



Approval of 2023 Practising Fee application made by the Intellectual Property Regulation Board to the Legal Services Board (LSB) under section 51 of the Legal Services Act 2007 (the Act)

1. The LSB has approved an application made by the Intellectual Property Regulation Board (IPReg) to the LSB under section 51 of the Act. Section 51 of the Act relates to the control of Practising Fees charged by approved regulators.
2. Practising Fees are payable by a person under an approved regulator's regulatory arrangements, in circumstances where the payment of the fee is a condition which must be satisfied for that person to be authorised by the approved regulator to carry on one or more activities which are reserved legal activities. An approved regulator may only apply amounts raised by Practising Fees for one or more of the permitted purposes which are set out in section 51(4) of the Act and the Practising Fee Rules 2021 (Rules)¹.
3. Practising Fees are payable under the regulatory arrangements of an approved regulator only if the LSB has approved the level of the fee as required by section 51 of the Act. The Chartered Institute of Trademark Attorneys (CITMA) and Chartered Institute of Patent Attorneys (CIPA) are approved regulators, and IPReg is the regulatory body to which CITMA and CIPA have delegated their regulatory functions.
4. In making an application, an approved regulator must comply with the provisions of the Rules. The Rules provide a framework for the practising fee application and approval process. An approved regulator must also have regard to the LSB's Guidance on the Practising Fee Rules 2021 (Guidance)² which gives guidance on each of the Rules.
5. This notice sets out the decision taken, including an assessment of the Practising Fees application.

Summary and overview of Practising Fees application and decision

6. The LSB notes the work IPReg has done to address the concerns raised by the LSB in the Decision Notice approving the Practising Fees for 2022. IPReg's application set out how it has increased its accountability and transparency in terms of its commitments under the LSB's regulatory performance framework, its allocation of resources and how it assesses the benefits of its regulatory activities. We also recognise the work IPReg has done to improve engagement during its consultation on the proposals put forward in this application.

¹ <https://legalservicesboard.org.uk/wp-content/uploads/2021/02/PCF-Final-Rules-2021-Accessible.pdf>

² <https://legalservicesboard.org.uk/wp-content/uploads/2021/01/PCF-Final-Guidance-for-publication-accessible.pdf>

7. The application submitted by IPReg provides that the level of Practising Fees to be charged to individuals and Registered Bodies will increase by 6%, as set out in the tables below. IPReg's projected total Practising Fees income for 2023 is £1,106,000 (an increase from £1,031,000 in 2021), based on the assumption of 3,386 individuals paying a practising certificate fee and around 255 registered bodies. The proposed 2023 fees are set out in the tables below.

Attorneys/Individuals	2022 Fees		Proposed 2023 Fees	
	Single register	Both registers	Single register	Both registers
Attorney solely undertaking corporate work	£177	£283	£188	£300
Attorney in private practice	£215	£353	£228	£374
Attorney not in active practice	£161	£258	£171	£273
Sole trader attorney not employing other attorneys or professionals	£353	£504	£374	£534
Sole trader attorney:	£353	£504	£374	£534
employing other attorneys - add fee per attorney	£71	£71	£75	£75
employing other professionals - add fee per professional	£283	£283	£300	£300
Registered Bodies (includes ABS and non-ABS firms)	2022 Fees		Proposed 2023 Fees	
	Single or both registers		Single or both registers	
Registered Body through which a single attorney and no other or other professionals provide services	£138		£146	
Any other registered body	£353		£374	
Base Fee	£71		£75	
add fee per attorney	£283		£300	
add fee per other professional practising via the registered body				

8. Of the total amount of Practising Fees to be collected, £1,023,900 (92.58%) will be allocated to IPReg, while the remaining £82,100 (7.42%) will be the levy for the Legal Ombudsman and the Legal Services Board.
9. We are satisfied that IPReg's activities for 2023 which will be funded by the Practising Fees fall within the permitted purposes, in compliance with section 51(2) of the Act. We are satisfied that IPReg has also set out how it intends to discharge its regulatory functions in a way that is compatible with the regulatory objectives set out in section 28 of the Act.
10. Further, the application enables the LSB to be confident that IPReg has carefully and properly planned its financial position for the forthcoming year. We are satisfied that the application provides transparency to the regulated community about the reserves and financial resilience of IPReg.
11. We are satisfied that the application provides transparency to the regulated community about the allocation of IPReg's resources, especially Practising Fees income. We are satisfied that the engagement strategy of IPReg has allowed it to meaningfully consult with its regulated community.

