

The Patent Regulation Board and the Trade Mark Regulation Board

Agenda

Thursday 7 December 2023 at 1.00 pm

Gatehouse Chambers, Lady Hale Gate, London, WC1X 8BS

1. Apologies
2. Notification of any conflicts of interest

Items for decision/discussion

3. Minutes of November meeting and matters arising
4. Governance Action Plan implementation (FG)
5. LSB draft narrative assessment of IPReg's performance (VS)
6. Complaints update (SE)
7. IT upgrade – progress update (SE) – no paper
8. 2024 fee collection process – progress update (SE) – no paper
9. CEO's report (FG)
10. Risk Working Group (VO/VS) – no paper
11. Education Working Group (Chair/GS)

Items to note

12. Action Log (FG)
13. Full Risk Register (FG)
14. Complaints about IPReg (FG) – no paper

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15. 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 7 December 2023

Governance and Transparency

Agenda Item: 4

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

This paper is for discussion.

Annexes A and G will be published with this Board paper.

Annexes B – F will be published on the website.

Summary

1. This paper updates the Board on progress in implementing the steps agreed in the Governance Action Plan. **Annex A** shows progress made to 24 November 2023. Work undertaken by the Risk Working Group is being provided as separate agenda items at Board meetings.
2. A number of Working Groups have been set up to support and challenge the Executive Team on specific projects/areas of work. Each Working Group has its own Terms of Reference. These have been re-drafted (except the Regulatory arrangements review given the proposal that it should be formally ended) into a standard format for consistency and review by the Board at this meeting. The Working Groups are:
 - a. Education (**Annex B**);
 - b. Data (**Annex C**);
 - c. Governance (**Annex D**);
 - d. Risk (**Annex E**);
 - e. Regulatory arrangements review.

Recommendation(s)

3. The Board:
 - a. Notes progress implementing the Action Plan;
 - b. Agrees the Terms of Reference for each Working Group; these will be published on the website together with membership of each group;
 - c. Appoints another Board member to the Data Working Group;
 - d. Agrees that the Regulatory Arrangements Review Working Group should be formally ended;
 - e. Adopts the procedure for complaints about Board members at **Annex F**;
 - f. Adopts the stakeholder engagement strategy at **Annex G**.

Risks and mitigations

	Risk	Mitigation
Financial	There is an ongoing cost for the external minute-taker.	
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	The main resource currently being expended on it is the CEO's time.	The need for external support may be sought if required.

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.

Discussion

Progress against the Action Plan

- The first two elements of the Action Plan (covering the first 12 months) are largely complete in terms of immediate actions. Some actions are to be arranged later this year (e.g. Board member appraisals and Board-only reflective discussions).

Terms of reference for Working Groups

- As part of the overall review of our approach to governance, it is appropriate to review the Working Groups' terms of reference for completeness and consistency. We have implemented a consistent format for the terms of reference. These are:
 - Education (**Annex B**);
 - Data (**Annex C**);
 - Governance (**Annex D**);
 - Risk (**Annex E**).

Review Working Group

- The Regulatory Arrangements Review Working Group was set up to provide advice and challenge to the Executive Team on the Review. Given that the new regulatory arrangements have been in place since 1 July 2023, there does not appear to be any further work for the Working Group. It would therefore be good practice for it to be ended.

Additional governance documentation

8. Two additional governance documents were recommended by the Governance Working Group:
 - a. Procedure for complaints about Board members (**Annex F**);
 - b. Stakeholder engagement strategy (**Annex G**).

The Board is invited to review these documents.

Next steps

9. The Executive Team will take forward the work from the Working Groups and the stakeholder engagement strategy. The procedure for complaints about Board members will be put on the website.

Supporting information

Links to strategy and business plan

10. The changes to our approach to governance will support delivery of IPReg's strategic and business plans.

Supporting the regulatory objectives and best regulatory practice

11. 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

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

Communication and engagement

13. 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. Nothing specific to this paper.

Governance action plan

Priority 3 – complete by mid-January 2024

1. Produce an annual Work Plan/Business Plan, setting out IPReg’s objectives and performance indicators for the year and introduce quarterly reports on this at Board Meetings.

Rationale: These actions are intended to enhance strategic planning and performance monitoring. These initiatives will enable the Board to improve its strategic plan and augment its scrutiny of organisational performance. It will also support the Board in holding the executive to account. This action should support the delivery of LSB Well Led 1

Suggested approaches: It is suggested that this work is timetabled to align with the current strategic planning cycle. So, the timeline for this needs to take account of the LSB publication of its decision on the regulatory performance framework Standards and Characteristics in Autumn 2022. Substantive thinking would need to take place in November 2022 when IPReg Board considers its strategic objectives in the light of this. Then in July 2023 we would consult on 2024/25 business plan taking account of these discussions. It is important that these plans incorporate Key Performance Indicators which enable the Board to monitor and scrutinise performance. In setting these will be a need to take account of whether the LSB dispenses with the requirement for the performance management database. Such reviews should be underpinned by a reflective approach, with the Board learning from past actions and achievements. Ongoing horizon scanning should be built into this strategic planning process.

Action taken

Date	Action taken
July 2023	Consultation on 2024 business plan, budget and practising fees.
Next step	Consideration of responses at September 2023 Board meeting. This will enable us to finalise the business plan. Board papers include a section on how the work meets the strategic objectives and the business plan. Development of performance indicators will develop from consideration of risk by the Risk Working Group; the first meeting of this Group has been arranged for 1 September. In the meantime we will continue to monitor the matters included in the Performance Management Dataset.
<u>December 2023</u>	<u>LSB approved 2024 practising fee application. Business plan finalised following consultation.</u>
<u>December 2023</u>	<u>Action closed</u>

2. Put in place a process of independent triennial external Board evaluation and set out procedures for this in writing in the Governance Handbook.

Rationale: This action is intended to support and develop the Board. External evaluation will help the Board pinpoint good practice and identify areas for improvement. As an ongoing process, it will help the Board to maintain its effectiveness and hone its ability to hold the executive to account.

