

The Patent Regulation Board and the Trade Mark Regulation Board

Agenda

Thursday 8th December 2022 at 12.00 pm

Orwell Room, 20 Little Britain

1. Apologies
2. Notification of any conflicts of interest

Items for decision/discussion

3. Minutes of November meeting and matters arising
4. Website upgrade (FG/SE)

Janine Chasmer (Equantiis) to attend by Zoom at 12.15 for 45 minutes – the Annex to this paper will not be published (commercially confidential)

5. Compensation Fund – 1 year review report (FG)

John Birkenhead to attend by Zoom at 1pm for 15 minutes

6. Governance Action Plan implementation (FG) – Annex B to this paper will not be published (draft policy)
7. Review of Regulatory Arrangements – update – no paper (FG/SE)
8. Complaints update (SE)
9. LSB engagement (FG) – see item 12 (CEO's report)
10. Sanctions (FG) – this paper and its Annex will not be published (regulatory action being considered)

Items to note

11. Action Log (FG)
12. CEO's report (FG)
13. Working group reports

i. Education Working Group (CS/VS)

14. Risk Register (FG) – this paper will not be published (operational document)

15. Complaints about IPReg (FG) – no paper

16. Preparation for the January strategy morning (FG) – the Annex to this paper will not be published – draft document

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 8 December 2022

Website upgrade

Agenda Item: 4

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

This paper is for discussion.

Commercially confidential information in this covering paper will be redacted before publication.

Annex A to this Board paper will not be published – commercially confidential.

Summary

1. In February 2022 we were informed by the firm that built our new CRM and website (MillerTech – now part of ClearCourse) that the platform on which it is built (Drupal 7) would not be supported after November 2022 and would be replaced by Drupal 9 (although this has subsequently been put back by 12 months). The change meant that a full re-write of the website would be required (i.e. it is significantly more complex than a migration). In addition, because the website links through a portal (also built on Drupal 7) to the CRM, the portal would also need to be replaced by a Drupal 9 portal. MillerTech said that the cost of this work would be around £40k. IPReg consulted on this in the context of the 2023 practising fees.
2. The Board meeting that we should work with Equantiis (who as Purple advised us on the new CRM and website) to establish our options. A presentation by Equantiis is at **Annex A**. It identifies the business need to consider the replacement of Drupal 7 and an initial analysis of the possible options for IPReg to move forward, including the identification of high-level costs, benefits, and risks.
3. This provides an opportunity for the Board to consider the options that Equantiis has identified, provide feedback on them and request any additional information to inform further discussion at the January 2023 meeting.
4. In addition, we have been informed by ANS (the company that hosts the servers for our data) that the current server's operating system will reach end of life in June 2024. In advance of that, data will need to be migrated to a new server. We have asked ClearCourse for advice.

Recommendation(s)

5. The Board discusses the options identified by Equantiis and reconsiders this matter at its meeting in January.

Risks and mitigations

	Risk	Mitigation
Financial	IT projects are often costly and can run significantly over budget.	We have allocated £60k for this work in the 2023 budget. One option might be to spread

		<p>the work across 2 financial years (but there is a separate risk of running an unsupported website after September 2023). Equantiis advises that we should add 20-30% contingency to any budget once we have decided on our approach.</p> <p>We could use additional reserves to cover the additional costs.</p>
Legal		
Reputational	<p>The cost of the redevelopment was considered high by some respondents to the 2023 Business Plan and fees consultation.</p> <p>The user journey could be improved significantly.</p>	<p>Explain clearly the link between the website/attorney portal/CRM.</p>
Resources	<p>IPReg does not have specific IT expertise in the Team.</p> <p>Any redevelopment will take significant time for Team members.</p>	<p>External support to advise us on the redevelopment.</p>

Background

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

Options

8. Equantiis have identified three options for IPReg; these are set out in Annex A and will be presented at the meeting.
9. Equantiis conducted a market engagement exercise with MillerTech and a small range of alternative Not-for-Profit technology suppliers to explore the possible options:
 - a. Option 1: Take no immediate action;

- b. Option 2: Migrate with existing provider (MillerTech) and the cost of this;
- c. Option 3: Migrate to a new CMS provided by a new partner and the cost of the alternative providers.

Discussion

- 10. The Equantiis report sets out the advantages and disadvantages of each option and includes an assessment of the risks to IPReg of each together with the impact on stakeholders.

Next steps

- 11. Equantiis will take forward any further analysis that the Board considers necessary before it discusses this matter again at its January 2023 meeting.

Supporting information

Links to strategy and business plan

- 12. Redevelopment of the website is one of our key work areas for 2023.

Supporting the regulatory objectives and best regulatory practice

- 13. This work supports in particular the regulatory objectives of protecting and promoting the interests of consumers and increasing public understanding of the citizen's rights and duties. The website provides information to individual consumers and small businesses about the regulated IP sector, why protecting their IP is important, how to complain about an attorney (and the investigation process) and signposts other organisations (such as the IPO) that also provide consumer-focused information.
- 14. In addition, the website hosts the registers of regulated trade mark attorneys and patent attorneys and regulated firms. It also provides attorneys with access to the regulatory arrangements. As part of implementing the Review, we had hoped to be able to publish those arrangements in an innovative format to make them more accessible; this seems unlikely to be possible without a new CMS.

Impacts

- 15. There is no direct impact on any group of attorneys. All attorneys access their individual accounts through the IPReg Pro portal on the website. A new design and user journey for the website is likely to have a positive impact on individual consumers and small businesses who would find the information they need easier to locate. A new design could also have a positive impact on IPReg's ability to provide information about its own governance.

Communication and engagement

- 16. This does not apply to the issues considered in this paper.

Equality and diversity

- 17. No direct impact, although a new design and user journey could make this information easier to locate.

Evidence/data and assumptions

18. This does not apply to the issues considered in this paper.

Board Meeting 8 December 2022

Compensation fund – 1 year review: actuarial report

Agenda Item: 5

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

This paper is for discussion.

This Board paper and the Executive Summary of Annex A will be published.

Summary

1. In October 2021, IPReg established a compensation fund to ensure that we had compensation arrangements in place to enable claims from clients who have suffered a loss as a result of fraud or failure to account by a registrant.
2. We considered it prudent to conduct a one-year review of the compensation fund. John Birkenhead (who advised us on setting up the fund) has drafted the actuarial report at **Annex A**. He will attend for this item to present the report and answer questions from the Board.

Recommendation(s)

3. The Board notes the report.

Risks and mitigations

	Risk	Mitigation
Financial	Fund is insufficient to meet all claims over the next 12 months.	The report states that the fund is expected to be viable and meet all claims in full for the next 12 months in all but the most extreme scenarios.
Legal		
Reputational	A significant number of claims would mean that the fund would be unable to meet all claims. This could damage IPReg's reputation.	The report states that the fund is expected to be viable and meet all claims in full for the next 12 months in all but the most extreme scenarios.
Resources	No specific resource risks.	N/A

Background

4. Since being designated as a Licensing Authority in 2014, IPReg provided compensation arrangements (as defined in the Legal Services Act 2007 s21(2)) by means of an insurance policy with Royal Sun Alliance (RSA). We paid an annual premium of ~£30k funded from our practising fees. We were informed on 21 May 2021 by our broker, Marsh, that RSA was not going to offer terms for renewal of the policy when it expires on 30 June. The reason appeared to be that RSA was streamlining its portfolio in the run up to a potential sale. No other insurer was willing to offer a policy.

5. In agreeing the rule change application to set up the compensation fund, the LSB insisted on a sunset clause. The current arrangements will end on 30 April 2024; a key area of work in 2023 will be to consult on what compensation arrangements IPReg should have after that.

Options

6. The one-year report is for the Board to consider and note. No specific policy alternatives are considered because the current arrangements can remain in place until 30 April 2024.

