2</sup> (MTCOG) with progress updates at various points since then. The review (**Annex A**) illustrates how IPReg has implemented all the action plan commitments it intended to implement by September 2024. Additionally, it provides details about other initiatives that we have implemented as well as updates on planned commitments beyond September 2024. It demonstrates that IPReg has taken the statement into account when exercising its regulatory functions, through its comprehensive regulatory arrangements review, regular horizon scanning/benchmarking exercises, its new disciplinary processes and its collaboration work with the other regulators on the Regulatory Information Service (single digital register).
3. The development of Quality Indicators (QIs) has proved challenging for the legal services sector. However, the LSB and the Legal Services Consumer Panel (LSCP) have been clear in recent correspondence (**Annexes B and C**) that they consider QIs to be a fundamental element of informing consumer choice. The LSB’s statement of policy states:

*Regulators are expected to put in place regulatory arrangements and undertake other appropriate activities to ensure the provision of useful information that best enables*

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<sup>1</sup> The Regulatory Standard 3 assessment brought to the 14 March 2024 Board meeting included information on this as did the Legal Services Consumer Panel’s Consumer Focused Regulation Good Practice Indicators review brought to the 16 May 2024 Board meeting. The 13 July 2023 Board meeting reviewed the proposed response to the LSB’s regulatory performance assurance information request, which included a response to the LSB’s specific request of a progress update regarding the Empowering Consumers Policy Statement. The last wholly dedicated update was provided to the 12 January 2023 meeting of the Board.

<sup>2</sup> The LSB chairs the MTCOG, attended by the legal services regulators, which is the vehicle for coordinating regulators’ activities in relation to the [increasing market transparency for consumers agenda](#).

effective consumer choice on the quality of legal services providers to consumers. Such information should include as a minimum:

- a. Providers' disciplinary and enforcement records, including any sanctions; and
- b. Published decisions made by the Legal Ombudsman on complaints about providers.<sup>3</sup>

This paper sets out options that we have considered about our approach to QIs.

## Recommendation(s)

4. The Board is asked to:
  - a) discuss the draft progress update (**Annex A**) – this will be updated following the discussion about Quality Indicators and
  - b) discuss the approach to Quality Indicators (see paragraphs 16 -18). This proposes continuing to monitor research into QIs and engaging with firms about the approach to whether QIs should use First Tier Complaints information.

## Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	Both the LSB and the LSCP want the frontline regulators to implement a Regulatory Information Service (RIS – referred to previously as a single digital register). An RIS will have a financial impact on the frontline regulators because it will be them that sets it up and runs it (it will not be funded by the LSB), whether that is an evolved form of the <a href="#">Legal Choices</a> website, which we run together and which provides regulatory status information (such as disciplinary findings) on regulated persons. Whilst the proposed design stage (expected to be live August until October), will cost £45k, it will come from the current Legal Choices budget which had been earmarked for other items. Depending upon where the	IPReg actively participates in both the Governance Board (LCGB) <sup>4</sup> and the Steering Group (LCSG) <sup>5</sup> of the long-established <a href="#">Legal Choices</a> website. This has included actively contributing to the recently completed discovery phase for the RIS project. This was looking at the functional requirements that each frontline regulator could contribute. In turn this has set the course for the imminent design scope phase. Ultimately, it is the LSGB which will consider the RIS specification options within a cost benefit analysis and determine the way forward.  We have budgeted £30,000 for the thematic review of how well the new transparency provisions are being complied with. This will enable us to obtain external advice on the best way to structure the review, to analyse the

<sup>3</sup> Statement of policy paragraph 18

<sup>4</sup> Typically attended by the CEO

<sup>5</sup> Typically attended by the Director of Policy

	LCGB – which all the frontline regulators are on – ultimately lands in relation to the specification, this will have both outlay and running costs, both of which could be very significant.	information we obtain and evaluate the effectiveness of the requirement. We will likely use an independent party to undertake the review to provide reassurance to firms about its impartiality.
<b>Legal</b>		
<b>Reputational</b>	Our approach to considering the consumer interest is likely to be criticised by the LSB. The LSB is particularly focused on QIs and these are discussed further in this paper.	The new Stakeholder Engagement Strategy outlines our approach to continue building and maintaining positive relationships with stakeholders. The strategy will enable us to improve the way we consult, collaborate with and inform our stakeholders.
<b>Resources</b>	Consumer engagement can be difficult given the predominantly business-to-business nature of the IP sector.	We use proxies for consumer input such as engaging proactively with the Legal Services Consumer Panel and seeking their input as appropriate.  We have contracted with Cut-Through Consulting to provide support on data and evidence gathering and analysis and they are actively participating in the regulators’ research/risk groups.

