

Name of Body	IPReg
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	Date	Type of format received	Confirmation of receipt sent?	Document link
Receipt of full application	22/09/2010	Email	Yes	<a href="http://www.legalservicesboard.org.uk/Projects/independent_regulation/index.htm">http://www.legalservicesboard.org.uk/Projects/independent_regulation/index.htm</a>

**Initial pre-application process including draft documents or correspondence received for assessment against the final application**

	Yes or No	Description	Document link	Date received
Was there any correspondence received from the AR prior to the submission of the final application?		The LSB has engaged with CIPA, ITMA and IPReg on Internal Governance Rules issues of independence prior to the submission of the s.51 application. Although this does not directly relate to the s.51 application the discussions did involve the setting of the IPReg budget.	n/a	n/a
Were any documents received from the AR prior to the submission of the final application?		n/a	n/a	n/a
To what section of the final criteria do these documents relate?		n/a	n/a	n/a
Do we have any concerns arising from the documentation?		After an initial assessment of the s.51 application a phone call was made to Penny Nicholls, IPReg Board member who is standing in for Ann Wright, IPReg CEO on 21 October 2010 to query how the practising fee income has been allocated. Penny confirmed that the practising fee income is used solely for the running of IPReg and there is an additional membership fee for CIPA and ITMA costs.	n/a	21-Oct-10
How and what have we communicated back to the AR?		n/a	n/a	n/a
What was the outcome of the exchange for correspondence?		n/a	n/a	n/a
Do we have any concerns arising from this exchange?		n/a	n/a	n/a
Have these concerns been resolved?		n/a	n/a	n/a

**Summary**

IPReg has provided the necessary information in which the LSB can consider the application against the LSB's criteria for approving practising fee applications.

Overall level of concern	No concern
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**Section 1: Developing the application and setting the budget**

This section of the criteria refers to D10a & D11a /D11d of the Practising fee Rules 2009.

Criteria - application	Yes or No	LSB Assessment
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Criteria - budget	Yes or No	LSB Assessment
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Is there a description of how the application was developed and settled?	Yes	The income projections for 2010 were accurate and income has been sufficient to meet the 2010 budget. The application raises a number of concerns raised by IPReg after one year of operation and the 2011 Business Plan has been developed to address these concerns and ensure the Patent Regulation Board and the Trade Mark Regulation Board (IPReg) can carry out their regulatory functions. The 2011 budget provides the necessary resource to deliver the 2011 Business Plan.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	See above

Is there a description of how the budget was developed and settled?	Yes	IPReg submits a draft Budget to the representative bodies Chartered Institute of Patent Attorneys (CIPA) and the Institute of Trade Mark Attorneys (ITMA) and subject to comment is then approved by IPReg.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	The 2011 budget provides the necessary resource to deliver the 2011 Business Plan.
Is there a description of contingency arrangements?	Yes	IPReg desire to establish a reserve has been deferred for a year. The two contingencies amounting to £30,000 have reduced to one contingency of £15,000. These decisions have been made on the basis that CIPA and ITMA will continue to guarantee the liabilities of IPReg.
Does this include a section on the consultation undertaken with practitioners?		IPReg consulted with members in 2009 to seek feedback on their practising fee matrix. This consultation included indicative amounts on the level of practising fees.
Is there a description of the revenue raised broken down between functional department and expenditure head for:		
Previous year?	Yes	The 2011 Budget gives a full breakdown of expenditure by department.
Forecast year?	Yes	As above
Is there a description of a significant variance from the previous year in terms of:		
Total revenue?	Yes	The 2011 Budget gives an explanation of significant variance in expenditure.

Split between functional departments and expenditure heads?	Yes	The 2011 gives an explanation of significant variance and this is broken down by department.
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**Overall comments**

n/a

**Evaluation**

The application meets Section 1 in the criteria for practising fee applications issued by the LSB.

