

The Patent Regulation Board and the Trade Mark Regulation Board

Agenda

Thursday 3 November 2022 at 12.30pm

Shakespeare Room, 20 Little Britain and Zoom

1. Apologies
2. Notification of any conflicts of interest

Items for decision/discussion

3. Minutes of 8 September 2022 meeting and matters arising
4. 2023 business plan and practising fees update (FG) – no paper
5. Review of Regulatory Arrangements – update on rule change application (EL) – no paper
6. Complaints update (SE)
7. Progress on Governance Action Plan implementation (FG)
8. LSB engagement (FG)
 - a. Regulatory Performance Assessment – update (FG) – Annex C to this paper will not be published
 - b. Sanctions – the paper and Annex will not be published (FG)
9. Speaking Up policy (FG) – the Annex to this paper will not be published
10. CEO's report (FG)

Items to note

11. Finance update (FG)
12. Action Log (FG)
13. Risk register (FG) – red risks – this paper will not be published
14. Working Group updates:

- a. Data Group forward work plan

15. Regulatory Statement

Confirmation that, except where expressly stated, all matters are approved by the Patent Regulation Board and the Trade Mark Regulation Board.

Board Meeting 3 November 2022

Complaints Update

Agenda Item: 6

Author: Shelley Edwards, Head of Registration (shelley.edwards@ipreg.org.uk [REDACTED])

This paper is to note

This Board paper will be published.

Summary

1. This paper stands as an update on complaints received and processed by IPReg.

Recommendation(s)

2. The Board agrees to note this paper.

Risks and mitigations

	Risk	Mitigation
Financial	We have allocated a budget of £35,000 for costs associated with processing complaints and conducting disciplinary hearings. There is a risk that an unanticipated increase in cases will cause us to exceed the budgeted figure	It is IPReg's policy to seek the external costs incurred in bringing disciplinary cases before a tribunal from the respondent, and recover any debt as appropriate.
Legal	[REDACTED]	[REDACTED]
Reputational	There may be a risk to IPReg's reputation if it were considered that IPReg was not conducting its investigation and enforcement process appropriately - pursuing cases with no evidential basis, not taking enforcement action where there is a clear breach of regulatory arrangements, poor decision-making at hearings etc.	IPReg has developed, in conjunction with legal advisers, a comprehensive decision-making policy to underpin its new enforcement and disciplinary procedures which form part of the regulatory arrangements review. A new Joint Disciplinary Panel has recently been appointed following a comprehensive recruitment campaign, and all new members have received training and induction.
Resources	IPReg manages the initial triage and investigation of cases internally,	Analysis of complaints data over the last 6 years shows that whilst the number of

	<p>between the Assurance Officer and Head of Registration. There is a risk that a significant increase in cases will outstrip the internal capacity of the team</p>	<p>complaints received seems to be increasing, IPReg has become more efficient at resolving these cases, resulting in cases being closed more quickly and the number of open cases in any given month holding steady or reducing</p>
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Background

3. The Board has routinely been updated on Complaints information, including the number of new complaints received and closed per month with a focus on the nature of individual complaints and the anticipated timetable for resolving them. The Board has not received information about the subject of the complaint due to IPReg’s current disciplinary process which may result in Board members sitting as decision makers on the Complaint Review Committee.
4. The Board has indicated it would find different information helpful, focussing less on the individual complaint and more on general trends and timeliness.

Discussion

5. The Board should note the information in this paper.

Next steps

6. The Board should note the information in this paper.

Supporting information

Links to strategy and business plan

7. N/A

Supporting the regulatory objectives and best regulatory practice

8. N/A

Impacts

9. N/A

Communication and engagement

10. Disciplinary decisions are published on IPReg’s website [here](#) and, where applicable, against the name of the attorney or firm on the [online register](#).

Equality and diversity

11. There are no specific equality and diversity issues.

Evidence/data and assumptions

Cases by numbers

As at 3.11.22

- Total open cases 5
- Cases open since last meeting 1
- Cases closed since last meeting 1
- Change -

Year to date (from 1 January 2022)

- Total cases received 8
- Total cases closed 9

Timeliness

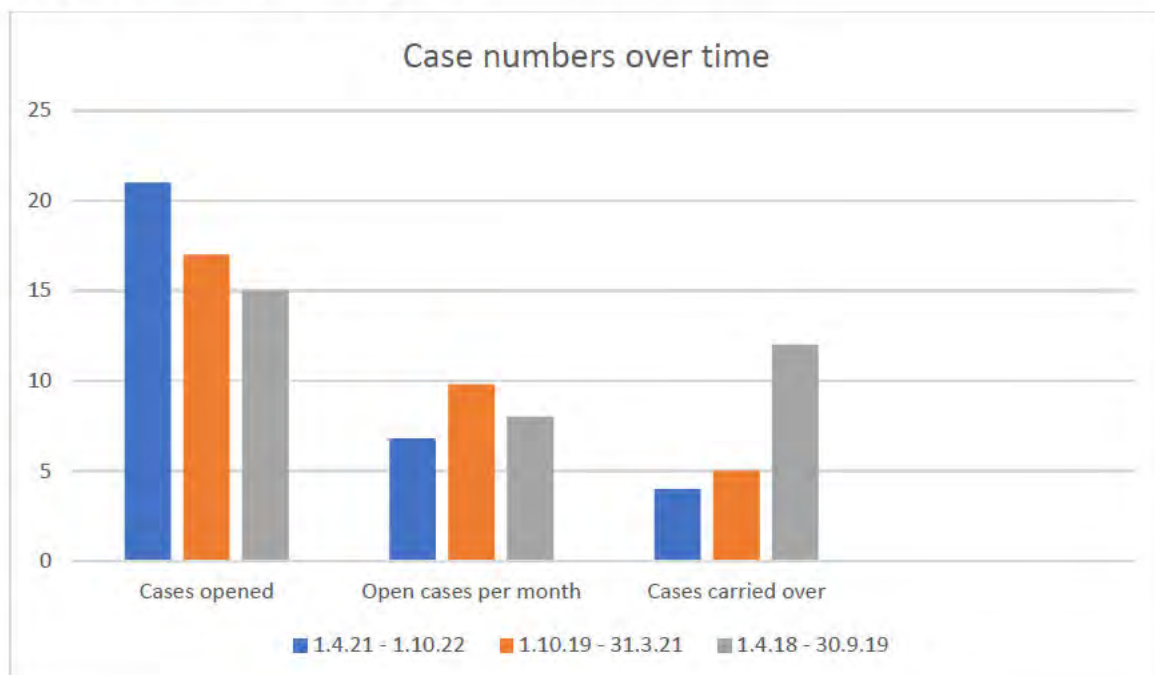
Oldest open case 24 months 3 weeks

Newest open case 5 weeks

Mean 34.4 weeks

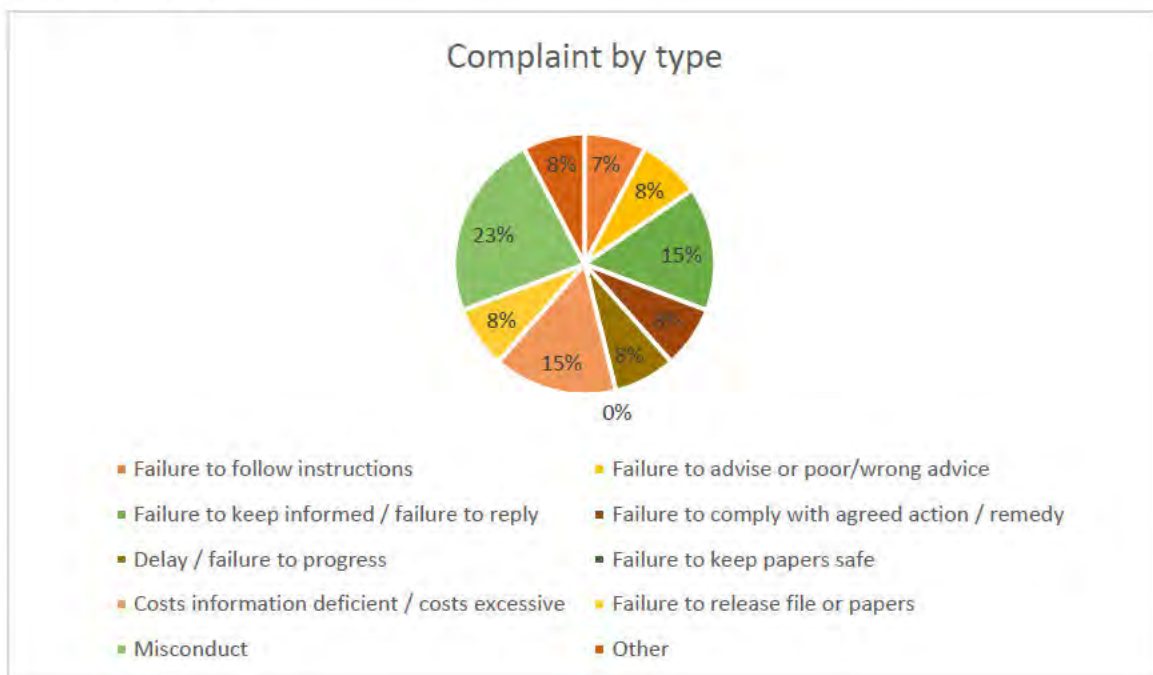
Median 21 weeks

Analysis and trends (18 month periods)