## Background

- The Competition and Markets Authority’s December 2020 [Legal Services Market Study](#)<sup>6</sup> directly informed the [LSB Statement of Policy on Empowering Consumers](#). The statement aims to deliver better information about the service and quality of legal services providers, with the frontline legal services regulators<sup>7</sup> expected to be compliant with the statement by September 2024. The statement outlines how the regulators should ensure that individual

<sup>6</sup> This reviews progress against the CMA’s recommendations in its [2016 legal services market study](#).

<sup>7</sup> The Bar Standards Board (BSB), Chartered Institute of Legal Executives (CILEx), Cost Lawyers Standards Board, Council of Licensed Conveyancers (CLC), IPReg, Institute of Chartered Accountants of England and Wales (ICAEW), Master of Faculties, Solicitors Regulation Authority.

consumers and small businesses in need of legal advice have the information to shop around and choose the provider most suited to their legal needs.

6. In July 2022 the Board considered an analysis which assessed the extent to which IPReg’s approach was consistent with the statement and what actions needed to be taken in the IP sector. The Board agreed the gap analysis and the action plan was submitted to the LSB in July 2022. This was discussed with the LSB on 5 October 2022. In January 2023 the Board considered an update on progress. Progress across the sector was discussed through 2022 and 2023 meetings of the LSB’s Market and Transparency Coordination Group (MTCOG).
7. On 8 June 2023 the LSB issued a regulatory performance assurance information request to all frontline regulators which covered the period October 2022- June 2023. This included a request regarding progress on compliance with the policy statement. Our proposed submission to the LSB was considered by the Board in July 2023; our response was submitted to the LSB on 27 July 2023. The response referenced our successful regulatory arrangements review rule change application which included [new transparency requirements](#) as well as [Transparency and Costs Guidance](#) and a [Consumer Transparency Leaflet](#)<sup>8</sup>. In February 2024, the LSB published its [Regulatory Performance Assessment Report](#). That report mentioned IPReg’s “evidence of progress in meeting the LSB’s consumer empowerment policy statement, including its new transparency arrangements and its work to produce consumer facing information, including a transparency leaflet”<sup>9</sup>. Its Good Practice section mentions our “approach to producing a consumer facing leaflet, including proactively reaching out to the Legal Services Consumer Panel”<sup>10</sup>.
8. On 17 June 2024, the LSB issued a letter (**Annex B**) requesting assurance about how we are meeting the expectations set out in the Statement. They require evidence from us as to how we are meeting their specific outcomes and general expectations:

- a) i) Consumers have the knowledge and capability to recognise when their problem is a legal issue and know how to get legal assistance where necessary;
- a) ii) Consumers have the knowledge and capability to engage effectively with the legal services market;
- a) iii) When choosing a legal services provider, consumers can access, as a minimum, useful information about a provider’s services, price, quality, regulatory status and access to resolution of complaints that enables them to make an informed choice as to the provider most suited to meet their needs.
- b) Ensure compliance by those they regulate with the regulatory arrangements they put in place to pursue these outcomes, including through effective measures to address non-compliance;

<sup>8</sup> These new arrangements went live on 1 July 2023.

<sup>9</sup> Page 55, paragraph 13

<sup>10</sup> Page 59, paragraph 27 (4 Good Practice Indicators for IPReg were identified – the others related to the governance review, regulatory arrangements review rule change application and the regulatory sandbox enabling innovation).

c) Have appropriate mechanisms in place to evaluate and report on the effectiveness of the steps they have taken in pursuit of these outcomes and make changes where these have not been met.

9. The Statement also had expectations about public legal education and information about price, quality, service, redress and regulation and how information is made available to consumers. Accordingly, the LSB is expecting evidence of activities in relation to these. It expects an explanation and evidence about how we have adapted our approach to address the needs of individuals and small businesses or specific practice areas within it. It seeks evidence on how proposed measures have been tested with consumers and evaluated for their effectiveness. It also expects to see how we have collaborated with other regulators to work more efficiently and effectively. Our draft response (**Annex A**) lists these items and the activities undertaken to provide assurance, as well providing an update on the IPReg consumer empowerment action plan submitted to the LSB in July 2022.
10. New measures, not identified in that action plan, include our Stakeholder Engagement Strategy and the May 2024 Board meeting which considered a benchmarking exercise against the [LSCP Consumer Focused Regulation Good Practice Indicators](#). Additionally, we are an active member of the [Legal Choices](#) Steering Group and Governance Board, which is taking forward the Regulatory Information Service (RIS) work, with the aim of providing a single digital register. The most recent meeting of the RIS group (24 May 2024) reviewed the functional requirements for RIS. This included whether RIS should set out providers' costs information; the meeting decided that signposting to items such as IPReg's Consumer Transparency Leaflet rather than actual services costs was a targeted and proportionate approach.

