

The Patent Regulation Board and the Trade Mark Regulation Board

Agenda

Thursday 18 March 2021 at 12 noon

By Video Conference

1. Apologies
2. Notification of any conflicts of interest

PART A – NON-CONFIDENTIAL ITEMS

3. Minutes of January 2021 meeting and matters arising
4. Action Log (FG)
5. Discussion on Covid-19 – impact on:
 - a. IPReg team (FG) – no paper
 - b. Market (all) – no paper
6. Update on 2021 Annual Renewal process (SE) – no paper
7. Other activities (not covered elsewhere):
 - a. 3 x CEOs 24 February (FG)
 - b. Remedies Programme Implementation Group (CMA report) 3 March (FG)
 - c. Regulatory Forum 4 March (Chair/FG)
 - d. CIPA webinar 11 March (SE/FG)
8. Regulatory arrangements review – progress report (AK/FG)
9. IPReg Annual Report 2020 (FG/VS)
10. Education Group Update (CS/VS)
11. IPReg Accreditation Handbook (CS/VS)
12. Historic Examinations Exemptions Consultation (CS/VS)

13. Higher Court Advocacy Certificate (CS/VS) – no paper

14. Diversity:

- a. IP Inclusive funding (FG)
- b. Diversity survey results/workshop action points (FG)
- c. LSB workshop 11 March (FG) – no paper
- d. In2Science – summer workshops – careers panel volunteer needed (FG)

PART B – CONFIDENTIAL ITEMS

15. Complaints update (SE)

16. LSB (FG)

[REDACTED]

17. Red risks (FG)

[REDACTED]

19. 2020 Actual vs Budget + proposed adjustment to reserves (KD)

[REDACTED]

21. Regulatory Statement

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

IPReg Board Meeting Actions Log - New and Outstanding Actions

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
January 2021 Board Meeting					
Jan-21	Covid-19 – Impact on IPReg team	Report any relevant issues to LSB	FG	Ongoing	
Jan-21	Brexit – BEIS/Mutual Recognition	Develop an agreement with Irish IPO and update BEIS as appropriate	SE/AC/SF	Ongoing	Paper at March meeting
Jan-21	Higher Courts Advocacy Certificate	Contact agencies to discuss IPReg accreditation of Higher Courts Advocacy qualifications	VS	Ongoing	Update at March meeting
Jan-21	Complaints	Provide median time of complaint handling	SE		
Jan-21	LSB - Regulatory Performance Framework	Provide report to LSB by 31 March	FG	Ongoing	Paper at March meeting
Jan-21	LSB - Regulatory Performance Framework	[REDACTED]	SE/MB	Ongoing	
Jan-21	LSB - Regulatory Performance Framework	Include interim orders in consultation on regulatory arrangements review	EL	Ongoing	
Jan-21	LSB - Regulatory Performance Framework	Continue to liaise with LSB on its survey on small businesses	VS	Ongoing	Preliminary discussion held. LSB at very early planning stage
Jan-21	LSB – Corporate Strategy and Business Plan	Submit response to LSB Strategy and Business Plan Consultation	FG	Closed	
Jan-21	Office Space in Town (OSiT) Licence	Agree 3 month extension of licence	FG	Closed	

IPReg Board Meeting Actions Log - New and Outstanding Actions

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	
March 2020 Board Meeting					
Mar-20	Complaints update	Seek advice from an external adviser in relation to the debt owed to IPReg	MB	Open	Update to be provided at March meeting
January 2020 Board Meeting					
Oct-19	LSB CEO Meeting	Invite Matthew Hill to Board meeting	FG	Open	Discussed with Matthew. Date TBC
April 2019 Board meeting					
Apr-19	Queen Mary University London - progress report	Continue to monitor and take action as required	Education Working Group	Ongoing	

Board Meeting 18 March 2021

Review of regulatory arrangements – progress report

Agenda Item: 8

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk 020 7632 7174)

Summary

1. The Call for Evidence closed on 1 February (albeit that there were some late responses). We received 31 responses from a cross section of attorneys, firms and other stakeholders.
2. Annex A provides a brief summary of the main issues that were raised.
3. [REDACTED] starts as Head of Regulatory Review on 29 March. She will provide a more detailed paper for the May Board meeting which will set out next steps and timetable.

Recommendation(s)

4. The Board notes the content of this paper.

Risks and mitigations

Financial	<p>We have allocated £40k in the budget for legal support for this project.</p> <p>[REDACTED]</p>
Legal	<p>[REDACTED]</p>
Reputational	<p>This is a high-profile project that has been welcomed by many of those we regulate. Successful completion will enhance our reputation. The LSB is scrutinising our progress on this work</p>
Resources	<p>We have recruited an additional team member to lead this project.</p>

Board Meeting 18 March 2021

Decision Paper: IPReg Annual Report 2020

Agenda Item: 9

Authors: Victoria Swan, Director of Policy (victoria.swan@ipreg.org.uk); Fran Gillon, Chief Executive

1. Summary

1.1 The IPReg Annual Report 2020 sets out our regulatory and business activities, admissions and complaints data, financial information and progress against commitments in the Business Plan, relating to the calendar year of 2020.

2. Recommendation(s)

2.1 The Board is asked to approve for publication the attached draft IPReg Annual Report 2020 (Annex A) (subject to any amendments the Board wishes to make).

3. Risks and mitigations

Financial	Publication of the Annual Report should have no financial implications for IPReg.
Legal	There are no specific legal risks.
Reputational	It is important that we are accountable to Business Plan commitments and how these have been actioned.
Resources	The development of the Annual Report has been undertaken using existing office resources.

4. IPReg Annual Report 2020

4.1 The draft Annual Report sets out our achievements in 2020, including progress against the Business Plan commitments and, as with previous versions, it also provides for:

- forewords of both the Chair and Chief Executive Officer;
- information on admissions and complaints;
- financial information about the allocation of costs and our budget and expenditure.

5. Next steps

5.1 The Annual Report will be shared with the representative bodies slightly ahead of its publication on the IPReg website. A news item on the website will highlight its publication.

Board Meeting 18 March 2021

Information Paper: Education Working Group Update

Agenda Item: 10

Lead Board Member: Caroline Seddon, Chair of Education Group

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

1. Summary

- 1.1 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.
- 1.2 This paper seeks to provide an overview of the activities and outputs of the Education Group since those reported to the January 2021 meeting of the Board.

2. Recommendation(s)

- 2.1 The Board is asked to note this paper.

3. Work plan

- 3.1 Current status of work plan items:

Quality Assurance Remedy	Status	Work being/to be undertaken
a) publication of assessment reports, their findings and recommendations made to qualification pathway accreditation applicant bodies	Completed	Accredited agencies formally informed of new policy; the Brunel accreditation assessment report was the first to be published.
b) requiring regular updates on progress against accreditation implementation plans	Completed	Accredited agencies formally informed of new policy.
c) requiring annual reports (to include student feedback, external examiners reports findings, and improvements made as a result)	Completed	All qualification agencies have submitted their first annual reports which have been considered by the Education Group.
d) developing a process for withdrawing accreditation from providers who do not maintain the accreditation standards	Completed	IPReg Accreditation Withdrawal Policy Statement and Procedure now live.
e) cost reflective charges for accreditation (including some allocation of officer time)	Completed	Officer time now included in accreditation exercises, notice of this published on website and mentioned in letter to all qualification agencies informing them of

		the Accreditation Withdrawal Policy Statement and Procedure.
f) encouraging more pathway providers – other university/ examination offers	To be scheduled	Brunel University plans for application for accreditation of a Double Major Life Sciences and IP Undergraduate Programme put on hold during the pandemic.
g) provision of online Frequently Asked Questions	Completed	Frequently Asked Questions published which seek to address a range of admission queries, including current accredited pathway options, exemptions, EU admissions in light of Brexit, and experience requirements.
h) review of the Accreditation Handbook	In progress (desktop)	Desktop review undertaken, please see Board meeting agenda item 11; broader review [likely 2022] may require external specialist resource.
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	Brunel University Double Major proposal (item f above) would seek to offer a year work placement.
k) changing our overall work priorities or automating some of the process	Ongoing	For example, desktop review of Accreditation Handbook in first instance.