Discussion

7. Individual consumers and micro-businesses are eligible to make a claim on the compensation fund in the event that they suffer loss as a result of fraud or failure to account. The current funding/risk model is designed to meet all claims in full until 30 April 2024 (the sunset date for the current arrangements) in all but the most extreme scenarios.
8. The actuarial report finds that there is no need to change the total amount of the fund (£100k) or the maximum amount that can be paid for any one claim (£25k).
9. Looking ahead, the SRA's current guiding principles for its compensation fund (viability, stability, manageability and transparency) are likely to provide a good basis for the review of our compensation arrangements in 2023.

Next steps

10. We will publish the report's Executive Summary on the website with this covering Board paper.

Supporting information

Links to strategy and business plan

11. Reviewing the compensation arrangements will be a key area of our work in 2023. This report is therefore important evidence about how the fund has operated in its first year and will inform our approach to considering possible changes.

Supporting the regulatory objectives and best regulatory practice

12. This work supports the regulatory objectives of protecting and promoting the interests of consumers; the compensation fund provides recourse for consumers who have suffered loss as a result of fraud or failure to account. It also supports the regulatory objective of protecting and promoting the public interest; targeted and proportionate compensation arrangements provide confidence in the legal services provided by regulated attorneys.
13. Publishing this Board paper and the Executive Summary of the actuarial report will provide transparency on the fund's operation.

Impacts

14. There are no specific impacts on any group of attorneys; the compensation fund is financed from practising fees. There are no specific impacts on any group of consumer; individual consumers and micro-businesses are eligible to claim on the fund and no changes are being proposed to this.

Communication and engagement

15. We will publish the Board paper and Executive Summary of the report on our website. We will inform the LSB at our next relationship management meeting.

Equality and diversity

16. There are no specific equality and diversity considerations.

Evidence/data and assumptions

17. The evidence and data used in the report are set out in it.

STRICTLY PRIVATE & CONFIDENTIAL

Fran Gillon

Chief Executive

Intellectual Property Regulation Board (IPReg)

20 Little Britain

London

EC1A 7DH

Interim Actuarial Review:

The IPReg Compensation Fund

As at 31 October 2022

Signed:

John Birkenhead

Dated:

29 Nov 2022

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Executive Summary

Review Scope

1. Review / Monitor the claims experience
2. Review / Monitor changes in external data sources / Monitor overall risk level
3. Recommend Financial Actions: Fund releases (*historic fund years*) / Contribution rate (*current fund year*)

1. The Fund's Claims Experience

- Claims Notified to Date: None
- Incidents Notified to Date: Potential incident notified, no claim on fund
- Overall: As expected (*nil claims*)

2. The Fund's Overall Risk Level

- Internal data
 - c5% increase in attorney numbers (to 3.4k); prudent risk model: c£10 p/attorney = £34k pa (*was £31k*)
 - Lower proportion of Sole Traders (highest risk category): was 4.0% of total attorneys, now 3.5%
 - Small number of individuals as clients, but many firms do not record client information this way
 - Much higher client money held, but risk to fund capped to £25k p/claim, £100k p/firm, £100k p/year
 - IPReg has formed 'Data Group' to provide wide-ranging oversight of all aspects of data collection, balancing similar data requirements for different workstreams (*comp fund / Review of Regulatory arrangements etc*)
 - Most new data expected in 2023, however the work has already borne fruit with the new information at this review on Client Monies held / nature of Firms' clients
- External data (new at this review)
 - Possible increase in 'furlough entrepreneurship' in 2020 (*COVID lockdown*), but not specifically attorneys
 - Very few patents granted to individuals (*mostly granted to well-known multi-national organisations*)
 - Actuarial issues identified in use of TPMAs (*Third Party Managed Accounts*) for client money
 - Published SRA Contribution Fund principles: suitable for IPReg and being met
- Overall
 - Portfolio Size: 5% larger than last year
 - Portfolio Mix: Smaller proportion of (highest risk) sole traders
 - Extent of eligible clients (individuals/SMEs): lower than assumed for initial risk model
 - Client Money Held: Significantly higher than assumed (*but risk to fund capped to claim limits*)
 - Overall Fund Risk Level: Broadly unchanged

3. Recommended Financial Actions

- Context
 - Fund is short-term solution (*LSB imposed long-stop date of 30 April 2024, ie @30m*)
 - Public perception/public interest/claimant security suggests overriding prudence
- Overall
 - £25k release back to P&L
 - no claims made in first 12m
 - £25k contribution for claims made in next fund 'year' (to 24m, 31 October 23)
 - £25k pa is expected (*prudent, rounded*) annual long-term claims experience
 - Nil net P&L cost
- Rationale
 - Remains fully funded for £100k maximum pay-out in any one year
 - Expected to be viable and meet all claims in full for next 12m, in all but most extreme scenarios
 - Minimal effort to reach long-stop date/sunset clause end date (*30 Apr 2024*)
 - Ultimately surplus released back to P&L if no claims (*eg TPMA solution*) / seed-fund new scheme
 - In my opinion, IPReg's current simple, pragmatic approach to funding meets the SRA's published (*July 2022*) proposed 4 guiding principles for their compensation fund (*viability, stability, manageability, transparency*)

--- End of Executive Summary ---

Board Meeting 3 November 2022

Governance and Transparency

Agenda Item: 6

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

This paper is to note.

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

Summary

1. This paper updates the Board on progress in implementing the Governance Action Plan. **Annex A** shows progress made to 30 November.
2. One of the actions is to publish a Publication Policy setting out what IPReg will publish or make available to the public. The rationale for this was: this action is intended to enhance organisational transparency and that it should support the delivery of LSB’s Well Led 3 outcome which concerns transparency about decision-making, regulatory approach, risks, performance, regulated community/markets and financial costs. **Annex B** sets out a draft publication policy for the Board to consider.

Recommendation(s)

3. The Board:
 - a. Notes progress implementing the Action Plan;
 - b. Approves the publication policy.

Risks and mitigations

	Risk	Mitigation
Financial	It is envisaged that there will be costs associated with the proposed work plan, for example for an external minute-taker.	Seek more than one quote.
Legal	[REDACTED]	[REDACTED]
Reputational	Boards which make decisions ineffectively, or in ways that lack transparency, expose their organisations to reputational risk.	This work should assist IPReg with assurance that it is not exposing itself to such risks.
Resources	This work is an addition to the current year’s work plans. The main resource	The need for external support may be sought if internal capacity requires it.

	currently being expended on it is the CEO's time.	
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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 Board papers.

Options

- Rather than start from scratch, the publication policies and approaches of the other legal regulators were reviewed. The draft scheme is wider than our approach to the publication of Board papers. It also includes where to find information about IPReg.

Discussion

- The Action Plan is on course other than reviewing our approach to risk management. This had to be postponed to the strategy morning in January 2023 as a result of planned industrial action on the railways in November 2022.
- We have not yet managed to make any progress on finding a minute taker. This is being pursued by a member of the Team.

Next steps

- The next step will be to publish the Publication Policy.

Supporting information

Links to strategy and business plan

- This work is not included in the current strategic objectives or 2021/22 business plan. However, the action plan that has been adopted will need to be incorporated in plans for future years, in keeping with recommended timelines.
- The ease of finding information on our website (the "user journey") could be improved if we were to redevelop our website. This matter is considered in agenda item 4 of this meeting.

Supporting the regulatory objectives and best regulatory practice

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

Impacts

- There are no specific impacts on any type of registrant or consumer.

Communication and engagement

- We keep the LSB updated on progress at our regular relationship management meetings.

Equality and diversity

14. There are no specific equality and diversity impacts.

Evidence/data and assumptions

15. In developing the Publication Policy, we have used:

- a. Information from other regulators websites about their approach to publication of information;
- b. ICO model publication scheme.

Priority 1 short term Actions: 0-6 months – complete by 14 January 2023

1. *Review the items considered at Board meetings to ensure agendas meet IPReg's current and future strategic and regulatory objectives.*

Rationale: This action is intended to support effective Board decision-making. Developing clarity and precision about what the Board wishes to consider at its meetings (both now and in future) will enable it to ensure its discussions are well-planned and that it receives the information it needs to set strategy and scrutinise performance. Regular review of this nature also enables the Board to learn from its reflections about its own effectiveness. This action should support the delivery of LSB Well Led 1.

