

IPReg 2019-2020 Performance Management Dataset

Introduction

This is IPReg's performance management dataset for the period 1 April 2019 to 31 March 2020. The 2018-19 dataset covered a 13-month timeframe and so direct comparisons should be treated with caution, however there are some differences between that dataset and the current one, which require some context:

Patent attorney admissions: although there would appear a significant drop in patent attorney admissions to the register (176 in the 2018-19 dataset, 81 in this one), this is due to the timing of the applications rather than a significant reduction in the numbers. In 2019, IPReg started receiving patent attorney applications on 6 March and by the end of March that year had admitted 52 patent attorneys (the remainder were admitted during the year as they passed their exams); by contrast, in 2020 we started to receive applications on 23 March, and had admitted 6 attorneys by the end of the month.

Determination of individual attorney applications to the register: The median timeframe between application and admission remains very low: 4 days. The one outlier related to an individual who had qualified for registration more than 10 years previously but had not previously applied for registration. Given the concern as to whether the person met the admission criteria, the application was referred by the Chief Executive to the IPReg Board for decision. The Board asked the applicant to submit additional evidence of supervised practice and the application was granted after that information was received. Overall, this case took 147 days to determine.

Complaints handling: the number of complaints has increased as a result of clearer criteria for identifying complaints. Nevertheless, complaint numbers generally remain low with 16 open cases (10 in 2018/19). One case (which has now been concluded and the decision has been [published](#)) continued from 2018/19 and was a particularly complex complaint concerning an acrimonious partnership dispute. Overall the complaint took 1461 days.

Levels of compliance in annual renewal process: –the new Customer Relationship Management database does not permit annual renewal and payment of practising fees unless the attorney provides information about their Professional Indemnity Insurance (PII) policy. This has resulted in a significant increase in the level of compliance for sole traders providing information about their PII: 99.81% at the 2020 renewal compared to 81.4% the previous year.

IPReg May 2020

IPReg Performance Management Dataset 1 April 2019 - 31 March 2020

IPReg Performance Management Dataset: Period of 1 st April 2019- 31 st March 2020			
		Numbers	Notes
1. Authorisation – LSB Standardised KPIs Information Requirement			
1.1 Applications	a) Number of authorisations processed for:		
	i) Authorised Persons	138	This figure includes 8 applications made under the EU Mutual Recognition of Professional Qualifications Directive. Of those, 7 were received during the relevant period, the 8 th having been received in February 2019. Of the applications processed, 81 were made to the patent register, and 57 to the trade mark register.
	ii) Registered Entities	14	8 of these related to patent services, 4 to a combination of patent and trade mark services, and 2 to trade mark services only.
	iii) Licensed Bodies	4	3 of these related to bodies providing both patent and trade mark and 1 to patent only.
	b) The outcomes of the applications for:		
	i) Authorised Persons	130 approved, 8 refused	76 admissions to the patent register; 54 to the trade mark register. This figure includes one restoration and three admissions under the EU Regulations. Applications are usually received for entries to the patent register in early March. In 2020, this was delayed due to a number of factors (including the Covid 19 pandemic) and only six attorneys were admitted in March 2020. Two applications were withdrawn by the applicants, one of whom was applying under the EU Regulations. One application was refused as the applicant did not satisfy the admission criteria. Four applications (all under the EU Regulations) are still being processed. The remaining application (made under the EU Regulations) is subject to an appeal and is ongoing.