5. **Queen Mary University London (QMUL) – Quality Concerns (Standing Agenda Item)**

- 5.1 The Education Group held a meeting with QMUL representatives on 14 January 2021 to discuss QMUL's online assessments review and annual report, as well as the latest CITMA student survey findings. Though a small cohort of 8 respondents regarding QMUL, the CITMA survey findings continue to indicate programme administration and organisation as an issue. A letter was issued to QMUL on 16 February regarding this ongoing issue. A QMUL response, issued the same day, reported that an internal administration review has been commenced.

6. **Items considered by the 27 January meeting of the Education Group**

- 6.1 Annual Reports: the Education Group reviewed the annual reports, and online examinations reviews where included, and where appropriate, the CITMA student survey findings, of Brunel University, CPD Training Ltd, Nottingham Trent University, the Patent Examinations Board. Each qualification agency was provided with feedback on their report(s).
- 6.2 IPReg Accreditation Handbook: desktop review undertaken, creating consistency and universal applicability of terminology, provision of a glossary, contents page, numbering, and minor syllabus amendments to reflect sector developments, in particular, Brexit. This item is covered elsewhere on the agenda (item 11).
- 6.3 Historic JEB examinations and historic courses exemptions: the consultation received 4 responses, one of which, CIPA's was not in support of the proposals. This item is covered elsewhere on the agenda (item 12).
- 6.4 Higher Courts Advocacy Certificate: there being two possible interested qualification agencies, one of which made an application for accreditation in February 2021, which is covered elsewhere on the agenda (item 13). The other application is anticipated at the end of March and is scheduled for consideration at the May 2021 Board.



Board Meeting 18 March 2021

Decision Paper: IPReg Accreditation Handbook Update – Desktop Review

Agenda Item: 11

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

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

1. Summary

1.1 The [IPReg Accreditation Handbook](#) sets out IPReg’s approach to accrediting qualification providers and outlines the required syllabus for Foundation Level Qualifications. The Handbook went live in November 2016. Brexit, and its need to re-focus syllabus subject coverage, provided an ideal opportunity for a desktop review to be undertaken. The tracked amendments/additions seek to reflect sector development in light of Brexit, creating consistency and universal applicability of terminology, provision of a glossary, contents page, and numbering of paragraphs.

1.2 The proposed addition of new requirements relating to Equality, Diversity and Inclusion, and Regulations including during a pandemic, would require consultation with qualification agencies.

2. Recommendation(s)

2.1 The Board is asked to approve the proposed revised IPReg Accreditation Handbook (subject to any amendments the Board wishes to make) for consultation with the qualification agencies.

3. Risks and mitigations

Financial	Whilst the EDI requirement is new for IPReg purposes, it is anticipated that qualification agencies will already have EDI Policies and if not already doing so, will have the platforms, having provided online delivery of assessments in light of the Covid-19 pandemic, to enable diversity characteristic surveys of their students/exam candidates.
Legal	As guidance for qualification agencies rather than a regulatory arrangement relating to regulated persons a rule change application did not need to be made to the LSB when the Handbook was created (2016) and the same applies to these proposed amendments.

	Accreditation is not limited to a particular learning and assessment delivery mechanism in keeping with Outcome 2 of the LSB Guidance on regulatory arrangements for education and training issued under section 162 of the Legal Services Act 2007 : <i>Providers of education and training have the flexibility to determine how to deliver training, education and experience which meets the outcomes required.</i>
Reputational	It is important, both for the quality of the qualifications, and for the reputation of the attorney qualification pathway, that we have in place appropriate accreditation standards and processes.
Resources	Please see 'Financial' response above.

4. IPReg Accreditation Handbook

4.1 The [IPReg Accreditation Handbook](#) sets out the standards expected of courses and/or examinations accredited by IPReg as elements of the attorney qualification pathways. An accreditation application needs to demonstrate how the qualification would meet the Handbook's specified standards, syllabus, credit weighting and learning outcome requirements.

4.2 Proposed amendments are tracked, and where these manifest as additional text (rather than an amendment to existing text), these are also formatted in yellow highlight. Amendments are minor and focused upon creating consistency and universal applicability of terminology, provision of a glossary, contents page, numbering, and minor syllabus amendments to reflect sector developments, in particular, Brexit.

4.3 Proposed Equality, Diversity and Inclusion additions, as at items 18 and 48, which would see qualification agencies provide EDI policies, through the accreditation exercise, and diversity profiles of student/candidate cohorts through the annual reporting mechanism.

4.4 Proposed Academic and Examination Regulations (including within a pandemic) additions on evidence sources, as at items 18 and 19.

4.5 These new requirements would necessitate a consultation with the qualification agencies, which is proposed as being 8 weeks in duration.

5. Recommendation

5.1 The Board is asked to approve the proposed revised IPReg Accreditation Handbook (subject to any amendments the Board wishes to make) for consultation with the qualification agencies.

IPReg

IPReg Accreditation Handbook

Accreditation of Attorney Qualifying Pathways
Examinations

First ~~edition published~~ November 2016

Second edition Spring 2021

Handbook Contents

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Handbook Introduction

[IPReg Qualifying Pathways](#)~~Foundation Level Qualifications~~

~~1. Accreditation is intended as a mark of assurance that an courses attorney qualifying pathway leading to these qualifications meets the appropriate the high standards as set by the set by the IP profession. In the UK, these standards are set by the Intellectual Property Regulation Board (IPReg).~~ [Intellectual Property Regulation Board \(IPReg\)](#).

~~2. This handbook has been developed by IPReg to assist [Qualification A Examination Agencies](#) in developing and delivering [qualifying pathways courses](#) that meet the needs of all stakeholders, including students, firms, [the legal market](#) and [potential clients](#).~~ [society](#).

~~3. The handbook has two sections:~~

Principles and Procedures

~~a) This section sets out the statutory basis for IPReg's accreditation activity, the principles of for good accreditation practice, the evidence that will be required from a [Qualification Agency Examination Agencies](#) when seeking accredited status for its provision, the process that must be followed, and indicative timelines.~~

Core Subjects and Learning Outcomes

~~b) This section [relates to the Foundation Level Qualification and](#) sets out the [intellectual property IP](#) law subjects that must be studied, the balance and breadth of these subjects, and the general transferable skills that those completing the course should be able to demonstrate.~~

[General](#)

~~4. In [developing](#) this handbook, IPReg has sought to ensure that whilst meeting the [high](#) standards set out [here](#), the range of provision can remain varied and that those seeking to study for [an attorney qualification](#) ~~the Foundation Level Qualification~~ may continue to have a range of provision to choose from, for example in terms of format and location of delivery.~~

IPReg

~~Examination Agencies are encouraged to refer to both sections of this handbook, and note the indicative timeline for the process to ensure that accreditation and re-accreditation is undertaken in a timely manner.~~

~~IPReg is grateful to all those who have contributed to the development of this handbook. It will be subject to periodic review, normally after five years.~~

5. The Accreditation Handbook sets out the accreditation standards required of all qualification agencies. It currently specifies the core subjects, credit weightings and learning outcomes for all variations of the Foundation Level Qualifications. IPReg may issue further portions of this Handbook relating to the Advanced Level Qualifications.

~~First~~Second edition

~~Date TBC - Spring 2021~~ November 2016

IPReg Accreditation Standards

Accreditation of qualifying examinations – Principles and Procedures

IPReg as an Accreditation Body

6. IPReg has the statutory¹ power to accredit courses and examination as pathways which lead to qualifications in intellectual property law and practice, ~~offered by academic bodies or other course providers.~~ Such qualifications are required of candidates for entry onto the Registers of UK Patent and Trade Mark Attorneys, both of which are held by IPReg.