	1.4.21 – 1.10.22	1.10.19 – 31.3.21	1.4.18 – 30.9.19
Cases opened / received	21	17	15
Case numbers open per month (range)	5 - 9	6 – 15	4 - 12
Case numbers open per month (avg)	6.8	9.8	8
Cases carried over to next period	4 (to be carried over to future 18 month period)	5 (were carried over to 1.4.21 – 1.10.22)	12 (were carried over to 1.10.19 – 31.3.21)
Cases closed/resolved within 12 weeks	58%	41%	20%
Cases closed/resolved within 26 weeks	77%	53%	26.5%

Complaints by type



Misconduct includes:

- Misappropriation of funds (2 cases)
- Failure to maintain professional indemnity insurance (1 case)

“Other” is an allegation of acting in a conflict of interest

Update on notable cases

Burrows v IPReg (appeal against Disciplinary Board)

Following the dismissal of Mr Burrows’ appeal by the Independent Adjudicator, Mr Burrows was informed of his further right to appeal to the First Tier Tribunal (General Regulatory Chamber). Any appeal would have to have been filed by 27 October 2022. IPReg has not been notified of any appeal. Mr Burrows remains removed from the register. IPReg is pursuing the costs awarded following the hearing and unsuccessful appeal (£26,993.89).

Board Meeting 3 November 2022

Governance and Transparency

Agenda Item: 7

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk)

This paper is to note.

This covering Board paper will be published.

Annex A to this Board paper will be published.

Summary

1. This paper updates the Board on progress in implementing the Governance Action Plan. Annex A shows progress made to 26 October.

Recommendation(s)

2. The Board notes:
 - a. Progress implementing the Action Plan;
 - b. That a full approach to risk is likely to be delayed until after the discussion at the January 2023 strategy day. This strategy discussion was originally planned for November 2023 but was postponed due to industrial action on the rail network.

Risks and mitigations

	Risk	Mitigation
Financial	It is envisaged that there will be costs associated with the proposed work plan, for example for an external minute-taker.	Seek more than one quote.
Legal	[REDACTED]	[REDACTED]
Reputational	Boards which make decisions ineffectively, or in ways that lack transparency, expose their organisations to reputational risk.	This work should assist IPReg with assurance that it is not exposing itself to such risks.
Resources	This work is an addition to the current year's work plans. The main resource currently being expended on it is the CEO's time.	The need for external support may be sought if internal capacity requires it.

Background

3. At its July 2022 meeting, the Board adopted a Governance and Transparency Action Plan in response to the LSB's performance management framework assessment. This was published with the July Board papers.

Discussion

4. The Action Plan is on course. The first manifestation of this is the new look Board papers which are being used for the first time at this meeting. The minutes of this meeting will also follow the new Board paper format.
5. We have not managed to make any progress on finding a minute taker. This is being pursued by a member of the Team.

Next steps

6. The next report to the Board will be in December; this will include a draft publication policy.

Supporting information

Links to strategy and business plan

7. This work is not included in the current strategic objectives or 2021/22 business plan. However, the action plan that has been adopted will need to be incorporated in plans for future years, in keeping with recommended timelines.

Supporting the regulatory objectives and best regulatory practice

8. Good governance enables the Board to discharge its objectives effectively and transparently. Therefore any improvements to IPReg's governance should support the Board's ability to deliver the regulatory objectives in a manner which is open, transparent, and accountable.

Impacts

9. There are no specific impacts on any type of registrant or consumer.

Communication and engagement

10. We have kept the LSB updated on progress at our regular relationship management meetings.

Equality and diversity

11. There are no specific equality and diversity impacts.

Evidence/data and assumptions

12. Not applicable to this paper.

Priority 1 short term Actions: 0-6 months – complete by 14 January 2023

1. *Review the items considered at Board meetings to ensure agendas meet IPReg's current and future strategic and regulatory objectives.*

Rationale: This action is intended to support effective Board decision-making. Developing clarity and precision about what the Board wishes to consider at its meetings (both now and in future) will enable it to ensure its discussions are well-planned and that it receives the information it needs set strategy and scrutinise performance. Regular review of this nature also enables the Board to learn from its reflections about its own effectiveness. This action should support the delivery of LSB Well Led 1.

Suggested approaches: It is strongly suggested that future Board Agendas should include a quarterly review of organisational performance against the Strategic and/or Business Plan. It is also suggested that the Board considers including reports from the Chair and/or Chief Executive alongside regular reports from Chairs of Sub-Committees or Working Groups at each Board Meeting. Other regular reports could include learning from organisational complaints. It is also suggested that this review also consider the current break down between public and confidential Board Agenda items, as well as IPReg's overall approach to redaction, with a view to increasing transparency. Lastly, it is suggested that the Board develops a rolling Forward Plan of Agenda items. This will provide stakeholders with transparency about the Board's decision-making cycle. Board away, reflection time, horizon scanning, and strategy development could be included in this.

Suggested actions:

- a. Board agenda structure:
 - Standing items (each meeting) = apologies; conflicts; minutes; action log; Chair's report; CEO report; working group reports; red risks; finance report; Governance Action Plan implementation;
 - Quarterly reports = performance vs business plan; KPIs (when developed – currently LSB's performance management data set); research update report including horizon scanning; diversity – work in progress, updates from sponsored organisations;
 - 6-monthly reports = risk register; complaints about IPReg;
 - Policy items – non confidential = Review of regulatory arrangements progress;
 - Policy items – confidential = complaints (suggest that this is broken down into a publishable covering paper with numbers + confidential Annex with case details; LSB engagement;
- b. Board agenda to indicate whether a paper and related Annexes will be published. Also whether the paper is for decision/discussion or to note;
- c. Forward planning – standing items:
 - January: staff pay review; annual declaration of interests review;
 - March: IPReg Annual Report;

- July: auditor’s report and IPReg Limited accounts; business plan and practising fees;
- September: decision on business plan and practising fees;
- November: strategy day (preceded by Board only discussion).

d. CEO’s report to include:

- CIPA/CITMA CEOs meetings;
- Other external meetings;
- TBC

Planned actions

- Develop new Board agenda template
- Test with Team and amend as necessary

Action taken

Date	Action taken
August 2022	Structure drafted – see above
<u>September 2022</u>	<u>Further revisions to structure of agenda – to be trialled at November Board meeting</u>
<u>September 2022</u>	<u>Standing items identified and will be included in draft agendas for 2023 Board meetings</u>

2. *Review the template for Board Meeting papers to ensure that these meet IPReg’s current and future strategic and regulatory objectives.*

Rationale: This action is intended to support effective Board decision- making. Reviewing the structure and content of meeting papers will enable the Board to ensure it receives the information it needs to make effective decisions and hold the executive to account. Regular review of this nature also enables the Board to reflect on its own effectiveness. This action should support the delivery of LSB Well Led 1.

Suggested approaches: It is believed that all Board papers should clearly appraise different options, fully explore risks and mitigations, set out the relevant the evidence base and/or summarise relevant stakeholder feedback. Papers should also set out the background to recommendations including the process used to develop proposals so that any previous discussion and decisions affecting the item are understood. Other beneficial additions to the papers template might be details on communication plans, equality, diversity and inclusion considerations, and linkages to the strategic plan. [FG 4 August 2022 – also: (a) discussion of relevant regulatory objectives; (b) better regulation principles]

Planned actions

- a. Design new template;
- b. Discuss new template with Team and amend as necessary;
- c. Introduce new template at November Board meeting – amend as necessary following Board feedback;

Action taken

Date	Action taken
5 August 2022	New template drafted for discussion with IPReg Team
August 2022	Agreed that new template will be trialled at the November 2022 Board meeting

3. *Expand Board minutes to provide detailed reasoning for Board decisions.*

Rationale: This action is intended to support effective Board decision-making. More fulsome minutes will provide enhanced clarity about the board's decision-making process, better reflect its rationale underpinning such decisions and better demonstrate its effectiveness in holding the executive to account. This action should support the delivery of LSB Well Led 1.

