

Practising Certificate Fee (s51) application assessment

Approved Regulator: Intellectual Property Regulation Board (IPReg)

Part One: summary and recommendation

Summary

The proposed practising certificate fees (PCF) for 2018 are set at the same level as approved by the LSB for 2017.

For 2018, IPReg has set a total budgeted expenditure of £771,800. This is an 8.4% increase than that set for 2017 (£711,900). IPReg does not receive any financial support from either CIPA or ITMA.

There is no change to the fee structure.

The IPReg consultation confirmed that the practice fee income at 31 July 2017 was £777,362. It also confirmed that additional practice fee income arising from new admissions to the Registers in the remainder of 2017 would not be significant.

Recommendation

I recommend that the proposed fees for 2017 be approved but that our decision letter:

- Again comments on the continued surplus
- Notes that the IPReg Board will continue to review the surplus policy
- Reiterates our expectation that the Board will consider seriously the option of reducing the level of fee rather than continuing to maintain a high level of reserves.

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	No.
Were there any areas for improvement or specific issues in the last approval letter	Yes. We said we recognised that there was a degree of unpredictability in terms of the level of income that will be generated from PCF. However, if the trend of income exceeding budget continued we would expect the IPReg Board to consider whether there is scope to reduce the fees rather than transfer surplus to reserves.

Developing the application and budget	
Is it clear that the regulatory arm has led the development of the application?	Yes. PCF income is used solely for regulatory 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 	<p>Yes. The budget is clearly set out in the application with the 2017 budget for comparison. The 2017 budget against actual year to date is also provided.</p> <p>Yes. The budget covers the operational expenses for IPReg and the levies to the Legal Services Board and the Legal Ombudsman.</p> <p>Within the reserves, certain monies are ring-fenced for future known activities (for example, research, practice development and funding diversity initiatives).</p> <p>As referred to in the pre-submission section above, we said in respect of last year's decision, that if the trend of income exceeding budget continued we would expect the IPReg Board to consider whether there is scope to reduce the fees rather than transfer surplus to reserves. We note the surplus of £202k for 2017 against the budget. In its application IPReg said that:</p> <p>"the [IPReg] Board has considered whether to reduce the level of reserves. It decided that it would be prudent to maintain them at the current levels to ensure that IPReg is able to respond appropriately to events as they occur during the coming year (for example changes required as a consequence of the General Data Protection Regulation and/or changes needed to ensure the effective operation and maintenance of the Registers). The Board will keep its reserves policy under review."</p> <p>The LSB comments on this in its letter.</p> <p>Yes. IPReg publishes details of its reserves which have been created from operating surpluses on preceding years.</p> <p>As referred to above, the LSB did say that if the...</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> Has the proposed fee been consulted on – if so summarise 	Yes. A consultation on the Business Plan, budget and the proposed PCF was published on

<ul style="list-style-type: none"> • Was the consultation clear about the level of fee and how it will be collected • Was feedback been fully considered 	<p>11 August 2017 and comments invited by 15 September 2017. Three responses were received: from CIPA, CITMA and IP Inclusive (pan-professional diversity group).</p> <p>Yes.</p> <p>Yes. CIPA welcomed the proposal not to increase fees in 2018 but noted that IPReg should be able to reduce fees given the level of reserves. It also queried the increase in staff costs. CITMA noted the increase in budgetary costs and hoped the re-organisation would result in efficiency savings. The IP Inclusive comments were not directly about the fee itself.</p> <p>The responses were provided to the IPReg Board as part of the papers for the meeting at which the Business Plan, budget and PCF were approved.</p> <p>The Board decided that there would be adjustment to the 2018 budget and the level of fees but noted that there may be a draw on reserves to cover the costs of some new work streams. The 2018 IPReg Business Plan has been updated to clearly identify the work streams.</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 and also to be issued individually 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. PCF income is used solely to cover the costs of IPReg.</p>
<p>Is any other income to be applied to permitted purposes</p>	<p>Yes. In addition to PCF, IPReg has a small amount of income from the issue of litigation certificates and bank interest earned. As at 30 September 2017, IPReg's total income was £791k which included £7k of non-PCF income</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>Yes. All PCF income applied to regulatory purposes.</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? 	<p>Not included.</p>

<ul style="list-style-type: none"> • 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 	
6. Consultation with non-commercial bodies (optional requirement)	
<ul style="list-style-type: none"> • Does the application include a description of the steps taken • Have the proposed fees been shared with such bodies • What was the response 	Not applicable to this application.
7. LSB Review	
Have we consulted with any other body on the application	Not necessary.
Were any issues raised by LSB colleagues from the first review	No issues were raised.

Paul Greening
Regulatory Associate
30 October 2017