### Consideration of Quality Indicators (QIs) in the IP sector

11. On 7 June 2024, the CEO had a positive introductory meeting with the new Chair of the Legal Services Consumer Panel (LSCP), Tom Hayhoe. We discussed our benchmarking exercise against the LSCP good practice indicators, our emerging thinking on gathering evidence about unmet legal need and the planned thematic review of our transparency requirements. The LSCP told us that it met the CMA in February in response to its 16 January 2024 [letter](#) (**Annex C**) that set out the LSCP's view that regulators were not making progress on implementing quality indicators. The CMA advised the LSCP that any enforcement action could only be taken at the end of a formal investigation and that it is waiting to see the result of the LSB's assessment of regulators' compliance with the consumer empowerment statement before deciding whether it needs to review the situation.
12. The CMA and the LSB also want QIs in place in the legal services sector. However, it has proved very challenging for the sector to identify (and gauge performance) against meaningful QIs. This was considered by the MTCOG and in February 2021 the Solicitors Regulation Authority, Council for Licensed Conveyancers and CILEx Regulation launched a



pilot review to look at the potential for QIs in conveyancing and employment law. The review was undertaken between 2021 and 2023 and its resulting quality indicators in legal services pilot project [report](#) made a number of next steps considerations<sup>11</sup> but it did not propose actual QIs. The LSCP [letter](#) (Annex C) is clear in its disappointment:

*“We are disappointed that none of the legal services regulators can identify a single quality indicator that has been published for consumers’ benefit since 2016.*

*Following considerable urging from us, the Solicitors Regulation Authority, Council for Licensed Conveyancers and CILEx Regulation commissioned a joint pilot on digital comparison tools (DCT) in 2021. The pilot was completed in February 2022, but the findings were not published until June 2023. It is unclear if the pilots will materialise into indicators that help consumers to identify and choose the right service provider for their needs. To our knowledge, there has been no timeline or action plan to implement the learnings from the pilot, though we note that some providers are now beginning to engage with review sites.”*

13. On 16 May 2024, the LSB issued new Requirements, Guidance and a Statement of Policy on [First-Tier Complaints](#)<sup>12</sup> (FTC) which regulators must comply with by November 2025. The new provisions include publication of first-tier complaints data for individual firms which the LSB considers will provide consumers with a key source of information about legal services providers’ quality “which will in the longer term contribute towards meeting the Empowering Consumers Statement of Policy requirements”<sup>13</sup>. It proposes that regulators apply what might be considered a quality indicator proxy; that is, to publish firms’ performance against the FTC handling timeframe of 8 weeks prior to potential escalation to the Legal Ombudsman.

14. The LSCP [letter](#) suggests the following:

*“Beyond digital comparison tools and the consumer reviews that may be found within them, we are unaware of any other quality indicator being actively explored by the Approved Regulators. The Panel has made the following suggestions:*

- a) the publication of first tier complaints data;*
- b) the publication of full ombudsman decisions by the Legal Ombudsman;*

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<sup>11</sup> [Next Steps Actions for Consideration](#): 1) Use targeted activities with consumers to improve their access to, and use of, comparable information about the nature and quality of legal services and DCTs. 2) Explore options to increase legal service provider engagement with DCTs or online reviews 3) Establish ongoing regulator-led voluntary guidelines for DCTs that provide assurance to legal services providers and consumers about the standards DCTs have agreed to adhere 4) Investigate and monitor the impact of information that may help consumers compare providers in specific areas of legal services. This includes identifying other potential sources of independent, trusted data for legal services, and exploring opportunities for those data to be used as comparable information. 5) Explore opportunities and regulatory levers to improve the accessibility and availability of Legal Ombudsman decisions for consumers 6) Continue engagement with HM Land Registry to improve consumer access to its information 7) Explore digital exclusion considerations and opportunities for regulators to influence the availability of comparable information through non-digital channels.

<sup>12</sup> Regulators need to comply by November 2025.

<sup>13</sup> Page 3 of the LSB’s 17 June 2024 letter – see Annex B.