Suggested approaches: It is suggested that independent external Board evaluation takes place every three years, supported by internal annual Board evaluation annually in-between. The process for the latter can be developed in partnership with external evaluators. These evaluations should help ascertain the effectiveness of the Board’s meetings, decision-making and ability to hold the executive to account, on an ongoing basis. It is suggested that such evaluations include a reflection on, and review of, the quality and timeliness of the information provided to the Board by the executive. Board events without the executive present for the purpose of reflecting on the Board’s own effectiveness and/or support systems may form part of this process.

It is also suggested that IPReg produces an action plan setting out any developments agreed as a result of these Evaluations. This may be reported on in the Annual Report. There are budget implications for this area.

Action taken

Date	Action taken
August 2023	Process for external evaluation has been included in the Governance Handbook.
Next step	<u>Arrange external Board evaluation in 2024</u>

3. Set out IPReg’s policy for the recruitment and reappointment of Board members in writing in the Governance Handbook.

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

Suggested approaches: It is suggested that this work is undertaken in parallel with the production of the Governance handbook.

Action taken

Date	Action taken
August 2023	Policy for recruitment and reappointment of Board members including the Chair has been agreed and is set out in the final Governance Handbook.

<u>Next step</u> <u>December</u> <u>2023</u>	<u>Action closed</u>

4. Produce a separate written procedure for Handling Complaints or Concerns about Members of the Board.

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

Suggested approaches: It is suggested that this work is undertaken in parallel with the production of the Governance handbook.

Action taken

Date	Action taken
<u>December</u> <u>2023</u>	<u>Draft procedure to be considered at Board meeting on 7 December</u>
<u>Next step</u>	

5. Consolidate all governance policies and procedures into a single Governance Handbook and publish this on the website.

Rationale: This action is intended to enhance organisational transparency. A Governance Handbook will help ensure IPReg governance policies and procedures are clear and transparent for all stakeholders. This action should support the delivery of LSB Well Led 3.

Suggested approaches: It is recommended that all governance documents are collated in a single Governance Handbook, published on the website. It is suggested that that this should include: the Delegation Agreement, Board Rules of Procedure, Sub-Committee and Working Group Terms of Reference, and Codes of Conduct. It is suggested that the handbook (i.e., governance policies and procedures) is reviewed every three years. This could be aligned with triennial Board evaluation. It is suggested that this work begins as early as is feasible. It is currently proposed that this is completed within 18 months, as by that point any policies being reviewed will have been completed. That said it may be beneficial to bring this forward and complete it within 6 to 12 months. However, if this is considered desirable, it is suggested that external resource is brought into support that timeline. This work should be undefined [underlined?] by regular audit to ensure all relevant policies are publicly available in writing.

Action taken

Date	Action taken
August 2023	The Governance Handbook is attached at Annex XX. This will be published on the IPReg website. It will include information about (and a link to) the Delegation Agreements which are already published on the website. As the Delegation Agreements cannot be amended by IPReg alone (unlike all the other matters in the Handbook) they have been excluded from it. The Information Sharing Protocol has not previously been published but we will now do so.
Next steps	<u>Publication of Handbook (without the procurement policy)</u> <u>Update procurement policy and refer back to Board</u>

6. Develop a written stakeholder engagement strategy setting out how stakeholders' views are obtained and considered by IPReg.

Rationale: This action is intended to enhance organisational transparency. It will provide clarity concerning how we obtain stakeholders' views and utilise these within our decision-making. This action should support the delivery of LSB Well Led 3.

Suggested approaches: It is suggested that this considers stakeholders in the broadest sense, is robust in building in public and consumer engagement and also takes account of learning from the above considerations of the use of external expertise.

Action taken

Date	Action taken
<u>December 2023</u>	<u>Draft strategy to be considered at 7 December Board meeting</u>
Next step	

7. Review arrangements for action plans, performance indicators and published policies concerning Equality, Diversity and Inclusion (EDI).

Rationale: This action is intended to enhance organisational transparency and improve planning and performance monitoring. This action should support the delivery of LSB Well Led 3.

Suggested approaches: It is suggested that this considers arrangements for publishing Equality, Diversity, and Inclusion (EDI) policies, and develops EDI action plans with clearer milestones to facilitate an easier assessment of progress. There should be clear performance indicators to measure progress against the Diversity Action plan.

Action taken

Date	Action taken
Next step	

Annex G - Draft Stakeholder Engagement Strategy will be published separately

Board Meeting 7 December 2023

Regulatory performance framework – LSB response on IPReg’s assurance mapping

Agenda Item: 5

Author: Victoria Swan (victoria.swan@ipreg.org.uk)

This paper is for decision/discussion.

Annexes B and C are draft documents and will not be published

Summary

1. On 8 June 2023, the LSB issued a performance information request to all delegated independent regulators, primarily focused on Regulatory Standards 1 and 2:

Standard 1 - Well-led: Regulators are well-led with the resources and capability required to work for the public and to meet the regulatory objectives effectively; and

Standard 2 - Effective approach to regulation: Regulators act on behalf of the public to apply their knowledge to identify opportunities and address risks to meeting the regulatory objectives.

2. The July 2023 Board meeting considered an assurance mapping exercise which considered its level of assurance against each of the 15 Characteristics which underpin these 2 Standards. The Board decided that it, in its judgement, it had green/full assurance on Standard 1 (Well-Led) and amber/partial assurance on 2 (Effective Regulation). The background to this is set out in **Annex A**.
3. On 15 November 2023, the LSB sent its draft narrative assessment (**Annex B**) setting out its view of our regulatory performance. It considers that there should be a finding of amber/partial assurance for both Standards. The assessment also includes the areas on which it expects us to focus and report on. Although these predominantly relate to activities we have planned it also includes an expectation that we will provide "additional information demonstrating how IPReg actively encourages innovation and innovators in the interests of improving access to services". It also specifies areas of good practice that it considers we demonstrate. We have until 12 December to provide the LSB with any comments on its findings including any factual inaccuracies or confidential/sensitive material. The LSB plans to publish final versions of its narrative assessments before the end of January 2024.
4. Our draft response is at **Annex C**. This sets out why we consider that there should be a green/full assurance rating for Standard 1.