Suggested approaches: It is strongly suggested that future Board Agendas should include a quarterly review of organisational performance against the Strategic and/or Business Plan. It is also suggested that the Board considers including reports from the Chair and/or Chief Executive alongside regular reports from Chairs of Sub-Committees or Working Groups at each Board Meeting. Other regular reports could include learning from organisational complaints. It is also suggested that this review also consider the current break down between public and confidential Board Agenda items, as well as IPReg's overall approach to redaction, with a view to increasing transparency. Lastly, it is suggested that the Board develops a rolling Forward Plan of Agenda items. This will provide stakeholders with transparency about the Board's decision-making cycle. Board away, reflection time, horizon scanning, and strategy development could be included in this.

Suggested actions:

- a. Board agenda structure:
 - Standing items (each meeting) = apologies; conflicts; minutes; action log; Chair's report; CEO report; working group reports; red risks; finance report; Governance Action Plan implementation;
 - Quarterly reports = performance vs business plan; KPIs (when developed – currently LSB's performance management data set); research update report including horizon scanning; diversity – work in progress, updates from sponsored organisations;
 - 6-monthly reports = risk register; complaints about IPReg;
 - Policy items – non confidential = Review of regulatory arrangements progress;
 - Policy items – confidential = complaints (suggest that this is broken down into a publishable covering paper with numbers + confidential Annex with case details; LSB engagement;
- b. Board agenda to indicate whether a paper and related Annexes will be published. Also whether the paper is for decision/discussion or to note;
- c. Forward planning – standing items:
 - January: staff pay review; annual declaration of interests review;
 - March: IPReg Annual Report;

- July: auditor's report and IPReg Limited accounts; business plan and practising fees;
- September: decision on business plan and practising fees;
- November: strategy day (preceded by Board only discussion).

d. CEO's report to include:

- CIPA/CITMA CEOs meetings;
- Other external meetings;
- TBC

Planned actions

- Develop new Board agenda template
- Test with Team and amend as necessary

Action taken

Date	Action taken
August 2022	Structure drafted – see above
September 2022	Further revisions to structure of agenda – to be trialled at November Board meeting
September 2022	Standing items identified and will be included in draft agendas for 2023 Board meetings
<u>December 2022</u>	<u>Action completed</u>

2. *Review the template for Board Meeting papers to ensure that these meet IPReg’s current and future strategic and regulatory objectives.*

Rationale: This action is intended to support effective Board decision- making. Reviewing the structure and content of meeting papers will enable the Board to ensure it receives the information it needs to make effective decisions and hold the executive to account. Regular review of this nature also enables the Board to reflect on its own effectiveness. This action should support the delivery of LSB Well Led 1.

Suggested approaches: It is believed that all Board papers should clearly appraise different options, fully explore risks and mitigations, set out the relevant the evidence base and/or summarise relevant stakeholder feedback. Papers should also set out the background to recommendations including the process used to develop proposals so that any previous discussion and decisions affecting the item are understood. Other beneficial additions to the papers template might be details on communication plans, equality, diversity and inclusion considerations, and linkages to the strategic plan. [FG 4 August 2022 – also: (a) discussion of relevant regulatory objectives; (b) better regulation principles]

Planned actions

- a. Design new template;
- b. Discuss new template with Team and amend as necessary;
- c. Introduce new template at November Board meeting – amend as necessary following Board feedback;

Action taken

Date	Action taken
5 August 2022	New template drafted for discussion with IPReg Team
August 2022	Agreed that new template will be trialled at the November 2022 Board meeting
<u>November and December Board meetings</u>	<u>Feedback from November Board meeting on new board paper structure fed back to team. Changes to be implemented in December Board papers.</u>

3. *Expand Board minutes to provide detailed reasoning for Board decisions.*

Rationale: This action is intended to support effective Board decision-making. More fulsome minutes will provide enhanced clarity about the board's decision-making process, better reflect its rationale underpinning such decisions and better demonstrate its effectiveness in holding the executive to account. This action should support the delivery of LSB Well Led 1.

Suggested approaches: It is suggested that minutes should outline options considered, capture issues raised during discussion, and provide more of the reasoning for decisions taken. It is suggested that this is best enabled by a modest expansion of the budget to fund a minute taker.

Planned actions

- a. Design new template for minutes – linked to structure of new Board paper template
- b. Explore professional minute takers – [Chartered Governance Institute](#) (CGI) [and others](#)

Action taken

Date	Action taken
August	Outline template for Board minutes drafted for discussion with IPReg Team
11 August	CGI public practice membership directory is being upgraded, not currently available. NB – website states “use the Public Practice tab to find members that provide independent governance services”.
August	Agreed that new approach to minutes will be trialled at the November Board meeting
2 September	Contacted CGI by web contact form
3 October	Response from CGI – try posting on their LinkedIn, Facebook and Twitter. KH investigating other options.
November	Member of IPReg Team conducting search for minute taker

4. *Publish the Governance Action Plan with Board papers, and report on progress in subsequent Annual Reports and Board meetings*

Rationale: This action is intended to enhance organisational transparency. It should support the delivery of LSB Well Led 3.

Suggested approaches: none

Planned actions

- a. Publish Action Plan;
- b. Updates to September, November, December 2022 Board meetings;
- c. Updates to all 2023 Board meetings;
- d. 2023 Annual Report to include update (NB – Action Plan #17: 6-12 month priority: review the scope of the Annual Report, with a view to providing enhanced transparency about how IPReg operates);

Action taken

Date	Action taken
August	Governance Action Plan published with July Board papers
September	Update to Board meeting
November	Update to Board meeting
December	Update to Board meeting

5. *Publish a Publication Policy setting out what IPReg will publish or make available to the public*

Rationale: this action is intended to enhance organisational transparency. It should support the delivery of LSB Well Led 3.

Suggested approaches: none

Action planned

- a. Review other regulators' publication policies;
- b. Draft IPReg's Board publication policy – to take into account new Board paper template and new approach to minutes. NB – policy on publication of disciplinary information is being developed separately as part of the Review of regulatory arrangements;

Action taken

NB - needs to go to the Board December 2022 for approval

Date	Action taken
September 2022	Other regulators' policies reviewed
September 2022	Draft publication policy being developed based on ICO model policy
October 2022	Publication policy on schedule for December Board meeting
<u>December 2022</u>	<u>Board paper to consider draft publication policy</u>

Board Meeting 8 December 2022

Complaints Update

Agenda Item: 8

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.

Recommendation(s)

2. The Board agrees to note this paper.

Risks and mitigations

	Risk	Mitigation
Financial	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.
Legal	[REDACTED]	[REDACTED]
Reputational	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.
Resources	IPReg manages the initial triage and investigation of cases internally, between the Assurance Officer and	Analysis of complaints data over the last 6 years shows that whilst the number of complaints received seems to be increasing,

	<p>Head of Registration. There is a risk that a significant increase in cases will outstrip the internal capacity of the team</p>	<p>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</p>
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Background

3. 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 received information about the subject of the complaint due to IPReg’s current disciplinary process which may result in Board members sitting as decision makers on the Complaint Review Committee.
4. The Board has indicated it would find different information helpful, focussing less on the individual complaint and more on general trends and timeliness.