Level of concern **No concern**

**Section 2: Permitted purposes**

This section of the criteria refers to D10b & D11e/D11b of the Practising fee Rules 2009.

Criteria	Yes or No	LSB Assessment
Is there evidence that the revenue raised through practising fee charge are applied solely to the permitted purposes?	Yes	A phone call was made to Penny Nicholls, IPReg Board member who is standing in for Ann Wright, IPReg CEO on 21 October 2010 to query how the practising fee income has been allocated. Penny confirmed that the practising fee income is used solely for the running of IPReg (for permitted purposes in terms of regulation) and an additional membership fee is charged for CIPA and ITMA costs.
Previous year?	Yes	See above
Forecast year?	Yes	See above
Does it include a budget that shows:		
Anticipated income from practising fees	Yes	The application indicates that a c11%-12% increase in income overall is needed to cover the expenditure set out in the 2011 Budget.
All other expected income to be applied to permitted purposes	Yes	An additional fee is charged for CIPA and ITMA costs.
Planned expenditure of income against permitted purposes	Yes	The practising fee income is used solely for the running of IPReg.
Does it include an analysis of spend against the permitted purposes?		See above
Is this broken down by functional department / expenditure head?	Yes	The 2011 Budget gives a full breakdown of expenditure by department.

**Overall comments**

**Overall comments**

n/a

**Evaluation**

The application meets Section 1 in the criteria for practising fee applications issued by the LSB.

Level of concern **No concern**

n/a

**Evaluation**

The application meets Section 2 in the criteria for practising fee applications issued by the LSB.

**Level of concern** No concern

**Section 3: Regulatory functions**

This section of the criteria refers to D10c D10d & D11c of the Practising fee Rules 2009.

Criteria	Yes or No	LSB Assessment
Is there an explanation of how the revenue raised by practising fees is applied to - i.e.		
Permitted purposes which are regulatory functions (not representative)	Yes	The practising fee income is used solely for the running of IPReg.
Permitted purposes which are not regulatory functions		n/a
Is there clarity and transparency of how the revenue raised is to be applied to - i.e.		
Permitted purposes which are regulatory functions (not representative)	Yes	The practising fee income is used solely for the running of IPReg.
Permitted purposes which are not regulatory functions		n/a

**Overall comments**

n/a

**Evaluation**

The application meets Section 3 in the criteria for practising fee applications issued by the LSB.

**Level of concern:** No concern

**Section 4: Clarity and transparency**

This section of the criteria refers to D10e of the Practising fee Rules 2009 & section 51(b) of the Act

Criteria	Yes or No	LSB Assessment
<b>Consultation with members</b>		

Does the application include a description of their consultation undertaken with their members mandated to pay practising fees?		IPReg consulted with members in 2009 to seek feedback on their practising fee matrix. This consultation included indicative amounts on the level of practising fees. There was no consultation undertaken with members for this year.
If yes, does the description of the consultation process include transparency and clarity of how the fee level has been set and how the money collected will be used?		n/a
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?		n/a
Is the level of information provided to members similar to what has been provided in the criteria?		n/a
In terms of the level of information provided to members, does the application include the recommended use of the 'Council Tax bill' analogy and/or another form of web-based linked information?		CIPA intends to send a letter to all members of the Institute setting out the background to the discussions on setting the IPReg budget for 2011, this providing the requirement for the level of fees which registrants will be asked to pay in 2011. The LSB envisage that IPReg will provide a similar level of transparency to all fee paying members at the time the fee note is issued.
If yes, when was this information issued to the mandated members paying the practice fees i.e. as the fee note issued or shortly afterward?		See above
<b>Consultation with representative governing councils or the equivalent</b>		
Alternative to the above, does the application set out that changes to the practising fee arrangements are minimal, and consultation was therefore only involved representative governing councils or the equivalent?	Yes	IPReg, CIPA and ITMA are conscious of the need to keep any uplift in practice fees to a reasonable level whilst ensuring that the Patent Regulation Board and the Trade Mark Regulation Board (IPReg) can carry out their regulatory functions.
If yes, is there a description of what consultation that was taken place?	Yes	IPReg submits a draft Budget to the representative bodies Chartered Institute of Patent Attorneys (CIPA) and the Institute of Trade Mark Attorneys (ITMA) and subject to comment is approved by IPReg.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	Yes	See above