Suggested approaches: It is suggested that minutes should outline options considered, capture issues raised during discussion, and provide more of the reasoning for decisions taken. It is suggested that this is best enabled by a modest expansion of the budget to fund a minute taker.

Planned actions

- a. Design new template for minutes – linked to structure of new Board paper template
- b. Explore professional minute takers – [Chartered Governance Institute](#) (CGI)
- c.

Action taken

Date	Action taken
August	Outline template for Board minutes drafted for discussion with IPReg Team
11 August	CGI public practice membership directory is being upgraded, not currently available. NB – website states “use the Public Practice tab to find members that provide independent governance services”.
August	Agreed that new approach to minutes will be trialled at the November Board meeting
2 September	Contacted CGI by web contact form
3 October	Response from CGI – try posting on their LinkedIn, Facebook and Twitter. KH investigating other options.

4. *Publish the Governance Action Plan with Board papers, and report on progress in subsequent Annual Reports and Board meetings*

Rationale: This action is intended to enhance organisational transparency. It should support the delivery of LSB Well Led 3.

Suggested approaches: none

Planned actions

- a. Publish Action Plan;
- b. Updates to September, November, December 2022 Board meetings;
- c. Updates to all 2023 Board meetings;
- d. 2023 Annual Report to include update (NB – Action Plan #17: 6-12 month priority: review the scope of the Annual Report, with a view to providing enhanced transparency about how IPReg operates);

Action taken

Date	Action taken
August	Governance Action Plan published with July Board papers
September	Update to Board meeting
November	Update to Board meeting

5. Publish a Publication Policy setting out what IPReg will publish or make available to the public

Rationale: this action is intended to enhance organisational transparency. It should support the delivery of LSB Well Led 3.

Suggested approaches: none

Action planned

- a. Review other regulators' publication policies;
- b. Draft IPReg's Board publication policy – to take into account new Board paper template and new approach to minutes. NB – policy on publication of disciplinary information is being developed separately as part of the Review of regulatory arrangements;

Action taken

NB - needs to go to the Board December 2022 for approval

Date	Action taken
<u>September 2022</u>	<u>Other regulators' policies reviewed</u>
<u>September 2022</u>	<u>Draft publication policy being developed based on ICO model policy</u>
<u>October 2022</u>	<u>Publication policy on schedule for December Board meeting</u>

Board Meeting 3 November 2022

Regulatory Performance Framework

Agenda Item: 8a

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk)

This paper is for decision/discussion.

This covering Board paper will be published.

Annexes A and B to this paper will be published. Annex C will not be published.

Summary

1. This paper sets out:
 - a. The LSB's 22 September response to our July performance assessment update;
 - b. The LSB's information request of 28 September and our draft response;
 - c. The timetable of 1 January 2023 for implementing the LSB's new regulatory performance framework which is due to be published w/e 28 October.

Recommendation(s)

2. The Board agrees to submit the response to the LSB's information request.

Risks and mitigations

	Risk	Mitigation
Financial	Our approach to building our evidence base has led to criticism from the LSB that we have not allocated sufficient priority to this area.	We have allocated £15k from reserves to fund research. We have contracted with Cut-Through Consulting (David Bish) to provide support on data and evidence gathering and analysis.
Legal		
Reputational	The LSB has criticised specific aspects of IPReg's work and has raised questions about the Board's approach to governance.	We have adopted and published a detailed Governance Action Plan. Progress on implantation is reviewed at each Board meeting.
Resources	Implementing the new regulatory performance framework is likely to take considerable resources since it is a significant change from the current framework. The fact that it takes effect from 1 January 2023 means that there is a risk that IPReg will take time to be compliant with it.	Consideration of approach to the new framework at the January strategy meeting.

Background

3. On 28 July we responded to the LSB with our update on progress on its regulatory performance framework assessment. On 22 September we received the LSB's response. This is at **Annex A**. There has been no change in the overall assessment levels and the LSB has identified the following actions (the timing for a response to be confirmed after our response to the LSB's new annual information request (see paragraph 4):
 - a. RA 3 – robust evidence base from a range of sources:
 - We note that IPReg still has data gaps to fill and that IPReg has plans to allocate further resource to data analysis in the future. In order for the LSB to assess outcome RA3 as met, IPReg will need to demonstrate that it has filled the gaps in its evidence base and has appropriate resource allocated to maintain a robust evidence base. It will also need to demonstrate application of its evidence base to inform its activities. Its forthcoming application to alter its regulatory arrangements will provide an opportunity to do this.
 - b. WL1: The Board/Council holds the executive to account for the regulator's performance:
 - We expect IPReg to provide an update on the progress against its Governance Action Plan. This should include ongoing evidence of discussion of the regulatory objectives and alternative policy options considered (where relevant) in future IPReg board papers, as well as any other information that should be available to the board's *[sic]* of well led regulators.
 - c. WL3: The regulator is transparent about its own decision making, etc:
 - We expect IPReg to provide an update on the progress against its Governance Action Plan. This should include examples taken from published material of enhanced transparency.
4. On 28 September the LSB issued an information request (with no advance notice) to all regulators requesting an update on their performance (**Annex B**). This includes:
 - a. [The LSB's] specific requests for information in relation to outcomes RA2 and E2 (see above);
 - b. How IPReg has taken account of the findings of the LSB's targeted review of the Faculty Office's performance against the Well-led standard and the actions IPReg has taken, particularly in respect of governance and consumer engagement. IPReg has already

provided detailed information in relation to the governance action plan in the July 2022 update. Please do not feel the need to repeat this information;

- c. An update on [IPReg's] work to implement the LSB's policy statement on consumer empowerment;
 - d. A short self-assessment covering key work that [IPReg has] undertaken in the past 12 months under the five current standards: Well-led, Regulatory Approach, Authorisation, Supervision and Enforcement.¹
5. The LSB has agreed an extension from 28 October to 4 November to enable the Board to consider the response.

Discussion

6. A draft response to the LSB's information request of 28 September is at **Annex C**. This sets out in detail the work that has been undertaken and the progress that IPReg has made on each aspect of the LSB's regulatory performance framework.
7. The LSB notified us on 27 October that it will be publishing the new regulatory performance framework soon. This will take effect from 1 January 2023.

Next steps

8. Subject to any changes the Board wishes to make, we will submit the response to the 28 September information request to the LSB on 4 November.
9. The Team will consider the implications of the new regulatory performance framework once it is published by the LSB.

Supporting information

Links to strategy and business plan

10. This paper considers the response to the LSB and so is not linked directly to IPReg's strategic priorities, although our overall approach to regulation is designed to encourage and support innovation.

¹ There are 26 Outcomes that sit below these five Standards. The LSB has clarified that: "it would only expect short form content summarising/reporting on what activities or work IPReg has carried out that is relevant to each standard over the last year – if you can flag the relevant outcomes under each of the standards it would be helpful. It would be perfectly understandable for there to be outcomes without relevant activity in the last 12 months. For IPReg, there will also be areas where information has already been provided through the in-year updates (Particularly in relation to the Well Led standard). We will ensure all that information is considered during our assessment – and you do not need to provide it in response to the information request."

Supporting the regulatory objectives and best regulatory practice

11. The LSB's regulatory performance framework was published in 2017 and states: The regulatory objectives were considered in the development of the standards. Efforts undertaken by the regulator to meet the standards are likely to promote achievement of the regulatory objectives.

Impacts

12. There do not appear to be any impacts on specific types of regulated persons.

Communication and engagement

13. Not directly relevant.

Equality and diversity

14. There are no specific equality and diversity issues.

Evidence/data and assumptions

15. There are no specific issues for this paper. We are in the process of building our evidence base and this will help to inform our approach to the new regulatory performance framework.

By email only

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22 September 2022

Dear Fran

Regulatory Performance – IPReg’s July 2022 Update

Thank you for providing an update on IPReg’s regulatory performance actions.

Having reviewed the detailed information provided, we are now able to provide the LSB’s updated assessment of IPReg’s performance (enclosed). I apologise for the delay in providing the updated assessment.

You will note that we are not proposing any material change to the LSB’s assessment of IPReg’s performance at this time, as there remain actions to implement and we will want to see evidence of the changes being applied in practice. However, the progress made against each of outcomes RA3, WL1, and WL3 is encouraging.

As we are not proposing to amend the ratings, we will not be publishing the updated assessment at this time. However, we will reflect the updated assessment in the annual regulatory performance assessment, which will be published.