	ii) Registered Entities	13 approved, 1 refused	One application was refused pursuant to regulations 4.2(b) and (c) of IPReg's Registered Bodies Regulations as the Registrar was not satisfied that (i) the applicant, as manager and owner of the entity, was suitable to operate or control a business providing regulated legal services; and (ii) the entity, if registered, would conduct its activities in a way that is consistent with the regulatory objectives.
	iii) Licensed Bodies	All 4 approved	
	c) The types of application for:		
	i) Authorised Persons	129 initial, 1 restoration	The restoration was in relation to an attorney who had previously removed himself from the trade mark register, retaining his entry on the patent register. His application to be restored to the trade mark register was granted.
	ii) Registered Entities	14 initial	
	iii) Licensed Bodies	4 initial	
1.2 Appeals	a) Number of appeals received and concluded:		
	i) Authorised Persons	1	This was an applicant applying under the EU Mutual Recognition of Professional Qualifications Directive and Regulations. The appeal is ongoing.
	ii) Registered Entities	0	
	iii) Licensed Bodies	0	
	b) Number of appeals where a decision has been made to overturn the original decision and new information has been presented:		
	i) Authorised Persons	1	This relates to the appeal referred to above. The Registrar's decision was considered by the IPReg Board under the appeal procedures and the initial decision was revoked in part. The part of the decision that was upheld is currently with an independent adjudicator for consideration.
	ii) Registered Entities	0	
	iii) Licensed Bodies	0	

	c) Number of appeals where a decision has been made to overturn the initial decision where no new information has been presented:		
	i) Authorised Persons	0	
	ii) Registered Entities	0	
	iii) Licensed Bodies	0	
1.3 Timeliness	a) From date of completed application:		Figures provided are for authorised persons. Data for firms (both registered entities and licensed bodies) is as follows: Median time taken 27 days/shortest time taken 7 days/ longest time taken 122 days. (Whilst there were 122 days from receipt of the firm's application to entry of the firm on to the register, the firm had been approved after 62 days subject to an insurance policy being provided, which the firm took 60 days to provide).
	i) median time taken	4 days	
	ii) longest time taken	147 days	This application concerned an applicant who had qualified for registration more than 10 years previously but had never applied for registration. The application was considered by the IPReg Board as there was doubt as to whether the applicant met the admission criteria. The applicant was required to submit additional evidence of supervised practice before the application was granted.
	iii) shortest time taken	Same day	
	b) From the date of completed appeal lodged:		
	i) median time taken	N/A	There has been one appeal in relation to registration decisions. This remains ongoing. The appeal was lodged on 26 November 2019 and the first stage was completed on 23 January 2020 (58 days). The second stage was instigated by the appellant on 24 April 2020. No appeals were made regarding registration decisions relating to firms.
	ii) longest time taken	N/A	

	iii)shortest time taken	N/A	
2. Supervision – Information Requirement KPIs agreed between LSB and IPReg			
2.1 Supervisory tools	a) Number of regulatory enquiries	282	The top three most frequent themes of substantive regulatory enquiry were Education and Qualification (164 enquiries), Code of Conduct (55 enquiries) and Continuing Professional Development (37). A significant proportion of the CDP enquiries related to the June 2019 removal of the 25% cap on non-interactive activities. That policy decision was directly informed by intelligence, including from regulatory enquiries, which identified the potential risk of the previous arrangements resulting in attorneys undertaking professional development in areas irrelevant to them or the service they provide simply because the activity was uncapped. Breakdown of the remaining enquiries: possible complaint (13; please note that in the CRM, complaints are catalogued separately from enquiries and will not be included within reported enquiry figures going forward), research (7), and miscellaneous (6).
	i) % dealt with within 4-5 working day target	96.8%	The achieved timeframe for response in each matter in this section is taken from the Excel spreadsheet which recorded the enquiries from 1 April until end-September 2019. Of 154 total queries recorded in the spreadsheet, 149 responses were made within the 4-5 working days target. Of the 5 enquiries not answered within the target timeframe, 3 were due to the individual best placed to reply being on leave and 2 were the need for an organisation other than IPReg to help inform the reply. In all instances, a holding reply was made advising of a slight delay. 2 of these enquiries related the Rules of Conduct, 2 were possible complaints and 1 was miscellaneous.
	b) % of regulatory enquiries relating to Rules of Conduct	55	Members of the public querying information about what the Rules of Conduct requires of attorneys was the most frequent query (13), followed by various (not covered elsewhere, 12, queries from attorneys), leave of absence and firm restructure (both had 8), conflict of interest (5), client monies (4) and the