7. Any accreditation process must take proper account of the regulatory objectives established in the Legal Services Act 2007, in particular, “to encourage an independent, strong, diverse and effective legal profession” and “protecting and promoting the public interest” in having a reliable Register of properly qualified and competent professional patent and trade mark attorneys.

8. These Accreditation Standards set out the requirements of qualification pathways seeking accreditation, or re-accreditation, by IPReg. These Standards also provide the assessment tool for the independent assessors appointed to undertake, on behalf of IPReg, the accreditation or re-accreditation assessment.

IPReg Accreditation Principles

9. Accreditation plays a valuable role in defining and maintaining ~~and developing the relationship between the profession and higher education and in ensuring a~~ appropriate qualification pathway standards. Accreditation should be viewed as a developmental and constructive process, to be accompanied by a continuing dialogue. This approach helps to establish an understanding of the opportunities that accreditation can bring and the value of the process, as well as encouraging the development of innovative provision. ~~It should also assist institutions interested in developing new pathways.~~

10. Our main focus is on the quality and content of the pathway/course ~~(hereafter, taken to cover both courses and other pathway provision)~~ and the outcomes it delivers to students. We do not seek to duplicate other external quality assurance mechanisms already in place. It is expected that the provider is subject to external oversight by an appropriate UK body. Where a qualifying pathway applicant is a university typically this would be, normally, the Quality Assurance Agency (QAA), Office for Students (OfS) and adherence to its, S the Quality Assurance Agency via the designation agreement. Should an qualifying pathway applicant Examination Agency submitting a programme for accreditation not be automatically subject to external oversight it will need to t by the QAA, it is at IPReg’s arrange for assessment by an discretion whether to accept a report by an alternative external quality assurance agency to be agreed with IPReg.

¹ Pursuant to the at the legislation cited at the outset of the Patent Attorney and Trade Mark Attorney Qualification and Registration Regulations.

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11. Assessors will consult and, where appropriate, take account of the general guidance for assessment and oversight of educational qualifications set out in the ~~QAA Framework for Higher Education Qualifications (FHEQ) – see the QAA website for details~~ [QAA Quality Code](#). The level should be at a minimum of level 6 (as defined by the ~~Framework for Higher Education Qualifications~~).

Quality

12. Students need to be able to acquire the knowledge required to operate as a competent lawyer in the field of intellectual property. Although the IPReg Competency Frameworks are primarily intended to support supervision of the practice experience element of qualification, they are likely to prove useful reference tools to [Qualification Agencies Examination Agencies](#).

~~Competency Framework - Patent~~ [Competency Framework – Patents](#)

~~Competency Framework - Trade Marks~~ [Competency Framework - Trade Marks](#).

~~Competency Framework - Trade Marks~~ [Competency Framework - Trade Marks](#).

13. The following features will be required:

Required Features – Quality

- For a Foundation Level Qualification, the course provides the Foundation Level Qualification Core Subjects and Learning Outcomes (General Transferable Skills) as specified by IPReg [in this Handbook](#)
- For an Advanced Level Qualification, the course provides the Advanced Level Qualification Core Subjects and Learning Outcomes [~~should these be defined when in place~~]
- The course syllabus defines appropriate outcomes for each unit or module offered
- Regular review is undertaken to ensure continuing relevance

14. Evidence sources must include:

- Programme Specification
- Programme learning outcomes
- How Professional Ethics is dealt with in the programme
- Quality assurance arrangements including the most recent internal and external reports
- Evidence that the programme is at the required level
- External Examiners Report and related action plans
- How previous accreditation recommendations and requirements have been dealt with

Student choice, access and teaching arrangements

15. IPReg's policy is to ensure that the choice of attorney qualification routes is as flexible as possible. Therefore the range of learning opportunities and types of provision offered by different Qualification Agencies may vary.

16. Provision should be focused upon the learner and cater to a range of learning styles. Access needs to be equitable. While post-graduate entry to accredited courses is the norm, a Qualification Agency may consider prospective students who do not have a first degree but who hold equivalent qualifications or experience. The qualification offer must be transparent to enable students to make informed choices.

17. For the award of accredited pathway status, the following features will be required:

Required Features – Student choice, access and teaching arrangements

- Students are informed, in a clear and timely manner, when a module/exam is not an IPReg Core Subject and is not mandatory to qualification as an attorney
- Students have appropriate and timely access to support, resources and teaching staff
- Cohort extremes, such as vulnerable or non-traditional route students, are supported

18. Evidence sources must include:

- Programme Admissions Policy
- Programme Specification
- Modes of teaching provision
- The assessment strategies employed
- Staff/student ratios
- Equality, Diversity and Inclusion Policies
- How the extremes of cohort entry will be supported
- Published Academic and Examination Regulations pertaining to the accredited qualification

Assessment and appeal procedures

19. Assessment methods must be fair, transparent, and subject to appeal. Appeals procedures should be fair, timely, and transparent, meeting the QAA's principles and guidance. This should include the quality assurance and provision of online teaching and assessment during a pandemic.

20. For the award of accredited pathway status, the following features will be required:

Required Features – Assessment and appeals procedures

- The assessment methods applied are fair
- Assessment methods allow for proper testing of the student's knowledge and competence against the syllabus topics
- Students with special educational needs or disabilities are not disadvantaged

- Students have clear information about the types of assessment, their dates and indications as to what constitute pass or fail marks, well in advance
- Assessment results are issued within a reasonable time frame, allowing students sufficient time to apply for re-sits or to enrol for new courses
- Students are provided with a written outline of appeal procedures governing examinations and course assessments
- There is at least one re-sit opportunity within a reasonable timeframe after results are available
- All final results are moderated in accordance with the QAA requirements

21. Evidence sources must include:

- Methods of assessment (how much by assignment, project, examination etc.)
- Sample examination papers/essay titles/tests
- Sample answers/scripts
- Pass and fail rates
- Resits Policy
- Published Academic and Examination Regulations pertaining to the accredited qualification

External assurance

22. Assessors will consider the most recent Quality Assurance Agency report (or equivalent which IPReg has agreed with the relevant applicant agency confirmed will be acceptable) on the prospective course provider, its findings and recommendations, and how these have been acted on. Student feedback is an important barometer. Should there be no student satisfaction survey available, the Qualification Agency will be asked to contact students to obtain their permission to provide feedback to the assessors on the course/syllabus.

23. For the award of accredited pathway status, the following features will be required:

Required Features – External Assurance

- The programme is subject to external review by the QAA, or an equivalent external assurance agency, that is acceptable to IPReg
- Student feedback is sought and acted upon as appropriate
- Mechanisms are in place to ensure that the course/assessment content is up-to-date

24. Evidence sources must include:

- Information on teaching staff/membership of professional bodies/practitioner input
- Most recent QAA Institution Audit Review (or equivalent) and any associated action plans

- The most recent (within the past two years) student satisfaction survey and any changes made as a result of feedback
- Staff & Student Liaison Committee information & minutes of meetings for the past two years
- Progression, awards and destination data

Other

25. The ~~Qualification Examination Agency~~ will be required to identify any planned major changes to the provision for which accreditation is sought.

26. ~~Qualification Examination Agencies~~ are encouraged to provide examples of innovative course/assessment pathway features which benefit students.

IPReg Accreditation Procedures

27. The accreditation team will require sight of the evidence outlined in this document in advance of the visit with the provider. As standard, the accreditation team will consist of 2 independent appropriately qualified ~~and~~ ~~and~~ experienced assessors the lead assessor will be a legal education specialist and the other assessor will provide professional practitioner input. Reaccreditation is typically undertaken on a five year cycle², or earlier if a need is identified. Should the Qualification Agency wish to be reaccredited IPReg and the Qualification Examination Agency will agree the time at which to re-apply for accreditation well in advance of the expiry of any current accreditation status, at least six months in advance an application should be made.