Recommendation(s)

- The Board considers the LSB's draft narrative assessment of our performance (**Annex B**) and approves the proposed response (**Annex C**).

Risks and mitigations

	Risk	Mitigation
Financial	Our approach to building our evidence base has led to criticism from the LSB that we have not allocated sufficient priority to this area.	<p>We have allocated £15k from reserves to fund research. We have contracted with Cut-Through Consulting (David Bish) to provide support on data and evidence gathering and analysis and he is actively participating in the regulators' research/risk groups.</p> <p>The LSB narrative assessment agrees with us that we should continue developing our evidence base.</p>
Legal		
Reputational	The LSB has previously criticised specific aspects of our work and raised questions about the Board's approach to governance.	<p>We have adopted and published a detailed Governance Action Plan. The governance plan is a standing agenda item at Board, given prominence at each meeting, with proper discussion time allocated to progress reports and review.</p> <p>The LSB narrative assessment reinforces the importance of our work on Equality, Diversity and Inclusion (EDI).</p>
Resources	Responding to the LSB's information request and the assurance mapping process took a significant amount of resources.	The Director of Policy has been able to focus on this area of work since the first assurance mapping draft was brought to the May 2023 Board meeting.

Discussion

Standard 1 – Well-Led

- The Board's judgement was based upon the significant work programme undertaken:

- a. having taken forward a comprehensive governance review and actioned the first six months of the Action Plan with plans in place to develop our approach to risk, making good progress on the second stage and agreed an updated suite of governance documents;
 - b. a review of a significant part of our regulatory arrangements, submitted an extensive evidence base and full impact assessment as part of our rule change application to the LSB;
 - c. engaged constructively and collaboratively with a range of bodies and would continue going forward;
 - d. Board meeting minutes now taken by a professional agency to free up Executive resources whilst continuing to provide a full, detailed account of Board decisions;
 - e. a meeting of the IPReg and CLSB Boards to identify potential for collaborative working and shared experiences as specialist regulators.
7. The LSB draft narrative assessment states that it only has *amber/partial assurance* that we meet Standard 1. The LSB considers that we have:
- a. demonstrated significant Board engagement as well as good levels of engagement with the profession during the regulatory arrangements review, and proactive engagement with the Legal Services Consumer Panel (LSCP);
 - b. included a detailed impact assessment in its regulatory arrangements review application;
 - c. undertaken a range of work on improving transparency and consumer-facing information, including creation of a transparency leaflet;
 - d. set up a working group to review the Board’s approach to risk management and to set out its policies and procedures for managing risk in writing; and
 - e. provided some examples of proactivity, including use of an external research consultant to identify and collate regulatory intelligence reported to each Board meeting and seeking LSCP input into a range of matters.
8. The LSB states that it will continue to monitor our performance under Standard 1, particularly:
- a. progress in completing the governance action plan;
 - b. evidence gathered in relation to the impact of our new core regulatory framework;
 - c. further examples of our proactive approach to regulation – “we would like to see IPReg demonstrate proactivity alongside meaningful engagement on a consistent basis in pursuit of the regulatory objectives in the coming year”.
9. The LSB states that “IPReg has credible work in progress in relation to its governance action plan which may help IPReg meet this standard once completed”. This statement seems to highlight a key difference between the approach used by the Board and that used by the LSB in assessing performance. Our green/full assurance rating recognised the substantial work undertaken on issues such as the comprehensive reviews of governance and the regulatory

arrangements. It took into account significant Board and stakeholder engagement in our activities, as well as being assured that we have appropriate plans in place to deliver the remaining work that we have planned (bearing in mind that the Governance Action Plan is not due for completion until January 2024) and to improve continually as a regulator. Conversely, the LSB appears to be coming from the perspective that green/full assurance can only be provided once all elements of each plan have been implemented. Given our aim to improve continually as part of the way we deliver our 2024 business plan, it may be that even if the Board is assured that we will deliver the 2024 business plan, the LSB is unlikely to give us a green rating.

10. The proposed response (**Annex C**) to the LSB re-emphasises our case for Standard 1 to be given green/full assurance.

Standard 2 – Effective Approach to Regulation

11. The Board’s judgement that it could take *amber/partial assurance* was based upon:
 - a. the comprehensive review of our regulatory arrangements, informed by a Call for Evidence, market research, significant stakeholder engagement and an impact assessment; Board paper templates require consideration of the regulatory objectives, risks and mitigations, the evidence base and operating assumptions;
 - b. external independent assurance, such as independent specialist assessment of qualification accreditation applications, an external advisor providing horizon scanning reports to each Board meeting, actuarial reviews of the compensation fund, external auditors of our accounts and guest speakers at Board meetings;
 - c. restructuring to provide a new Education and Diversity Officer post to take forward development of EDI policies and evaluation schemes in order to support progress towards a green/full assurance rating overall – the absence of these policies and schemes led to our *amber/partial assurance* rating.
12. The LSB agrees an *amber/partial assurance* assessment, recognising that that we have:
 - undertaken significant work to inform our regulatory arrangements review, the rule change application and implementation of the new requirements;
 - introduced a new Board paper template designed to ensure that evidence/data/assumptions are considered;
 - started to review our approach to risk management.
13. The LSB will continue to monitor our performance under this Standard, particularly:
 - a. updates on our data/evidence gathering and use of our evidence base;
 - b. insight into the progress made in relation to EDI;
 - c. Doing more to proactively reach out to “proactively reach out to innovators in order to help address concerns that exist about perceived regulatory barriers to innovation”.