- c) *the commissioning of mystery shopping research by the bigger regulators in one or two high risk areas;*
  - d) *the need for smaller regulators to be proactive e.g. the Council for Licensed Conveyancers could publish quality information on licenced [sic] conveyancing work focussing on speed, accuracy and registration timeliness."*
15. In relation to these suggestions, we currently:
- a) capture FTC data through the annual return process. We publish the aggregate data by each complaint category in the annual report. We do not currently publish the data by firm. We do not currently capture performance against the 8 week timeframe for resolving a complaint made to a firm or sole trader but could consider introducing this, subject to allowing firms sufficient time to make any system changes that are required;
  - b) there have been no full Ombudsman decisions about IPReg registered attorneys/regulated firms – the RIS would link to this information. We publish our disciplinary decisions in full;
  - c) intellectual property is not considered a high-risk area which would warrant a mystery shopping given the cost involved;
  - d) proactivity of smaller regulators – please see paragraph 16.
16. The Executive Team has considered the following options for Quality Indicators:
- a) Do nothing further. We meet the LSB's minimum requirements because we publish full information about disciplinary decisions on our website and the registers indicate if there has been disciplinary action against an attorney. We know that there are very few individual consumers and small businesses who use regulated IP legal services and neither the CMA, LSB nor the LSCP have provided any specific concerns about consumer detriment in the IP sector. Given the experience of the SRA, CLC and CILEx Regulation pilot on areas where there is considerable consumer use of legal services, the expenditure needed to identify what QIs might be useful for the small number of users concerned would be disproportionate. We will continue to monitor any research that the other regulators, LSCP, LSB and CMA undertake on quality to see whether there are any lessons that would be helpful in the IP sector;
  - b) Engage with firms. We could ask firms which have individual/small business clients to see what (if anything) they consider their clients would find useful in terms of quality indicators, or that they already provide to their clients. This could include a discussion on the 8 weeks FTC target and their performance against this. This approach could draw criticism from the LSCP as we would be asking firms for their views rather than consumers. However, we will have to consult on the LSB's new requirements on FTCs (probably early 2025) so this could be incorporated into that process;

c) Commission research. We have found it very difficult to engage directly with consumers or their representatives despite our best efforts. We have a very constructive relationship with the LSCP and often proactively engage with it as a proxy. However, the cost of targeted research is likely to be disproportionate to the benefits bearing in mind that the LSB's own small business survey only found 25 companies (in a sample of 10,000) that identified that they had an IP legal need.

17. We consider that a proportionate and targeted approach would be to continue to monitor any research that is conducted (option (a) above) and engage with firms as part of the FTC consultation in 2025 (option (b) above).
18. Additionally, the Executive Team proposes that the current FTC category of "costs information deficient/excessive" can be split to gather richer data: i) where there has been insufficient information regarding costs and ii) where the costs have been considered excessive. It is considered that that it would be useful to remove the category "not complied with agreed outcome or remedy" as a consumer could confuse this with "failed to comply with instructions" which is also asked. These changes to be implemented from 1 January 2025, with guidance on what constitutes a complaint (in accordance with the LSB definition) and regarding the reporting categories. It is proposed that the planned thematic review of the new transparency provisions includes FTC reporting to review the context and veracity of the data being reported.

### Next steps

19. The discussion will inform our response (**Annex A**) to the LSB's request for assurance regarding the Statement. An updated **Annex A** will be brought to the 12 September Board meeting.

### Supporting information

#### Links to strategy and business plan

20. The first of our (three) current strategic priorities is:
  - “to improve consumer knowledge and empowerment among users of IP legal services:
    - increasing the public profile of IPReg to the regulated community and the users of IP legal services;
    - increasing our understanding of the needs and expectations of users of IP legal services;
    - providing targeted and proportionate information to enable those users to make informed choices about their legal adviser; and
    - increasing our understanding of the needs and expectations of all types of regulated attorneys/firms and disseminating information about best practice.”

## **Supporting the regulatory objectives and best regulatory practice**

21. The transparency work supports the regulatory objective of protecting and promoting the consumer interest, placing consumers at the heart of regulation, alongside the interests of the public and the profession.

## **Impacts**

22. The work in this area is designed to have a positive impact on individual consumers and small businesses who use regulated IP legal services.

## **Monitoring, Evaluation and Key Metrics**

23. The thematic review scheduled for Q4 2024/Q1 2025 will gauge how well the regulated community have embedded the new transparency requirements.

## **Communication and engagement**

24. The benchmarking exercise at paragraph 10 of this paper resulted in the May 2024 Board meeting endorsing 4 commitments<sup>14</sup> which included a Complaints FAQ/Flowchart. This would communicate clearly the options available to a consumer who is not satisfied with the service received from a regulated IP legal services provider.

## **Equality and diversity**

25. Our [EDI Policy and Action Plan](#) has an explicit commitment to encourage a range of perspectives in our operations and decision making.

## **Evidence/data and assumptions**

26. Please see paragraph 22 regarding the planned thematic review.
27. The draft response to the LSB (**Annex A**), as with the original action plan provided to it in July 2022, is based on our evidence that the IP sector has a predominantly business-to-business profile (rather than individual consumers). As identified in this paper and our attached action plan review, we will be looking at how to build on this evidence base.

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<sup>14</sup> As at paragraph 1.4 of Annex A.