28. The following stages will normally apply after receipt by IPReg of an initial application for (re-)accreditation:

- IPReg acknowledges receipt of initial application and confirms eligibility
- ~~Qualification Examination Agency~~ submits full (re-)application using templates provided
- IPReg acknowledges receipt of full (re-)accreditation application
- IPReg appoint assessors and agrees the dates of the visit with the ~~Qualification Examination Agency~~
- Assessment carried out, typically within 12 weeks of receipt of the full (re-) accreditation application
- Assessors prepare report
- The draft report will be shared with the ~~Qualification Examination Agency~~ for factual correction, typically two weeks after the visit has taken place
- Report received and considered by the IPReg Board at its next quarterly meeting
- Outcome communicated to ~~Qualification Examination Agency~~ ~~course provider~~; the ~~Qualification Examination Agency~~ may be required to provide an action plan to address any requirements before accreditation can be awarded.

² The IPReg Accreditation Withdrawal Procedure sets out the policy statement and procedure which would be applied should this be necessary ahead of the standard 5 years reaccreditation cycle.

Report Findings

- An Executive Summary inc. good practice/innovative features will be published by IPReg
- The draft Executive Summary will be shared with the Qualification Agency for factual correction prior to publication on the IPReg website
- The full report will not be published.

29. The Qualification Agency must ensure that courses are not publicised as holding IPReg accredited status until this has been confirmed.

30. Evidence sources checklist

Standard	Evidence Source
Quality	<ul style="list-style-type: none"> • Programme Specification • Programme learning outcomes • How Professional Ethics is dealt with • Quality assurance arrangements inc. the most recent internal and external reports • Evidence that the programme is at the right level • External Examiners Report and related action plans • How previous accreditation recommendation and requirements have been dealt with
Student choice, access and teaching arrangements	<ul style="list-style-type: none"> • Programme Admissions Policy • Programme Specification • Modes of teaching provision • Assessment strategies employed • Staff/student ratios • Equality, Diversity and Inclusion Policies • How the extremes of cohort entry will be supported • Academic and Examination Regulations (inc. in pandemic)
Assessment and appeals procedure	<ul style="list-style-type: none"> • Methods of assessment (how much by assignment, project, examination etc.) • Sample examination papers/essays/test • Sample answers/scripts • Pass and fail rates • Resits Policy • Academic and Examination Regulations (inc. in pandemic)
External assurance	<ul style="list-style-type: none"> • Teaching staff information/ membership of professional bodies/practitioner input • Most recent QAA Institution Audit Review (or equivalent) and any associated action plans • Student satisfaction surveys and any changes made as a result • Staff & Student Liaison Committee information & minutes of meetings • Progression, awards and destination data

IPReg Accreditation Standards

Core Subjects and Learning Outcomes – Foundation Level Qualification

Accreditation of foundation level qualifications

31. —IPReg will accredit courses of study and examination pathways offered by ~~academic bodies or other course providers (hereafter, Qualification Examination Agencies)~~ as satisfying the requirements of the initial academic stage of training for patent attorneys and/or trade mark attorneys (the Foundation Level Qualification or FLQ) if:
- a) The course of study for either the patent attorney FLQ or the trade mark attorney FLQ comprises 60 QAA credits³ of study of the Intellectual Property (IP) Law and Professional Ethics subjects set out in Schedule A below at minimum level 6 of the framework for higher education qualifications in England, Wales and Northern Ireland (FHEQ) and the course fulfills the minimum course requirements set out below;
 - b) The course of study for a dual patent attorney and trade mark attorney FLQ comprises 80 QAA credits of study of the Intellectual Property Law subjects at a minimum level 6;
 - c) The course of study is one which enables students on that course of study to acquire knowledge of all the Intellectual Property Law and Professional Ethics Subjects set out in Schedule A and the General Transferable Skills set out in Schedule B; and
 - d) The course provider satisfies IPReg that adequate learning resources are provided to support the course of study.
32. IPReg may accredit a patent attorney FLQ provided by a ~~n-Qualification Examination Agency~~ involving examinations only (i.e. leading to an award of the FLQ in the absence of a taught course). ~~Such an Examination Agency shall be referred to here as an examination only agency.~~ The examination level must be commensurate with the requirements set out in this document; both the syllabus and assessment of it must be equivalent in depth and scope to 60 credits of learning whether or not self-taught. In general terms, unless otherwise indicated, clauses of this policy relating to the content and assessment of taught courses for the patent attorney FLQ shall be deemed to apply to the greatest extent possible to the syllabus and assessment provided by an examination-only agency leading to the patent attorney FLQ, and the expression “course” shall, in that context, be interpreted accordingly.
33. IPReg’s accreditation process is defined in the separate Accreditation Standards Principles and Procedures document. This document concerns the content and learning outcomes of the FLQ. Together the documents set out the requirements of an FLQ seeking IPReg accreditation.

³One QAA credit is generally taken to be equivalent to ten hours of learning

Core Subjects and Learning Outcomes

34. Any course approved for the patent attorney FLQ shall comprise at least:
- 20 credits of study of Patent law;
 - 10 credits of study of Trade mark law;
 - 10 credits of study of Design and Copyright law;
 - 10 credits of study of the Fundamentals of the English legal system; and
 - 1 credit of study of Professional Ethics.
35. Any course approved for the trade mark attorney FLQ shall comprise at least:
- 30 credits of study of Trade mark law; and
 - 10 credits of study of Design and Copyright law;
 - 10 credits of study of the Fundamentals of the English legal system; and
 - 1 credit of study of Professional Ethics.
36. Any course approved for the dual patent attorney and trade mark attorney FLQ shall comprise at least:
- 20 credits of study of Patent law;
 - 30 credits of study of Trade mark law;
 - 10 credits of study of Design and Copyright law;
 - 10 credits of study of the Fundamentals of the English legal system; and
 - 1 credit of study of Professional Ethics.
37. The subjects referred to in clauses 4-6 are each further specified in Schedule A. The credits relating to a subject shall provide a balanced reflection of the breadth of that subject as set out in Schedule A. Unless IPReg agrees otherwise, it is expected that each subject area shall be assessed in accordance with clause 9.
38. The substantive content relating to Professional Ethics may be provided by a stand-alone module, delivered by the ~~Qualific~~Examination Agency or by a third party approved by IPReg, or may be incorporated into other modules.
39. Assessment of each subject shall be by written examination or by other methodology which is: (a) appropriate to the required level and scope of the FLQ and (b) approved by IPReg through its accreditation process.
40. The remaining credits (of the 60 or 80 credit requirement, as applicable) shall be a balanced reflection of the Intellectual Property Law subjects of Schedule A.
41. For the avoidance of doubt, Competition Law is not a core Intellectual Property Law subject for the FLQ.
42. If a course is provided in modular form, the minimum credits relating to a subject may be provided across more than one module. More than one subject may be provided by a single module.

43. The course shall demonstrate in its design and delivery that it provides for the student to acquire and/or develop the Skills defined by Schedule B.
44. The course shall be designed with, and shall demonstrate in its mode of delivery to students, a substantial level of practitioner input to ensure its relevance to the practice of patent attorneys and/or trade mark attorneys undertaking professional work in the UK.

Entry and Exemptions

45. IPReg shall publish rules specifying academic or other requirements for entry to an approved attorney qualification pathway course, and the extent to which exemptions from those requirements may be allowed by ~~Qualific~~the Examination Agency. The rules shall apply equally to all students of the FLQ.
46. IPReg shall ~~publish Exemption Policies~~ defining credit and exemptions which may be given by an ~~Qualific~~Examination Agency in respect of prior experience or learning deemed to be equivalent to any individual module or modules of the FLQ. ~~These exemptions~~ Exemption Policies shall apply equally to all students/candidates of the FLQ pathway options.

