

# IPReg Decision making guidance

## Who is this guidance for?

1. Those IPReg regulates and those who may be interested in how IPReg makes its decisions, such as stakeholders, consumers and other legal services regulators. IPReg's decision makers will have regard to this guidance.

## Purpose of this guidance

2. IPReg wants to ensure that its functions and obligations are conducted in a transparent way. This guidance sets out how IPReg makes decisions regarding the exercise of those functions and obligations. When making decisions, IPReg's decision makers will have regard to this guidance to ensure that decisions are made in a way that accords with its statutory remit<sup>1</sup> and is consistent with the better regulation principles<sup>2</sup>. This guidance may be updated from time to time.

## General principles

3. IPReg's fundamental role is to regulate the providers of regulated patent and trade mark services in the United Kingdom. It does this by:
  - Setting the Principles, Code of Conduct and other regulatory arrangements to which all registered attorneys and firms and regulated persons must adhere;
  - Setting the qualification requirements to entry to the registers, including examination and experience requirements;
  - Accrediting and monitoring the education providers that offer qualification pathways to registration as a patent attorney or registered trade mark attorney;
  - Authorising applications from individuals and corporate entities who wish to apply for registration as a registered person, and applications for authorisation as a Head of Legal Practice (HoLP), Head of Finance and Administration (HoFA), owner and manager of a licensed body;
  - Investigating complaints about regulated persons who may have breached the Principles, Code of Conduct or any other of the regulatory arrangements, and taking enforcement action where necessary.
4. In carrying out any of these functions, IPReg must act in a way that, as far as possible, is compatible with the regulatory objectives set out in the Legal Services Act 2007. These are:

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<sup>1</sup> IPReg is governed by the Legal Services Act 2007, the Copyright, Designs and Patents Act 1988 and the Trade Marks Act 1994. It must also observe rules and guidance published by the Legal Services Board.

<sup>2</sup> See section 28(3) of the Legal Services Act 2007

- a. protecting and promoting the public interest;
  - b. supporting the constitutional principle of the rule of law;
  - c. improving access to justice;
  - d. protecting and promoting the interests of consumers;
  - e. promoting competition in the provision of legal services (whether reserved or not reserved);
  - f. encouraging an independent, strong, diverse and effective legal profession;
  - g. increasing public understanding of the citizen's legal rights and duties;
  - h. promoting and maintaining adherence to the professional principles.
5. The “professional principles” referred to above are:
- a. that authorised persons should act with independence and integrity,
  - b. that authorised persons should maintain proper standards of work,
  - c. that authorised persons should act in the best interests of their clients,
  - d. that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
  - e. that the affairs of clients should be kept confidential.
6. In addition, IPReg is required to have regard to best regulatory practice and to ensure that its regulatory functions are carried out in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed<sup>3</sup>.
7. This means that in every regulatory decision that IPReg makes, the regulatory objectives and principles of good regulation are at the forefront of the assessment process. Not all of the regulatory objectives will be engaged in every decision and in some cases one objective may appear to compete with another, requiring a careful balancing exercise.
8. As a public body, IPReg also has a duty under the Human Rights Act 1998 to act in a way that complies with the European Convention on Human Rights. These rights are qualified, so where IPReg acts proportionately in pursuit of a legitimate aim in the regulation of its regulated community, IPReg may not be in breach of these human rights even if its decision does not give effect to them.

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<sup>3</sup> Legal Services Act, s28(3)

9. IPReg’s Board has the authority to make decisions as to the regulation of its regulated community. These powers are delegated to members of the IPReg executive, via a [Scheme of Delegations](#). Where this guidance refers to ‘decision makers’ these may be any members of the IPReg team named in the Scheme of Delegations.

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Rationale</b>
V1.0	24.3.23	IPReg	Submitted with LSB application