Other

14. Our response in July provided updates on our work on ongoing competence, consumer empowerment and the public interest as well as responses to the LSB's targeted questions.
15. The LSB's Overall Summary acknowledges the positive direction in which we are travelling and that we have "continued to build on the progress we identified last year, which might enable [IPReg] to provide sufficient assurance against all three standards by the time of our next assessment".
16. The LSB will monitor our performance under Standard 3 (operational delivery) over the next year, particularly:
 - a. tangible progress on scheduled reviews;
 - b. the use of evidence obtained through the supervision of our new regulatory arrangements to ensure authorised persons have and maintain the right skills, knowledge, behaviours and professional ethics.
17. The LSB considers we have demonstrated good practice in:
 - a. engaging early with the LSB on its substantive regulatory arrangements review application and made a comprehensive application;
 - b. the Board's leadership and oversight of the governance work which has meant the executive team are implementing an extensive plan to provide assurance that IPReg demonstrates governance best practice;
 - c. providing a consumer facing leaflet, including proactively reaching out to the Legal Services Consumer Panel.
18. The LSB will be monitoring:
 - a. progress in completing the governance action plan;
 - b. evidence gathered in relation to the impact of our new core regulatory framework;
 - c. further examples of our proactive approach to regulation;
 - d. continuing data/evidence gathering and use of our evidence base;
 - e. insight into the progress made in relation to Equality, Diversity and Inclusion;
 - f. additional information demonstrating how we actively encourage innovation and innovators in the interests of improving access to services;
 - g. tangible progress on scheduled reviews;
 - h. the use of evidence obtained through the supervision of our new regulatory arrangements to ensure authorised persons have and maintain the right skills, knowledge, behaviours and professional ethics in their practise.

Next steps

19. Submit the response to the LSB by 12 December 2023.

20. In Q1 2024, we will bring to Board an assurance mapping exercise of our performance against Regulatory Standard 3. This is “Operational delivery: Regulators’ operational activity (e.g. education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest”. This is something that we are doing proactively to provide the Board with assurance on our performance across the LSB’s Standards and has not been requested by the LSB.

Supporting information

Links to strategy and business plan

21. The evidence set out in the assurance mapping document draws from all the work we are doing as set out in the business plan and strategy.

Supporting the regulatory objectives and best regulatory practice

22. This work supports all the regulatory objectives including, to a limited extent, the new regulatory objective relating to promoting the prevention and detection of economic crime. This in the form of the economic sanctions work undertaken by the Data Working Group and referenced in our assurance mapping. Separately, the LSB has contacted all regulators in relation to the new regulatory objective and is looking to establish shared principles and expectations for delivering against this new objective.

Impacts

23. There do not appear to be any impacts on specific types of regulated persons.

Communication and engagement

24. Not directly relevant.

Equality and diversity

25. Our Standard 2 assurance mapping was clear that work is needed in relation to Equality, Diversity and Inclusion (EDI). This work is being taken forward by the Education and Diversity Officer.

Evidence/data and assumptions

26. There are no specific issues for this paper. We continue building our evidence base and this will help to inform our approach to the new regulatory performance framework, including through thematic reviews of the new approaches to the PII Sandbox, Continuing Professional Development and transparency/complaints handling.

Annex A – Background information

Annex B – LSB Draft Narrative Assessment (16 November 2023)

Annex C – Draft IPReg Response

Annex A - Background information

1. On 1 January 2023, the Legal Services Board's (LSB) [new regulatory performance framework](#) came into effect. The framework comprises three Regulatory Standards¹:

Standard 1 - Well-led: Regulators are well-led with the resources and capability required to work for the public and to meet the regulatory objectives effectively;

Standard 2 - Effective approach to regulation: Regulators act on behalf of the public to apply their knowledge to identify opportunities and address risks to meeting the regulatory objectives; and

Standard 3 – Operational delivery: Regulators' operational activity (e.g. education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.

2. On 8 June 2023, the LSB issued its first information request under this framework. All requests were focused on Standards 1 and 2, accompanied by compliance questions concerning LSB Statements of Policy on ongoing competence and consumer empowerment, and promotion of the public interest. Additionally, each regulator received targeted queries, with ours relating to the new core regulatory framework, governance and transparency action plan and progress on reviewing the Accreditation Handbook and the Competency Frameworks.
3. Regulatory Standards 1 and 2 are underpinned by 15 underpinning Characteristics which the LSB uses to describe the features of effective regulators. The Board's July 2023 meeting considered a comprehensive assurance mapping exercise against these Characteristics as well as reviewing the draft responses to the LSB's compliance questions and targeted queries. The Board decided that, in its judgment, it had green/full assurance that we meet the well-led characteristics. In contrast, for Standard 2, the Board considered that, in its judgement, because three of the seven Characteristics were amber, it had amber/partial assurance that this standard was being met. In particular, the need for equality and diversity policies and framework contributed to this rating.

¹ The 3 Standards are underpinned by 20 Characteristics (Standard 1 has 8 Characteristics, Standard 2 has 7 Characteristics and Standard 3 has 4 Characteristics) .

Board Meeting 7 December 2023

Complaints Update

Agenda Item: 6

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](#).

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 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

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, 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.
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 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

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 30.11.23

- | | |
|-----------------------------------|----|
| • Total open cases | 6 |
| • Cases opened since last meeting | 3 |
| • Cases closed since last meeting | 1 |
| • Change (from last meeting) | +2 |

Year to date (from 1 January 2023)

- | | |
|------------------------|----|
| • Total cases received | 11 |
| • Total cases closed | 10 |

Legal Ombudsman

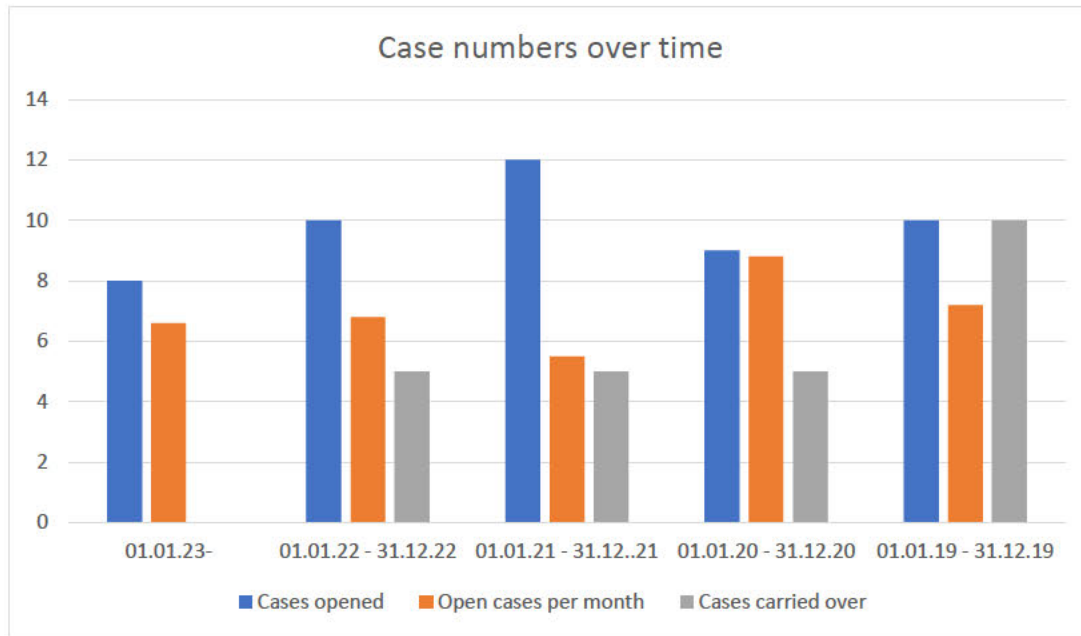
- | | |
|-----------------------------------|---|
| Complaints received in last month | 0 |
| Cases open | 0 |