Discussion

5. The Board should note the information in this paper.

Next steps

6. The Board should note the information in this paper.

Supporting information

Links to strategy and business plan

7. 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

8. 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.
9. IPReg follows best regulatory practice in the identification, investigation and processing of complaints and disciplinary hearings. Internal decision makers are qualified legal professionals with backgrounds in regulation and professional discipline. Members of the Complaint Review

Committee and Joint Disciplinary Panel 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

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

Communication and engagement

11. 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

12. There are no specific equality and diversity issues.

Evidence/data and assumptions

Cases by numbers

As at 1.12.22

•	[REDACTED]	1
•	[REDACTED]	1
•	[REDACTED]	1
•	[REDACTED]	1

Year to date (from 1 January 2022)

•	[REDACTED]	1
•	Total [REDACTED]	1

Legal Ombudsman

Complaints received in last month 0

Cases open 0

Timeliness

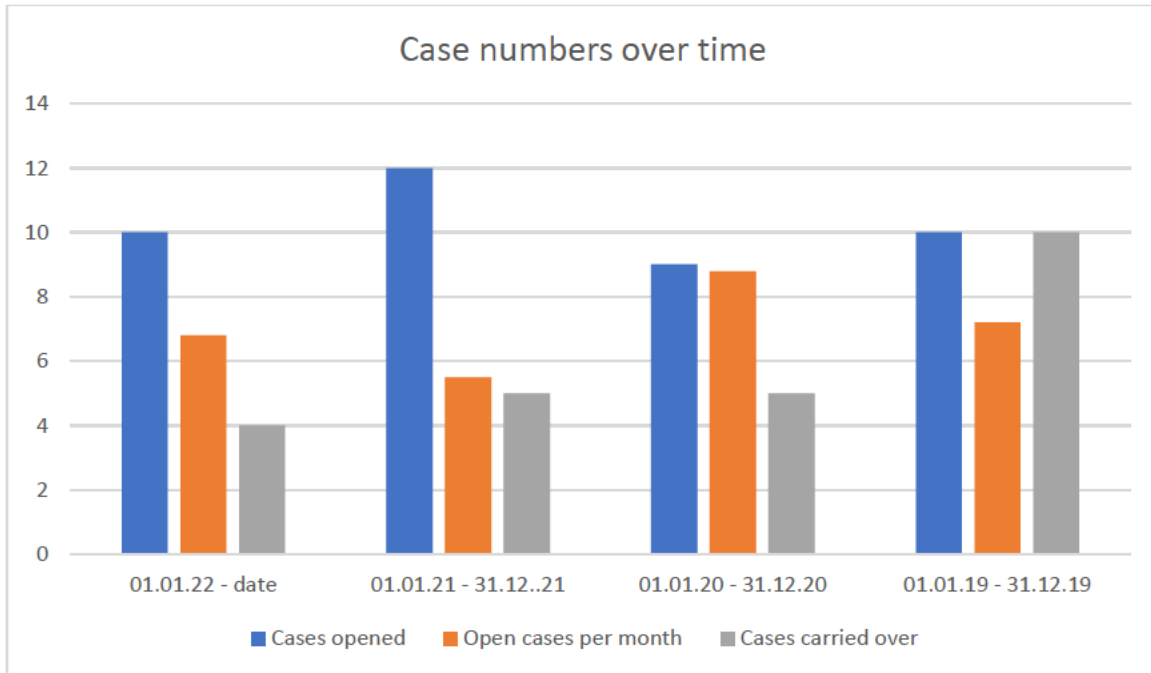
Oldest open case 111 weeks (2y 7w)

Newest open case 2 weeks

Mean 31.5 weeks

Median 21 weeks

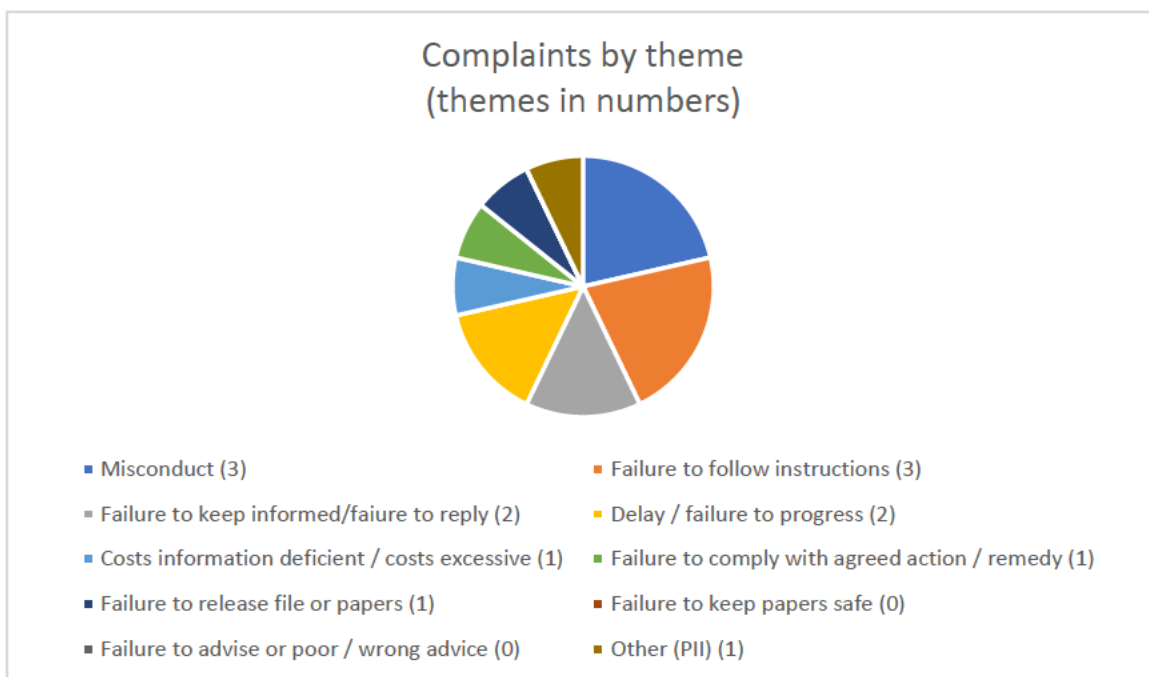
Analysis and trends (12 month periods)



	01.01.22 - date	01.01.21 – 31.12.21	01.01.20 – 31.12.20	01.01.19 – 31.12.19 (4 cases carried over from previous period)
New cases opened / received	10	12	9	10
Total open cases during period	16	17	19	14
Overall case numbers open per month (range)	6 - 9	3 - 8	5 - 12	5 - 9
Overall case numbers open per month (avg)	6.8	5.5	8.8	7.2

Cases carried over to next period	4 (estimate)	5	5	10
Cases closed/resolved within 12 weeks	50% (estimated)	50%	44%	10%
Cases closed/resolved within 26 weeks	60% (estimated)	58%	50%	50%

Complaints by theme



Misconduct includes:

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

IPReg Board Meeting Actions Log - New and Outstanding Actions

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
November 2022 Board Meeting					
Nov-22	Review of Regulatory Arrangements – Rule Change Application	Head of Regulatory Arrangements Review to finalise the application	EL	Closed	Rule change application submitted to LSB on 10 November
Nov-22	Complaints Update	Head of Registration to implement changes to the content of the paper	SE	Closed	
Nov-22	LSB Engagement - Regulatory Performance Assessment	CEO to amend the response and submit to the LSB	FG	Closed	
Nov-22	Speaking Up Policy	CEO to draw the policy to the attention of IPReg Team members	FG		
Nov-22	Finance Update	CEO to publish finance update on the IPReg website	FG	Closed	
September 2022 Board Meeting					
Sep-22	Progress on Governance Action Plan Implementation	Review the process for reporting complaints to the Board	SE	Closed	
July 2022 Board Meeting					
Jul-22	Financial Statements (IPReg Ltd), Directors Report and Letter of Representation	Update financial procedures	KD	Ongoing	

