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## **IPReg Consultation: Withdrawal of accreditation of a qualification pathway Responses by Nottingham Law School, Nottingham Trent University**

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### **Question 1:**

#### **What are your views on the circumstances in which accreditation would be withdrawn?**

We agree that there should be a written procedure; however, such a procedure must be transparent, unequivocal and fair to all stakeholders. The circumstances where this would apply must be clearly identified.

It should allow for a prescribed informal process and a period of adjustment, clearly defined, set goals, continuous contact between the stakeholders. The reporting process now put in place by IPReg will assist in identifying issues early on in the accreditation relationship.

In terms of interventions, the circumstances should be clear and linked to the IPReg Accreditation Handbook. The right to appeal and the timescales and criteria for so doing should be clearly established.

### **Question 2:**

#### **Do you have any comments on the proposed procedure?**

There are two overriding factors for consideration by IPReg in the drafting of this protocol:

1. A definitions clause
2. Consistency of use of the defined terms

It is worth mentioning that the IPReg Accreditation Handbook sets out the standards for the Foundation Level Qualification (FLQ) and not for the Advanced Level Qualifications (PCTMP) and IP Basic Litigation Skills and IP Litigation and Advocacy.

### **Comments on the accompanying note:**

#### ***Quality Concerns***

#### **Paragraphs 10 & 11**

How will "concern" and "significant concern" be established and measured? Are the concerns intended to be cumulative in order to become significant? Or are there separate criteria identifying a significant concern?

Will the concerns be established through annual reporting by the relevant examination agency which would, therefore, of necessity require the reports to include stakeholder feedback, student

feedback, staff feedback? The methods by which this information is collated should be transparent and the weight to be given to each element of the information should be declared. For example, if solely relying on negative student feedback, this might give rise to a disproportionate assessment of the level of concern.

Who will evaluate this information/feedback and against what criteria/benchmark?

Who will decide the programme of support and against what criteria? Will this emanate from a joint discussion and collaboration with the relevant examination agency? Will it involve an independent assessor or moderator? If so, from where will they be obtained and what will their terms of reference be? How will progress be measured, against what timescale and who decides the appropriate period of improvement? Will it be an absolute period or agreed on a case by case basis?

It is suggested that there needs to be a declared set of criteria linked to the IPReg Accreditation Handbook. It also needs to be relevant for the courses other than those leading to FLQ.

### **Paragraph 12**

Given the comments above, it follows that there must be clear and unequivocal criteria for the making of the final decision. Will it be a unanimous or a majority decision? If the latter, what constitutes a majority?

### **Paragraph 13**

What will be the circumstances of a withdrawal of accreditation during a live course or examination period? What would constitute "extenuating circumstances"? It is suggested that such circumstances should be identified and listed with clear qualifications to assist the examination agency and the IPReg Board considering this serious step. What extenuating circumstances would exist for students on such a course, who have successfully completed it, not be entitled to the IPReg accredited IP qualification? This ought to be identified and listed for the sake of transparency for all stakeholders.

### **Paragraph 14**

A defined and delineated appeal process is essential and examination agencies should be entitled to appeal. Criteria for successful appeals should be identified and listed together with a framework for decision making on appeal.

### **Paragraph 15**

"sufficiently significant" – what does this mean? How does it differ from "significant concern"? what is the definition of "significant" in both these contexts? Is it one issue or a series of issues to be viewed cumulatively? How will this be established? It is suggested that the wording for this be consistent with the definitions and wording of paragraph 13.

## Comments on the Annex

### Clause 1.2

The accreditation Handbook focuses on the FLQ and not the ALQ or BLSC or IP Litigation & Advocacy. It is suggested that the handbook be extended to cover these courses too in order to obtain transparency and clarity which will assist in the effective operation of the current proposals. It is also suggested that the Handbook should provide for regular collaboration between examination agencies.

It is suggested that linking the withdrawal procedure for all the IP Reg accredited courses to the current Handbook is unhelpful for providers that are solely examination agencies such as the PEB and also the providers of the PCTMP and BLSC. There is overlap in terms of quality; however, there should be a clearly delineated set of principles and criteria for these courses so that they are not “shoe-horned” into a process designed for a different type of qualification.

### Clause 1.3

What is the definition of “risk” in this context? Who decides if the “implementation plan” remedies the identified risk?

### Clause 1.4

What is the definition of “significant risks”? What is the difference between “accreditation standards” in 1.3 and “quality standards” in 1.4? On what basis will IPReg make a determination of the period before another application for accreditation may be made?

