

Continuing competence requirements Thematic Review

Background

1. Following a change to IPReg's regulatory arrangements from 1 July 2023, attorneys are required to undertake a more reflective approach to maintaining their competence. Rather than a strict hours-based CPD requirement, attorneys are required to:
 - a. Reflect on their practice and identify areas for improvement, development or refresher training;
 - b. Plan how to achieve those needs through appropriate training, research or other learning activities;
 - c. Record the activities undertaken and evaluate how those activities met the needs identified.
2. This approach to CPD is now common place amongst most regulated professions, inside and outside of the legal sector. It is outcomes-focussed, placing more emphasis on how continuing learning can address individual development needs, develop the attorney and improve their performance rather than input-focussed which places value on the time the attorney spent doing an activity.
3. When IPReg introduced the new regulatory arrangements, we recognised that this change was potentially going to be challenging for some, and it may take some time for the new requirements to be fully embedded. IPReg therefore took the position that we would not take enforcement action in relation to any attorney that had not fully understood the new requirements or implemented them in the expected way following the 2023 annual return (2024 practice year renewal) process.
4. We confirmed we would carry out a thematic review of new requirements by selecting a random sample of attorneys to provide their continuing competence records to check compliance and consider how well the new process has been understood. The outcome of the review would then determine whether:
 - a. more time was needed for the professions to adapt to the new arrangements; or
 - b. from the 2024 annual return (2025 practice year renewal) process all attorneys would be expected to be in full engagement with the requirements with a view to considering enforcement action in appropriate cases of non-compliance¹.
5. IPReg engaged Dan Hill, Legal Education Consultant to undertake the review and to prepare a report which would:
 - a. Address how well the selected attorneys appear to have understood the new arrangements;
 - b. Identify examples of particular good practice that might be shared with the rest of the profession;

¹ For example, in cases where the attorney refused to engage with the continuing competence requirements or where there was evidence of a pattern of non-engagement

- c. Identify ways in which IPReg could help the profession better understand what is required of them in order to meet our desired outcomes.
6. A draft copy of the report was considered by the IPReg Board at its September 2024 meeting. The Board noted that just over 80% of attorneys participating in the review had appeared to understand the new requirements and were able to demonstrate how they met the new requirements. However, just under 20% did not provide evidence that their continuing professional development activities included any form of reflection of their learning needs or evaluation following completion of the chosen activity.
7. Dan Hill considered that one reason for this may be that attorneys are “*overestimating what is required or struggling to see how the concept applies in the concept of their practice.*” IPReg has reflected on this and his recommendations which are that:
 - a. IPReg commend their registrants for the work they have done to adjust to the new regime.
 - b. IPReg amend its template learning and development reports for planned and unplanned activities incorporating some of the examples of best practice above.
 - c. IPReg to consider whether it is necessary to have a separate template for unplanned activities or to combine the two.
 - d. IPReg provide registrants with a simple definition of how to implement reflection and its benefits to supplement the description of how reflection may occur currently on the website.
 - e. IPReg to consider whether it is worth prescribing a certain number of different outcomes annually as for example CILEx Regulation currently do.
8. The Board considered that the review provides evidence that IPReg regulated attorneys are maintaining their competence in areas appropriate to their practice. There is a good level of assurance that attorneys are regularly reflecting on how they can develop their skills, knowledge and professional behaviours by engaging in a wide variety of learning activities, both technical and non-technical. Attorneys that did not provide evidence of reflection or evaluation nonetheless provided an account of a range of CPD activities they had undertaken.

Outcomes

9. As a result of the findings of this thematic review, IPReg has decided:
 - a. To adopt the recommendation to commend all attorneys for the work they have done to adjust to the new regime. IPReg is grateful to all attorneys who responded to IPReg’s request for records and we were pleased to note that many attorneys expressed an interest in the work IPReg is doing in this area and in the outcome of the review.