IPReg Board Meeting Actions Log - New and Outstanding Actions

Jul-22	Education Working Group Update	Arrange a meeting with QMUL senior staff	VS		
Jul-22	Governance and Transparency Working Group – Report on findings and recommendations	Take forward Action Plan including regular updates to Board Meetings	FG	Ongoing	
Jul-22	Risk Register	Review risk wording	FG		January 2023 strategy morning to include approach to risk management
January 2022 Board Meeting					
Jan-22	Annual Renewal Process Update	Review annual return information categories similar to PAMIA questions	SE	Ongoing	Any changes will be put in place for 2023 renewal year
November 2021 Board Meeting					
Nov-21	Governance Matters	Governance documents to be reviewed in 2 years' time	FG	Open – Nov-23	
July 2021 Board Meeting					
Jul-21	Compensation Arrangements	Develop risk profile	FG/SE/MB	Ongoing	Auditor to update risk profile as part of one year review of compensation fund – December 2022 Board
May 2021 Board Meeting					
May-21	Diversity - next steps - workshop feedback	Implement the diversity initiatives	FG	Ongoing	

IPReg Board Meeting Actions Log - New and Outstanding Actions

May-21	Diversity - Inclusive Language	Adopt and publish Inclusive Language Policy	FG	Ongoing	
July 2020 Board Meeting					
Jul-20	Risk registers	Discuss how cyber risks should be added to the risk register and arrange for IPReg to undertake the Cyber Essentials programme.	IPReg team and SF	Ongoing	
January 2020 Board Meeting					
Oct-19	LSB CEO Meeting	Invite Matthew Hill to Board meeting	FG	Open	Date TBC

Board Meeting 8 December 2022

CEO report

Agenda Item: 12

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

This paper is for discussion.

Annex C to this paper will not be published (opinion/advice)

Summary

1. This paper sets out the main issues to bring to the Board's attention that are not subject to a full Board paper.

Recommendation(s)

2. The Board:
 - a. Discusses whether we should renew the licence for our office (see paragraph 15);
 - b. Agrees that the year end finance report should be deferred from the January 2023 meeting to the March 2023 meeting to allow sufficient time for its preparation given that we will be in the middle of the fee collection process (see paragraph 16);
 - c. Notes this paper.

Risks and mitigations

	Risk	Mitigation
Financial	No specific financial risks	N/A
Legal	[REDACTED]	[REDACTED]
Reputational	No specific reputational risks.	N/A
Resources	No specific resourcing risks	N/A

Background

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

Meetings held

CIPA and CITMA

4. The CEOs of IPReg, CIPA and CITMA met on 30 November. The discussion included:
 - a. Sanctions - an update on each organisation's activities;

- b. IPReg Board member recruitment;
 - c. Review of regulatory arrangements – update on timing and webinars about new arrangements;
 - d. 2023 fee collection.
5. The Regulatory Forum was held on 1 December. This is the quarterly meeting between CIPA, CITMA and IPReg held under the Delegation Agreement as part of implementation of the Internal Governance Rules. **An oral update will be provided by the Chair.**

LSB engagement

6. Continuing Competence Statement of Policy – letter from LSB. Please see the letter from the LSB at **Annex A**. By 31 January 2023, the LSB expects each regulator to provide it with a progress report and action plan for the following 12 months, setting out how and when they will meet the outcomes and expectations in the statement including:
- a. Which expectations and outcomes you consider that you already meet and why;
 - b. The work done and progress made to date in meeting the expectations and outcomes;
 - c. Planned work between February 2023 and January 2024 to meet the expectations and outcomes, including milestones and timeframes;
 - d. Whether you consider you will have met all the outcomes and expectations by 31 January 2024, and if not all of them, what further work will be needed and is planned from 2024 onwards.
7. Consumer empowerment – **an oral update will be provided** about the Market Transparency Coordination and Oversight Group (MTCOG) on 6 December which is scheduled to discuss:
- a. Progress report – LSB summary of findings from gap analysis (of regulators’ work on transparency and the LSB’s Statement of Policy) and stakeholder meetings;
 - b. Discussion on timeframes for delivery and next steps;
 - c. Contextualisation and standardisation – Legal Services Consumer Panel presentation;
 - d. Regulator updates.
8. Performance Management Framework – **an oral update will be provided** on the LSB’s review of IPReg’s 4 November submission.

Conferences/webinars attended by Team and Board members

9. None to report.

2023 Annual Renewal and fee collection process

10. This is due to start on Monday 5 December. **An oral update will be provided** at the meeting.

Regulatory Performance

11. The LSB had planned to publish its annual assessment report in December. However, it now intends to do so in January. It says that this is so it can ensure that its assessments of regulators' performance are properly moderated and that it provides sufficient time for regulators to respond to its standard fact-check requests and for us to take account of any resulting changes. The LSB has said that it will provide a response to our submission for fact checking no later than 12 December and that we will have 7 days to respond.

Horizon scanning and research

12. David Bish has updated the analysis that he conducted using data from the LSB's small business survey to take into account the wider findings from its 2021 survey (**Annex B**). The paper includes consideration of what we might want to take forward in terms of research. I propose that this is discussed in more detail at the strategy day in January 2023.

13. Attached at **Annex C** is a market update.

Contracts (commercially confidential information about contracts will be redacted)

14. Nothing to report.

Other matters

Renewal of Office Space in Town (OSiT) licence

15. The licence for our office expires on 31 March 2023; the notice period of 3 months. [REDACTED]

[REDACTED] am visiting two other (non-OSiT) offices nearby on 2 December. **An oral update will be provided** at the meeting.

IPReg Finance Report

16. In previous years we have presented the year end finance report to the January Board meeting. In order to release resources to deal with the 2023 Annual Renewal and fee collection process, I propose that we defer the report to the Board's March meeting.

Press reports

17. Board members may be interested in [this article](#) reported in the Law Society Gazette about the Bar Council and the LSB.

18. There is also an interesting [article](#) in Legal Futures about the success of an apprenticeship scheme for solicitors.

Office Christmas closure

19. As in previous years, the IPReg Team will be taking a well-deserved break over the Christmas/New Year period and the office will be closed after 23 December until Tuesday 3 January 2023.

By e-mail only

Fran Gillon
Fran.Gillon@jpreg.org.uk



LEGAL SERVICES
BOARD

3rd Floor, The Rookery
2 Dyott Street
London
WC1A 1DE

T 020 7271 0043
www.legalservicesboard.org.uk

3 November 2022

Dear Fran

Ongoing Competence – Progress updates

In July 2022, we issued our new [statement of policy](#) on ongoing competence. In our [consultation response document](#), we set out that we expected regulators to meet the outcomes and expectations in the statement by 31 January 2024.

We also set out that by 31 January 2023, we expected each regulator to provide the LSB with a progress report (of work to date) and action plan for the following 12 months, setting out how and when they will meet the outcomes and expectations in the statement. I am writing to you to clarify what we are expecting from regulators' submissions.

We would be grateful if you could please set out the following in your submissions:

1. Which expectations and outcomes you consider that you already meet and why
2. The work done and progress made to date in meeting the expectations and outcomes
3. Planned work between February 2023 and January 2024 to meet the expectations and outcomes, including milestones and timeframes
4. Whether you consider you will have met all the outcomes and expectations by 31 January 2024, and if not all of them, what further work will be needed and is planned from 2024 onwards

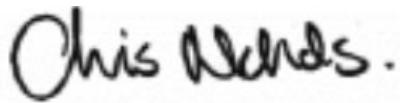
We have attached an optional template, in case this is helpful to structure your submission.

Please provide us with this information by **31 January 2023**. We will assess the interim action plans in early 2023 and monitor regulators' progress through our regulatory performance framework.

We will be publishing regulators' submissions online. If this causes any issues, you are welcome to provide confidential versions as well or ask for certain information to be redacted from publication.

If you have any questions, please get in touch. We are very happy to review draft submissions provided in good time before 31 January to help inform final submissions.

Yours Sincerely,

A handwritten signature in black ink that reads "Chris Nichols." The signature is written in a cursive, slightly slanted style.

Chris Nichols

Director of Policy, Legal Services Board

Annex 1

Response template

1. Which expectations and outcomes the regulator already meets

2. The work done and progress made to date in meeting the expectations and outcomes

3. Planned work between February 2023 and January 2024 to meet the expectations and outcomes, including milestones and timeframes

4. Whether you consider you will have met all the outcomes and expectations by 31 January 2024, and if not all of them, what further work will be needed and is planned from 2024 onwards

Board Meeting 8 December 2022

Education Working Group Update

Agenda Item: 13.i.