Timeliness

- | | |
|------------------|-------------------|
| Oldest open case | 161 weeks (3y 5w) |
|------------------|-------------------|

Newest open case 4 weeks
 Mean 37 weeks
 Median 10 weeks

Analysis and trends (12 month periods)

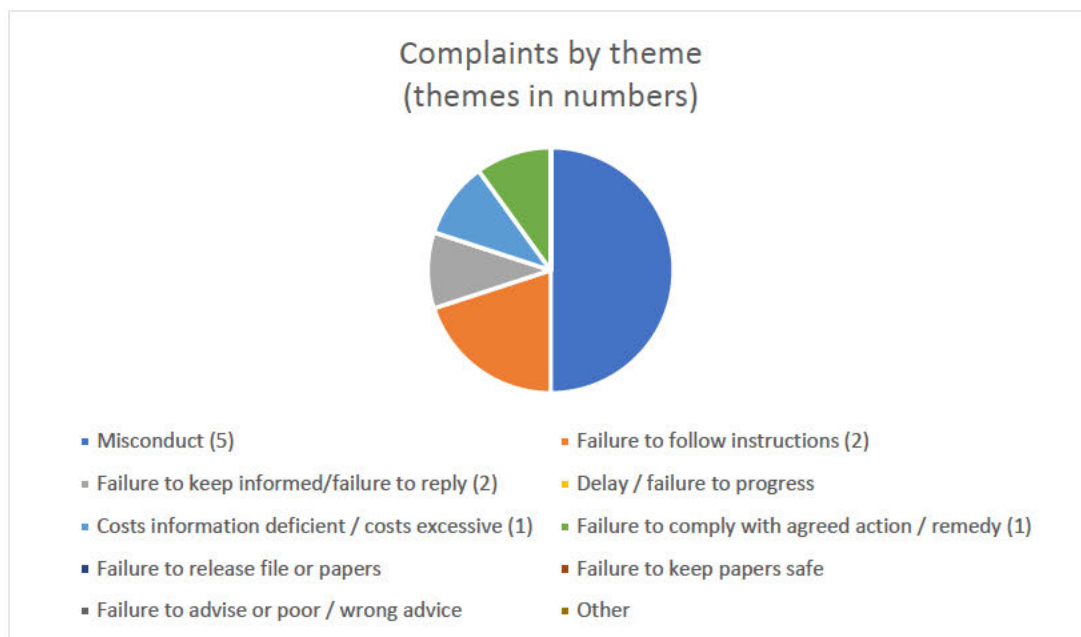


	01.01.23 - date	01.01.22 - 31.12.22	01.01.21 - 31.12.21	01.01.20 - 31.12.20	01.01.19 - 31.12.19 (4 cases carried over from previous period)
New cases opened / received	11	10	12	9	10
Total open cases during period	17	16	17	19	14
Overall case numbers open	5 - 9	6 - 9	3 - 8	5 - 12	5 - 9

per month (range)					
Overall case numbers open per month (avg)	6.3	6.8	5.5	8.8	7.2
Cases carried over to next period	6 (TBC)	5	5	5	10
Cases closed/resolved within 12 weeks*	60%	50%	50%	44%	10%
Cases closed/resolved within 26 weeks*	70%	60%	58%	50%	50%

*Of cases closed this calendar year

Open complaints by theme



Misconduct includes:

- Misappropriation/mismanagement of funds (3 cases)
- Unprofessional / inappropriate conduct with a third party (2 cases)
- Providing false / misleading information to IPReg

Board Meeting 7 December 2023

CEO report

Agenda Item: 9

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

This paper is for discussion.

The following Annexes will not be published: Annex B (confidential) and Annex F (advice to Board)

Summary

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

Recommendation(s)

2. The Board is asked to:
 - a. Note this paper;
 - b. Agree the re-cast strategic objectives at **Annex A**;
 - c. Agree to donate £2,500 to IP Inclusive to fund their operating costs in 2024 (**Annex B**).

Risks and mitigations

	Risk	Mitigation
Financial	No specific financial risks	N/A
Legal	████████████████████	██
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.

2024 practising fees

4. Oral update to be provided at the meeting.

Strategic Priorities

5. Following the discussion at the strategy morning in November, the strategic priorities have been re-drafted. They are set out at Annex A.

IP Inclusive's 2024 operating costs

6. In March 2021, the Board agreed that, in principle, we would continue to sponsor IP Inclusive's annual operating costs (then £2,100) at around that level in order to provide certainty to IP Inclusive for future years. In 2023, we donated £2,500 and IP Inclusive has asked for the same amount for 2024 (Annex B) to pay for:
 - a. Website hosting;
 - b. Domain name registrations for ipinclusive.org.uk and careersinideas.org.uk (which now include associated email addresses);
 - c. Subscriptions for online accounts with Mailchimp, SurveyMonkey and (for financial records) Xero;
 - d. Eventbrite charges for online event registrations;
 - e. Third party liability insurance;
 - f. Bank charges;
 - g. ICO data protection fee.