		<p>remaining (5) queries were a mixture of dealing with a difficult client, file transfer and insolvency administration of a client firm.</p> <p>The eclectic reach of the specifics of these queries included difficulties with a client neither paying fees nor issuing instruction, insolvency of a client firm, file transfer, firm restructuring, a fallout between directors, impact of Brexit on insurance, whether it was permissible to sponsor a competition by providing time in kind (rather than prize money), extent to which the attorney should make efforts to trace a client, enforcement of a liability of limitation, foreign exchange rate fluctuations, disbursements and bank charges, whether services can be provided in exchange for equity.</p> <p>Queries made by non-attorneys covered areas such as requesting information on sanctions available should attorneys not meet their regulatory responsibilities, whether it is permissible for an IP law firm to be a strategic investor in a company and also advise on IP law, what constitutes “legal advice”, and who is entitled to register a trade mark for financial gain.</p>
i) % dealt with within 4-5 working days	95%	Of the 31 queries recorded in the spreadsheet, 29 responses were made within the 4-5 working days target.
c) % of regulatory enquiries relating to education and qualification	164	<p>Despite a substantial amount of information on the IPReg website regarding admission to the register, the sheer volume and complexity of enquiries indicated that the education and qualification information needed to be clearer. Accordingly, in March 2020, we published a comprehensive set of Frequently Asked Questions, directly informed by our review of these enquiries.</p> <p>How to qualify as a registered trade mark attorney remains the most frequent query (53) in this category, followed by the qualification route for becoming a patent attorney (43) and then qualification queries from overseas (30) were equally split between EU (15) and non-EU (15) countries and included enquiries from Australia, Belgium, Canada, Germany, India,</p>

			Ireland, New Zealand, Pakistan, Russia, South Africa, and Turkey. Other queries were from those considering registering their firm (23), solicitors seeking to qualify as a registered trade mark attorney (8), and then the remaining (7) queries related to a mixture of qualification (both dual and litigation) and readmission to the register.
	i) % dealt with within 4-5 working days	100%	Of 84 total queries recorded in the spreadsheet, 84 responses were made within the 4-5 working days target.
2.2 Education and training providers	a) Number of reaccreditations of Examination Agencies	2	2 courses provided by Nottingham Trent University were subject to reaccreditation:- the Professional Certificate in Trade Mark Practice (PCTMP, an attorney qualification pathway element) and the Basic Litigation Skills Course (BLSC). Please note that additionally a Brunel University reaccreditation visit took place in late February 2020 with the accreditation decision scheduled for the May 2020 Board, meeting the 12 week target.
	b) % of reaccreditations which were completed within a 12-week target of assessor visit	50%	An iteration of the BLSC forms a module of the registered trade mark attorney qualification pathway (PCTMP). IPReg and Nottingham Trent agreed that it would be appropriate to delay the reaccreditation of the PCTMP course as a whole until the BLSC course had gone through the reaccreditation process. The PCTMP assessors visited Nottingham Trent in November 2019. Both the IPReg office and the Nottingham Trent team were in receipt of and had considered the PCTMP assessment report within 12 weeks of that visit. Nottingham Trent then made a dedicated application for reaccreditation of its BLSC course (including the PCTMP module iteration). The May 2020 Board then considered both the PCTMP and BLSC accreditations together. The BLSC was accredited well within 12 weeks of receipt of the dedicated application, the PCTMP, took from November 2019 until May 2020, a delay which had been agreed between both parties.
2.3 Assurance	a) annual renewal - % of attorneys PII compliant in first tranche of re-registration (annual renewal) process	99.81%	When IPReg suggested, in 2017, inclusion of these two indicators in the dataset, the re-registration process allowed for an individual attorney to renew/pay their fees without necessarily providing IPReg with their Professional Indemnity