### Clause 1.5

What are the criteria for stipulating a shorter time period for accreditation? It is suggested that annual reports should have parity between the accredited providers with reporting date agreed with each provider individually to accord with their own internal reporting processes. The reports should deal with content and assessment separately to take into account those providers that are solely examination agencies.

### Clause 2.1

Concerns: who raises these? What weight does it carry in terms of provenance?

Risk: it is suggested that risk should be defined and identified giving examples of low, medium and high risk.

“indication of possible quality issue” – What does this mean? What is the measure of an indication in order for it to escalate from possible to actual? Will these be accumulative or decided on each individual element or will one reporter carry more weight than another? What will be the difference? What would an acceptable outcome look like?

## Clause 2.2

Against what criteria will the “concerns” be assessed? It is suggested that there should be an initial dialogue between the IPReg Education Committee and the examination agency to determine the nature of the concern transparently and fairly and agree an approach to dealing with those concerns together with an agreed desired feasible outcome.

What would IPReg’s help look like in this situation?

## Clause 2.3

“Programme of support and intervention remedies”: What is this and who will do this? Intervention has serious connotations in professional regulation. It is suggested that this word should be defined and explained in the context of “support” which is the word with which it is aligned in the above phrase.

It is suggested that the “appropriate timeframe” should be prescribed for and agreed with the relevant examination agency.

“List of remedial options”: presumably this describes the result of a consensual outcome following dialogue between IPReg and the examination agency? It is suggested that the list be further elucidated, for example “dedicated accreditation exercise assessment” – what does this mean and in what circumstances would it arise?

The reporting on the website, it is suggested, would benefit from clarification and clear guidelines and circumstances when this will be carried out. It is also suggested that this should be an action of the very last resort when every avenue of submission and appeal has been exhausted. Such reporting has serious implications for the reputations of the parties involved.

## Clause 3.1

Decision making has to have clear principles, processes, protocols, criteria and guidelines.

Does approval need to be unanimous or majority? If the latter, how much?

Submissions from the examination agency must be made before any decisions are made. Such submissions should be in writing and be capable of being amplified by oral submission to the designated decision maker. A right of appeal should follow this event.

## Cause 3.2

“all other avenues” – what are these? It is suggested that these are clearly delineated with clear principles and processes.

“severity of the issue is so pronounced” – what does this mean? It is suggested that this outcome is defined and linked to the issue giving rise to the it and whether it is intended to be cumulative.

### **Clause 3.3**

This clause is linked to clause 3.1 above. Therefore, the points made above are relevant to this paragraph.

It is suggested that there be a provision for the Board to give written reasons for the decision. There should be a reasonable time for the examination agency to respond. Reasonable in this context, we suggest, is at least 28 days. There must also be a right of appeal from the decision made following such representations by the examination agency.

The point above in 2.3 about announcements also applies in this instance.

### **Clause 3.4**

How is this to be achieved? Timescales will, of necessity, have to be flexible. It is respectfully suggested that there must also be a face-saving opportunity afforded of all parties.

### **Clause 3.5**

"extenuating circumstances" should be defined. Please see earlier notes about this phrase.

There should be a clearly delineated protocol for carrying out this eventuality – a policy on "teach- out" using an independent moderator or Verifier in order to ensure that the quality of the course is maintained during the period of teach-out.

### **Clause 3.6**

"on" is missing from the sentence.

"Extenuating circumstances" – please see points above.

### **Clause 3.7**

It is suggested that there is a clear protocol for this to protect the students and IPReg's integrity as a regulator. Teach-outs may last for the academic year and will also have to take into account the wider organisation's protocols on teach-out of courses. Timescales for teach out will need of be realistic and workable and at minimal disruption to the students' studies and opportunity to qualify.

### **Clause 3.8**

It is suggested that 5 working days is not feasible or perhaps realistic if an examination agency is to produce new grounds of appeal and evidence ("a case different" requires definition). It is suggested that this should be 28 days at the very least. It is also suggested that the requirement for production of new grounds of appeal and evidence be articulated and a hierarchy produced to establish a fair reasonable and transparent appeal process.

It is suggested that this clause be substantially reviewed.

**Question 3:**

**Is five working days an appropriate timeframe for an attorney qualification provider to put together a (different) case for consideration on appeal?**

Please see our comments on clause 3.8 above and all the related comments in response to question 2 above.

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