Fran Gillon, Chief Executive  
IPREG

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17<sup>th</sup> June 2024

Dear Fran,

### **Meeting expectations with LSB statement of policy on empowering consumers**

I write further to the [Statement of policy on empowering consumers](#) ('the Statement') given by the LSB under section 49 of the Legal Services Act 2007, which came into effect on 11 April 2022.

The Statement sets out general and specific expectations for regulators in empowering consumers and the principles it expects regulators to consider in doing so. The [consultation response document](#) made clear our views on implementation - *We expect the regulators to take steps promptly to meet the expectations set out in the statement of policy, though we recognise this will be an iterative process.*

As you know, at the [last meeting](#) of the Market Transparency Co-ordination and Oversight Group (MTCOG) on 26 July 2023, all regulators confirmed that they expected to meet the Statement's expectations by September 2024. We also reviewed and commented on regulators' progress on meeting its expectations in our latest [Regulatory Performance Assessment Report](#), published in February this year.

I am writing to you now to formally request that you provide us with assurance from your Board by 30 September 2024 about how you are meeting the expectations set out in the Statement. This should include details of the positive impact on consumers from the actions taken, with supporting evidence. We appreciate each regulator's approach will differ depending on the characteristics of its regulated community, those of the consumers it serves and the range and nature of legal services it offers.

We thought it would be helpful at this stage to set out the areas we would expect you to address when you formally provide us with assurance about how you are meeting the expectations.

Before doing so, I wanted to highlight that the LSB considers it crucial that regulators have made real progress on developing tools that could provide useful and comparable

information to consumers about the quality of legal services. We recognise that the existence of several different regulated professions offering a varying range of services present challenges to the development of quality indicators. However, in our view these are not insurmountable and we note the concerns the [Legal Services Consumer Panel](#) has about the limited progress on this issue since it was identified by the CMA in its [2016](#) and [2020](#) reviews. We share the concerns about the impact on consumers from delays in implementing tangible measures such as those set out in the Statement and expect to see that regulators are taking concrete steps to address them.

We consider that the timeframe for implementation of the empowering consumers policy statement's expectations has been reasonable and proportionate. Through our assessments of regulators' performance and engagement via MTCOG we have sought and received assurances from regulators that this work is progressing. We understand that each regulator expects to meet the Statement's general and specific expectations by the deadline of 30 September 2024 (allowing in some cases for evaluation work that is planned for after 2024). Where a regulator has not met the expectations or explained what other steps have been taken to address the areas set out in the Statement, the LSB may go on to consider what, if any action it may take, including under its Statement of policy for enforcement.

### ***General expectations and outcomes***

We require evidence from you as to how you are meeting outcomes a(i) and a(ii) and meeting outcome a(iii) and general expectations b and c. You should also explain how your activities address these outcomes and expectations and how you are assessing their effectiveness.

### ***Specific expectations***

The Statement also sets out specific expectations for the following areas which build on these general expectations and outcomes:

- Public legal education
- Information about price
- Information about quality
- Information about service, redress and regulation
- How information is made available to consumers.

We will be looking for evidence about the activities you are undertaking to meet each outcome.

### ***Principles***

In providing us with assurance about how you are meeting the outcomes and meeting the general and specific expectations set out in the Statement, you will also need to explain and provide evidence about how you have taken account of the Principles set out in the Statement. In particular, how you have adapted your approach to (1) address the needs of individuals and small businesses and (2) the characteristics of your regulated profession or specific practice areas within it. We also would expect to see evidence about how you have tested proposed measures with consumers to evaluate their effectiveness and about how you have collaborated with other regulators to work more efficiently and effectively.

### ***First-tier complaints***

As you know, the LSB recently published new statutory Requirements, Guidance and a Statement of Policy on First Tier Complaints, which is intended to improve consumers' experience when they need to complain about legal services providers. Regulators are to comply with these by November 2025. We consider that the publication of first-tier complaints data will provide consumers with a key source of information about legal service providers' quality, which will in the longer term contribute towards meeting the Empowering Consumers Statement of Policy's expectations.

### ***Next steps***

The next MTCOG meeting has been scheduled for 16 July 2024 at which we look forward to hearing from you and other regulators about your progress on meeting the expectations of the empowering consumers policy statement and progress on the Regulatory Information Service workstream, which will provide consumers with service, regulatory status and complaints information.

If you have any questions please contact your LSB relationship manager, Vibeke Bjornfors.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Orpin', written in a cursive style.

