

IPReg Standard Operating Procedure

Admission and Authorisation requirements

This part of the standard operating procedure covers the provisions set out at Chapter 3 of *IPReg's* Core Regulatory Framework which addresses admission and authorisation requirements. For avoidance of any doubt, the text appearing in the boxes throughout this document are extracts taken directly from Chapter 3 of the Core Regulatory Framework.

Admission to the register - requirements for individuals

- 1.3 In accordance with its standard operating procedure, *IPReg* may authorise entry to the relevant *register*, with or without conditions, where it is satisfied an applicant meets the *prescribed* admission and eligibility requirements.

General requirements

1. Attorneys should make their application for registration to the relevant *register(s)* via *IPReg's* online application form¹. Applicants seeking registration on the basis of foreign qualifications should use the relevant form published on the *IPReg* website².
2. An application for registration will not be processed until the fee, equivalent to the annual practising fee in the relevant practice category, has been received.
3. *IPReg* aims to reach a final decision on applications for admission within 20 working days³.
4. Decisions on registration are usually made by *IPReg's* CEO or the Head of Registration (on authority delegated by the CEO). Where the decision maker has any doubt as to whether an application should be granted, the matter can be referred to the relevant Regulation Board (*TRB* and/or *PRB*) for determination.
5. References to attorney work being "in the *UK*" refers to the nature of the work (that is, it is *UK* attorney work focussing on *UK* law and practice) rather than physical location.
6. *IPReg* may seek to verify any information provided.
7. Decisions to refuse applications may be appealed in accordance with Chapter 5 of the Core Regulatory Framework.

¹ A hardcopy application form can be obtained from *IPReg* should an applicant require one

² Yet to be drafted at time of writing

³ Between 1 April 2020 and 31 March 2021, the average time spent processing an application was 2.1 days with the shortest time taken being 0 days (same day) and the longest time taken 46 days

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8. Other than in relation to historic qualifications as set out in Note 3 of Schedule 3 to the Rules for the Examination and Admission of Individuals to the Registers of Patent and Trade Mark Attorneys 2011 ("Examination and Admission Rules 2011"), *IPReg* has no discretion to waive any of the admission and eligibility requirements and the onus will be on the applicant to demonstrate that they have met all the necessary criteria for admission.

Examinations and Qualifications

9. The necessary *academic qualifications* and *qualifying examinations* ("QE") referred to at 1.1.1, 1.1.2, 1.2.1 and 1.2.2 of Chapter 3 of the Core Regulatory Framework are set out in the Examination and Admission Rules 2011.
10. *IPReg* is unable to authorise exemptions in respect of any of the qualifications required for admission. An applicant may request an exemption from the relevant course provider or examination agency and no other exemptions may be granted.
11. With the exception of QEs set out in Note 3 to Schedule 3 of the Examination and Admission Rules 2011, there is no requirement to apply for registration within any set time period after the qualifications are awarded. However, to ensure an applicant has the skills, knowledge and experience to be admitted to the relevant *register*, where an applicant seeks to rely on qualifications awarded a considerable time before their application, their application must be accompanied by the following information:
 - 11.1 any reason for the delay in applying for registration after the qualifications were gained;
 - 11.2 what the applicant has been doing in the time since those qualifications were awarded and whether they were working in the area of intellectual property either in the *UK* or abroad;
 - 11.3 whether the applicant has been working in any other regulated industry (whether or not relevant to intellectual property) since the qualifications were awarded, and if so, the industry and body they were regulated by;
 - 11.4 evidence the applicant has kept their knowledge of *patent attorney work* or *trade mark attorney work* up to date and whether they have completed any CPD, ongoing learning or training since the qualifications were awarded, and evidence of same; and
 - 11.5 how the applicant intends to practise if they are granted entry to the relevant *register*. For example, will they be in a supervised setting, providing services directly to the public or working in-house and do they intend to set up their own practice?
12. Where an applicant wishes to rely on those QEs set out in Note 3 to Schedule 3 of the Examination and Admission Rules 2011 and where they have extenuating circumstances, they may apply to *IPReg* for recognition of those qualifications. The applicant must demonstrate their case for extenuating circumstances and provide the following information:

- 12.1 the reason for the delay in applying for registration;
- 12.2 what they have been doing in the time since the qualification(s) was/were awarded and whether they have been working in the area of intellectual property either in the *UK* or abroad;
- 12.3 whether the applicant has been working in any other regulated industry (whether or not relevant to intellectual property) since the qualifications were awarded. If so, the industry and body they were regulated by;
- 12.4 evidence the applicant has kept their knowledge of *patent attorney work* or *trade mark attorney work* up to date, and whether they have completed any CPD, ongoing learning or training since the qualifications were awarded, and evidence of same;
- 12.5 how they intend to practise if granted entry to the relevant *register*. For example, will they be in a supervised setting, e providing services directly to the public or working in-house and do they intend to set up their own practice?