IPReg’s particular thanks goes to those attorneys who agreed to allow us to publish anonymised extracts from their records to share examples of approach and best practice. These can be found in the updated [continuing competence guidance](#).
 - b. To adopt the recommendations to amend the templates attached to the continuing competence guidance to incorporate some of the examples of best practice identified

during the review, some of which include planned and unplanned activity on the same document. The purpose of publishing templates was always to provide examples of how an attorney may record their compliance with the continuing competence requirements. They were not and are not designed to be prescriptive and attorneys are welcome to amend, blend and adapt those templates to develop a framework record that best meets their needs

We have in Annex 2 to the [continuing competence guidance](#) provided some examples of actual records provided by attorneys during this review, which demonstrate particularly good practice and show the variety of ways the exercise can be undertaken. These records have been anonymised, and publication is with the written consent of the relevant attorney.

- c. To adopt the recommendation to review the content of the [Continuing Competence section of the IPReg website](#) and to provide a simple explanation of how an attorney may reflect on their practice and the benefits of doing so. The [continuing competence guidance](#) has also been updated. The explanations are provided below.
- d. Not to adopt the recommendation to prescribe a certain number of different outcomes annually, as other legal services regulators may do. IPReg wants to ensure that at least for now, the continuing competence requirement is focussed on the attorney identifying appropriate and meaningful learning and development activities for themselves which are directly relevant to their individual practice.

We think that requiring a minimum of activities or directing that such activities must focus on a particular area (such as ethics and the rule of law, AI and emerging technologies or money laundering) may lead to attorneys devoting insufficient time to development in areas more relevant to them. The evidence we have seen from this thematic review also assures us that attorneys are undertaking training and development in a variety of technical and non-technical areas such as those listed above. This leads us to concluding that adopting this recommendation is not necessary at the moment.

- e. All attorneys must confirm they have complied with IPReg's continuing competence requirements in 2024 as part of the 2025 registration renewal process. Should an attorney later be asked to provide evidence of this and fail to do so, IPReg may consider disciplinary action.
- f. IPReg will contact those attorneys that did not appear to understand what is now required and work with them to ensure that going forward they will be able to demonstrate the requirements are met.
- g. IPReg will carry out a further continuing competence thematic review in approximately 3 years' time to ensure that the requirements are still being met and to get the necessary assurance of ongoing competence of the regulated professions.

What is meant by “reflection”?

You are asking yourself *“Which areas of my knowledge and skills do I need to enhance? Why?”*

You could also ask yourself:

- *Do I have any learning gaps or weaknesses?*
- *What do I want to know and why do I want to know it?*
- *Is there a new law, procedure or system that I need to know about?*
- *Is my job or role changing? Are there things I could work on to help me with that?*
- *What work would I like to be doing next year? Are there things I could work on to help me achieve this?*
- *How did my last performance review go? Was anything identified that I could work on?*
- *Thinking about a piece of work I am doing / have recently completed, were there things that I could do better or could have gone better?*
- *Is there a piece of work I am really enjoying or am interested in? Can I take this further and what would help me to do so?*
- *Is there a process, procedure or system we use at work that could be improved? Could I help improve it?*

By asking yourself these sorts of questions you are focussing on your own individual practice and career. This will help you identify areas for development and opportunity that meet your personal needs and goals. This is important because it will help you ensure you're spending your time on continuing competence activities that are relevant and beneficial.

Not all learning will be planned though you should be regularly asking yourself these types of questions so that you are satisfied that your competence is maintained and you continue to develop your skills and knowledge.

What is meant by “evaluation”?

You are asking yourself *“What will I do different as a result of this activity?”*

You could also ask yourself:

- *Did the activity achieve my learning or development objective?*
- *What did I learn?*
- *How can I apply my new knowledge?*
- *How will this change my approach?*

- *Do I need to take further action? If so, when?*
- *Can I share this learning with others?*
- *Will I need refresher or more targeted training in this area?*
- *Has my client / employer / team / trainee benefitted from me doing this? How?*

Evaluation is important because it gives you the evidence you need to show that you have met your learning objective or it can help you identify whether you still have more to do.