		<p>Insurance details and Continuing Professional Development Declaration. This meant a significant amount of staff time was spent getting this information alongside, or after, the actual renewal. The new CRM, which went live in September 2019, does not permit re-registration until both PII and CPD information have been provided and verified.</p> <p>Attorneys are required to renew their registration on 1 January of each year. Failure to renew (which includes confirmation of compliant PII) by 1 March of each year results in the suspension of the attorney.</p>
b) annual renewal - % of attorneys CPD compliant	98.5%	A total of 59 attorneys failed to submit an Annual Return in the 2020 renewal process. Of those, 13 did a CPD declaration so were CPD compliant. There were 3052 Annual Returns and 13 additional CPD declarations. This means that 3065 attorneys were compliant with CPD on a register of 3111 attorneys as at 31 March 2020 - a 98.5% compliance rate.
c) Number of thematic/benchmarking reviews	0	IPReg work programme has been focused on development and implementation of new database, office move and preparing for the comprehensive regulatory arrangements review.
d) Number of consultations	3	<p>2020 Business Plan, Budget and Practising Fee – published in May 2019, this sought views on the proposal to increase practising fees by 2.3% (RPI) and the 2020/21 Business Plan. The IPReg application to apply the 2.3% increase was approved by the LSB.</p> <p>Removing restrictions on providing pro bono advice – published in July 2019, this sought views removing restrictions on in-house patent and trade mark attorneys providing pro bono advice; and to allow attorneys who are not actively practising to provide pro bono advice. In both cases, this would require the consumer protection measures (e.g. professional indemnity insurance (PII), continuing professional development (CPD) and complaint handling) set out in IPReg’s regulatory arrangements to be in</p>

			<p>place. IPReg is working with the IP Federation and other stakeholders to determine how best to take forward implementation.</p> <p>Run Off Cover – published in July 2019, this sought views on making explicit in the regulatory arrangements the requirement to put in place professional indemnity insurance run-off cover when a firm closes (if there is no successor practice that has assumed all its liabilities) to ensure that former clients of the firm remain protected by PII; whether there should be a requirement for firms to make information about their PII insurer available to clients (and, if so, the best way of doing this); and to make explicit the requirement to provide IPReg with information about PII on request. This was agreed by the LSB on [DATE] and is now in force.</p>
	e) Number of external events at which Board members have attended to explain IPReg's approach to regulation and its priorities	17	<p>Board members, including the Chair, who attended 8 of these events, attended a range of external events to explain IPReg's approach to regulation, including CIPA, CITMA and IP Inclusive events, Regulatory Forum meetings, Student Induction Days, International Conference of Legal Regulators, and the Legal Regulator Chairs meeting.</p>
2.4 Learning and good practice	a) Number of IPReg website regulatory news items	7	<p>Transparency Guidance – published in May 2019, this guidance sought to help regulated firms and attorneys decide what information to provide about their services and costs to enable consumers and small businesses to make informed choices about who is the best person to give them advice on intellectual property law.</p> <p>2020 Business Plan, Budget and Practising Fee Consultation - published in May 2019, this plan and budget set out the business priorities for IPReg and informed the subsequent practising fee application made to, and approved by, the LSB.</p> <p>Removal of CPD cap – published in June 2019, this related to the policy decision to remove the 25% cap on non-interactive CPD activities (such as watching recorded webinars). This was due to a range of intelligence, including analysis of enquiries (see item 2.1), and an approach by IP Inclusive, which found that the cap was inadvertently creating an incentive to undertake interactive</p>