Courses of wider scope

47. A ~~Qualific~~Examination Agency may additionally provide a course of wider scope (such as a Masters' degree course or a course including other topics or modules) which incorporates the teaching and assessment relating to the patent attorney, trade mark attorney or dual FLQ. This is subject to:
 - a) the ~~Qualific~~Examination Agency allowing a student to obtain the FLQ by successfully completing only those parts of the wider scope course relating to the FLQ as defined by this document, even if the student does not successfully complete one or more other parts of the wider scope course; and
 - b) the ~~Qualific~~Examination Agency providing a standalone course relating only to the FLQ.

Equality Diversity and Inclusion

48. IPReg is committed to working with all stakeholders to promote a diversity of patent attorneys and trademark attorneys. There is an expectation that all stakeholders will have up to date EDI policies and procedures that are compatible with the IPReg EDI aims. These could include but are not limited to policies aimed at widening access and supporting students from non-traditional backgrounds and also students/candidates with protected characteristics who are currently under-represented in the profession, to enter on IP programmes of study and/or entry to the accredited Examinations. The Office for Students provides guidance to HE institutions on such policies.

IPReg

49. IPReg also requires as part of the annual report mechanism a diversity profile of students being examined on the qualifying pathways.

Schedule A

50. Intellectual property law subjects

- a) **Fundamentals of the English legal system** that provide a foundation and context for intellectual property law and practice, differences between common and civil law, fundamentals of contract law and the law of tort, sources of law, fundamentals of the judicial system including the Intellectual Property Enterprise Court and other courts, corporate structures.
- b) **Patent law:** laws and procedures relating to the protection of patents (domestic, international and comparative), rationale and purpose of the patent system, requirements for patentability, nature of an invention, novelty, inventive step, subject matter, priority, inventorship, ownership and employee rights, direct and indirect infringement, remedies, evidence, defences, strategic creation and management of patent portfolios, obtaining a patent in the UK, European Patent procedure, Patent Cooperation Treaty procedure, obtaining a patent in other key jurisdictions, the Unitary Patent and Unified Patent Court, the legal protection of trade secrets and confidential information, intellectual property transfer, commercialisation and licensing* (including negotiation, international perspectives, jurisdiction, arbitration), differences between novelty and freedom-to-operate searching.
- c) **Design and Copyright law:** UK laws and procedures ~~{UK and European Union Intellectual Property Office (EUIPO)}~~ relating to the protection of industrial design through registered and unregistered design laws - qualifying for protection, ownership, infringement, defences, invalidity and overlap with copyright and trade marks, strategic creation and management of industrial design portfolios, registering and maintaining a design in the UK and internationally (in particular via the European Union Intellectual Property (EUIPO) and using the Hague Agreement Concerning the International Registration of Industrial Designs) copyright law (UK and international) - rationale and subsistence, subject matter (literary, artistic, musical and dramatic works), ownership, licensing, moral rights, economic rights, infringement, permitted acts.
- d) **Trade mark law:** laws and procedures relating to the protection of trade marks (domestic, international and comparative), registration, absolute grounds for refusal of registration, infringement and relative grounds for refusal of registration, role of searching and other evidence, defences, invalidity, revocation, use, strategic creation and management of trade mark portfolios, registering and maintaining a trade mark in the UK ~~EUIPO~~ or via the Madrid Protocol, international and trans-national options for trade mark protection (notably via the EUIPO), registration and maintenance in other key jurisdictions and on the internet, the law of passing off and the legal protection for unregistered trade marks in the UK and in other key jurisdictions, intellectual property transfer, commercialisation and licensing*, (negotiation, international perspectives – jurisdiction clauses, arbitration requirements).

51. Professional Ethics

- e) **Professional ethics applicable to IP practitioners:** the IPReg Code of Conduct; standards of care and duties to clients, conflicts of interest, client confidentiality, financial activity, professional integrity.

** The presence of this topic in both (b) and (d) does not imply that the patent attorney FLO (which includes patent trade mark content) should repeat identical content.*

Schedule B

General Transferable Skills

52. Students should be able, having completed the course:

- a) To apply the knowledge and understanding they have gained through the course to complex situations;
- b) To recognise potential alternative conclusions for particular legal situations, and provide supporting reasons for them;
- c) To select key relevant issues for legal research and/or discussion and to formulate them with clarity;
- d) To use standard paper and electronic resources to obtain up-to-date legal information, including researching and analysing intellectual property law from primary resources on specific matters and applying the findings of such work to the solution of legal problems;
- e) To make a personal and reasoned judgement based on an informed understanding of standard arguments in the area of law in question;
- f) To use legal terminology with care and accuracy;
- g) To communicate legal information, whether orally or in writing, appropriately to the needs of a variety of audiences.

53. Related Documents

Higher Education and Research Act 2017

<https://www.legislation.gov.uk/ukpga/2017/29/contents>

IPReg Qualifying Pathways Annual Reporting Requirements

<https://ipreg.org.uk/sites/default/files/Annual%20Reporting%20Requirements.pdf>

IPReg Withdrawal of Accreditation Procedure

<https://ipreg.org.uk/sites/default/files/IPReg%20Accreditation%20Withdrawal%20Procedure.pdf>

IPReg Competency Frameworks

https://ipreg.org.uk/sites/default/files/IPReg-Skill-Set-Table-Patent_FINAL1.pdf

<https://ipreg.org.uk/sites/default/files/IPReg-Skill-Set-Table-TM-Final1.pdf>

IPReg Rules for the Examination and Admission of Individuals to the Registers

<https://ipreg.org.uk/sites/default/files/Examination%20and%20Admission%20of%20Individuals%20to%20the%20Register%20Rules%20January%202021.pdf>

IPReg Rules of Conduct

<https://ipreg.org.uk/sites/default/files/Rules%20of%20Conduct%20January%202021.pdf>

Office for Students Access and Participation Plans Guidance

https://www.officeforstudents.org.uk/media/1105/ofs2018_06.pdf

<https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-and-participation-plans/>

Quality Assurance Agency Covid-19 Guidance

<https://www.qaa.ac.uk/news-events/support-and-guidance-covid-19>

Quality Assurance Agency Building a Taxonomy for Digital Learning

<https://www.qaa.ac.uk/news-events/news/qaa-publishes-building-a-taxonomy-for-digital-learning>

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54. Glossary of Terms

Advanced Level Qualification – the second stage of the academic qualifying pathway for an attorney, must sequentially follow the Foundation Level Qualification (either in full, or via an element of exemption); set at a minimum of academic level 6; is found to meet the Accreditation Standards set out by IPReg in this Handbook

Foundation Level Qualification – the first step on the academic qualifying pathway for an attorney; either 60 or 80 credits (or equivalent) depending upon whether a dedicated (trade mark or patent) or dual qualification; set at a minimum of academic level 6; is found to meet the Accreditation Standards Core Subjects and Learning Outcomes requirements set out by IPReg in this Handbook.

Credit – a credit is a means of quantifying and recognising learning; most institutions that provide Higher Education programmes of study in England use the credit system; a credit is generally taken to be equivalent to 10 hours learning.

IPReg – the Intellectual Property Regulation Board, was set up in 2010 by Chartered Institute of Patent Attorneys and the Chartered Institute of Trade Mark Attorneys Chartered Institute of Trade Mark Attorneys the independent regulatory body for the Patent Attorney and Registered Trade Mark Attorney professions.

Qualification agency – an agency which provides, or is applying for accreditation to provide, an attorney qualifying pathway the provider might be an academic body such as university an examination only agency or other.

Qualifying pathway - the Foundation Level and Advanced Level courses and examinations which an individual is required to pass, to be able to apply for entry on to the IPReg register of patent attorneys or trade mark attorneys (upon having also met the substantial experience requirements).