Meetings

CIPA and CITMA

7. The 3 CEOs met on 29 November. Their discussion included:
 - a. Start of 2024 practising fee collection;
 - b. Possible changes to IPReg Limited's company structure;
 - c. Feedback from the transparency webinar;
 - d. New regulatory objective (see paragraph 13);
 - e. IPO [guidance](#) on complaints about unregulated advisers;
 - f. Changes to CIPA's code of behaviour.
8. The Regulatory Forum with the CIPA and CITMA Presidents, Vice-Presidents and CEOs and the IPReg Chair and CEO is due to take place in the morning of 7 December. An update will be provided at the Board meeting.
9. The IPReg Chair has written an article on the new CPD arrangements for the CIPA and CITMA journals (**Annex C**).
10. Dr Bobby Mukherjee has been elected unopposed to be CIPA's President from 1 January 2025. He is a practising in-house attorney.

LSB engagement

11. A relationship management meeting is scheduled for 13 December.
12. On 8 November the CEO attended online the LSB's Legal Services Regulators in Wales Forum. See the agenda at **Annex D**. We have subsequently provided additional information to the Office of the First Minister on numbers of firms/attorneys in Wales and the rest of the UK. There seems no need for a follow up discussion at this stage but we will contact them as part of our work on the feasibility of developing apprenticeships as a route to qualification.
13. The Economic Crime and Corporate Transparency Act 2023 (ECCTA) [s209](#) will introduce a 9th regulatory objective: promoting the prevention and detection of economic crime. The LSB has written to all the regulators (**Annex E**) stating that it wants to "establish shared principles and expectations for delivering against the new objective" and wanting to know "some of the key actions you consider your organisation will need to take over the coming months in order to reflect the clarified responsibility in relation to economic crime, and to use that as a basis for collective discussion in the New Year". The Team has been giving this some thought and will update the Board at its meeting in January 2024. The ECCTA also gives the Law Society/SRA additional information and related enforcement powers in relation to economic crime.¹ These powers can be extended to other regulators on recommendation by the LSB to the Lord Chancellor.

Conferences/webinars attended by Team and Board members

14. On 6 December the Head of Registration and the Director of Policy are due to attend the Westminster Policy Forum event: the future for AI in legal services. An oral update will be provided to the Board meeting.

Transparency webinar

15. On 17 November, the CEO and Head of Registration presented an hour long webinar on our new pricing transparency requirements. The event was facilitated by CIPA. There were around 260 attendees and we answered a range of questions from them. We invited Lola Bello from the Legal Services Consumer Panel to take part in the presentation so that attorneys could hear direct from the Panel about the importance of transparency.

Regulatory Performance

16. The LSB sent its assessment on 15 November – see agenda item 5.

Sanctions

17. An oral update will be provided at the meeting.

¹ ECCTA s210 inserts a new LSA PART 5A Approved Regulators: Information Powers

Waivers

18. PII Sandbox – no applications have been received.

Horizon scanning and research

19. The External Market Update report is to follow (**Annex F**).

Contracts (commercially confidential information about contracts will be redacted)

20. With the Chair's agreement, we have asked Thewlis Graham to conduct the recruitment process to replace Sam Funnell and Emma Reeve when their second terms expire at the end of March 2024. The cost is [REDACTED] + VAT.

21. I have asked Bob's Business (recommended by Dudobi) to provide some cyber security training on phishing. The cost is [REDACTED] + VAT and the training takes place over 12 months.

Other matters

IPReg Finance Report

22. No report this meeting.

Legal Services Consumer Panel (LSCP)

23. N/A for this meeting.

Justice Select Committee – Regulation of the legal profession

24. The Justice Select Committee held two evidence sessions on the regulation of the legal profession. The [first session](#) was on 28 November and was attended by the Bar Council, Bar Standards Board, CILEx and CILEx Regulation. All attendees asked about the Legal Services Act 2007 (LSA) and the Legal Services Board. The main points made were:

- a. Bar Council: content with the LSA, but there is a need to review the LSB itself and the Bar Council has written to both the MoJ and the LSB to request this given that the LSB has not been reviewed since 2017 and has very much changed course. The Bar Council is concerned by the LSB's overreach, such as its recent strategy for the entire sector, its desire for a single regulator and that it appears to regulate in accordance with that desire. The Bar Council is unsure why the LSB is trying to make items such as Non-Disclosure Agreements and Strategic Lawsuits Against Public Participations a regulatory issue. It considers that the LSB's approach to Internal Governance Rules (IGRs) creates a wedge between the representative and regulated bodies. The LSB is proposing an increase of 14% in its budget amidst criminal justice funding issues.
- b. Bar Standards Board: LSA broadly fit for purpose. The BSB has had sight of the LSB's draft narrative assessment of its performance and it acknowledges the BSB's significant improvements in timeliness and productivity of regulatory decision making. The BSB has

its own performance committee and is working towards better use of data and intelligence to be more proactive/innovative. The BSB refutes the Bar Council suggestion that there is a drop in standards regarding the qualifying pathway. The BSB would not express a view on the LSB and whether it needs to be reviewed.

- c. CILEx: concerned by the IGRs, particularly that CILEx cannot hold CILEx Regulation to account, for example in instances of financial health or performance. It has overreach and IGR concerns regarding the LSB. It considers that a move to regulation by activity, rather than profession, is needed in light of technology developments and to cover both estates planning and immigration services. It stated that a CILEx professional is a specialist lawyer, a solicitor is a generic lawyer but the Law Society continues to represent CILEx professionals as poorly qualified/lesser lawyers only because the solicitor route to qualification costs more and takes longer. A Committee member commented that CILEx seeking to have the SRA as the delegated regulator weakens that argument in potentially blurring the lines between solicitors and CILEx lawyers. CILEx said that it would look to change title to chartered lawyers and chartered paralegals.
 - d. CILEx Regulation: time to review both the IGRs and the LSB. Whilst the latter does some things well, such as EDI, vulnerable consumers and technology, CILEx Regulation is unsure of the value of it increasing its budget by 9% and now 14% and taking substantial money away from frontline regulators. It would prefer the LSB to be “less a pedantic headmaster telling us off” and more fostering good practice; it hopes the new Chair will take forward the required cultural shift. It has applied to be afforded higher court rights and whilst very important in principle, it potentially affects only around 50 people. Its view is that ongoing competence needs to be risk based (such as immigration advice and technology advances challenges). Its summer consultation determined that 3 in 4 considered it important to have a regulator which understands the profession and 2 in 3 see no advantage in moving regulation away from them to the SRA.
 - e. Solicitor MP on the Committee: stated that he considers that ABS have “wholly undermined the professions” and was vocal with his opinion that CILEx is looking to undermine the solicitor profession by “creating a profession on the cheap”; this was in response to CILEx Regulation suggesting that the Law Society attempts to belittle CILEx members, including in front of the judiciary.
25. The Legal Futures website has picked up on the [session](#) and also the proposed [14% increase](#) in the LSB’s budget.
26. The second session is scheduled for 5 December and will be attended by the Solicitors Regulation Authority, the Law Society and the Legal Services Board. An oral update will be provided to the Board.