You will note that the actions proposed are simply to update the LSB on the progress of IPReg’s existing plans in relation to Data, Governance and Transparency. We intend that this should not place any significant additional burden on IPReg - we would be happy for you to use information in the form that you have already provided to your Board when the time for providing updates arrives. We will confirm the timing for any updates when we publish the annual regulatory performance assessment.

We will be happy to discuss this updated assessment and the annual request for information (which will be sent to you under separate cover) at next week’s relationship management meeting.

Yours sincerely

Chris Nichols.

Chris Nichols
Director, Policy and Regulation

September 2022

REGULATORY APPROACH					AUTHORISATION					SUPERVISION				ENFORCEMENT						WELL-LED						
1	2	3	4	5	1	2	3	4	5	1	2	3	4	1	2	3	4	5	6	1	2	3	4	5	6	7

Overall

We assessed IPReg’s performance on outcomes RA3, WL1 and WL3 in March 2022, following the receipt of information we requested in our November 2021 assessment. We concluded that all three outcomes should be rated as not met – action being taken. The assessment noted an improvement in the assessment for RA3 and WL3, and a new unmet outcome for WL1.

We had previously confirmed that IPReg’s status for RA2 and E2 was unlikely to change until its review of regulatory arrangements was complete. As a result these outcomes are not being reassessed at this time.

We asked for an update to be provided to us in July 2022 and confirmed we would then take steps to reassess IPReg’s performance for RA3, WL1 and WL3.

We set an expectation for the update to:

- set out IPReg’s progress against its Data Working Group (DWG) forward work plan, including activities it has completed and any additional activities it has identified are necessary.
- set out any improvements to its governance and transparency arrangements it has or will implement following the Governance and Transparency Working Group (GTWG) report to the IPReg board.
- provide evidence of consideration of the regulatory objectives and alternative policy options considered in IPReg’s board papers and minutes.

IPReg’s update has provided us with evidence of positive progress against all three outcomes. Notably, the work completed by the GTWG has resulted in a plan that once implemented, should help to provide us with assurance of the Board’s oversight and IPReg’s transparency (WL1 & WL3). The progress against the DWG forward work plan (RA3) is also encouraging, with some gaps still to be filled.

We expect further updates from IPReg to demonstrate not only its gathering, but also its consistent use of data, as well as evidence of the effective implementation of its Governance Action Plan and the benefits of this being realised.

Not met: action being taken

Outcome		RA3: The regulator has a robust evidence base from a range of sources on: (a) consumers’ needs and use of legal services (b) new and emerging policy developments (c) the regulated community and (d) the market(s) regulated by it which informs its regulatory arrangements and approach.
Assessment (September 2022)	LSB assessment	Our assessment in March 2022 noted the positive progress of IPReg in producing a forward work plan from its DWG. We noted that IPReg was relying on data coming from stakeholders that may not be forthcoming, so it will be important that it has alternative means for collecting data, where necessary. We also noted that IPReg should be clear how it will use the data it now has to inform its regulatory approach,

		<p>including any proposed changes to its regulatory arrangements following the review that is underway.</p> <p>We set an expectation for IPReg to provide an update on activities completed or identified as part of its forward work plan. IPReg's update provided us with further positive progress of data obtained, including data relevant to its regulatory arrangements review.</p>
	Action needed	<p>We note that IPReg still has data gaps to fill and that IPReg has plans to allocate further resource to data analysis in the future. In order for the LSB to assess outcome RA3 as met, IPReg will need to demonstrate that it has filled the gaps in its evidence base and has appropriate resource allocated to maintain a robust evidence base. It will also need to demonstrate application of its evidence base to inform its activities. Its forthcoming application to alter its regulatory arrangements will provide an opportunity to do this.</p>
	Timing	<p>To be confirmed following annual regulatory performance assessment.</p>

Not met – action being taken

Outcome		WL1: The Board/Council holds the executive to account for the regulator's performance to ensure that it operates effectively and efficiently and in a way which is compatible with the regulatory objectives.
Assessment (September 2022)	LSB assessment	<p>In March 2022, we assessed IPReg as not met against outcome WL1. This reflected that we did not have assurance that the IPReg board holds the executive to account for its performance to ensure it operates efficiently, effectively and in pursuit of the regulatory objectives.</p> <p>We explained that from a review of public board papers and minutes, there is limited evidence of exploration of risks and opportunities to promote the regulatory objectives. We set an expectation for IPReg to ensure that its focus on the regulatory objectives and decision making in the public interest is evidenced in its board papers.</p> <p>The establishment of IPReg's GTWG was welcomed in our previous assessment. The recommendations of the GTWG are a further welcome step and we note the recommendations have been accepted and now form IPReg's Governance Action Plan.</p> <p>The update provided by IPReg also provided some recent examples of improvements in accountability to its Board. For</p>

		<p>example, its Board was provided with options to discuss for its practising fee proposals for the coming year.</p> <p>While the update has provided positive progress, we need to see IPReg implement and demonstrate the changes to its governance before we can assess it as meeting outcome WL1.</p>
	Action needed	<p>We expect IPReg to provide an update on the progress against its Governance Action Plan. This should include ongoing evidence of discussion of the regulatory objectives and alternative policy options considered (where relevant) in future IPReg board papers, as well as any other information that should be available to the board's of well led regulators.</p>
	Timing	<p>To be confirmed following annual regulatory performance assessment.</p>

Not met: action being taken

Outcome		<p>WL3: The regulator is transparent about its own:</p> <ul style="list-style-type: none"> • decision-making • regulatory approach • the risks it and its regulated community faces and how these are being mitigated • performance • regulated community and related markets • financial costs.
Assessment (September 2022)	LSB assessment	<p>In March 2022 we set an expectation for IPReg to provide an update on any changes to its governance arrangements it has or will implement following the GTWG's review. We also expected to see improved transparency from IPReg.</p> <p>The update provided by IPReg in July 2022 provided us with the recommendations of the GTWG along with some examples of greater transparency that have already been implemented. For example, it was encouraging to see the expanded information IPReg provided to stakeholders in its consultation on Practising Fees for the coming year and the additional transparency provided on IPReg's use of reserves.</p> <p>While the update has provided positive progress, we need to see IPReg implement and consistently demonstrate improvements in its transparency before we can assess it as meeting outcome WL3.</p> <p>We expect to see further examples of increased transparency evidenced through published material. We note recommendations linked to transparency from the GTWG expected to be implemented within six months include the expansion of Board minutes and the publication of a formal Publication Policy.</p>

	Action needed	We expect IPReg to provide an update on the progress against its Governance Action Plan. This should include examples taken from published material of enhanced transparency.
	Timing	To be confirmed following annual regulatory performance assessment.

By email only

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28 September 2022

Dear Fran

2022 Annual Regulatory Performance Assessment

As part of our ongoing monitoring of regulators' performance against the regulatory standards and outcomes, we will be conducting our annual performance assessment in November and December. This letter explains the process and timelines, which should reflect discussions at the regular relationship management meetings and sets out the information that we will require from IPReg.

This will be the last annual performance assessment under the current framework, as our new framework, which we are in the process of finalising following our consultation earlier this year, will be in place for 2023, subject to LSB Board approval.

Below we have set out the scope for this assessment, our specific requests for information and the next steps in the process.

Scope

Our annual assessment will consider:

- Progress towards meeting any outcomes currently graded as 'not met',
- General performance in relation to the regulatory performance standards and outcomes and any issues that have arisen since our 2021 annual assessment, and the interim assessments undertaken during the year.
- How regulators have taken account of the [findings of our targeted review](#) of the Faculty Office's performance against the Well-led standard, which we published in September 2021 (you will recall that we covered the BSB review in the 2021 assessment).

- How regulators have responded to the following issues and policy developments which have arisen during the past year:
 - sanctions and their enforcement; and
 - the LSB's statement of policy on consumer empowerment

Information request

In November 2021, we assessed IPReg as not meeting outcomes RA2, RA3, E2 and WL3. We updated our assessment in March 2022 and confirmed that we also considered outcome WL1 to be unmet. We have recently reviewed an update and consider the position to be improving but all outcomes remain unmet. For this year's assessment we request a report with responses to:

- Our specific requests for information in relation to outcomes RA2 and E2.
- How IPReg has taken account of the findings of the LSB's targeted review of the Faculty Office's performance against the Well-led standard and the actions IPReg has taken, particularly in respect of governance and consumer engagement. IPReg has already provided detailed information in relation to the governance action plan in the July 2022 update. Please do not feel the need to repeat this information.
- An update on your work to implement the LSB's policy statement on consumer empowerment.
- A short self-assessment covering key work that you have undertaken in the past 12 months under the five current standards: Well-led, Regulatory Approach, Authorisation, Supervision and Enforcement.

