

Practising Certificate Fee (s51) application assessment

Approved Regulator: Intellectual Property Regulation Board (IPReg)

Part One: summary and recommendation

Summary

For 2016, IPReg has set a budget of £718,570, an increase of £31,050 (4.5%) on 2015. The budget has been reduced (from £728,870) during the course of the assessment process to reflect the reduced estimate for the Legal Services Board and Legal Ombudsman levy.

The increase in budget is the result of recruitment of an additional member of staff. The additional member of staff has been in the pipeline for some time and was part of the submission for the licensing authority designation application. Recruitment was delayed until the designation process was completed. That role is the only full time role at IPReg and brings the total establishment to 3.8 FTE.

IPReg's income is predominantly from practising certificate fees. Since submitting the application, the IPReg Board has re-considered the proposed fees and made a further submission with reduced fees. The table below shows the fees for 2015, the initial proposal for 2016 and the revised proposal for 2016. The LSB has been asked to approve the revised proposes fees:

Fee	One register			Both registers		
	2015	Initial 2016	Revised 2016	2015	Initial 2016	Revised 2016
Individual fees						
Attorneys who are retired or inactive	140	147	144	225	236	232
Attorneys employed in industry	154	162	159	248	260	255
All other Attorneys	187	197	193	308	323	317
Sole Traders	308	323	317	440	462	453
Sole trader employing others (bases)	308	323	317	440	462	453
Attorneys employed by sole traders*	61	64	63	61	64	63
	248	261	255	248	261	255
Entity fees						
Firms (base)	308	323	317	308	323	317
Attorneys employed by firms*	61	64	63	61	64	63
	248	261	255	248	261	255

IPReg's income is predominantly from PCF income; if the revised fee levels are approve, then PCF income is forecast to be £715,241, marginally below budget.

Recommendation

That the application is approved

Part Two: Assessment of the application against LSB acceptance criteria

1. Pre-submission	
Were there any pre-submission discussions or a draft application; were any issues identified	There were no pre-submission meetings or papers
Were there any areas for improvement or specific issues in the last approval letter	There were no areas for improvement in last year's approval.
2. Developing the budget and application	
Is it clear that the regulatory arm has led the development of the application?	Yes. PCF is used solely for IPReg costs; PCF is IPReg's predominant source of income.
<p><i>Budget</i></p> <ul style="list-style-type: none"> Is it clear how the budget has been arrived at Is there evidence that the immediate and medium terms needs have been taken into account Are the contingency fund arrangements clear 	<p>Yes. The budget is clear, providing a breakdown of the expected spend, along with a comparison of the 2015 budget and 2015 actual against budget year to date (to 30 September 2015).</p> <p>Yes. Now that the designation as a licensing authority has been completed, IPReg has completed its staff recruitment. The budget includes provision for the recruitment of the new Chairman.</p> <p>Yes. IPReg publishes each year details of its reserves. At first January 2015, the Reserves stood at £441,813 of which there was a general contingency reserve of £225,000 (approximately 6 months operational expenses) and the balance was "ring-fenced" for specific activities (for example, board and Chair appointments, legal disciplinary and litigation).</p> <p>In previous years, any surplus from operating costs has been transferred to reserves. A surplus is expected in 2015 though at this stage it is not possible to state how much that is and how much will be transferred to reserves. Once that has been determined, IPReg will publish its Reserves Report</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> Has the proposed fee been consulted on – if so summarise 	IPReg published its consultation paper on 6 August, inviting comments by 7 September. The material was sent by e-mail to all registrants and was published on the IPReg website. The consultation papers included a letter from the Chairman, the 2016 Business Plan, the 2016 budget and the proposed fees.

<ul style="list-style-type: none"> Was the consultation clear about the level of fee and how it will be collected Has feedback been fully considered 	<p>Yes; the level of the proposed fee was clearly set out (including a comparison to 2015).</p> <p>Two responses were received, one from each of the Institutes for which IPReg is the regulator. The application states that both queried whether a smaller level of increase was possible.</p> <p>The IPReg Board reviewed the consultation responses at its meeting at which the final budget and fee levels were set. It considered a budget reduction of £15k which would have meant that the level of increase in fees could be reduced. They rejected this and again determined not to run a deficit budget.</p> <p>As a result of the reduction in the LSB and Legal Ombudsman levy, IPReg has been able to propose a smaller increase than had originally been proposed (see Table in the summary).</p>
<p><i>Clear and transparent</i></p> <ul style="list-style-type: none"> Is the information provided to fee payers on the level of fee clear and transparent When was/is this issued to fee payers 	<p>Yes in the consultation. It is issued to fee payers after LSB approval.</p>
3. Permitted purposes	
<p>Is there evidence that the PCF income is used solely for permitted purposes</p>	<p>Yes; all PCF income is used for IPReg costs; IPReg has only regulatory functions.</p>
<p>Is any other income to be applied to permitted purposes</p>	<p>There is a small amount of income (less than £2k year to date) from the issue of litigation certificates and bank interest.</p>
4. Regulatory functions	
<p>Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions</p>	<p>100% of income is allocated to regulatory functions.</p>
<p>Are any shared services clearly explained</p>	<p>Not applicable to this application.</p>
5. Regulatory and equality impact assessment (optional requirement)	
<ul style="list-style-type: none"> Completed and included? If not included, is there an explanation of the potential impact Does the application contain commentary on the regulatory objective and the Better Regulation Principles 	<p>Not provided for this application.</p>
6. Consultation with non-commercial bodies (optional requirement)	
<ul style="list-style-type: none"> Does the application include a description of the steps taken 	<p>Not applicable to this application.</p>

<ul style="list-style-type: none"> • Have the proposed fees been shared with such bodies • What was the response 	
7. LSB Review	
Have we consulted with any other body on the application	No
Were any issues raised by LSB colleagues from the first review	<p>The following questions were raised (IPReg response)</p> <ul style="list-style-type: none"> • Are there any other sources of income apart from the PCF A small amount from litigation certificates and bank interest. The income in 2014 arising from firm transferring to licensed body status will not be repeated in 2016. While there is a possibility of income from applications from new bodies, this would be small and cannot be predicted so is not included • The amount budgeted for the LSB/Legal Ombudsman Levy was approximately £10k more than the LSB estimate IPReg has historically been reluctant to budget against the estimate. In the light of the LSB confirmation that the amount will not increase and confidence in the LSB calculations, a revised budget has been prepared and submitted • Given the low level of disciplinary cases, was the budget and ring fenced reserves (together £125,000) set at the right level While there are a low number of cases, when they do arise the cost can be considerable as is evidenced by the cost of the reported cases. In addition IPReg have commenced investigations under its new powers and given that this is a new area, it is will be using additional legal advice <p>In addition a question was raised as to any forecast surplus for 2015; this is covered in section 2, contingency funds.</p>

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30 November 2015