Statutory power – this is a power conveyed by documented law as set out in the Legal Services Act 2007.

Board Meeting 18 March 2021

Decision Paper: Qualifying as an attorney: review of exemptions currently afforded to JEB examinations and historic courses

Agenda Item: 12

Lead Board Member: Caroline Seddon, Chair of the Education Working Group

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

1. Summary

- 1.1 Historically, CIPA and ITMA (as it was then), acted together as the Joint Examination Board, administering qualifying examinations for entry on to the attorney registers. The A Sherr, November 2002 Review, 'Where Science Meets Law', included a recommendation that these education and examination systems move away from the professional bodies, as was actioned through the 2010-11 winding down of the JEB. A couple of the qualification agencies reported being informed that the transitional arrangements applicable to those historic examinations was to be of a period of 6 years. Given that Regulations setting this out were not locatable, IPReg determined to afford an extension to this informally declared timeframe and to align the transitional arrangements consultation with the regulatory arrangements review timeframe, but not to be part of it. It was determined to be appropriate to include within that consultation ending the exemptions afforded to the historically approved courses, which, as is the case with the JEB examinations, pre-date the [IPReg Accreditation Standards](#).
- 1.2 Currently, an individual can apply for entry to the IPReg register on the basis of having passed historic Joint Examination Board (JEB) examinations (10 years old+) or having passed a historically approved IPReg course (8 years old+). It is proposed that an 18-month sunset clause formally ends the transitional arrangements which currently afford exemption to historic JEB examinations and to formally end recognition of historically approved courses (Bournemouth, Brunel and Manchester University courses prior to 2013 cohorts). This would mean, after this period, neither the JEB examinations¹ nor the specified courses would be recognised as providing elements of the attorney qualification pathway. The 18-month timeframe seeks to afford a qualification cycle to enable an individual potentially affected by this arrangement to sit an Advanced qualification offer. There will be opportunity for an individual to apply for an extension to the 18-month timeframe due to extenuating personal circumstance (such as unemployment due to the pandemic).

¹ This would cover the JEB Common, Foundation and Advanced papers and any JEB letters conveying exemption.

2. Recommendation(s)

- 2.1 The Board is asked to approve the 18-month sunset clause to be applied to the specified historic qualifications, a policy to be developed on Registrar decision-making in what circumstances discretion may be applied for a longer timeframe in individual circumstances, and that the corresponding rules change application is discussed with the LSB and actioned accordingly (and as informed by any diversity assessment).

3. Risks and mitigations

Financial	Upon the sunset clause ending, an individual seeking first-time entry on to the register with historic JEB examinations/historically approved course passes would be required to sit new examinations or attend a new course at either their expense or that of their firm. The possible standard exception is someone seeking readmission to the register, having previously actively practised as a registered attorney, in which case it is for the Registrar's discretion on a case by case basis as to how long provisions might apply. It is proposed that there is also discretion afforded to Registrar decision-making to potentially provide for a longer timeframe for example financial circumstances prohibiting taking the advanced qualification in the 18-month timeframe.
Legal	Affording a sunset clause with a significant lead-in time seeks to minimise any risk of Judicial Review. The exemptions afforded to the historic JEB examinations are not specified in our regulatory arrangements and are inherited through transitional arrangements and established registration practice, though as the sunset clause would impact upon the potential entry on to the register of regulated persons it will be raised with the LSB to determine the form of a rule change application.
Reputational	It is important that the examinations and courses which would seek to form elements of the attorney qualification pathways meet the accreditation standards. These standards, introduced in 2016, set out the syllabus requirements for Foundation Level Qualifications and the quality standards expected of any accredited qualifying pathway course or examination. The examinations/courses referenced in the sunset clause were before the introduction of these standards.
Resources	Office resources would be allocated to the promotion of the sunset clause, as well as asking the professional membership bodies and accredited agencies to promote as they judge appropriate.
Accessibility	It is acknowledged that an individual may have needed to take time out from qualifying due to a range of circumstances, including, factors such as caring responsibilities or illness. It is considered that providing over 10 years (by the end of the sunset clause), alongside timely promotion of the ending of transitional arrangements, will have afforded sufficient time for qualification in such circumstances. However, IPReg fully takes account of the point made by both CITMA and CIPA regarding individual circumstances and accordingly provides for Registrar discretion, upon evidenced application, to extend that timeframe.

4. Historic offers - Joint Examination Board (JEB) examinations and approved courses

- 4.1 Historically, the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys (prior to Chartered status), acting together as the JEB, set and administered attorney qualifying examinations. Between 2010 and 2012 these JEB examinations were phased out and the JEB was disbanded. Upon this disbanding, transitional arrangements were made to afford exemptions for those examinations. The overwhelming majority of JEB passes would now be at least 10 years old (and could be as old as 30 years given that the JEB was set up in 1990).
 - 4.2 To date, IPReg's position has been that an examination/course (and any related exemption) that was valid at the time an individual successfully passed a historic qualifying examination or course would be honoured by the current accredited qualification agencies as affording exemptions. The 5 November 2020 meeting of the IPReg Board agreed an 8 week consultation which would seek to remedy this by introduction of a 18-month sunset clause to the qualification eligibility of the specified historic attorney qualifications.
 - 4.3 All qualification agencies and the representative bodies were sent the consultation document and invited to promote and respond as appropriate. The consultation was live on the IPReg website for 8 weeks. Despite this, only four responses were received, from CIPA, CITMA, an individual and Nottingham Law School (provider of the intensive advanced qualification course created specifically for accommodating the transitional arrangements). Annex A provides a table setting out the consultation responses (Annex C provides copies of the full CIPA and CITMA responses) and the proposed policy position as determined by the 24 February meeting of the Education Group. Annex B lists the historic qualifications to which the sunset clause would apply.
 - 4.4 The sunset clause would apply to those who took the historic examinations or courses only (i.e. did not enter on to the register/practise as an attorney), it would be a matter for the Registrar's discretion² on a case by case basis as to how long provisions might apply for those who were once entered on to the register and are seeking readmission. Additionally, there will be opportunity for the Registrar to take account of factors which have not allowed for an individual to sit the final qualification(s), or gain the necessary experience, in the 18 months sunset clause period. The March 2021 Equality, Diversity and Inclusion training scheduled for IPReg Board and office will include equality impact assessments to help inform this Registrar decision-making policy. Allowing the Registrar discretion in particular cases will promote fairness to applicants. Transparency of decision-making is important and the policy on how decisions in such cases will be reached will allow applicants to understand, both in cases of new admission and readmission, what circumstances will be taken into account when considering an application, and what mitigations would need to be in place to allow the Registrar to be assured that an applicant may be safely admitted to the register. The emphasis in such circumstances is upon the individual providing sufficient evidence to demonstrate that the integrity of the register would not be put at risk.
 - 4.5 With the exception of the Brunel elective model version of the LLM, Schedule 2 'Exemptions and Deemed Passes' of the Examination and Admission of Individuals to the Registers Rules 2011, fails to reference the historic qualifications as providing potential exemptions. This despite the previous Executive providing exemptions to them on the basis of honouring the
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exemptions/deemed passes which were valid at the time the qualification was obtained. This established and inherited practice was necessarily continued by the current Executive but with intention that it would be drawn to a close at an appropriate time, which it is considered has now been reached. The change to written regulatory arrangements will be de minimis, limited to removal of the words from Schedule 3 'Exemptions and Deemed Passes' of the [Examination and Admission of Individuals to the Register Rules](#) "Brunel University Postgraduate Certificate in Intellectual Property ~~with elective module in International Patents Practice Management and (until September 2013) elective module in International Trade Mark Practice~~". It is also proposed that a Note is added at the end of that Schedule:

"Note 3. Neither IPReg accredited Intellectual Property qualifications obtained from the universities of Bournemouth, Brunel, Queen Mary University London prior to and including 2013 cohorts, nor the historic Joint Examination Board examinations prior to and including 2011 passes (or 2012 resits), are deemed equivalent to some of the requirements of the Qualifying Examinations".