When preparing your response, in line with the Well-led standard and your Board's role in monitoring IPReg's performance, we would be happy for you to use information in the form that you have already provided to your Board, supplemented by any additional information needed to deal with our specific points.

Please provide us with your response to this information request by **28 October 2022**.

In addition to the information provided, our assessment of your performance will take account of information that the LSB has gathered since our last annual assessment in November 2021, including the information provided through interim performance assessments. This will include: our contacts with IPReg such as relationship management meetings, CEO and Board-level meetings; applications submitted to us for approval (including the Section 51 application which includes updates on IPReg's plans to review its compensation arrangements); any information that you may have provided since the last assessment round; and information from other sources including publicly available material.

The LSB's assessment

We recently consulted on the proposed new regulatory performance framework that we intend to implement from January 2023. As the 2022 annual assessment is expected to be the last assessment round under the existing framework, we stated our intention to adopt a hybrid approach to this year's assessment. In particular, we will assess regulators' performance against the current standards and outcomes, but we will present our assessment using the narrative format that we intend to use under the new framework.

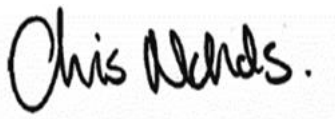
Subject to Board approval of the consultation response and the new performance framework, we intend to use the new rating system for grading performance against the existing standards in this year's assessment. The final version of the new rating system will be confirmed when we publish our response to the consultation and the new performance framework. Subject to Board approval, we intend to publish these following our October Board meeting

Next steps

We will consider IPReg's response alongside the information we have already gathered and update our assessment and action plan. In doing so, as we have in previous reviews, we will work with you to agree any new actions and milestones. We will ensure that you have time to fact-check our final assessment before publication in December.

If you have any questions about the assessment process or the requests for information set out in this letter and its annex, please either contact me or Steve Violet, your relationship manager.

Yours sincerely

A handwritten signature in black ink that reads "Chris Nichols." The signature is written in a cursive, slightly slanted style.

Chris Nichols
Director, Policy and Regulation

Annex: Information request for IPReg

Specific questions relating to outcomes

Outcome RA2:

Question: While we note that IPReg is yet to make its application to alter its regulatory arrangements, we consider it appropriate to consider outcome RA2 at this time. Please provide information setting out how IPReg has considered RA2 in completing its Regulatory Arrangements Review project.

Outcome E2:

Question: While we note that IPReg is yet to make its application to alter its regulatory arrangements, we consider it appropriate to consider outcome E2 at this time. Please provide information setting out what proposals IPReg is making to progress towards meeting outcome E2.

Consideration of LSB targeted review of the Faculty Office's performance against the Well-led Standard

Question: Please explain how you have taken account of the findings of the LSB's targeted review of the Faculty Office's performance against the Well-led standard, particularly in respect of governance and consumer engagement.

Consideration of LSB statement of policy on consumer empowerment

Question: Please describe your internal processes for ensuring that you take account of the LSB's policy statement on consumer empowerment and an update about your progress in doing so. Please provide an update on relevant work undertaken since you provided a gap analysis submission to the LSB in July 2022, including an indication of when you expect to meet all of the outcomes in the statement.

Additionally, we note that the gap analysis previously provided to the LSB mentions a 'transparency leaflet'. We would be grateful if your response could provide some additional information about this planned leaflet.

IPReg's self-assessment key work that it has undertaken in the past 12 months against the current standards

Well-led:

Regulatory Approach:

Authorisation:

Supervision:

Enforcement:

Board Meeting 3 November 2022

Speaking Up policy

Agenda Item: 9

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk)

This paper is for decision/discussion.

This covering Board paper will be published.

Annex A to this Board paper will not be published.

Summary

1. This paper sets out the background to the development of the Speaking Up policy (**Annex A**).¹ Speaking up is an approach that is used to address errors or failings in an organisation as well as an opportunity to make improvements in the way that we do things.

Recommendation(s)

2. The Board adopts the Speaking Up policy.

Risks and mitigations

	Risk	Mitigation
Financial	There are no specific finance issues.	N/A
Legal	████████████████████	████
Reputational	If matters of concern to the IPReg Team are not brought to the attention of Board members, this may result in damage to IPReg's reputation.	Having a Speaking Up policy in place should enable issues of concern to be identified and dealt with at an early stage before there is damage to IPReg's reputation.
Resources	There are no specific resource issues.	N/A

Background

3. At its meeting in November 2021, the Board considered a number of governance matters. In the context of whistleblowing, this included consideration of whether it would be appropriate to have two named Board members who can be approached in the first instance by any member of the Team about concerns that they had. The Board nominated Victor Olowe and Caroline Seddon as two Board members who the IPReg team can contact if they have any concerns about the way IPReg is being run or any other matters. The Board also asked for a procedure to be drawn up for how this process would operate in practice.

¹ The draft shows the tracked changes made following review by Board members.

Discussion

4. The policy was developed using resources at the [National Guardian framework](#) and a model policy from [Speak Up Direct](#) used in the health and social care sector.

Next steps

5. The CEO will draw the policy to the attention of IPReg Team members.

Supporting information

Links to strategy and business plan

6. The Speaking Up policy is an internal document and supports members of the IPReg Team.

Supporting the regulatory objectives and best regulatory practice

7. The Speaking Up policy is an internal document and supports members of the IPReg Team.

Impacts

8. There is no impact on consumers or registrants.

Communication and engagement

9. The CEO will draw the policy to the attention of members of the IPReg Team.

Equality and diversity

10. The Speaking Up policy is likely to support equality and diversity in that it provides direct access to Board members for members of the team who may not otherwise feel able to raise their concerns about equality or diversity issues.

Evidence/data and assumptions

11. Not applicable.

Board Meeting 3 November 2022

CEO report

Agenda Item: 10

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk [REDACTED])

This covering paper will be published subject to some redactions of commercially confidential information.

The Annexes to this paper will not be published.

Summary

1. This paper sets out the main issues to bring to the Board’s attention that are not subject to a full Board paper.

Recommendation(s)

2. The Board:
 - a. Discusses the CITMA public campaign Briefing Document (see paragraph 16 and **Annex A**);
 - b. Notes this paper.

Risks and mitigations

	Risk	Mitigation
Financial	No specific financial risks	N/A
Legal	[REDACTED]	[REDACTED]
Reputational	No specific reputational risks.	N/A
Resources	No specific resourcing risks	N/A

Background

3. This report sets out information about IPReg’s activities that are not covered elsewhere in today’s agenda.

Meetings held

4. The CEOs of IPReg, CIPA and CITMA met on 6 October and 26 October.
 - a. The meeting on 6 October included:
 - i. Update on IPReg’s 2023 practising fees application to the LSB;
 - ii. Sanctions - an update on each organisation’s activities and discussion about the [changes](#) that the Government had announced;

- iii. Regulatory performance framework – information request from the LSB to all legal regulators. LSB has informed the Approved Regulators that it will not be requesting information from them on IGR compliance. This is because the LSB does not intend to include Approved Regulators in its new assessment process. In addition, it is committed to carrying out an evaluation of the effectiveness of the internal governance rules and it considers that 2023 will be the time to do that as it will be three years from the end of the implementation transition period;
 - iv. IPReg Board recruitment – patent member update;
 - v. Review of regulatory arrangements – timescale for next steps.
- b. The meeting on 26 October included:
- i. 2023 fees – increases in IPReg fees and CIPA and CITMA membership fees;
 - ii. Sanctions – an update on each organisation’s activities. Concern was expressed about the lack of information from MoJ about changes to the sanctions framework that were [announced](#) in early October;
 - iii. IPReg Board recruitment – patent attorney member update;
 - iv. Review of regulatory arrangements – draft application submitted to the LSB and expectation of a response w/e 28 October;
 - v. LSB engagement including [plans](#) to review the reserved legal activities.
5. LSB – no specific matters to report.
6. Conferences/webinars attended by Team and Board members:
- a. 13 October – LSB conference – Reshaping Legal Services (SF/SE/VS)

Regulatory Performance

7. This is considered in a separate paper on the agenda for this Board meeting.

Horizon scanning and research

8. David Bish (see paragraph 9) has updated the analysis that he conducted using data from the LSB's small business survey to take into account the wider findings from its 2021 survey. This updated analysis will be presented to the December Board meeting and should provide a useful background to the discussions at the January strategy day. Attached at **Annex B** is a short market update.

