

IPReg Publications guidance

Who is this guidance for?

1. Those IPReg regulates, members of the public and other stakeholders.

Purpose of this guidance

2. IPReg wants to ensure that it carries out its regulatory functions in a fair and transparent way. This guidance sets out what information and in what circumstances IPReg publishes information about the investigation and discipline of regulated persons, including any enforcement action it may take.

General principles

3. In establishing this policy, IPReg has had regard to its obligations in relation to the regulatory objectives set out in section 1 of the Legal Services Act 2007. By publishing information about disciplinary action taken against regulated persons, IPReg considers that it engages the following regulatory objectives:
 - Protecting and promoting the public interest by demonstrating that regulated persons who breach any of IPReg's regulatory arrangements are appropriately investigated and taken through a fair and transparent disciplinary process
 - Supporting the constitutional principle of the rule of law in that justice must be done and be seen to be done in accordance with the principles of natural justice
 - Protecting and promoting the interests of consumers by making available disciplinary outcomes information about regulated persons which consumers of legal services can take into account when making a choice about their legal services provider
 - Promoting competition in the provision of legal services by making disciplinary outcomes information available to consumers who are making choices about their legal services provider
 - Encouraging an independent, strong, diverse and effective legal profession by creating a deterrent to poor practice or professional misconduct and sharing learning and information that might come out of individual cases
 - Increasing public understanding of the citizen's legal rights and duties by being clear about what may amount to poor practice or professional misconduct and how IPReg may be able to investigate and remedy such practice or misconduct
 - Promoting and maintaining adherence to the professional principles by creating a deterrent to poor practice or professional misconduct.

Investigations into breaches of regulatory arrangements

4. When IPReg receives a complaint that a regulated person may have breached one of IPReg's regulatory arrangements, IPReg will treat such complaints as confidential whilst it undertakes any preliminary investigations.
5. In accordance with its Investigation and Disciplinary Requirements SOP [link] and Investigation and Enforcement Guidance, IPReg may or may not at this preliminary stage disclose to the regulated person in question the fact that a complaint has been made .
6. Should IPReg receive any queries about whether it has received a complaint about or is investigating a regulated person, IPReg will usually decline to comment. However, if it is in the public interest to confirm a complaint has been received or an investigation is underway, IPReg may provide a brief confirmatory statement. In making such a decision, IPReg will bear in mind that matters are at a very early stage in any investigation and disciplinary process and that publication and ventilation of unproven complaints may seriously prejudice the rights of a regulated person.

Interim orders

7. Where an interim order has been imposed by the Interim Orders Tribunal, notice that an interim order is in place will be published immediately on IPReg's website and against the name of the regulated person on the register. Such publication will include the nature of the interim order (for example, suspension from practice, conditions on practice) and the date the interim order is to be reviewed. Details about the alleged misconduct will not be published. Notice of the interim order will remain published until the interim order is revoked.

Case Examiners

8. Notice that a case against a regulated person has been referred to the Case Examiners will not be published and any meeting between the Case Examiners will be conducted in private.
9. Where the Case Examiners and the regulated person have agreed to resolve the complaint by consensual disposal, the decision of the Case Examiners which will include its outcome will be published on IPReg's website and where applicable against the name of the regulated person on the register.

Publication of upcoming hearings

10. In accordance with the Investigation and Disciplinary Requirements SOP, a disciplinary hearing will usually be conducted on the papers but upon application by either party, an oral hearing may be held.

11. Notice that a disciplinary hearing has been scheduled, whether on the papers or orally, will be published on IPReg’s website 5 working days before the first day of the scheduled hearing. Members of the public or press may attend any oral hearing. Where the oral hearing is scheduled to take place remotely via tele-conference, the Notice of Hearing will advise how access to the hearing may be gained.

Findings of the Disciplinary Tribunal

12. Where there has been any adverse finding against a regulated person, the decision in relation to that finding will be published on IPReg’s website and where applicable against the name of the regulated person on the register.
13. The record of any such adverse finding will be published upon the expiration of any appeal period. Adverse findings will not be published pending the outcome of any appeal.
14. Where the decision of the Disciplinary Tribunal has been to disqualify someone from being an employee, manager or approved role holder of a regulated person, IPReg shall notify the Legal Services Board who may also publish this information on its website.

Publication of appeal hearings

15. Notice that a regulated person has filed an appeal against a finding of the Interim Orders Tribunal will be published on IPReg’s website and where applicable against the name of the regulated person on the register.
16. Where any decision has been the subject of an unsuccessful appeal, the decision of the Independent Adjudicator and, where applicable, the First Tier Tribunal will be published on IPReg’s website and where applicable against the name of the regulated person on the register.

Time limits for publication

17. The following table sets out indicative time limits for the publication of notices in relation to disciplinary and enforcement action. Where the publication was on IPReg’s website and where applicable against the name of the regulated person on the register, the time limit applies to both.

| Notification of decision | Duration of publication |
|---------------------------------|--|
| Interim order | Until the interim order is revoked |
| Warning | Up to 2 years (as specified by the decision maker) |
| Reprimand | Up to 5 years (as specified by the decision maker) |

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| Undertakings | 5 years |
| Financial penalty | 5 years |
| Suspension of registration | For the duration of the suspension or as specified by the decision maker |
| Suspension of authorisation / from holding a litigation certificate | Up to 5 years (as specified by the Disciplinary Tribunal) |
| Conditions on practice | For the period of time the conditions will be in place or as specified by the Disciplinary Tribunal |
| Revocation of a litigation certificate | For the duration of the regulated person's registration with IPReg |
| Disqualification | For the duration of the disqualification order |
| Removal from the register | 5 years |

Applications for removal of publication

18. There is no right to appeal any decision made by IPReg to publish disciplinary or enforcement action.

19. In exceptional circumstances, IPReg may consider that it is not in the public interest to publish information about disciplinary or enforcement action, or to name the regulated person in question. IPReg may make these decisions on its own volition or upon application by the regulated person or otherwise on their behalf and in all cases IPReg will need to balance the interests of the public in an open and transparent disciplinary process.

20. "Exceptional circumstances" may include:
 - Where publication would put the mental or physical health of the regulated person at considerable risk. Persuasive medical evidence would need to be provided in support of any application
 - Where the regulated person has died or has become incapacitated. Evidence would need to be provided in support of any application
 - Where publication would disclose confidential information of a sensitive nature in relation to the regulated person, complainant or any other person and where suitable redaction would be insufficient to mitigate the risk of

such disclosure or otherwise make the publication incomprehensible or misleading

| Version | Date | Author | Rationale |
|----------------|-------------|---------------|--------------------------------|
| V1.0 | 24.3.23 | IPReg | Submitted with LSB application |