Prescribed work experience

- 13. The *prescribed* work experience referred to in 1.1.3 and 1.2.3 of Chapter 3 of the Core Regulatory Framework is:
 - 13.1 not less than two years' full time practice in the field of intellectual property including substantial experience of either *patent attorney work* or *trade mark attorney work* in the *UK* where that work was supervised by a *registered attorney* or barrister/solicitor engaged in or with substantial experience of *patent attorney work* or *trade mark attorney work* in the *UK*; or
 - 13.2 not less than four years' full time practice in in the field of intellectual property including substantial experience of either *patent attorney work* or *trade mark attorney work* in the *UK* where that work was not supervised.
- 14. The *prescribed* work experience should be undertaken immediately, or no longer than 12 months, before making the application for registration. Where an applicant has completed supervised or unsupervised practice more than 12 months before making their application to *IPReg*, their application must be accompanied by the following information:
 - 14.1 any reason for the delay after the *prescribed* work experience in applying for registration;
 - 14.2 what the applicant has been doing in the time since the *prescribed* work experience was obtained and whether they have been working in the area of intellectual property either in the *UK* or abroad;
 - 14.3 whether the applicant has been working in any other regulated industry (whether or not relevant to intellectual property) since the *prescribed* work experience was obtained and if so, the industry and body they were regulated by;

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- 14.4 evidence the applicant has kept their knowledge of *patent attorney work* or *trade mark attorney work* up to date and whether they have completed any CPD, ongoing learning or training since the *prescribed* work experience was obtained; and
 - 14.5 how the applicant intends to practise if granted entry to the relevant *register*. For example, will they be in a supervised setting, providing services directly to the public or working in-house and do they intend to set up their own practice?
15. An applicant can apply on the basis of a hybrid of supervised and non-supervised experience. Any gaps in experience must be explained.

Supervised practice

- 16. The names of the supervisor(s), the place the supervision took place and the relevant dates must be provided.
- 17. Where the supervisor is not a *registered attorney* (i.e. they are a solicitor or barrister), evidence of their admission to the roll or Bar, as applicable, and that they have substantial experience of *patent attorney work* or *trade mark attorney work* in the *UK* must be provided to *IPReg*.

Unsupervised practice

- 18. In the absence of a supervisor with whom *IPReg* can verify information provided by the applicant, the applicant must provide detailed evidence, which addresses the matters described in paragraphs 19 and 20 below, and that they meet the minimum standards of competence set out in the relevant Competency Framework.
- 19. Advanced level competency is not required in all areas, but the applicant must demonstrate they have the breadth and depth of knowledge and experience required of a newly qualified attorney.
- 20. Applicants must provide examples of their work from at least a four year period and demonstrate how the examples provided meet the competency criteria.

Overseas qualifications

- 1.4 In accordance with its standard operating procedure, in order to authorise entry to the relevant *register*, *IPReg*:
 - 1.4.1 will recognise an applicant's *overseas* qualification; or
 - 1.4.2 may direct that an applicant undertakes additional steps where there are substantial differences between the skills, knowledge and training of an applicant with an *overseas* qualification and that of an applicant who possesses the necessary *academic qualifications* or has passed the *qualifying examinations* within the *UK*.

21. The applicant should complete the application form published on *IPReg's* website⁴.
22. The applicant must provide detailed evidence, as explained in paragraph 23 below, that they meet the minimum standards of competence set out in the relevant Competency Framework.
23. Advanced level competency is not required in all areas, but the applicant must demonstrate they have the breadth and depth of knowledge and experience required of a newly qualified attorney who trained in the *UK*.
24. The applicant must explain how they intend to practise if granted entry to the relevant *register*, and in particular whether:
 - 24.1 they will be living and practising in the *UK* or elsewhere;
 - 24.2 they will be practising in a supervised setting, and if so, whether they will be supervised by a *registered attorney*;
 - 24.3 they will be providing services directly to the public or working in-house; and
 - 24.4 they intend to set up their own practice.
25. *IPReg* may make any of the following determinations in relation to an application based on foreign qualifications:
 - 25.1 refuse to recognise the qualifications and direct that the *QEs* set out in the Examination and Admission Rules 2011 be undertaken in full before the applicant's admission is authorised;
 - 25.2 recognise the qualifications but direct that before admission is authorised that:
 - 25.2.1 any one or more of the *QEs* set out in the Examination and Admission Rules 2011 be undertaken;
 - 25.2.2 a period of supervised practice be undertaken;
 - 25.2.3 CPD or training be undertaken in any area(s); or
 - 25.2.4 any other activity be undertaken, or further evidence or information as required be provided to *IPReg*.
26. Where *IPReg* considers that external advice is required to make its determination, the applicant will bear associated costs and the application will not be processed further until those costs are paid.
27. *IPReg* will aim to process applications and make final determinations within four months of receipt of a completed application. The application will not be deemed to have been completed until all information required and all fees due, have been received.

