

IPReg – Application to alter regulatory arrangements

The table below identifies additional queries, the responses to which, will aid the LSB's assessment of the application against the refusal criteria under Schedule 4 of the Legal Services Act 2007.

Issues
1. Waiver power
<p>a) The SOP states that IPReg <i>may</i> direct firms to tell their clients when a waiver is in place. Please provide an explanation for why IPReg is not proposing for it to be compulsory for firms to notify clients of any regulatory waivers.</p> <p>b) The application indicates a summary of waivers will be included in the annual report. The SOP for waivers confirms at Paragraph 10 that summaries of waiver applications and decisions will normally be published. Please confirm whether IPReg intends to publish summaries of applications and decisions other than in the annual report.</p> <p>c) What consideration has IPReg given to how compensation arrangements will work if a firm has been granted a waiver and the waiver results in detriment/loss for a client?</p> <p>d) How will IPReg ensure that its Board has sufficient oversight over the use of waiver powers?</p>
2. Sandbox
<p>a) The application states that the sandbox is not intended to remain in place indefinitely. We understand that an assessment will be made in 2024 of how the sandbox is working and whether it is achieving its objectives. Is IPReg expecting that assessment to set a timeframe for any further review or closure date for the sandbox as appropriate?</p> <p>b) How will IPReg ensure that its Board has sufficient oversight over the use of the sandbox?</p>
3. Client money
<p>a) Please set out IPReg's rationale for implementing a narrower definition of client money than is seen elsewhere in the sector.</p> <p>b) What consideration has IPReg given to risks associated with significant advance payments (which could include counsel's fees) where the terms have been agreed in advance not being considered to be client money?</p> <p>c) Is it IPReg's expectation that withdrawals from a TPMA would only be possible with the permission of both the firm and the client? If so does IPReg expect to add some content to its draft guidance to provide additional clarity on this point?</p> <p>d) The application explains that in the absence of a maximum amount of client money that can be held at any one time, the intention is to ask regulated persons to confirm whether they have held any client money during the preceding 12 months. How will</p>

IPReg monitor whether the amounts of client money held increase as a result of the removal of the maximum?
4. CPD
<ul style="list-style-type: none"> a) What consideration has IPReg given to how its proposals take account of the LSB policy statement on ongoing competence? b) Please can IPReg share further detail on how it will determine the efficacy of an individual's CPD, and what it will do if it considers the recorded CPD activity is not effective?
5. Transparency
<ul style="list-style-type: none"> a) What consideration has IPReg given to how its proposed arrangements take account of the LSB policy statement on consumer empowerment? In particular, the expectations around information on quality and service? b) Please set out IPReg's rationale for limiting mandatory transparency information to the point of engagement (rather than requirements for websites etc). c) How does IPReg plan to monitor and enforce its proposed transparency requirements?
6. Financial Penalties
<ul style="list-style-type: none"> a) Are the maximum levels for fines set out anywhere within the Core Regulatory Framework or SOP? b) Please explain IPReg's rationale for the upper limits proposed for financial penalties. c) IPReg's draft sanctions guidance doesn't contain criteria for how the level of a financial penalty would be set. Please explain how the level of penalty would be set and what factors would be taken into account (for example, firm turnover or financial means of an individual).
7. Counter Inclusive Behaviour
<ul style="list-style-type: none"> a) The sanctions guidance seeks to reflect <i>IPReg's</i> commitment to tackling counter-inclusive behaviour through the disciplinary process. What are IPReg's considerations about how its proposed regulatory arrangements help tackle counter-inclusive behaviour. For example, within firms between employees where the behaviour is not in a public forum?