Contracts (commercially confidential information about contracts will be redacted)

9. We have signed a contract (initially for 6 months [REDACTED]) with Cut-Through Consulting (David Bish) for one day a month to provide:
 - a. An update each month (to be included in the CEO's usual report to Board) covering market developments, potential areas of interest for future IPReg work, and guidance on any ongoing work;
 - b. Ongoing advice on IPReg projects – including providing backing data/research where possible, along with general advice from an economic/research perspective;
 - c. Guidance when responding to regulatory questions pertaining to research/data from the LSB or other applicable parties;
 - d. Input/guidance on future research papers/reports to IPReg's Board. An update each month (to be included in the CEO's usual report to Board) covering market developments, potential areas of interest for future IPReg work, and guidance on any ongoing work;
 - e. Ongoing advice on IPReg projects – including providing backing data/research where possible, along with general advice from an economic/research perspective;
 - f. Guidance when responding to regulatory questions pertaining to research/data from the LSB or other applicable parties;
 - g. Input/guidance on future research papers/reports to IPReg's Board.
10. We have commissioned John Birkenhead to conduct a 1-year review of the compensation fund. This will be presented to the December 2022 Board meeting. [REDACTED]
11. We have contracted with Equantiis [REDACTED] to advise on the redevelopment of the website. Equantiis (as Purple) worked with us on developing the new CRM and the interface with the Drupal website. Equantiis will:

- a. Work with MillerTech to detail and qualify the implications and effort required to undertake their suggested action to move from Drupal 7 to Drupal 9;
- b. Conduct an early-market engagement to qualify options with alternative suppliers and CMS solutions; and
- c. Detail findings in a report and make recommendations for IPReg to consider.

Other matters

Economic Crime and Corporate Transparency Bill

12. On 22 September, the Government published the Economic Crime and Corporate Transparency Bill. It contains a measure creating a new regulatory objective for regulators to promote the prevention and detection of economic crime as well as a measure to remove the statutory cap on the Solicitors Regulation Authority's fining powers for economic crime-related misconduct. As currently drafted, clause 155 of the Bill inserts a new regulatory objective into LSA s1: "promoting the prevention and detection of economic crime".

Relevant links are:

The Bill and Explanatory Notes: <https://publications.parliament.uk/pa/bills/cbill/58-03/0154/220154.pdf> and <https://publications.parliament.uk/pa/bills/cbill/58-03/0154/en/220154en.pdf>

The main Bill page: <https://bills.parliament.uk/bills/3339>

Home Office comms: [New crackdown on fraud and money laundering to protect UK economy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/new-crackdown-on-fraud-and-money-laundering-to-protect-uk-economy)

The proposal for a new regulatory objective has already been opposed by the [Bar Council](#).

MoJ Ministers

13. [Mike Freer](#), a former management consultant and banker, has been given/retained the legal services market brief. He was previously minister for exports and minister for equalities. He is also responsible for judicial review, coroners and international matters.

Law Tech update

14. Justin Bukspan and I had a meeting with [REDACTED] and Tech Nation on 12 October as part of its [regulatory pathfinding programme](#). I also attended the LawTech Regulatory Response Unit meeting on 27 October where we were thanked for our participation with [REDACTED]. This meeting discussed the importance of regulators focusing on the outcomes from implementing LawTech and being agnostic to the actual technology being used. It also noted the importance of getting

across the message that AI is a tool to help people do their job better, not something that does your job for you.

15. There is a "[Shaping the Future of Lawtech](#)" event on 8 November; it is also being streamed live.

Regulators' Pioneer Fund

16. Due to a change in arrangements between the Cost Lawyers Standards Board (CLSB) and its contractor, it has not been possible to progress any application to this fund. However, the CLSB CEO and I discussed whether there were potential opportunities for collaboration in future on issues such as diversity (once our new Education and Diversity Officer is in post and perhaps in relation to social mobility) or PII (which although interesting is likely to require expensive external support).

CITMA public campaign Briefing Document

17. On 12 October CITMA launched a public campaign (**Annex A**) which proposes "A British solution" so that in future, in order to represent someone other than yourself at the UK IPO you must:
- a. Be appropriately regulated with suitable insurance; and
 - b. Be an appropriately qualified professional with knowledge of the UK system.

CITMA considers that this would help to drive up standards in the sector, ensure that the UK reinforces its position as the world's leading centre to trade mark protection and registration and help deliver growth.

18. CITMA would like to discuss with IPReg how we might be able to support the campaign.

Board Meeting 3 November 2022

Finance Update

Agenda Item: 11

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk [REDACTED]) and Karen Duxbury (karen.duxbury@ipreg.org.uk)

This paper is to note.

This covering Board paper will be published with the projected income and expenditure redacted.

Annex A to this Board paper will not be published in full, but a version of it will be put on the website.

Summary

1. This paper stands as an update on the financial position as at 30 September 2022 and also considers the projected position at 31 December 2022.

Recommendation(s)

2. The Board agrees:
 - a. To note this paper
 - b. Approve the Annex to be published on the website excluding variances, projection figures and notes (marked "BOARD ONLY").

Risks and mitigations

	Risk	Mitigation
Financial	The Actual v Budget comparison for the nine months ended 30 September 2022 are draft and unaudited.	The comparison confirms that the figures are prepared for management information purposes and are unaudited.
Legal	[REDACTED]	[REDACTED]
Reputational	The publication of these reports and the undertaking of an audit ensures	N/A

	that IPReg’s commitment to transparency is clearly identifiable.	
Resources	The Chief Finance Officer will continue to deal with financial matters.	N/A

Background

- 3.1 Annex A shows the comparison for the 9 months ended 30 September, as well as a projection to the end of the year against the budget with supporting notes.
- 3.2 The format adopts the revision requested by the Board to include variances to facilitate the comparisons.
- 3.3 The results for the nine months show an increase of the operating surplus to the budget figure for the same period, due to income from practice fees being higher than anticipated and the inclusion of other income (which we do not budget for).
- 3.4 The projection shows an operating deficit of £51.4k compared to the budgeted operating deficit of £8.6k, an increase of £42.8k.
- Projected Income – income from practice fees for the year is anticipated to be £20k higher than budgeted and other income (not budgeted for) is projected to be £50.6k. The other income projection is made up of licensed body application fees, late payment penalty fees, role holder registrations for which no further estimation has been made other than the fees already known; the Education/Accreditation Queen Mary recharge; bank interest and a cost award of approximately £27k following the expiration of the time allowed for an appeal to First Tier Tribunal to be lodged.
 - Projected Expenditure – increase of £113.3k over budget. The significant increases are:
 - Replacement of Board Members – increase of £15.8k largely due to the increase in recruitment costs than had been originally provided for. Note this budget line is also supported by a Reserve of £10k;
 - Conduct & Disciplinary incl. Assurance & Litigation – an increase of £64.6k from budget. This is made up of an increase of external legal costs and hearing costs (£44.2k) which includes estimates for cases to the end of the year, but these may be delayed due to a number of factors and the costs may be deferred to next year; and an increase of £20.4k in the recruitment/training costs of the disciplinary panel largely due to the increase in recruitment costs approved by Board;

- General Administration Expenses – increase of £26.4k which is largely the provision against the recoverability of the cost award (included in other income);
- Staff Costs - £29k which included the increase in salaries of 2.5% from budget and the increased costs for recruitment due to the restructure as agreed by the Board in March.

These are offset by two significant decreases against budget:

- IT Support - £15.3k – the budget anticipated expenditure to enhance the CRM following the implementation of the new regulatory review arrangements which is now anticipated to be incurred for implementation in 2024;
- Legal & Professional - £19.7k – mainly due to estimated costs in respect of the Review of Regulatory arrangements being less than budgeted.

Discussion

4. The Board should note the information in the paper.

Next steps

5. To publish the Actual v Budget comparison for 9 months ended 30 September 2022 on the website amended as set out in paragraph 2(b); this is our normal practice.