**Overall comments**

It is noted that for the 2009 practising fee approval process IPReg posted information on their website setting out a summary of the consultation conducted on the practising fee structure and the level of fees. The website also includes a section on 'Practice Fee Regulation' which sets out similar information as posted on the website, we envisage this will be updated with the new practising fee levels.

**Evaluation**

The application meets Section 4 in the criteria for practising fee applications issued by the LSB.

Level of concern:

No concern

**Section 5: Regulatory and diversity impact assessment**

This section of the criteria refers to D11f of the Practising fee Rules 2009

Criteria	Yes or No	LSB Assessment
Does the application include a regulatory or diversity impact assessment?		Please note the LSB set out in Section 5 of the criteria for practising fee applications that we do not require a regulatory or diversity impact assessment to be completed for this year's practising fee applications.
If no, does the application include a description of how their proposals were tested against the regulatory principles?		n/a

Does the application include a description of how the proposals have been developed with consideration of any potential impact on diversity issues?	Yes	IPReg have considered it a proportionate approach to spread the proposed increase of c11-12% evenly over the profession. In the 2009 consultation process IPReg has had some negative feedback from sole practitioners but otherwise has received only isolated objections based on concerns about complexity etc. Whilst sole practitioners do not appear to present any heightened risk in terms of complaints (based on this year's complaints) it is very apparent that they require considerably more support from the IPReg office. This is something that may be resolved as time passes. For these reasons, IPReg has decided not to change the matrix for calculating the fees and to increase the fee by 12%. IPReg also noted that the 12% increase in practising fee compares favourably with other regulated legal professions.
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**Overall comments**

n/a

**Evaluation**

The application meets the requirements for Section 5 in the criteria for practising fee applications issued by the LSB.

Level of concern: No concern

**Section 6: Consultation with non-commercial bodies and the Consumer Panel**

This section of the criteria refers to D12 of the Practising fee Rules 2009 & Section 51 (7) (a) of the Act

Criteria - non-commercial bodies	Yes or No	LSB Assessment
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Criteria - Consumer Panel/others	Yes or No	LSB Assessment
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Does the application include a description of steps the AR has taken to ensure the impacts of the persons providing non-commercial legal services have been considered when setting the fees?		n/a
Has the AR shared details of the practising fee level with appropriate bodies such as the Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of the submission of the application?		n/a
Have the non-commercial bodies provided any response to the details shared to them by the AR?		n/a

**Overall comments**

Although the application does not set out any consultation with non-commercial bodies in this year's practising fee round; the LSB will make it clear that we expect this to be included in next year's submission.

**Evaluation**

The application in terms of the criteria relating to non-commercial bodies relating to Section 6 of the criteria for practising fee applications as issued by the LSB is deemed acceptable.

Level of concern: No concern

**General Evaluation**

**Summary of LSB assessment - i.e. Approval and/or approval with conditions or rejection**

Have we provided a copy of the application to the Consumer Panel?	Yes	Application sent to Consumer Panel Manager on 21 October 2010.
What are their immediate concerns or issues raised (if applicable)?		Nil response from the Consumer Panel.
Have we considered if we need to consult with anyone else on this application?	Yes	n/a
If yes, what consultation has taken place and with whom?		n/a
What was the outcome of this exchange i.e. Do we have any immediate concerns that has the potential to delay the approval of the application?		n/a

**Overall comments**

n/a

**Evaluation**

The application in terms of the criteria relating to the Consumer Panel and Others meets Section 6 of the criteria for practising fee applications as issued by the LSB.

Level of concern: No concern



The Practising Fee Team recommends the **approval** of the IPReg application.