

## Self - assessment of compliance with the Legal Services Board's Internal Governance Rules 2009

**Section 1: Please provide an update on the issues that we identified as part of our 2011 assessment of your compliance with the IGRs.**

*Guidance: A summary of the issues we highlighted in 2011 is set out below. Please refer to our full assessment as set out in our letter to you of 16 June 2011:*

*<http://www.legalservicesboard.org.uk/Projects/pdf/11.pdf>*

- An update on the operation and effectiveness of the Approved Regulator Forum.
- An update on the revised delegation agreement and its operation.

IPReg response:

### **AR Forum**

It is the view of IPReg that the AR Forum is working very well.

The AR Forum has met 6 times from its initial set-up to date. The meetings are now scheduled for the whole year and take place about a week after each IPReg main board meeting. IPReg issues a "Topics for Discussion" and Michael Heap prepares and circulates a note of the discussions.

The AR Forum has, when requested, kept confidentiality which has enabled, in IPReg's opinion, a much more constructive debate. The IPReg 2012 Budget, Business Plan and year end financial reports were shared with and discussed by the AR Forum separately from the formal community wide consultations.

At the last AR Forum the policy issues surrounding the IPReg licensing application were debated against a detailed note prepared by IPReg.

The meeting was joined by the representatives of the entity community, namely Keith Hodgkinson of Marks & Clerk and Graham Murnane of Murgitroyd, who had, with Ann Wright and Michael Heap formed the ABS working party.

Going forward IPReg would like to see the Institutes using the Forum to raise issues. At present IPReg feels that this opportunity is not being fully utilised by the Institutes.

### **Delegation Agreements**

A new general delegation agreement and a delegation agreement specific to the ABS project have been agreed.

As part of the new arrangements, observers will be invited to attend the main IPReg Board. Originally the AR Forum was intended to be in place of observers.

IPReg would like to record, with thanks, the entirely constructive approach of the two current observers, Huw Hallybone of Carpmaels and Stephen Kinsey.

**Section 2: Please provide evidence to demonstrate that oversight by the AAR is in line with the principles of the IGRs.**

*Guidance: We will assess the evidence provided in line with the IGRs. Evidence might include, but is not limited to:*

*Governance*

- *An assessment of the functioning and performance of any joint regulatory and representative committees during the year.*
- *An assessment of any sub-committees of the Board and the extent to which non-lay majority sub-committees exercise powers and influence that could have a bearing on the independence of the organisation as a whole.*
- *Any relevant changes to organisational structures.*

*Appointments*

- *Level of involvement by professional body in any appointments processes that have taken place in the year.*

*Strategy and resources*

- *An assessment of any involvement by the AAR in the regulatory arm's business planning processes, including budgeting.*
- *Evidence that the provision of services to the regulatory body is not subordinate to the provision of services to any other part of the AAR.*
- *Operation of any Service Level Agreements and any issues arising.*

*Oversight*

- *Assessment of the level of and nature of information requests between the organisations.*
- *Any interventions during the year by the AAR in decisions made by the regulatory arm.*

*You may also wish to refer to any relevant responses to Section 1 above.*

IPReg response:

**Governance**

- There are no joint sub-committees
- The composition of the two advisory committees (Education Qualifications Conduct & Disciplinary Committee and the Governance Committee) is unchanged.

**Appointments**

The process adopted in 2011 for appointing new professional board members was replicated this year. An open competition was held followed by interview with a panel consisting of the chairman, one lay member and one professional member of IPReg.

The interview and selection process was observed by the above mentioned observers, on behalf of Institutes, who confirmed to IPReg that they were fully satisfied with the process.

A difficulty arose because one appointee to the Trade Mark board decided that they were unable to take up the post.

In consultation with the ITMA President, and having shared with her the steps which had been undertaken to resolve this vacancy, it was determined that the advertisement and selection process would be re-run

IPReg now has an agreed and published an appraisal process for board members. The appraisal of the Chairman, Michael Heap, was undertaken jointly by the Chair of the Council for Licensed Conveyancers and the lay Chair of the IPReg Governance Committee. Soundings were taken from the Institutes in addition to the IPReg board members.

### **Strategy & Resources**

The IPReg budget was sent by the IPReg Board against a published timetable.

The consultation on the entity fees for 2012 being increased by 50% to fund the ABS project led to 3 objections (out of a possible +170).

The practice fees are still collected for IPReg by the Institutes but the invoices clearly separate the two costs.

IPReg pays a service charge for this administrative task. No element of the practice fees is paid to the Institutes.

This is the only formal service provided by the Institutes.

Since 1<sup>st</sup> January 2010 IPReg has built up a reserve of £50,000 and expects to have a full reserve of £100,000 by end 2014. This reserve would enable an orderly wind up in unforeseen circumstances and significantly mitigates the financial guarantees given by the Institutes under the arrangements for IPReg Limited (a company limited by guarantee).

This reserve is separate from an annual contingency and also income which has been ring-fenced for large projects such as the development of our website.

IPReg continues to operate transparently and posts on the website its management accounts as part of the minutes of the board meetings and provides a report and analysis within its annual report.