			<p>CPD activities which were not particularly relevant to the individual and their customer profile.</p> <p>Annual Report 2018 - published in July 2019, this set out our achievements against the 2018 Business Plan and any other emerging priorities. Please note that we will publish the 2019 Annual Report in May 2020.</p> <p>Consultations - pro bono advice and run off cover - published in July 2019, please see item 2.3d.</p> <p>Money Laundering Regulations Guidance - published in December 2019, , prepared following QC's advice obtained jointly with CIPA and CITMA, and designed to help attorneys understand what the Regulations are, in what circumstances they apply and the role of the Supervisory Authority.</p> <p>Covid-19 - online delivery of qualifying examinations - published in March 2019, in light of the emerging risk of Covid-19 and evolving government advice, IPReg liaised with the providers of attorney qualifying pathways, to review, and ultimately approve, alternative methods of delivery for assessments.</p>
	b) Number of 'lessons learned' post-disciplinary case guidance published	1	Run Off Cover – the consultation and subsequent rule change application to the LSB and subsequent change to the regulatory arrangements was the direct result of a disciplinary case which included concerns about insufficient insurance cover to protect the interests of former clients.
3. Enforcement - LSB Standardised KPIs Information Requirement			
3.1 Caseload	a) Number of open cases at 31st March 2020	16	
3.2 Timeliness	a) From receipt of initial complaint to the final first stage committee/case examiner decision (in all case types):		
	i) Number of cases considered	3	The Complaint Review Committee (“CRC”) sat on 4 occasions hearing 3 cases. In one case, the CRC sat twice, firstly concluding that the matter could be dealt with summarily. This required an adjournment to allow the respondents time and

			opportunity to reach agreement or to opt for a full disciplinary hearing. The second hearing concluded the matter and ordered a summary sanction.
	ii) Median time taken	235 days	
	iii) Longest time taken	368 days	There was delay in processing this case due to internal resourcing constraints.
	iv) Shortest time taken	40 days	
	b) From final first stage committee/case examiner decision to final disciplinary hearing decision (in all case types):		
	i) Number of cases considered	2	
	ii) Median time taken	272 days	
	iii) Longest time taken	471 days	An acrimonious partnership dispute complaint was first made to IPReg in December 2016. This very complex case involved two attorneys, one of whom was reluctant to engage with IPReg in a timely manner.
	iv) Shortest time taken	74 days	
	c) From receipt of initial complaint to the final decision (in all case types):		
	i) Number of cases considered	4	
	ii) Median time taken	560 days	
	iii) Longest time taken	1461 days	The relationship between the respondents and the complexities in the case required two CRC hearings. The need to engage with other bodies, including the Legal Ombudsman, added to the timeframe. The timetabling of a hearing date suitable to all parties and their representatives meant the hearing initially set for November 2019 was only heard in part and was concluded in January 2020. The outcome has been published on the IPReg website.
	iv) Shortest time taken	40 days	
3.3 Decision Type	a) Number of cases where a decision to conclude the case has been agreed (i.e. consensual disposals or regulatory settlement agreements)	0	

	b) From receipt of initial complaint to the final decision for regulatory settlement and consensual disposals:	N/A	
	i) Median time taken	N/A	
	ii) Longest time taken	N/A	
	iii) Shortest time taken	N/A	
3.4 Appeals	a) Number of appeals (in all case types):	1	This was in relation to the suspension of an attorney for failing to provide evidence of compliant Professional Indemnity Insurance. This enforcement action was directed by the Registrar (i.e. not as a result of a disciplinary hearing).
	i) outstanding	0	
	ii) where decision was overturned	0	
	iii) where decision was upheld	1	The Registrar's decision was upheld by the IPReg Board following the first stage of the appeal process. The attorney withdrew the appeal before the second stage (adjudication by an independent Adjudicator).
	iv) settled by consent.	0	
4. Governance and leadership - LSB Standardised KPIs Information Requirement			
4.1 Organisational health	a) Staff turnover for those dedicated to regulatory activity for the financial year compared to the previous year	None	No changes to staff in the reporting period.
4.2 Complaints	a) Number of justified complaints about the regulator	1	
	b) The subject matter of the justified complaint against the regulator	Delay	Delay in dealing with a conduct complaint about an attorney.
	c) The timeframe for conclusion of the complaint resolution	9 days	The complaint letter was dated 27 February 2020 (and was received on 2 March), the CEO replied on 5 March. This was followed on 11 March by more detail on the action taken and planned future steps.