

Date: 7 March 2022

Matthew Hill
Chief Executive
Legal Services Board

Dear Matthew

IPReg Response to [LSB Ongoing Competence Consultation](#)

We support the central premise of the LSB's consultation that improvements are needed to ensure regulated persons are competent throughout their legal career and continue to learn and develop. As was identified by our Board in its strategy meeting in March 2019 there is a case for change as to how we ensure the ongoing competence of registered attorneys and this is one of the central themes of our current regulatory arrangements review.

Continuing Professional Development (CPD) requirements are a key regulatory tool to aid registered attorneys in maintaining a minimum threshold of skills and knowledge throughout their developing careers. Whilst allegations made to IPReg about competence are extremely rare (2 in the last 12 years – please see attached schedule) we acknowledge that the time is right to review our current requirements with a view to making significant improvements. A tick-box approach to continuing professional development is certainly outdated and fails to achieve the necessary outcomes required to advance the interests of consumers and drive improvement within the profession.

The LSB is aware that as part of our review of regulatory arrangements, we are currently [consulting](#) on a new approach to CPD targeted on meaningful development activities (as opposed to completion of a certain number of hours). Under proposals for our new Code of Conduct, attorneys will be subject to a requirement to undertake only work that is within their expertise or competence. They will be required to reflect on their own competence, identifying areas where they need to focus their developmental activity to maintain high standards of technical skill and professional service to clients. Our intention is that the CPD will be led by the individual attorney. It should be reflective, flexible and output based, with a focus on what is relevant to the attorney's practice. Additionally, those with management responsibility will be required to ensure that appropriate training and supervision arrangements are in place for those working at all levels.

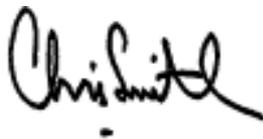
Subject to consultation findings, we envisage options for CPD activity that will be broad, a mix of formal and informal, and might include some of the points covered in the LSB consultation paper, such as writing up a case study or a report of a discussion with a peer regarding a particular topic.

We agree that ongoing monitoring is key to a well-run continuing competence framework. Compliance is an issue we are discussing with stakeholders as part of the consultation process. For instance, 76% of

IPReg regulated attorneys are working in private practice and we see an important role for regulated entities in working with us to secure compliance. For the 20%¹ of attorneys who undertake solely corporate work or who practise as sole traders, we will explore with the professional bodies and industry groups, what the evidence base indicates would be a proportionate response.

This proportionate, evidence-based approach to the ongoing competence of registered attorneys is fundamental to our regulatory arrangements review. At this point we anticipate that changes will be implemented from Spring 2023; they will of course be subject to LSB approval.

Kind regards



Lord Chris Smith

Chair

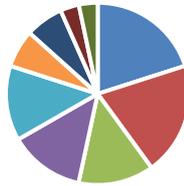
¹ Approximately 4% of IPReg-regulated attorneys are not actively practising

Appendix 1 – Analysis of complaints and enforcement action

Since having the regulatory function from 2010, IPReg has received 88 complaints against identifiable registered attorneys. Some complaints allege multiple breaches of [IPReg's Rules of Conduct](#).

Of those, 30 separate allegations warranted (or will warrant) onward referral to IPReg's Complaints Review Committee (the preliminary investigation committee "CRC"). In respect of the two allegations of lack of competence, one was received in 2015 and was rejected by the CRC. The other is current and will be referred to the CRC upon completion of an initial investigation.

Complaints requiring enforcement action



- Failure to take out/maintain PII (6)
- Misconduct (6)
- Failure to have/follow complaints procedure (4)
- Poor service (4)
- Acting outside instructions (4)
- Financial mismanagement (2)
- Lack of competence (2)