Richard Orpin  
**Interim Chief Executive**

Sarah Cardell & Dan Turnbull  
Competition and Markets Authority  
25 Cabot Square  
London E14 4QZ

Sent by email only to [Sarah.Cardell@cma.gov.uk](mailto:Sarah.Cardell@cma.gov.uk) and [Daniel.Turnbull@cma.gov.uk](mailto:Daniel.Turnbull@cma.gov.uk)

Dear Sarah and Dan,

**Re: Legal Services Market Study – Quality Indicators**

The Legal Services Consumer Panel (Panel) is writing to draw your attention to the state of play in implementing one of the key recommendations of the Competition and Markets Authority's (CMA's) 2016 review of the legal services market. A number of the recommendations from that study have yet to be implemented, including some which required action from HMG. But there is one specific recommendation which is directed largely at the legal services regulators (and the providers) which we consider could and should have been implemented some time ago but which still remains largely undone. This is the recommendation to make quality indicators available to consumers.

The need for quality indicators in the legal services market was identified by the CMA in the 2016 study and in the follow-up report in 2020. A package of information remedies was proposed by the CMA to address information asymmetry. These remedies were intended to improve consumers' ability to shop around, make informed decisions before purchasing services and become active participants contributing to a well-functioning and competitive market.

While some tangible progress has been made on price transparency and service information, very little has been done to ensure that consumers have access to quality indicators. Our Panel has consistently asserted that price transparency and quality indicators are co-dependent. Information on price is rarely efficient or optimal without quality indicators. Without information on quality, price transparency could perpetuate consumers' misconception that price equates or correlates with quality, with some consumers assuming that higher priced services are better.

In 2020, we agreed with the CMA and the Legal Services Board (LSB) that Approved Regulators were in the best position to decide the scope, focus and



extent of their determination of what quality indicators would work best within their respective communities. However, we also noted that the long history of inaction and cultural resistance to change justified a pro-active and probably prescriptive intervention. In 2016 we said

*“Any remedies proposed by the CMA must therefore take into account the historical pace of change and the strength of the challenge in the sector. Recommendations must be targeted and directed at identifiable bodies, with timescales and reviews for publication built in as appropriate”.*

As we feared, progress on this has been painfully slow. Despite some recent progress on the research and development of indicators, most consumers are still in the same position with respect to quality indicators across the legal sector as the CMA found them in 2016. We are disappointed that none of the legal services regulators can identify a single quality indicator that has been published for consumers’ benefit since 2016.

Following considerable urging from us, the Solicitors Regulation Authority, Council for Licensed Conveyancers and CILEx Regulation commissioned a joint pilot on digital comparison tools (DCT) in 2021. The pilot was completed in February 2022, but the findings were not published until June 2023. It is unclear if the pilots will materialise into indicators that help consumers to identify and choose the right service provider for their needs. To our knowledge, there has been no timeline or action plan to implement the learnings from the pilot, though we note that some providers are now beginning to engage with review sites.

Beyond digital comparison tools and the consumer reviews that may be found within them, we are unaware of any other quality indicator being actively explored by the Approved Regulators. The Panel has made the following suggestions:

- the publication of first tier complaints data;
- the publication of full ombudsman decisions by the Legal Ombudsman (LeO);
- the commissioning of mystery shopping research by the bigger regulators in one or two high risk areas;
- the need for smaller regulators to be proactive e.g. the Council for Licensed Conveyancers could publish quality information on licenced conveyancing work focussing on speed, accuracy and registration timeliness.

### **The Panel’s intervention since 2016**

The Panel has consistently encouraged regulators to do more and to be proactive and collaborative in this area.

In February 2016, the Panel published a report highlighting deficiencies in the provision of information on price and quality (amongst other things). Between 2016 and 2018 there was no movement on our findings or on the CMA’s recommendations, so the Panel decided to focus on complaints data; a partial and imperfect quality indicator, but one that might pave the way for other quality indicators.

In 2018, the Panel hosted a round table event and invited leaders from other sectors to share their experiences of contextualising complaints data. At the end of the round table event, the Panel said it would explore the facilitation of a broader event focused on quality indicators more generally.

In 2019, the Panel published another paper and hosted another round table, in line with the commitment it made in 2018.

In 2020, the Panel submitted an internal paper to the LSB outlining a potential process for developing quality indicators in the sector.

After the submission of this internal paper, the LSB informed the Panel that it had decided to approach quality indicators slightly differently. It would publish a Policy Statement outlining its expectations and the obligations of Approved Regulators to meet these expectations. The Panel raised concerns about this approach, specifically about the length of time it would take between publication of such a policy statement and any measurable improvement for consumers.

### **The LSB's intervention**

The LSB is responsible for overseeing the Approved Regulators in their implementation of the CMA recommendations. In April 2022, the LSB published its Consumer Empowerment Policy Statement<sup>1</sup> setting out the expectation on all legal services regulators to act in this area<sup>2</sup>. Following the Policy Statement, frontline regulators raised concerns about how to contextualise quality indicators. This was frustrating for the Panel because we had been discussing contextualisation since 2018, and learnings are available from other sectors. Nonetheless, the LSB asked the Panel for formal advice on this specific matter, i.e. how regulators could contextualise quality indicators so that they are meaningful and do not lead to unintended consequences.