Press reports and other published information

27. A keynote speech by the Chair of the CMA on [Consumers, Competition and Artificial Intelligence](#).
28. EPO [decision](#) on Moderna mRNA Covid vaccine patent.
29. On 28 November, the LSB Board considered a [paper](#) that proposes a [13.9% increase](#) in its budget for 2024/25.² The increase in the LSB's budget for 2023/24 was 9.1%.
30. In2Science [blog](#) on IP Inclusive's website which mentions the support that IPReg has given them in promoting greater social mobility and education access.

² [CPI](#) in the 12 months to October was 4.6%.

Re-casting our strategic priorities

A. Users of IP legal services and the public

Strategic priority

To improve consumer knowledge and empowerment among users of IP legal services. increase the public profile of IPReg to the regulated community and users of IP legal services.

We will do this by:

- Increasing the public profile of IPReg to the regulated community and 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.
- Increasing our understanding of the needs and expectations of all types of regulated attorneys/firms and disseminating information about best practice.

B. The profession (current and future)

Strategic priority

Setting, promoting and enforcing high quality education and professional standards for entry to the professions.

~~To increase the range of good quality education providers accredited by IPReg, in particular as a tool to increase the diversity of the trade mark and patent attorney professions~~

We will do this by:

- Using data and insights from our regulatory activity to influence the future of the profession in a way that ensures that appropriate standards are maintained and routes to entry onto the registers are varied and fit for purpose.
- To Encouraging an increase in the range of good quality education providers of qualification pathways and examinations accredited by IPReg, in particular as a tool to increase the diversity of the trade mark and patent attorney professions.
-
- Gathering data about the diversity of the profession (attorneys and students) to inform our decision making.

C. IPReg

Strategic priority

~~To~~ Carrying out our regulatory activities proactively, effectively and inclusively, ensuring the efficient use of resources.

We will do this by:

- Building our capacity to understand and respond to global and market trends (including the use of technology) that impact on intellectual property matters, the wider environment and our approach to regulation.
- Acting quickly and consistently when we identify potential breaches of regulatory requirements and conducting investigations efficiently and effectively.
- Encouraging innovation and competition in the provision of regulated IP legal services.

One of the most important changes we have made, this year, to the rules and procedures for IPReg's registered attorneys has been the change to CPD (Continuous Professional Development) requirements. We had long thought that the old box-ticking formula – which required a declaration of 16 specific hours of CPD during the year – needed to change; and the wholesale review we conducted of all our rules and guidance provided the opportunity to make the CPD change. It has, I think, been broadly welcomed.

From 1st July this year we have moved away from the sixteen-hours calculation, and now ask attorneys to reflect, personally, on the learning they need, the learning they undertake, and to evaluate how that contributes to their professional development. We ask that this is a bespoke assessment, appropriate to them, their individual needs, and their own career development. It isn't a one-size-fits-all calculation. This will apply to all trade mark and patent attorneys, whether individual registrants or part of a firm – and we ask firms to ensure that the right frameworks are in place for their attorneys to undertake the reflection and learning that they need.

We have been very heartened by the attendance – of many hundreds of attorneys – at the webinars we have put on, together with CIPA and CITMA, to talk everyone through these new approaches. CIPA and CITMA have been enthusiastic proponents of the new CPD, and we are tremendously grateful for the way they have helped to promulgate what we are hoping will happen. For anyone who hasn't been able to attend the webinar sessions, full guidance is available on the IPReg website.

At the heart of the new approach is the requirement to keep a record of the learning needs and activities that are undertaken. Keeping abreast of changes in patent and trade mark law and practice, advances in technology, and evolving best practice: these are all important in ensuring that attorneys can provide the best possible service to their clients. Keeping a logbook or diary of how this process happens is key to being abreast of your own learning requirements.

“Assess, reflect, plan, implement, and confirm” is the process we hope will become the norm: assessing what your needs are, reflecting how best to meet them, drawing up a plan, implementing it, and confirming to IPReg that you've done all of this. The plan can involve all sorts of different activities, both in-house and under the auspices of a professional body. It could be specific training or learning, it could be deliberate discussion with professional colleagues, it could be sharing knowledge and best practice, it could be reading or mentoring or teaching or writing. For every attorney it will be different, and individual. But for every attorney – and their clients – it will also be important.

Chris Smith
November 2023

Legal Services Regulators in Wales Forum

Date: 8 November 2023

Time: 11am-1pm

In-person venue: Clayton Hotel, St Mary Street, Cardiff, CF10 1GD

Link to join online: [Click here to join the meeting](#)

Purpose and background

- Following the LSB's Board engagement event in Wales in April 2022 to discuss progress against the Reshaping Legal Services strategy and emerging opportunities and challenges facing the legal sector, we met with Andrew Felton (Welsh Government) to discuss further how we can build a better understanding of the Welsh legal system and work together to deliver better outcomes for legal consumers in Wales.
- As part of our actions following that meeting, we agreed to consider convening a joint meeting with the regulators, facilitated by the LSB, to provide an effective forum for engagement on Welsh legal sector issues.