Supporting information

Links to strategy and business plan

6. N/A

Supporting the regulatory objectives and best regulatory practice

7. N/A

Impacts

8. N/A

Communication and engagement

9. N/A

Equality and diversity

10. N/A

Evidence/data and assumptions

11. N/A

IPReg Board Meeting Actions Log - New and Outstanding Actions

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
September 2022 Board Meeting					
Sep-22	2023 Business Plan and Practising Fees	Update and submit draft application	FG	Completed	
Sep-22	2023 Business Plan and Practising Fees	Consider LSB feedback and agree final application	FG/Chair	Completed	
Sep-22	Review of Regulatory Arrangements – Rule Change Application	Amend and submit draft application to Kingsley Napley for review	FG/SE/EL	Completed	Draft sent to KN 15.9.22
Sep-22	Review of Regulatory Arrangements – Rule Change Application	Submit a draft application to the LSB (following review by Kingsley Napley)	FG/SE/EL	Completed	Draft submitted and finalised. Draft application submitted to LSB 31.10.22
Sep-22	Progress on Governance Action Plan Implementation	Review the process for reporting complaints to the Board	SE	Ongoing	
Sep-22	Board Recruitment Update	Notify Thewlis Graham of interview panel membership	FG	Completed	
Sep-22	LSB Engagement – Sanctions	Email registrants	FG	Completed	

IPReg Board Meeting Actions Log - New and Outstanding Actions

July 2022 Board Meeting					
Jul-22	Financial Statements (IPReg Ltd), Directors Report and Letter of Representation	Update financial procedures	KD	Ongoing	
Jul-22	Education Working Group Update	Arrange a meeting with QMUL senior staff	VS		
Jul-22	Governance and Transparency Working Group – Report on findings and recommendations	Take forward Action Plan including regular updates to Board Meetings	FG	Ongoing	
Jul-22	Risk Register	Review risk wording	FG		
May 2022 Board Meeting					
May-22	Complaints Update	Review disciplinary webpage information to provide information about the ability of the JDP to make a costs order	SE/MB	Completed	https://ipreg.org.uk/if-things-go-wrong/disciplinary-procedure
January 2022 Board Meeting					
Jan-22	Annual Renewal Process Update	Review annual return information categories similar to PAMIA questions	SE	Ongoing	Any changes will be put in place for 2023 renewal year
November 2021 Board Meeting					
Nov-21	Governance Matters	FG to develop an Escalation Policy/Procedure (similar to “Speak Up Guardian”) and share with Team and Board	FG	Completed	Paper to November 2022 Board

IPReg Board Meeting Actions Log - New and Outstanding Actions

Nov-21	Governance Matters	Governance documents to be reviewed in 2 years' time	FG	Open – Nov-23	
July 2021 Board Meeting					
Jul-21	Compensation Arrangements	Develop risk profile	FG/SE/MB	Ongoing	Auditor to update risk profile as part of one year review of compensation fund (Autumn 2022)
May 2021 Board Meeting					
May-21	Diversity - next steps - workshop feedback	Implement the diversity initiatives	FG	Ongoing	
May-21	Diversity - Inclusive Language	Adopt and publish Inclusive Language Policy	FG	Ongoing	
July 2020 Board Meeting					
Jul-20	Risk registers	Discuss how cyber risks should be added to the risk register and arrange for IPReg to undertake the Cyber Essentials programme.	IPReg team and SF	Ongoing	
January 2020 Board Meeting					
Oct-19	LSB CEO Meeting	Invite Matthew Hill to Board meeting	FG	Open	Date TBC

November 2022 Board – Item 14a

Data Group forward work plan – updated information tracked changes (v5 November 2022)

This document sets out the current work plan of the IPReg Data Group taking into account priorities in relation to our Review of Regulatory Arrangements and the work required for future arrangements for the Compensation Fund. It will be kept under review as this work progresses.

Dates and content are therefore subject to change, based on the judgement of the IPReg Board taking account of advice from the Data Group.

Updates for the November-2022 Board are shown as tracked changes.

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
Review of regulatory arrangements – data/evidence gathering					
Potential risk indicators: dishonesty with client money <ul style="list-style-type: none"> - Is client money held - If yes: <ul style="list-style-type: none"> o (see above point about the date of the info provided) balance o Reported to IPReg (annually)/real time 	Review of regulatory arrangements	Firms	Relates to Standard 4: client money. Identify how much client money is held by different types of firm. Typical amounts are thought to be low, no conveyancing or probate conducted.	Review of regulatory arrangements – request made as part of consultation (December 2021) about information on amount of client money held. Consultation closes in March 2022 - review information provided in response and consider	Internal workshop held on 23/2/22 identified additional data and evidence that we have about client money. EL updating information as part of Review work.

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
<ul style="list-style-type: none"> ○ Ever exceeded per firm insurance limits ○ If yes, notified to IPReg in advance? 			<p>Also need to test the impact of the proposed definition change.</p> <p>Consumer protection Professional principles</p>	<p>whether further information is required. Q1/Q2 2022.</p>	<p>Initial analysis is that the consultation has provided sufficient information on amount of client money held. Consistent with other evidence, these are generally low amounts which will decrease if definition of client money is changed as proposed.</p>
<p>Potential risk indicators – for each regulated firm:</p> <ul style="list-style-type: none"> - Number of issues in regulatory returns - CPD records/compliance - Disciplinary records/compliance - complaints history (seriousness, upheld/ not upheld) - PII claims history (nil/good/bad) - 	<p>Review of regulatory arrangements</p> <p>Building a risk model (compensation fund)</p>	<p>IPReg Companies House</p>	<p>Relates to standard 2: competence</p> <p>Identify any systemic issues with CPD requirements; understand reasons for wavier requests/grants</p> <p>Also need to build evidence around risk profile of IPReg regulated market as part of wider context of the Review.</p>	<p>Review of regulatory arrangements – CPD and disciplinary records on Civi – Q1/Q2 2022</p>	<p>Internal workshop held on 23/2/22 identified additional data and evidence that we have about client money. EL and SE (Civi reports on waivers) updating information as part of Review work.</p> <p>Detailed analysis of CPD waiver requests complete. Feeds into impact assessment for Review and informs policy on CPD.</p>

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
			Consumer protection Diverse profession Professional principles		
<p>Review of regulatory arrangements data:</p> <p>(a) Disciplinary policy and process: arrangements used by other regulators, for example in the legal and health sectors (including any EDI impacts);</p> <p>(b) CPD: (i) review of the reasons for waiver requests; (ii) extent of compliance with existing requirements; (iii) EDI impacts of a change in approach drawing from experience of other regulators; (iv) how others have developed approaches that go beyond a “box-ticking” metric;</p>	<p>Letter to LSB 22 July 2021</p>	<p>IPReg Firms</p>	<p>This data will support other aspects of the Review – see individual CPD and client money sections of this document.</p> <p>In addition, appropriate disciplinary and enforcement policies help to uphold the professional principles and the rule of law. Information about non-UK qualified attorneys supports competition and diversity.</p>	<p>(a) Complete</p> <p>(b) (i) Review of reasons for waiver request – Q1 2022; (ii) Extent of compliance with current requirements – Q1 2022; (iii) EDI – included in IA – consultation underway, closes March 2022; (iv) complete – as part of review of regulatory arrangements</p>	<p>(a) Complete</p> <p>(b) (i) complete; (ii) Extent of compliance with current requirements – Q1 2022 – compliance monitored at Annual Return, no disciplinary cases on CPD; (iii) EDI – included in IA – consultation underway, closes March 2022 – responses being</p>

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
<p>(c) Practice categories: modelling fees once categories have been decided;</p> <p>(d) General: (i) split between in-house, private practice, not practising (with reasons); (ii) diversity information; (iii) UK qualified attorneys practising overseas; (iv) IPO data; (v) LSB research into small businesses (including the extent, timing and cost of any follow up questions).</p>				<p>(c) Practice categories – not before [2024]</p> <p>(d) (i) Civi - Q2 2022; (ii) diversity survey complete; (iii) Civi – Q2 2022; (iv) Q1 – see below (Clarivate); (v) LSB research delayed</p>	<p>analysed, initial report to May Board; updated IA to July Board following review by external expert; (iv) complete – as part of review of regulatory arrangements</p> <p>(c) – not before 2024</p> <p>(d) (i) Civi - Q2 2022 – in progress – expected beginning August; (ii) diversity survey complete; (iii) Civi – Q2 2022 – in progress - expected beginning August; (iv) Q1 – see below (Clarivate); (v) LSB data on small businesses received on 7 January. Initial analysis by VS and Economic Insight undertaken. Further</p>

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
					<p>analysis by David Bish (ex-SRA research team) being undertaken for report to March Board.</p> <p>March Board considered the analysis. We will consider what further analysis could be useful given the small sample size and the likely cost of any additional analysis such as a qualitative survey.</p> <p><u>Updated report to be considered at the December 2022 meeting.</u></p>
Market(s) data – use of IP by individual consumers	Letter to LSB 22 July 2021	Firms/IPO	This section is about general market data.	Review of regulatory arrangements – request made as part of consultation (December 2021) about information on types of client. Consultation closes in March 2022 - review information provided	<p>In addition to consultation responses, initial findings are:</p> <ul style="list-style-type: none"> •Emerging data from larger firms (via IPPDG) that more than 50% of turnover