5. Recommendations

- 5.1 The Board is asked to approve the 18-month sunset clause to be applied to the specified historic qualifications, a policy to be developed on Registrar decision-making in what circumstances discretion may be applied for a longer timeframe in individual circumstances, and that the corresponding rules change application is discussed with the LSB and actioned accordingly (and as informed by any diversity assessment).

6. Next steps

- 6.1 Discussion with LSB regarding any Equality assessment.

Annex A: Consultation Responses and Proposed Policy Positions Summary

Annex B: Examinations and Courses affected

Annex C: CIPA and CITMA Consultation Responses in full

	<p>a current legitimate expectation that the qualifications achieved to date are assured, to prepare for any remaining examinations, take those examinations and, if necessary, attempt any resits”.</p> <p>3. “It is worth noting that there is no sunset clause or similar provision in relation to European Qualifying Examinations (EQE). A candidate with a historic EQE pass would be exempt from taking the FD2 and FD3 examinations, whereas a candidate with a historic JEB qualification will have to take the current equivalent to gain entry onto the Register”.</p> <p>4. Not uncommon for individuals to take breaks from their careers for a substantial amount of time e.g. parental responsibilities, personal illness or disability:- IPReg will need to ensure there is no potential discrimination towards persons with protected characteristics under the Equality Act.</p> <p>5. “We have concerns that it would be a matter for the Registrar’s discretion on a case-by-case basis as to how long provisions might apply for those who were once entered onto the Register and are seeking admission. There should be clear rules for readmission to the Register which enable individuals seeking readmission to demonstrate that they remain in good professional standing”.</p>	<p>basis. IPReg will publish its policy on Registrar decision-making and in what circumstances discretion may be applied to allow for a longer timeframe in individual circumstances. Please see item 4.</p> <p>3. This will be looked at subsequently and separately. We will be interested in the Mercer Review Report and whether it has any recommendations regarding the current exemptions afforded to PEB examinations on the basis of the EQE examinations.</p> <p>4. Fully take account of this point and as above, this will form part of the Registrar decision-making policy which will be published on the IPReg website. This will provide opportunity for the Registrar to take account of factors which have not allowed for the individual to sit the final qualification(s), or gain the necessary experience, in the 18 months sunset clause period. The March 2021 EDI training scheduled for IPReg Board and office will include EQIAs.</p> <p>5. Firm rules potentially exclude and disadvantage the applicant but allowing the Registrar discretion in particular cases will promote fairness to applicants. Transparency of decision-making is important and the policy on how decisions in such cases will be reached will allow applicants to understand, both in cases of new admission and readmission, what circumstances will be taken into account when considering an application, and what</p>
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	<p>6. Does not consider that the fact the examinations and courses pre-date the IPReg Accreditation Standards and Syllabus requirements to be sufficient a reason for them to be considered stale, “the law does not change significantly over time...the foundation laws for intellectual property such as the Patents Act 1977, the Trade Marks Act 1994, the Designs Act 1949, and the Copyright, Designs and Patents Act 1988, are long-standing and are the core elements of the JEB foundation papers and the university courses”.</p>	<p>mitigations would need to be in place to allow the Registrar to be assured that an applicant may be safely admitted to the register. The emphasis in such circumstances is upon the individual providing sufficient evidence to demonstrate that the integrity of the register would not be put at risk. Examples of Registrar discretion in such circumstances: (1) As a result of the pandemic, the Registrar has exercised a discretion to allow, in certain circumstances, trainees who had been furloughed for short periods during their 2 years’ supervised practice, to be admitted to the register where they have been able to show that they meet the Competency Framework for newly qualified attorneys rather than apply a strict 2-year rule requirement.</p> <p>(2) The registrar has a discretion to admit an attorney to the register where an applicant’s 2-years’ supervised (or 4 years’ unsupervised) experience has not been obtained immediately before the point of application to the register, as is “ordinarily” the expectation. In such circumstances the Registrar considers a variety of factors to form a view as to the applicant’s immediate fitness to practise despite the gap in practice.</p> <p>6. It is acknowledged that these long standing laws remain fundamental to IP legal knowledge. It is not the legislation which is considered stale. It is the amount of time which has elapsed since an individual learned about, and was examined on that legislation - and the case law and direction of travel of the profession since as well as the absence of contemporaneous learning - which is the risk to the integrity of the register.</p>
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	<p>7. Queries how “their age [of the qualifications] means we cannot be wholly confident that they meet the regulatory objective of encouraging an independent, strong, diverse and effective legal profession nor that of protecting and promoting the consumer interest”.</p> <p>8. With regard to historic university courses, these provided exemption from the foundation examinations. The sunset clause removes the right to enter onto the Register with JEB examination passes. An individual who is exempt from the PEB foundation examination by way of a historic university qualification will still be required to take the higher PEB examinations to gain entry onto the Register. CIPA asks IPReg to consider if this is enough of a safeguard to guarantee suitability to be entered onto the Register, rather than require those with historic university qualifications to take the foundation examinations”.</p> <p>9. Asks for the matter to be discussed at the Regulatory Forum.</p>	<p>7.The risk to the effectiveness of the legal professional, and therefore the consumer interest, is inversely in relation to the time that has elapsed since the individual was examined on their intellectual property knowledge.</p> <p>8.The attorney qualifying pathways have two levels of qualification and both must be completed to the satisfaction of the Registrar.</p> <p>9. A copy of this summary table informed the 3 March Regulatory Forum meeting.</p>
<p>Chartered Institute of Trade Mark Attorneys</p>	<p>10. Agree it is an appropriate time to end the transitional arrangement of providing exemptions to JEB examinations, supporting the reasoning set out in the IPReg consultation, with one possible exception. Points out that there may be exceptional and legitimate circumstances where it is not possible for an individual to seek and obtain qualification before the end of the proposed 18-month notice e.g. if unemployed during that period and unable to fund the qualification.</p>	<p>10. Fully take account of this point and will be publishing decision-making guidance which recognises individual circumstances. This will provide opportunity for the Registrar to take account of factors which have not allowed for the individual to sit the final qualification(s), or gain the necessary experience, in the 18 months sunset clause period. The March 2021 EDI training scheduled for IPReg Board and office will include EQIAs.</p>

	<p>Requests that in such a circumstance IPReg would consider if flexibility/discretion can be applied, to enable individuals to seek an extension beyond this timeframe, if the reasons are found justifiable.</p> <p>It suggests any extension beyond the 18-month period is entirely at the discretion of IPReg rather than an automatic right and may mean IPReg requires further information. Any extension could be time limited and final.</p>	
<p>Individual Respondent (asked for name to be withheld)</p>	<p>11. Content with the proposals, upon clarity of the statement <i>"This would apply to those who took the historic examinations or courses only (i.e. did not enter on to the register/practise as an attorney)"</i> whereby 'the register' means any one of the three relevant registers, such that:</p> <p>a) A patent attorney (whether UK or European) with historic exemptions can still qualify as a trade mark attorney, by taking just the PCTMP.</p> <p>b) A European patent attorney with historic exemptions can still qualify as a UK patent attorney by taking the PEB Final Diploma.</p> <p>c) A trade mark attorney with historic exemptions can still qualify as a patent attorney, by taking the Final Diploma examinations.</p>	<p>11.a) Yes, can still qualify.</p> <p>11.b) Yes, can still qualify, though subject to any proposals coming out of Mercer Review (see item 3).</p> <p>11.c) Yes, can still qualify.</p>
<p>Nottingham Law School, Nottingham Trent University</p>	<p><u>12. NLS' area of interest:</u> NLS has offered the RTMA Intensive Qualification Course since 2011. The proposal correctly states the reasons for its introduction. NLS agrees that the exemption for former JEB candidates should cease and agrees with the reasons given in the proposal for its cessation.</p> <p><u>13. Sunset Clause – 18 months:</u> NLS has concerns about the proposal for the length of the sunset clause. NLS considers this to be too generous a period given the comments made in the proposal concerning the currency of any JEB assessments held up for exemption.</p>	<p>12. Noted.</p> <p>13. Minimum 18 months sunset period affords opportunity to engage with a qualification cycle.</p>