In November 2022, the Panel submitted its advice to the LSB and published it<sup>3</sup>. The LSB subsequently stipulated that it expects to see progress by the Autumn of 2024, eight years after the CMA's interim report and four years after its review of the market study remedies. Setting aside the length of time it has taken to get here, we remain concerned that the preparatory work needed to make satisfactory quality indicators available this year has barely begun. It seems to us highly unlikely that by September 2024 we will see the development of a consistent,

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<sup>1</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2022/04/Statement-of-policy-on-empowering-consumers.pdf>

<sup>2</sup> *Regulators are expected to put in place regulatory arrangements and undertake other appropriate activities to ensure the provision of useful information that best enables effective consumer choice on the quality of legal services providers to consumers. Such information should include as a minimum: a. Providers' disciplinary and enforcement records, including any sanctions; and b. Published decisions made by the Legal Ombudsman on complaints about providers.*

*In considering what further information about quality is useful, the LSB expects regulators to have regard to:*  
*a. Information about: i. The quality of legal services provided; ii. The quality of customer service; and iii. Outcomes of work done. b. The following types of information, as appropriate for the particular market: i. Quantitative data on a provider's performance (for example complaints data, success rates, error rates); and ii. Customer feedback, ratings and reviews, particularly those that comment on the aspects of quality set out in paragraph 19a.*

<sup>3</sup> <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2022/11/22.11.24-LSCP-Contextualisation-Advice.pdf>

comprehensive and comparable set of quality indicators that consumers need to be able to make informed choices in this market.

### **The CMA's current investigation**

We are aware of and have spoken to the CMA about its new investigation into providers of will-writing, online divorce and pre-paid probate services. The CMA has highlighted complaints about lack of price transparency, mis-selling, inadequate quality of service, inadequate communication with customers amongst other concerns. It is our strong view that the complaints emanating in these areas of law are symptomatic of the problems identified in 2016 and 2020 which persist in this sector.

Until robust regulation addresses these fundamental failures in transparency, these issues will continue to arise across the entire legal sector and the most vulnerable consumers will continue to suffer the consequences. We would therefore suggest that the CMA consider revisiting the review, to look at the recommendations made in 2020 that have yet to be implemented, including (but not limited to) the issue of quality indicators.

Yours sincerely,

A handwritten signature in black ink that reads "S Chambers". The signature is written in a cursive, flowing style.

Sarah Chambers  
Chair  
Legal Services Consumer Panel

Cc: [remediesmonitoringteam@cma.gov.uk](mailto:remediesmonitoringteam@cma.gov.uk)  
[unregulatedlegalservicesteam@cma.gov.uk](mailto:unregulatedlegalservicesteam@cma.gov.uk)

## Board Meeting 12 July 2024

### Board effectiveness review - appointment

Agenda Item: 14

Author: Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk))

This paper is for decision.

The Annexes to this paper will not be published – commercially confidential

### Summary

1. This paper invites the Board to decide which organisation it should appoint to undertake the Board effectiveness review. The review was agreed as part of our recent review of governance and transparency.
2. Following the May 2024 Board meeting, I contacted the following organisations:
  - a. [Audit One](#) – discussion on 29 May followed by proposal (**Annex A**);
  - b. [Q5](#) discussion on 29 May followed by proposal (**Annex B**);
  - c. [Campbell Tickell](#) – no reply received;
  - d. [Advanced Boardroom Excellence](#) - discussion on 29 May followed by proposal (**Annex C**);
  - e. [Independent Audit](#) discussions on 29 and 30 May followed by proposal (**Annex D**).
3. All the firms take a similar approach overall to the review. Generally they undertake questionnaires and/or interviews of Board members (and in some cases staff and external stakeholders). There is a desk-based review of relevant documents (e.g. Board papers, notes from Working Groups, governance policies). They propose to observe the September Board meeting and present their overall findings to the November strategy morning, following discussion of those findings with the Chair and CEO. A brief comparison of the approaches and price is at **Annex E. The CEO will provide additional information and a recommendation at the meeting.**

### Recommendation(s)

4. The Board:
  - a. Considers the quotes received following discussions with the CEO about the scope of the work and decides who to appoint to undertake the review.

## Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	There are no financial risks. The cost is set out in each of the proposals. It is important to note that Board reviews generally take place every 3 years, so although cost for this review will be wholly from the 2024 budget, we would not expect to have to incur it again until 2027 or 2028.	N/A
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	Undertaking a review will enable the Board to put in place actions identified for development. This approach should enhance IPReg's reputation.	N/A
<b>Resources</b>	There is sufficient budget to pay for this review.	N/A

## Background

- At its July 2022 meeting, the Board adopted a Governance and Transparency Action Plan in response to the LSB's performance management framework assessment. This was published with the July 2022 Board papers. Part of that Action Plan was to undertake a Board effectiveness review.