Author: Victoria Swan, Director of Policy

Board Lead Sponsor: Caroline Seddon, Chair of Education Working Group

This paper is to note.

This Board paper will be published.

Summary

1. This paper stands as an update on the:
 - activities and outputs of the Education Working Group (EWG, hereafter) since those reported to the 14 July 2022 meeting of the Board; and the
 - direction of travel of the EWG.

Recommendation

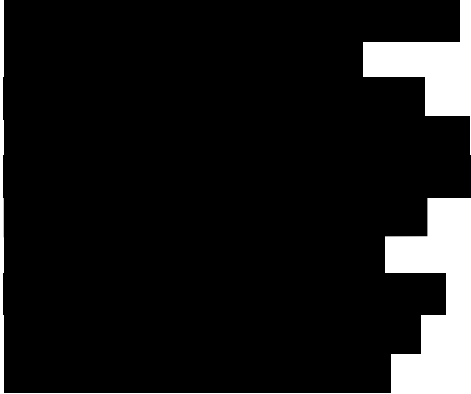
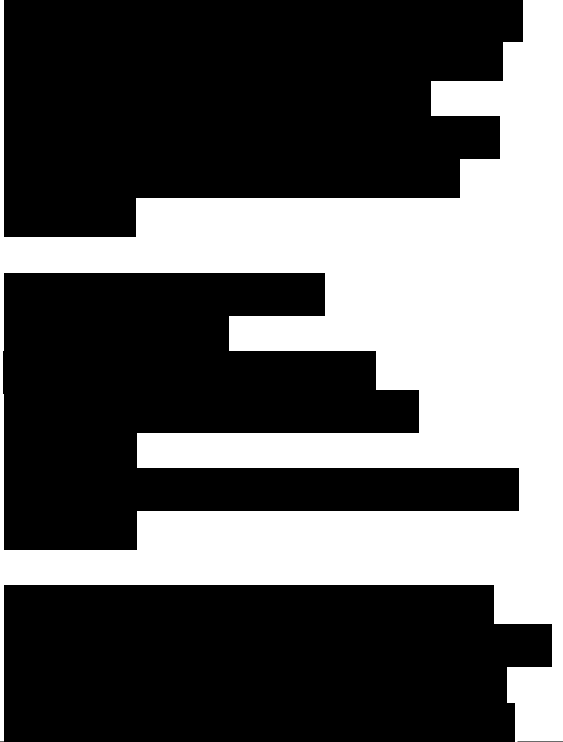
2. The Board is asked to note the paper.

Risks and mitigations

3. Risks and Mitigations table

	Risk	Mitigation
Financial	<p>The costs of accreditation, both those of the specialist consultants and the IPReg office, in their review of an accreditation application are re-charged to the applicant and are not costs incurred by the regulated community.</p> <p>The envisaged £10,000 costs threshold¹ for accreditation assessments will be exceeded by the ongoing accreditation assessments</p>	<p>N/A</p> <p>N/A – the more targeted and transparent an accreditation application the less cost they incur.</p>

¹ As envisaged by the accreditation costs paper taken to the [3 September 2020 meeting of the IPReg Board](#), the threshold having been based upon an average (based upon a full cycle of accreditation assessments) time of a total of c14 full working days spent on assessments: 5.7 days – lead assessor, 2.5 days – practitioner assessor, 5.6 days – IPReg office. This had been based upon an operating assumption of a targeted, transparent, accountable and complete application.

	<p>of both Queen Mary University London and the Patent Examination Board. This is due to the time necessarily allocated to their applications which whilst substantial in size, were not transparent in all areas and in the instance of the PEB did not provide some of the information sought by the assessors on the basis of confidentiality or GDPR.</p>	
<p>Legal</p>		
<p>Reputational</p>	<p>Perception of variance of standards across the attorney qualification pathway provision, for example the student feedback relating to the QMUL course and the social media concerns regarding the assessment of the PEB Final Diploma (FD) examination 4 on Infringement and Validity.</p>	<p>Typically, IPReg accreditation is based upon a five year cycle, though accreditation status may be subject to review prior to the end of the standard 5-year timeframe should there be significant concerns or other aggravating factors.</p> <p>The QMUL accreditation period will be confirmed at 5 years only upon IPReg having confidence that its implementation plan has been delivered. This will be determined by independent specialist assessment in March 2023.</p>

		<p>The scheduling of the accreditation assessment of the PEB FD Examinations was directly informed by the Mercer Review and the PEB's response to it. The Mercer Review is a report on a consultation, commissioned by the Council of the Chartered Institute of Patent Attorneys, in response to social media concerns relating to the FD4 examination assessment and pass rate.</p>
Resources	<p>Insufficient resources to meet education responsibilities.</p>	<p>The EWG was set up in response to emerging education concerns. The accreditation work it oversees seeks to provide consistency of content, quality and reputation of course/examination across the qualification agencies. The assessment itself is authored by two specialist independent assessors, and then reviewed, first by the Director of Policy, then the Education Working Group (EWG) of the IPReg Board, before being considered by the wider Board itself.</p>

Background

4. Emerging education concerns informed the decision made by the April 2019 meeting of the IPReg Board to establish a dedicated group to help tackle these issues. The Education Working Group (EWG) is a working group of IPReg Board members who consider and make recommendations to the IPReg Board on the following:
 - ensuring appropriate standards for entry on the register(s);
 - ensuring an effective means of quality assurance of existing qualification providers;
 - overseeing the accreditation and re-accreditation processes for each accredited qualification agency;
 - monitoring of accredited qualification agencies to ensure accreditation standards continue to be met;
 - encouraging more qualification course options to provide competition on cost, content, delivery methods and geographic location.
- 4.1 The EWG is chaired by Caroline Seddon, and its members are Lord Smith, Alan Kershaw, Emma Reeve and Nigel Robinson, with executive attendance of Victoria Swan and Shelley Edwards.

- 4.2 The EWG makes recommendations, and reports, to Board, it does not have delegated authority of its own.

Work plan

5. Current status of work plan items:

Quality Assurance Remedy	Status	Work being/to be undertaken
a) publication of accreditation assessment reports, their findings and recommendations made to qualification pathway accreditation applicant bodies	Completed	Both the Brunel (2021) and QMUL accreditation assessment reports have been published, as will that of the PEB when finalised.
b) requiring regular updates on progress against accreditation implementation plans	Completed	A requirement of the annual reporting requirement as at item c).
c) requiring annual reports (to include student feedback, external examiners reports findings, and improvements made as a result)	Completed	Annual reporting mechanism fully established. EWG review all annual reports and provide feedback. Additional requirement placed upon qualification agencies regarding any proposed changes to online delivery of assessments. This year's Annual Reports are expected this month and next and will be reviewed by the EWG at a dedicated meeting in January.
d) developing a process for withdrawing accreditation from providers who do not maintain the accreditation standards	Completed	IPReg Accreditation Withdrawal Policy Statement and Procedure.
e) cost reflective charges for accreditation (including some allocation of officer time)	Completed	IPReg office time is now included in the accreditation costs recharged to the applicant. Please also see the Financial section of the Risks and Mitigation table at item 3.
f) encouraging more pathway providers – other university/ examination offers	To be scheduled	a) Brunel University plans for application for accreditation of a Double Major Life Sciences and IP Undergraduate Programme currently on hold.