### **Oversight**

- **Independence in policy and rules setting**

During 2011/12 IPReg has conducted a significant consultation exercise in relation to rights granted to attorneys in relation to litigation and advocacy.

The initial policy and subsequent detailed rules were issued for consultation. ITMA and CIPA have each provide detailed responses but they were two of over 20 responses. In determining its response to the consultations, the IPReg board had equal regard to the views expressed by the other consultees, particularly the Bar and the joint submission of the Intellectual Property Lawyers Association and The Law Society Intellectual Property Working Group.

- **Information Requests**

IPReg sends papers for publication to the Institutes at least 24 hours before their issue to the profession. This occurred, for example, with the IPReg Education Plan

and the 2011 Annual Report.

IPReg has met with ITMA and CIPA regarding its own website project and shared details of the projected costs.

In 2011 IPReg gave a large number of presentations to the community. Details are attached. IPReg is receiving good feedback and the quality of the patent applicants to the vacancy on the PRB suggests that IPReg is now regarded a significant part of the profession.

A survey on CPD was undertaken at the beginning of this year. There were some 220 responses of which 77% considered that the current level was "about right". IPReg has published the results.

IPReg has commissioned an article in relation to the benefits of ABS which will be published as part of the ABS consultation.

The IPReg Chairman is contracted to undertake 36 days each year. The Board members are contracted to work 10 days each year. In the two full years of operation the Chairman has supported the IPReg office by working at least double that amount of time and many other board members give significant amounts of additional time and expertise. The Chief Executive works three days each week.

In that context IPReg is pleased with the progress it has made.

**Section 3: Please provide an assessment of the risks to your continued compliance with the IGRs and how you manage those risks.**

*Guidance: You should consider the principles set out at Schedule 1 to the IGRs to inform your response.*

IPReg response:

IPReg does not consider that there are any risks to its continued compliance with the IGRs.

**Section 4: Any additional comments from CIPA or ITMA**

The Representational Arms of CIPA and ITMA commend the excellent work done by IPReg in laying the foundations for it to become a regulator of ABS.

The AR Forum has considerably improved liaison and understanding between the Regulatory and Representative arms. But this needs to be developed and extended even further, both within the AR Forum and using other mechanisms. The working group on ABS has demonstrated the value of being able to share ideas and information while ensuring that IPReg operates independently in its decision making. This type of approach could have significant benefits elsewhere. For example, we note that there are no joint sub-committees. We think there should be at least one, on Education, and possibly others.

**Section 5: We certify that we are satisfied that the above reflects a true and accurate representation of the effectiveness of arrangements to ensure independent regulation and that we comply with the requirements of the Internal Governance Rules 2009.<sup>1</sup>**

Signed on behalf of IPReg:



Name: Michael Heap  
Title: Chairman  
Date: 23<sup>rd</sup> May 2012

Signed on behalf of CIPA



Name: Tim Roberts  
Title: President  
Date: 23<sup>rd</sup> May 2012

Signed on behalf of ITMA



Name: Catherine Wolfe  
Title: President  
Date: 23<sup>rd</sup> May 2012

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<sup>1</sup> If the AAR does not think that it can endorse the assessment, it does not need to sign here, but evidence based reasons for not signing should be provided in the space provided at section 4.

## List of Events 2010/2011

### 2010

#### Community - Presentations

- Presentations to ITMA in March and June and CIPA in June.
- Participation in the CIPA Induction Day
- Presentation to FICPI (the National United Kingdom Association of the International Federation of Intellectual Property Attorneys)
- Presentation to the Professional Administrators Group
- Presentation to the Board of the Legal Ombudsman (Birmingham)
- Presentation to Marks & Clerk
- Presentation to Murgitroyd
- Presentation to Harrison Goddard Foote
- Attendance at the BAE Training Day in Farnborough

#### Community – articles and other

- February article in CIPA and ITMA Journals about IPReg
- July article in CIPA and ITMA Journals about the “ABS Road Show” presented by the LSB
- Attending three TIPLo events
- Arranged and chaired the presentation by the LSB on Alternative Business Structures

### 2011

#### Community - Presentations

- Presentation on Complaints handling held at CIPA in January
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment held at offices of Wynne-Jones, Lainé & James in June (including other attorneys local to Cheltenham)

- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Avidity IP (formerly HLBB Shaw) in June
- Presentation IPReg/the roles of the LSB and LeO and the regulatory environment to Withers & Rogers in June
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Carpmaels & Ransford in September
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Mewburn Ellis in October
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Harrison Goddard Foote in October
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Barker Brettell in November
- Complaints Handling Event held at LeO (Birmingham) in November

## **Community – articles and other**

- October 2011 interview with Michael Heap and IPReg News in CIPA Journal
- December 2011 “Inside IPReg” article in ITMA Review
- Attending two TIPLo events
- ITMA Conference in March
- CIPA Awards Presentation to Newly-Qualified Attorneys
- Presentation to the Shanghai Intellectual Property Administration held at CIPA in November
- CIPA Induction Event in December