Questions for regulators to consider in advance of the session

1. How can we, as regulators, help the Welsh Government deliver justice for Wales?
2. What can we do to build a better understanding of the justice system in Wales and the challenges it faces?
3. In what ways can regulators work together to improve outcomes for people in Wales?
4. Is there any particular experience (research, data, relationships, etc) that we could share that would support the work of Welsh Government legal services?

Confirmed attendees

Name	Org	Role	Attendance
Matthew Hill	Legal Services Board	CEO	In-person
Richard Orpin	Legal Services Board	Director, Regulation and Policy	In-person
Margie McCrone	Legal Services Board	Head, Strategy and Policy	Virtually
Andrew Felton	Welsh Government	Head of Justice Stakeholders	In-person
Sophie Wales	ICAEW	Head of Regulatory Affairs and Policy	Virtually
Lori Frecker	Costs Lawyer Standards Board	Director of Policy	Virtually
Fran Gillon	IPReg	Chief Executive	Virtually
Ewen MacLeod	Bar Standards Board	Director of Strategy and Policy	Virtually

Aileen Armstrong	Solicitors Regulation Authority	Exec Director, Strategy, Innovation & External Affairs	Virtually
Liz Withers		Head of Welsh Affairs	In-person
Sheila Kumar	Council for Licensed Conveyancers	Chief Executive	Virtually
Richard Hood	Cilex Regulation	Interim Director of Governance, Policy and Legal	In-person
Howard Dellar	Faculty Office	Registrar	Virtually
Lola Belo	Legal Services Consumer Panel	Consumer Panel Manager	Virtually

Agenda (chaired by Matthew Hill)

1. **Introductions** (5 minutes)
Led by Matthew Hill, CEO, Legal Services Board
2. **Delivering Justice for Wales** (15 minutes)
Led by Andrew Felton, Head of Justice Stakeholders, Welsh Government
3. **Presentation by the Legal Services Consumer Panel: Access to Justice in Wales** (15 minutes)
Led by Lola Belo, Consumer Panel Manager, Legal Services Consumer Panel
4. **Reflections from each of the regulators** (20 minutes)
Each regulator is to spend 2-3 minutes reflecting on their work in Wales and the opportunities and challenges as they see them
5. **The SRA's work in Wales** (25 minutes)
Led by Liz Withers, Head of Welsh Affairs, Solicitors Regulation Authority
6. **Collaboration and areas of mutual interest** (35 minutes)
Discussion led by Matthew Hill. Discussion on the parallels between the Reshaping Legal Services strategy and Delivering Justice for Wales report and opportunities for collaboration.
7. **Next steps and wrap up** (5 minutes)

Fran Gillon

Sent by email:

Fran.Gillon@jpreg.org.uk



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20 November 2023,

Dear Fran,

Economic Crime and Corporate Transparency Act – Addition of New Economic Crime Regulatory Objective Under the Legal Services Act, 2007

As you know, the [Economic Crime and Corporate Transparency Act \(ECCTA\)](#) came into force on 26 October 2023 and it brings with it some important additions to legal services regulation.

The ECCTA includes a number of measures aimed at improving the UK's response to economic crime. Of particular relevance to legal services regulation, the ECCTA includes a provision ([s.209 ECCTA](#)) to introduce a new regulatory objective under the *Legal Services Act, 2007*, namely *promoting the prevention and detection of economic crime*.

Now that the ECCTA has taken effect, regulatory bodies are expected to promote the new economic crime regulatory objective in accordance with the *Legal Services Act, 2007*, as has been the case with the original eight regulatory objectives.

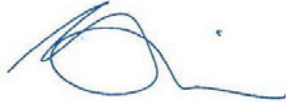
As we have discussed previously, the LSB has been of the view that the pre-existing regulatory objectives, taken together, already provided an implied mandate for legal services regulation to play a role in tackling economic crime. The new objective puts that mandate beyond doubt.

Indeed, for those regulators who are already subject to the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 and for all regulators who have taken steps to uphold the government's sanctions regime, we recognise that you have already been working to address the known or unknown facilitation of economic crime amongst your regulated communities for some time.

We are keen to work together with you to establish shared principles and expectations for delivering against the new objective. With that in mind, we would like to understand better some of the key actions you consider your organisation will need to take over the coming months in order to reflect the clarified responsibility in relation to economic crime, and to use that as a basis for collective discussion in the New Year.

I would be grateful, therefore, to receive your initial thoughts on this topic by 18 January 2024. To, I hope, minimise the burden on you, I should make clear that we are not requiring formal, lengthy or detailed submissions unless you consider that you would like to provide them.

Yours sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a trailing horizontal line.

Matthew Hill
Chief Executive

IPReg Board Meeting Actions Log - New and Outstanding Actions

Item 12
December 2023 Board meeting

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
November 2023 Board Meeting					
Nov-23	Review of Compensation Arrangements	Director of Policy to publish consultation document once final actuarial report received	VS	Closed	Published 16 November, closes 4 January
Nov-23	Governance Action Plan Implementation	CEO to finalise and publish Governance Handbook	FG	Closed	
Nov-23	Governance Action Plan Implementation	CEO to review draft procurement policy	FG	Open	
Nov-23	Response to LSB Consultation on Complaint Handling Processes	Director of Policy to finalise response	VS	Closed	Submitted 15 November
May 2023 Board Meeting					
May-23	Working Group Reports - Education	Education and Diversity Officer to include litigation qualification in the wider work on education	GS	Ongoing	
December 2022 Board Meeting					

IPReg Board Meeting Actions Log - New and Outstanding Actions

Dec-22	Education Working Group	Review EWG terms of reference and the scheme of delegation	EWG	Closed	To be considered at the December 2023 Board meeting
July 2022 Board Meeting					
Jul-22	Financial Statements (IPReg Ltd), Directors' Report and Letter of Representation	Update financial procedures	KD	Ongoing	
Jul-22	Governance and Transparency Working Group – Report on findings and recommendations	Take forward Action Plan including regular updates to Board Meetings	FG	Ongoing	Regular reports provided to Board meetings
January 2022 Board Meeting					
Jan-22	Annual Renewal Process Update	Review annual return information categories similar to PAMIA questions	SE	Closed	