	<p>The proposal acknowledges those that may have taken career breaks and NLS agrees with the comment that “eligible JEB graduates who may have taken career breaks have been sufficiently accommodated”.</p> <p><u>14. Foundation Level Qualification:</u> although these proposed arrangements do not affect NLS’ offering, NLS is in agreement with the proposal to remove the exemptions for the same reasons submitted in the proposal for the ending of the RTMA Intensive Qualification Course for former JEB candidates.</p>	<p>14. Noted.</p>
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Annex B – Examinations and Courses Affected

Historic Qualification/Examination which currently provides for Exemption	Background
Bournemouth University: Postgraduate Certificate in Intellectual Property	Course passed before January 2013
Brunel University: Postgraduate Certificate in Intellectual Property Law (trade mark) or LLM in Intellectual Property with elective module in International Trade Mark Practice Management	Course passed before September 2013
JEB letters exempting candidates from the JEB examinations	Letters provided by the JEB when it was live confirming exemptions to any of the JEB examinations
Common Foundation Paper – Basic English Law	JEB paper passed in 2010 or before
Common Foundation Paper – Designs and Copyright Law	JEB paper passed in 2010 or before
Common Foundation Paper -T1 Basic United Kingdom Trade Mark Law	JEB paper passed in 2010 or before
Common Foundation Paper – T5 Basic Overseas Trade Mark Law and Practice	JEB paper passed in 2010 or before
Patent Advanced Paper – P2 Patent Agent’s Practice	JEB paper passed in 2011* or before
Patent Advanced Paper – P3 Preparation of Specifications for United Kingdom and Overseas Patents	JEB paper passed in 2011* or before
Patent Advanced Paper – P4 Amendments of Specifications for United Kingdom Patents/	JEB paper passed in 2011* or before

Applications in Prosecution, Revocation Proceedings or Otherwise	
Patent Advanced Paper – P6 Infringement and Validity of United Kingdom Patents	JEB paper passed in 2011* or before
Patent Foundation Paper – P1 Basic United Kingdom Patent Law and Procedure	JEB paper passed in 2010 or before
Patent Foundation Paper – P5 Basic Overseas Patent Law and Procedure	JEB paper passed in 2010 or before
Trade Mark Foundation Paper – T2 Basic United Kingdom Trade Mark	JEB paper passed in 2010 or before
Trade Mark Advanced Paper – T3 Advanced United Kingdom Trade Mark Law and Practice	JEB paper passed in 2011* or before
Trade Mark Advanced Paper – T4 Advanced Trade Mark Search	JEB paper passed in 2011* or before
Trade Mark Advanced Paper – T6 Advanced Community Trade Mark and International Trade Mark Law and Practice	JEB paper passed in 2011* or before
Manchester University: Postgraduate Intellectual Property Diploma	Course completed in or before July 2013

Board Meeting 18 March 2021

IP Inclusive operating costs

Agenda Item: 14(a)

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk 020 7632 7174)

Summary

1. IP Inclusive has asked the Board to consider sponsoring its 2021 operating costs (£2,100) for a further year (Annex A).
2. IP Inclusive has also asked the Board to consider contributing to the costs of establishing a Community Interest Company (CIC) to take forward IP Inclusive’s work. These are expected to be advice on accounts and some legal advice for the structure of the CIC.

Recommendation(s)

3. The Board agrees:
 - a. to pay £2,100 to IP Inclusive for its 2021 operating costs;
 - b. in principle we will continue to sponsor IP Inclusive’s operating costs at around the current level – this will provide certainty to IP Inclusive for future years;
 - c. in principle to contribute to the cost of establishing a CIC to take forward IP Inclusive’s work.

Risks and mitigations

Financial	[REDACTED]
Legal	[REDACTED]
Reputational	The LSB places considerable importance in regulators’ work on diversity.
Resources	This work can be managed within our current resources.

Discussion

4. Although IPReg does not have a formal framework for assessing funding applications, at a meeting of the Governance Committee on March 2017, it was agreed that:
 - a. applications would be assessed on a case by case basis on their merits; and
 - b. IPReg should specifically identify the key diversity issues that each funding request addresses and publish the data.
5. [IP Inclusive](#) is committed to making IP profession more inclusive and encourages IP professionals to adopt best practice on increasing diversity and inclusion. Paying IP Inclusive's operating costs will enable it to continue to promote diversity and inclusion in the IP sector. IP Inclusive consulted on the proposal to set up a CIC last year. Subject to stakeholder approval, it plans to incorporate IP Inclusive as a Community Interest Company (CIC) at some point during 2021. This will require some accountancy and legal advice.

Board Meeting 18 March 2021

Information paper: Complaints update

Agenda Item: 15

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Summary

1. This paper stands as an update on complaints received and processed by IPReg.

Risks and mitigations

Financial	None. Existing resources are dedicated to the oversight and administration of complaints received.
Legal	[REDACTED]
Reputational	In common with all regulatory bodies, we can expect that complainants who are disappointed with the outcome of their regulatory complaint may make a corporate complaint about IPReg's decision or processes. This reputational risk will be mitigated by the Corporate Complaint policy and procedure which is currently being developed. This will be published on the website and followed where applicable.
Resources	Whilst the overall number of complaints received about regulated persons is low (an average of around 7 complaints every year since 2010), the complaints that have been investigated and taken forward to CRC (and beyond) have been resource-intensive. The development and refinement of internal procedures, as well as the additional capacity to investigate and process cases in-house should assist. The need for external legal support should also be reduced due to increased internal capacity.

Recommendations

2. The Board is asked to note this paper.

Investigation Stages

Under Investigation

Information has been received which is being investigated under Rule 5 Disciplinary Procedure Rules (“DPR”) to determine whether it amounts to a Complaint. If it does not amount to a Complaint¹, the case will be closed. If it does amount to a Complaint, it moves to the Complaint Initiated stage.

Complaint Initiated

Information has been received which suggests a breach of IPReg’s regulatory arrangements under Rule 5.3 DPR. Further investigation and liaison with parties may be required at this stage, including obtaining brief and concise observations on the complaint from the respondent.

CRC

Case has been referred to or is being dealt with by the Complaints Review Committee under Rule 8 DPR. A case at this stage may be adjourned for further investigation, closed, dealt with summarily or referred to the JDP.

JDP

Case has been referred to or is being dealt with by the Joint Disciplinary Panel / Disciplinary Board. under Rule 9.10 DPR.

Appeal

The Disciplinary Board has made a decision following a disciplinary hearing, and this is under appeal or notice has been given that an appeal will be lodged under Rule 20 DPR.

Cases by numbers

Category	Number	Notes
Complaints received in last month (since last meeting)	3	
Total open cases	5	Under investigation = █ Complaint initiated = █ CRC stage = █ JDP stage = █ Appeal stage = █
Complaints closed in last month (since last meeting)	3	

¹ For example, because information provided does not support an allegation of a breach of any of IPReg’s regulatory arrangements, no evidence has been provided to support any allegations made, allegations have been made prematurely (e.g. the firm’s complaints procedure has not been exhausted), the matter is not within IPReg’s jurisdiction (more appropriate to be dealt with by police, LeO, other regulator or organisation) etc

Open cases

Case ref	Stage and Status
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]

	[REDACTED]
	[REDACTED]

Closed cases in last month

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Recommendation

The Board is asked to note this information paper.