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
				<p>in response and consider whether further information is required.</p> <p>Engagement with consumer bodies as part of the Review consultation.</p> <p>Any inferences that can be drawn from the small business survey.</p>	<p>comes from 5% of clients</p> <ul style="list-style-type: none"> •LSB small business survey – only 25 of over 10,000 firms interviewed reported having an IP issue and using an IP lawyer •IP services in pro bono clinics may provide additional source of information – considering which are most appropriate to contact – maybe education establishments first <p>Respondents to the Review consultation provided information about their client base. Initial analysis is that the consultation has provided sufficient information for current purposes. Consistent with other evidence, firms do not generally</p>

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					provide advice to individual consumers.
Market(s) data – use of IP by micro/small businesses	Discussions with LSB on compensation fund (October 2021)	Firms/IPO/LSB survey	This section is about general market data.	<p>Review of regulatory arrangements – request made as part of consultation (December 2021) about information on types of client. Consultation closes in March 2022 - review information provided in response and consider whether further information is required.</p> <p>LSB small business legal needs survey – data received 7 January (25 firms out of 10k+ in survey)– analysis required</p> <p>Q1/Q2 2022</p>	<p>See above update on individual consumers – update as for individual consumers – note that firms do not categorise clients using regulatory/government definitions. Further consideration being given to this issue.</p> <p>See update above on LSB small business survey</p>
PII including run off cover: disciplinary action by type of attorney/firm	IPReg discussions	IPReg PAMIA	<p>Relates to standard 3: managing your practice</p> <p>Identifies whether there are particular</p>	Q2 - 2022	<p>Q2 – 2022</p> <p>Analysis of IPReg disciplinary cases shows that it is very small firms and sole</p>

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
			<p>types of attorney/firm who breach PII and run off cover rules</p> <p>Consumer protection Professional principles</p>		traders who breach the requirement for PII and run-off cover.
General data/evidence gathering					
<p>Diversity data</p> <ul style="list-style-type: none"> - Consider timing of future surveys each year - Liaise with CIPA, CITMA and IP Inclusive on best way to gather data across regulated sector - Consider gathering data on admission to register (Civi CRM system change required) - Any notable minority advocacy organisations that are clients of the firm? 	Letter to LSB 22 July 2021	IPReg CIPA CITMA IP Inclusive Firms / key minority advocacy organisations that are clients.	<p>This section is about general market data.</p> <p>Diverse profession Competition</p>	<p>Discussions with stakeholders to take place in Q1 and Q2 2022</p> <p>Civi changes if implemented – likely to be for 2023 annual renewals at earliest</p>	<p>Discussed with CIPA and CITMA CEOs on 23 February 2022. Support for cross-sector working. IPReg to arrange initial discussions with CIPA, CITMA, IP Inclusive. FG to action this</p> <p>Meeting with CIPA, CITMA, IP Inclusive and the IP Federation being arranged.</p>

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Market(s) data – patents: - Nature (? – not just their number?) of patent filings at the IPO	Letter to LSB 22 July 2021	IPO (needs external analysis – e.g. Clarivate)	This section is about general market data.	Complete	
Market(s) data – trade marks - Nature (? – not just their number?) of trade mark filings at the IPO	Letter to LSB 22 July 2021	IPO (needs external analysis – e.g. Clarivate)	This section is about general market data.	Q1 2022	July 2022 - we have contacted the IPO to ask for information that may help us establish the numbers/proportion of represented vs unrepresented trade mark applicants, and the number of applicants that were incorporated organisations vs those that were not (so most likely to be real persons), for the past 5 years. Data should be available for analysis towards the end of July.
Competence	IPReg discussions	IPO reports to IPReg re individual attorneys	Relates to standard 2: competence Identify any individual issues with competence	Ongoing	

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
		Ombudsman complaints	Consumer protection Diverse profession Professional principles		
Compensation fund – data/evidence gathering in addition to above					
<u>General Firm information – for each regulated firm:</u> <ul style="list-style-type: none"> - Is firm active - No years authorised/year established - Practice area (patents, trade marks, both) - Typical turnover, last few years (to nearest £250k) - Typical turnover/fee earner - Total no. clients - Years since last compliance visit - Previous compliance rating 	Building a risk model (compensation fund)	Mainly from firms CITMA website Companies House website	These sections to be completed as part of the preparations for data gathering in 2023 and in the light of outcomes from the Review process and the LSB rule change application process. These preparations are likely to include advice from actuary as to what data is still required to	Review of compensation fund – sunset clause to 30 April 2024. Review to take place in 2023. Data gathering to take place during 2023.	<u>Report on compensation fund one year – separate paper on December 2022 agenda.</u>

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
<ul style="list-style-type: none"> - No. partners/fee-earning staff / non-fee-earning staff - Any unusual firm features (merged, transferred to another regulator, no longer authorised) - Non-UK offices belonging to the firm / towards which the firm has financial commitments (and provide their turnover figures) 			<p>enhance our risk model. Planned information gathering may therefore be subject to change at that point.</p>		
Annual PII premium (total for all registrants)	Building a risk model (compensation fund)	PAMIA		Data gathering to take place during 2023.	
<p>Potential risk indicators: failure to place PII</p> <ul style="list-style-type: none"> - Ever failed to place PII - If so: <ul style="list-style-type: none"> o How long PII not held o How much should have been placed o Was this one-off - Any known PII issues which would make failure to place more likely in future (unusual business, 	Building a risk model (compensation fund)	Firms PAMIA IPReg		<p>Review of compensation fund – sunset clause to 30 April 2024. Review to take place in 2023.</p> <p>Data gathering to take place during 2023</p>	

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
past problems, non-standard insurer)					
Potential risk mitigations: <ul style="list-style-type: none"> - Firm resources/net assets available (measure of recoverability of civil actions) - D&B (DUNS) credit ratings - Any high (or low) profile clients (high/low propensity/ability to claim and pursue options before claiming; clients on in eligible categories) 	Building a risk model (compensation fund)	Firms Internet checks (D&B) – to include Companies' House		Review of compensation fund – sunset clause to 30 April 2024. Review to take place in 2023. Data gathering to take place during 2023	
Market(s) data – use of IP by larger firms (NB to ask LSB for its working definition of “SME”)	Discussions with LSB on compensation fund (October 2021)	Firms/IPO		Review of compensation fund – sunset clause to 30 April 2024. Review to take place in 2023. Data gathering to take place during 2023.	
Potential risk indicators: dishonesty with client money <ul style="list-style-type: none"> - Is client money held - If yes: <ul style="list-style-type: none"> o (see above point about the date of 	Building a risk model (compensation fund)	Firms		Review of compensation fund – sunset clause to 30 April 2024. Review to take place in 2023. Data gathering for any additional information following	IPReg May Board meeting agreed that no additional data is required at the moment. The proposed regulatory

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
<p>the info provided) balance</p> <ul style="list-style-type: none"> ○ Reported to IPReg (annually)/real time ○ Ever exceeded per firm insurance limits ○ If yes, notified to IPReg in advance? 				Review data gathering exercise in 2022	arrangements require firms to notify us whether or not they are holding client money. We expect to satisfy this requirement by asking for this information through the annual return. This will provide a value source of information in the future and will feed into the risk model for the work on our compensation fund.
<p><u>Potential risk indicators – for each regulated firm:</u></p> <ul style="list-style-type: none"> - Number of issues in regulatory returns - CPD records/compliance - Disciplinary records/compliance - complaints history (seriousness, upheld/ not upheld) - PII claims history (nil/good/bad) 	<p>Review of regulatory arrangements</p> <p>Building a risk model (compensation fund)</p>	IPReg Companies House		Review of compensation fund – sunset clause to 30 April 2024. Review to take place in 2023. Data gathering for any additional information following Review data gathering exercise in 2022	We will obtain further actuarial advice on the evidence needed to support the compensation fund review.

Data required	Origin of request	Data sources	Rationale/regulatory objectives	Priority/timescale/comments	Progress updates
<ul style="list-style-type: none"> - Previous interventions/insolvencies for partners/staff - Any other relevant firm features (can't get PII, late paying fees, other information, other comp. fund claims) - Any partners that are not regulated by IPReg or the SRA? 					

NB - we need to make it explicit to registrant respondents that all data provided by them is as of the day (or week) when their response is due, except when accounting / auditing standards require otherwise.

Note that for building the risk model, this is the ideal amount of data that the actuary would like. In reality he recognises that it may not be proportionate (or necessary) to collect it all and it may not be available in any event.

The consultation on the Review of regulatory arrangements is an opportunity for us to build our evidence base as well as identify any gaps and as a result the plan is subject to change.