## Discussion

- The cost of undertaking a review varies considerably between the responses received but is generally driven by the number of 1-2-1 interviews conducted (e.g. Board/Team/external) as well as the number of meetings that are observed (e.g. Board/ working groups). As this is the first review that we have undertaken, it would be appropriate to have a wide range of respondents. In addition, although excluding external stakeholders would reduce the cost slightly. The value of interviewing them would be that they will have contributed to the Board's development in a positive way that is compliant with the Internal Governance Rules. Although taking a "questionnaire only" approach would be cheaper, there is likely to be considerable value in conducting 1-2-1 interviews to explore further any issues that the questionnaires identify.

## Next steps

- Notify the successful company.

## Supporting information

### Links to strategy and business plan

- The outcomes from the review should strengthen the Board's overall effectiveness, thereby supporting delivery of IPReg's strategic and business plans.

## **Supporting the regulatory objectives and best regulatory practice**

9. Good governance enables the Board to discharge its objectives effectively and transparently. Therefore any improvements to IPReg's effectiveness should support its ability to deliver the regulatory objectives in a manner which is open, transparent and accountable.

## **Impacts**

10. Adopting recommendations from the review may, over time, have a positive impact on some registrants and consumers. It is likely to have a beneficial impact on IPReg as an organisation.

## **Communication and engagement**

11. We discussed the plan for a review at the Regulatory Forum on 7 June. CIPA, CITMA (and the LSB) are likely to be interviewed as part of the review.

## **Equality and diversity**

12. There are no direct impacts on equality and diversity.

## **Monitoring, Evaluation and Key Metrics**

13. Nothing specific to this paper.

## **Evidence/data and assumptions**

14. Nothing specific to this paper.

## IPReg Board Meeting Actions Log - New and Outstanding Actions

### Item 15

#### July 2024 Board meeting

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
May 2024 Board Meeting					
May-24	Appointment of new Board members as Directors of IPReg Limited	Chief Finance Officer to notify Companies House	KD	Completed	
May-24	Reappointment of Board members	CEO to confirm reappointments	FG	Completed	
May-24	Education – Barriers to entry project	CEO to take forward recruitment with Thewlis Graham	FG	Underway	Interviews being held on 10 July – update to Board meeting
May-24	Education	Education and Diversity Office to arrange a meeting with IPReg Chair and PEB Chair	SE	Underway	
May-24	Education – PEB candidate complaint	Education and Diversity Office to contact PEB re complaint	SE	Completed	Meeting with PEB on 26 June
May-24	CEO's Report – Decisions	CEO to write to the LSB on LSA s167	FG	Open	

## IPReg Board Meeting Actions Log - New and Outstanding Actions

March 2024 Board Meeting					
Mar-24	Education	CEO to develop role profile and approach to recruitment	FG	Closed	
Mar-24	Education	Education and Diversity Officer to seek advice from one of the other assessors	GS	Closed	SE, GS and VS held meeting Keith Howick in May. Discussed his experiences of PEB Assessment.
Mar-24	Education	Education and Diversity Officer to arrange a high-level conversation with the PEB following receipt of that advice	GS	Open	Letter sent to PEB, awaiting date for meeting between Chair of IPReg Board and PEB Governance Board.
Mar-24	Education	Education and Diversity Officer to seek someone new to conduct the assessment, with appropriate preparation	GS	Ongoing	Role descriptions for assessors being prepared.
Mar-24	Governance Action Plan	CEO and Chair to liaise on identifying organisations to conduct Board effectiveness review	FG/CS	Closed	Agenda item at July Board
January 2024 Board Meeting					
Jan-24	Complaints Update	Head of Registration to review sole traders' PII information	SE	Open	
Jan-24	CEO's Report – New regulatory objective	CEO to consider how to conduct a sectoral risk assessment with external support	FG	Underway	Training on ECCTA being arranged to develop approach
December 2023 Board Meeting					



**IPReg Board Meeting Actions Log - New and Outstanding Actions**

Dec-23	CEO's Report – Articles of Association	CEO to take forward discussions with Kingsley Napley	FG	Open	Kingsley Napley have provided draft Articles which are being reviewed. Awaiting final decisions from CIPA and CITMA.
July 2022 Board Meeting					
Jul-22	Financial Statements (IPReg Ltd), Directors' Report and Letter of Representation	Update financial procedures	KD	Completed	This item was deferred until the after the new accounting package was put in place – 2023. It will now incorporate all procedures.