		<p>b) Desktop review of apprenticeship levy, and preliminary discussions with representative bodies, identified limited options.</p> <p>c) Review of Accreditation Handbook (as at item h below) will likely define the syllabus of the Advanced Level Qualifications which should add transparency of requirements to aid a potential qualification applicant agency.</p>
g) provision of online Frequently Asked Questions	Completed	<p>Frequently Asked Questions developed and are amended as informed by developments such as Brexit, the regulatory arrangements review, pending transitional arrangements coming to end regarding recognition of historic examinations (see item 10).</p>
h) review of the Accreditation Handbook	Desktop review completed; broader review to be scheduled	Desktop review undertaken and revised edition issued in June 2021; broader review [2022/23] will likely require external specialist resource and include specification of Advanced Level Qualification syllabus.
i) whether to quality assure the work-based element of attorneys' training	Not to be taken forward	Agreed at 6 October 2020 meeting of Education Group not to take forward.
j) encouraging more pathway providers – consideration given to apprenticeships	To be scheduled	As at item f) above.
k) changing our overall work priorities or automating some of the process	Ongoing	For example, the recent desktop review of Accreditation Handbook in the first instance and the establishment of a new Education and Diversity Officer post for which recruitment is currently being undertaken.

Update on other items

7. Queen Mary University London Quality Concerns: the creation of the EWG was directly informed by the Chartered Institute of Trade Mark Attorneys sharing feedback from student surveys and firms which indicated quality and operational issues at QMUL. A number of the

issues should not have remained prevalent had the QMUL team taken forward its IPReg accreditation implementation plan from 2017-18. The EWG has worked with the QMUL team over the intervening period with the aim of improving the quality of the offer of all 3 IPReg-accredited courses:

- Postgraduate Certificate in Intellectual Property Law
- Postgraduate Certificate in Trade Mark Law and Practice
- Masters of Science in Management of Intellectual Property.

- 7.1 As required by the typical 5 year accreditation cycle, QMUL made a re-accreditation application in late 2021. The assessor report proposed the reaccreditation of all 3 programmes, subject to QMUL taking forward the assessors' 19 Mandatory Requirements, to meet the standards set out in the [IPReg Accreditation Handbook](#), and 8 Recommendations of actions likely to be beneficial to students of the qualifications. The 17 March 2022 meeting of the IPReg Board endorsed the report and the EWG proposal that QMUL provide a detailed, time-scaled implementation plan by 1 July 2022. The response provided by QMUL was neither detailed nor time-scaled. The 14 July meeting of IPReg Board agreed that the response was insufficient and that a much improved implementation plan was required and that a dedicated meeting of the EWG and QMUL would be beneficial.
- 7.2 Upon appointment of a new QMUL Programme Leader, Dr Jasem Tarawneh, a detailed and time-scaled implementation plan was provided and discussed by the 3 October 2022 meeting of the EWG which was encouraged by both the level of detail and the direction of travel it indicated. On 12 October, a candid and constructive meeting took place between Dr Tarawneh and the IPReg Director of Policy. A dedicated meeting of QMUL and the EWG is scheduled for late January following QMUL's assessment marking earlier in the month.
- 7.3 In March 2023, the independent assessors who undertook the accreditation assessment, will undertake a formal review of the fulfilment, or not, by QMUL, of the Mandatory Requirements and Recommendations. This review is at IPReg's requirement and will be at QMUL's expense. Upon IPReg being provided with confidence that the Mandatory Requirements and Recommendations have been implemented, the standard 5 year accreditation timeframe can be confirmed. Should such confidence not be provided, IPReg has been clear in its correspondence with QMUL that it reserves the right to truncate the accreditation timeframe.
8. Patent Examination Board Accreditation Assessment: the PEB submitted an accreditation application for its Final Diploma Examinations on 4 July. The meeting of the accreditation assessors and PEB representatives took place, at the PEB's request, on 26 September and the meeting of the assessors and examination candidates took place on 28 September and 4 October. The draft assessor report was shared with the PEB on 19 October, for the raising of factual inaccuracies and any objections or concerns with the (19) Mandatory Requirements and (2) Recommendations of that report. This response was requested for 2 November. On the basis that the PEB examinations were in the weeks beginning 17 and 24 October, the

PEB requested an extension until December. This request was approved and a deadline of 5 December provided. The assessors will amend the report, should there be inaccuracies (as opposed to variance of perception) highlighted by the PEB. The finalised report and the PEB's stance on the Mandatory Requirements and Recommendations is scheduled to be reviewed at a dedicated meeting of the EWG on 16 December. The EWG's review of that assessor report is to be brought to the 12 January 2023 meeting of IPReg Board. This will mean the target of 12 weeks between the assessor and application representatives/ candidate meetings and the accreditation decision will not be met.

9. Patent Examination Board Online Examinations Provision: examination feedback received after this October round of examinations, and in the assessor meeting with candidates, indicated a possible concern with the uploading of online examination papers. Accordingly, the EWG has requested from the PEB a specified range of information, the majority of which we would expect to be public, in order to understand fully the context in which the rules for uploading were applied. This as part of the IPReg Board's quality assurance processes and to ensure in its role as accreditor of education provision and examination processes that the PEB has in place proper and proportionate procedures (i.e. IPReg is not investigating the complaint of an individual as that is not its role). Information requested included: confirmation that the online examination portal clearly provided a countdown clock, the candidate uploading instructions, clarification that it is the start time of uploading the exam paper past the deadline that can void an exam paper, rather than successful completion of the upload by a certain time, any notification system to give a warning at 5 minutes (or other timeframe) before the end of the examination, what the approach was before online examinations (i.e. whether a 5 minute [or other timeframe] warning). The PEB provided its response on 25 November advising that a decision is pending in December. An update will be included within the accreditation paper to be brought to the January 2023 meeting of Board. Depending upon the level of assurance given by both this update, together with the pending December decision, there is potential for an additional accreditation Mandatory Requirement or Recommendation to be proposed.
10. Sunset Clause: on 3 June 2021, IPReg made an application to the Legal Services Board (LSB) for a rule change, relating to the introduction of a sunset clause for specified historic qualifications: the examinations provided by the Joint Examination Board (wound down 2010-12) and pre-2013 cohorts on courses provided by the universities of Bournemouth, Brunel, Manchester and Queen Mary London. A sunset clause was proposed to be applied to these exemptions on the basis that the qualifications are aged (a minimum of 10 years old by the end of the sunset clause). The rule change² was approved by the LSB and went live as at 1 August 2021 with an 18 month sunset clause to end on 31 January 2023.
 - 10.1 As informed by an assessment of the potential impact upon equalities factors, the rule change application included provision for individuals affected by the sunset clause who have

² An amendment to the [Examination and Admission of Individuals to the Register Rules](#), and addition to its Schedule 3.

been unable, due to extenuating circumstances, to apply for entry on to the register, to be afforded the opportunity for waiver of the sunset clause. An important element of the application was the commitment that information on the factors for consideration by the Registrar in such circumstances will be provided on the IPReg website near the time of the end of the sunset clause, so in January 2023. This commitment has been met with guidance to be published which includes case studies and possible outcomes.

11. European Qualifying Examinations: as at Schedule 3 of the [Examination and Admission of Individuals to the Register Rules](#) there are a number of specified qualifications which provide an element of exemption, or deemed pass, from the IPReg-accredited qualifications. The European Qualifying Examinations (EQEs), as set by the European Patent Institute (EPI), are listed in that Schedule. There are currently four EQEs which seek to test the knowledge and aptitude of an individual to appear before the European Patent Office (EPO):
 - *Paper A*: drafting, tests the candidate's ability to draft claims and the introductory part of a European patent application;
 - *Paper B*: assess and reply to office action/opposition, amendment, requires candidates to prepare a reply to an official letter in which prior art has been cited;
 - *Paper C*: opposition, involves drafting a notice of opposition to a European patent;
 - *Paper D (2 parts)*: legal advice to a client, assesses candidates' ability to answer legal questions and to draft legal assessments.
- 11.1 Historically, the PEB recognised the passing of EQE papers A and B as providing (respective) exemption to the PEB's Final Diploma Examination FD2 'Drafting of Specifications' and FD3 'Amendment of Specifications' Papers. The exemptions were also afforded where an individual passed the EQE as a whole. IPReg has continued to recognise their equivalence, via successful completion of the entire EQE, or a pass in the individual respective paper. The exemption does not extend to a compensable fail in relation to a single paper:- if an individual has a compensable fail in EQE papers A or B they would need to re-sit and successfully pass the relevant single paper, or pass the EQE as a whole before they could apply for registration with IPReg.
- 11.2 In May-July 2022, the EPI consulted, in its [EQE Discussion Paper](#), on a move to a modular model which the EPI considered better tests the "fit-to-practise" criterion. This would see the removal of Papers A and B, with the EQEs split into two tracks: practical and legal; the practical track will merge draft and opposition, testing similar skills whilst not separating coverage as it does now. There would be 2 Foundation Modules and 4 Main Examination Modules and the grading of compensable fail would be removed.
- 11.3 Depending on the outcome of the consultation, a fully-fledged reform of the Regulation on the European qualifying examinations (REE) and its implementing provisions (IPREE) will follow in 2024-25.
- 11.4 As at 1 December 2022 the outcome of the consultation has not yet been announced. Upon the outcome being known the EWG will look to determine a forward pathway, likely to

include an IPReg consultation on the exemptions, if any, to apply to the attorney qualifying examinations as a result of EQE passes. The consultation proposal, or other, to follow the announcement and to be brought to the Board for consideration.