12. We consider that the application provides meaningful consideration of equality issues, which are particularly relevant to the regulatory objective of encouraging an independent, strong, diverse, and effective profession. We note that IPReg has decided to retain the ability to waive the Practising Fees for attorney's facing hardship, in particular, for those who might be most disadvantaged by the rise in the Practising Fees. IPReg has also extended the "*not in active practice*" status to those on adoption and parental leave. This is set out in further detail in paragraphs 20 and 21 below.
13. We consider that IPReg has given due consideration to the impact of the level of the Practising Fees on the conduct of legal services by its regulated community in setting the Practising Fees for 2023.
14. The LSB's decision is to approve in full the levels of the Practising Fees for 2023 to be charged to individuals and firms as set out in the application by IPReg.

LSB assessment

Budget for 2022 and financial information

15. In order to understand IPReg's financial health over time, we asked it to provide us with details of its final income and expenditure in 2021 and 2020. We consider it would be helpful for IPReg to continue to provide the actual income and expenditure for the last completed year alongside future PCF applications.
16. The application sets on page 37 of the application, Annex 3 paragraph 37, that IPReg predict a budget deficit of around £16,000 for 2023. IPReg's Board has committed to utilising its reserves to offset against any operating deficit. Annex E shows that IPReg's General Contingency Reserves are currently at £200,000.

Consultation and engagement

17. We welcome the additional information that IPReg included in its consultation, as well as additional steps taken to increase engagement with the proposals put forward in this application. The consultation and engagement undertaken by IPReg helps to increase transparency and accountability and we would welcome this work continuing in the future, so that IPReg can continue to build on this progress.
18. We note that the increased information provided in IPReg's consultation and the additional work to engage its members has resulted in an increase in responses. Paragraph 24 of the application notes that IPReg received 25 responses to its consultation, which was a significant increase on the 6 responses it received last year.

Impact assessments

Equality Impact assessment

19. A full Equality Impact Assessment (EIA) which considers the likely impact of the level of the Practising Fees on the regulated community with protected characteristics has been provided by IPReg in Annex 10 of the application. To develop its EIA, IPReg carried out an analysis of its Diversity Survey and responses to its consultation.
20. Paragraphs 3 and 26 of the application and Annex 10 explain that to mitigate any adverse impact on raising the PCF, IPReg has decided to retain the ability to waive practising fee for attorney's facing hardship. This provision was introduced as a result

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of the COVID-19 pandemic, however, IPReg have decided to retain this in light of the cost-of-living crisis.

21. IPReg also confirmed in paragraph 26 and Annex 10, that it will retain its “*not in active practice*” status for anyone on maternity leave and will accept applications from those on adoption or parental leave. This status is associated with a reduction on practicing fees.

Alterations to Practising Fee Regulations

22. In its application, IPReg proposed alterations to its Practising Fee Regulations, most notably its decision to extend the provision of the Practising Fee Waiver. The LSB has assessed these alterations and considers them suitable for exemption as they fall within paragraph 3(c) of Exemption Direction 181³.
23. We note from the application (Paragraph 45 to Annex 3) that the fee waiver was not widely used during COVID-19. We do not consider that indicators for those seeking assistance as a result of COVID-19 will necessarily translate to those who may seek assistance as a result of the cost-of-living crisis. Given that fact, we ask that IPReg include in its next Practising Fee application details of the number of fee waiver requests received and granted in 2023. If the use of the waiver becomes material, or IPReg decides that some form of formal hardship fund or similar is required, we would expect a full rule change application from IPReg to set out further alterations to regulatory arrangements related to waivers.

Decision

24. The LSB has approved the Practising Fees application submitted by IPReg for 2023 under section 51 of the Act.

Summary of expectations for next application

25. In the next application the LSB requests that IPReg includes additional financial information setting out its actual income and expenditure for 2022.
26. In the next application, the LSB requests that IPReg includes the number of a fee waiver requests that have been received and granted.

Matthew Hill, Chief Executive
Acting under delegated authority granted by the Board of the Legal Services Board
19 October 2022

³ General Exemption 181 - <https://legalservicesboard.org.uk/wp-content/uploads/2022/04/ED181-General-Exemption-minor-alterations.pdf>