12. Terms of Reference: the Terms of Reference of the EWG have not been revisited since their initial development and adoption in 2019. It is considered that the appointment of a new education champion on Board, upon the current champion reaching the end of their tenure, and the new dedicated Education and Diversity office role, will likely prove an opportune time to revisit the ToR.

Discussion

13. The Board to note the information provided in this paper.

Next steps

14. The EWG will meet on:
- 16 December to review the PEB accreditation assessor report, as updated (if relevant) in light of PEB feedback and accompanied by the PEB's response to the Mandatory Requirements and Recommendations,
 - 18 January to review Annual Reports of the qualifying pathway providers,
 - 24 January to meet with QMUL representatives regarding quality issues.

Supporting information

Links to strategy and business plan

15. IPReg strategic objective of encouraging the entry of new providers of education courses (at both the foundation and advanced levels) to provide a variety of routes to entry into the attorney profession: any organisation that can demonstrate it can, or could, meet the accreditation standards can make an application to IPReg, the IPReg Accreditation Handbook is not prescriptive in the form a pathway provision should take. This with the aim to help encourage diversity in the profession, to help improve quality and drive lower costs.

Supporting the regulatory objectives and best regulatory practice

16. RO Protecting and promoting the interests of consumers: the integrity of the IPReg register(s) of attorneys require provision of legal services of an appropriate quality from day one of qualification; this requires clearly defined training and course/examination qualification requirements. The IPReg Accreditation Handbook sets out the standards which attorney qualification agencies must meet to satisfy the needs of all stakeholders, including students, firms, the legal market and potential consumers of attorney services. The Handbook was subject to desktop review³ by the EWG in 2021⁴, and the work plan (item 5) of the EWG includes a comprehensive review of the Handbook to ensure it helps protect

³ In consultation with IPReg accredited qualification agencies – see footnote 4 for those providers.

⁴ Having first gone live in 2016.

and promote the interests of consumers of attorneys from day one of their being on the IPReg register.

17. RO Encouraging an independent, strong, diverse and effective legal profession: the IPReg Accreditation Handbook seeks to ensure that whilst meeting its specified standards, the range of qualification provision can be varied and that those seeking to study for an attorney qualification may continue to have a range of provision to choose from, for example in terms of format and location of delivery. The EWG work plan (item 5) includes encouraging a wider range of qualification pathway providers. The Handbook sets out the standards which an attorney qualifying pathway must meet, with the aim of ensuring the qualification routes are fit for purpose and contribute to an attorney profession which is appropriately qualified, competent and effective.
18. The Handbook sets out the accreditation standards required of all qualification pathway agencies. It currently specifies the core subjects, credit weightings and learning outcomes for all variations of the Foundation Level Qualifications (FLQs). This to ensure that the same level and coverage of learning is acquired irrespective of which FLQ pathway the student or examination candidate pursues. The work plan (item 5) of the EWG includes a broad review of the Handbook with the review to include specification of the syllabus of the Advanced Level Qualifications (ALQs) to provide transparency of expectation for, and with a view of encouraging, more potential ALQ pathway providers⁵.
19. RO Promoting and maintaining adherence to the professional principles: the FLQ syllabus requires a defined credit requirement on the subject of ethics; it is anticipated that the Handbook review will include both the FLQ and ALQ credit allocations to ethics.

Impacts

20. Expected developments in the EQEs (item 11) will likely impact upon the exemptions/ deemed passes for those seeking to qualify as both a UK patent attorney and a European patent attorney.

Communication and engagement

21. This paper is to be published to serve as an update on the work of the EWG.
- 21.1 The accreditation assessment of QMUL has been published, with the accreditation assessment of the PEB to be published following Board consideration of it at its 12 January meeting.

⁵ There are currently 4 FLQ providers – the universities of Bournemouth, Brunel, Queen Mary London and the Patent Examination Board (PEB, patent attorney route only) – and one ALQ provider for each pathway, with Nottingham Trent University providing the ALQ for the trade mark attorney route and the PEB the ALQ for the patent attorney route.

21.2 The EQE developments will likely be consulted upon with stakeholders.

Equality and diversity

22. The Sunset Clause rule change application (item 10) included an Equalities Considerations section relating to the variety of factors the Registrar can consider regarding an applicant's particular circumstances and its impact upon their ability to have completed the qualification and experience in the (minimum) 10 years since embarking on the qualification route and application for entry on to the IPReg register. The impact of the following were assessed as having the potential to provide a barrier to qualification in what might typically constitute a reasonable timeframe (less than 10 years) and the Registrar will balance these alongside specified fitness to practise factors:

- Disability/Illness – a significant disability (or illness or accident) can mean an individual has to withdraw from their studies or employment for a pronounced period of time, and/or at intervals, this can include mental health conditions with a long-term effect on normal day-to-day activities
- Gender reassignment – the process of reassignment of gender typically involves surgical procedures and hormone treatment, alongside counselling and support, can mean an individual has had to take time out of their studies or employment, this may be for a pronounced period of time, and/or at intervals
- Pregnancy and maternity – sole parental and/or child caring responsibilities can mean an individual has had to withdraw from their studies or employment, this may be for a pronounced period of time, and/or at intervals
- Other caring responsibilities – caring responsibilities for older people or close family members with health or mental issues may have disrupted an individual's qualification pathway
- Other – financial, such as furloughed due to pandemic and/or firm cannot afford to place the individual on course/examinations.

22.1 The Registrar consideration of factors document includes reference to these factors.

Evidence/data and assumptions

23. The accreditation assessment (item 8) will be informed by the range of evidence sources as set out in the IPReg Accreditation Handbook.

23.1 The online uploading information request of the PEB (item 9) was informed by student feedback.

23.2 Stakeholder feedback will be sought in relation to the exemptions, if any, that the European Qualifying Examinations (item 11) will give, going forward, to the patent attorney qualification pathway.

Board Meeting 8 December 2022

Preparation for the January 2023 strategy day

Agenda Item: 16

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

This paper is to note.

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

Summary

1. This paper sets out some suggested reading for Board members prior to the strategy morning on 12 January 2023.

Recommendation(s)

2. The Board notes this paper.

Risks and mitigations

	Risk	Mitigation
Financial	N/A	
Legal	■	
Reputational	N/A	
Resources	N/A	

Background

3. The Board is due to discuss its forward strategy on 12 January 2023 prior to the regular Board meeting that afternoon. A draft agenda is attached at **Annex A**.
4. Suggested reading:
 - a. Current [strategy and Business Plan 2023/24](#);
 - b. The LSB's "[Reshaping legal services - strategy for the sector](#)";
 - c. The LSB's new regulatory performance framework [sourcebook of standards and characteristics](#) and the [process](#) it intends to follow to assess regulators;
 - d. The analysis of the needs of small businesses from the December 2022 Board papers (item 12 CEO's report Annex B).