⁴ A hardcopy application form can be obtained from *IPReg* should an applicant require one

Refusing an application

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| 1.5 | In accordance with its standard operating procedure, <i>IPReg</i> may set out the circumstances in which it can refuse an application for registration and how an applicant can appeal such a refusal. |
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28. *IPReg* will refuse any application for admission to a *register* where it is not satisfied that an applicant:

28.1 possesses the necessary *academic qualifications* and has passed the *QE* or holds qualifications obtained outside of the *UK* which are equivalent to the qualifications an attorney would obtain following the standard *UK* qualification pathway;

28.2 has completed the *prescribed* work experience;

28.3 has the required character of a *registered attorney* or is otherwise unsuitable; and

28.4 can or will comply with any of *IPReg's* other *regulatory arrangements*.

29. Where an application for admission is refused, *IPReg* will advise the applicant in writing setting out the reasons for the decision.

30. *IPReg* will advise the applicant of their right to appeal to the *PRB* or *TRB*, as applicable and the timeframe within which the appeal must be received by *IPReg*.

Admission to the register – requirements for *registered* and *licensed bodies*

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| 2.1 | In accordance with its standard operating procedure, <i>IPReg</i> will register a body, with or without conditions, if it is satisfied that: |
| 2.1.1 | other than for a <i>licensable body</i> seeking entry onto the relevant <i>register</i> , all <i>managers</i> or <i>partners</i> of that body are <i>authorised persons</i> , with at least one being a <i>UK-registered patent attorney</i> or <i>UK-registered trade mark attorney</i> , as appropriate; |
| 2.1.2 | a <i>licensable body</i> has a practising address and is domiciled, or has a real and effective industrial or commercial establishment in England or Wales; |
| 2.1.3 | a body other than a <i>licensable body</i> has a practising address and is domiciled, or has a real and effective industrial or commercial establishment, in the <i>UK</i> ; |
| 2.1.4 | all non-authorised <i>managers</i> of that body are approved in accordance with 3.3 below; |

- 2.1.5 in the case of a *licensable body*, all non-authorised *owners* of that body are approved in accordance with 6.3 below and Schedule 13 to the *LSA*; and
- 2.1.6 a body will abide by *IPReg's regulatory arrangements* and with the terms and conditions of its registration.

General requirements

31. Applications for registration to the relevant *register(s)* must be made via *IPReg's* online application form.
32. The application must be made by a person with authority to make that application⁵.
33. An application for registration will not be processed until the fee, equivalent to the annual practising fee in the relevant practice category together with the *compliance officer* fees (where applicable), has been received.
34. *IPReg* will reach a final decision on applications for admission of a body within six months of a completed application⁶.
35. *IPReg* may issue an extension notice at any time before the expiry of six months from the time the application was received, providing reasons for the extension. The total time taken to decide any application must not exceed nine months. If a decision is not made within nine months, the application will be deemed refused.
36. Decisions on registration are usually made by the *CEO* or the Head of Registration (on authority delegated by the *CEO*). Where the decision maker has any doubt as to whether an application should be granted, the matter can be referred to the *PRB* or *TRB*, as applicable, for determination.
37. *IPReg* may verify any information provided by an applicant in support of the application and may undertake any such enquiries as it considers necessary to determine whether the body or any of its individuals should be authorised.

Refusing an application

- 2.2 *IPReg* may refuse a body's application for registration and will specify how an applicant body can appeal such a refusal.

⁵ Normally a manager, director, owner, proposed Head of Legal Practice (HoLP) or Head of Finance and Administration (HoFA) of the body

⁶ Between 1 April 2020 and 31 March 2021, the average time spent processing an application was 19 days with the shortest time taken being 5 days and the longest time taken 85 days

38. *IPReg* may seek any information it considers necessary in order to determine whether the body is suitable to be regulated by *IPReg*.
39. *IPReg* will refuse any application where it is not satisfied that:
- 39.1 it has suitable *regulatory arrangements* in place to regulate the body;
 - 39.2 the body has in place systems and controls that will allow it provide a safe and effective legal service to *UK* consumers; and
 - 39.3 the requirements of 2.1 of Chapter 3 of *IPReg's* Core Regulatory Framework are met.
40. Where an application for admission is refused, *IPReg* will advise the applicant in writing setting out the reasons for the decision.
41. *IPReg* will advise the applicant of their right to appeal to the *PRB* or *TRB*, as applicable, and the timeframe within which the appeal must be received by *IPReg*.

Conditional registration

- 1.3 In accordance with its standard operating procedure, *IPReg* will authorise entry to the relevant *register*, with or without conditions, where it is satisfied an applicant meets the *prescribed* admission and eligibility requirements.

42. Where it considers it necessary to do so, *IPReg* may:
- 42.1 grant registration subject to conditions in the case of a new *registered attorney*; or
 - 42.2 impose conditions on the registration of an existing *registered attorney*.
43. *IPReg* may impose conditions as a short term measure to:
- 43.1 address a falling short of the standards of practice required;
 - 43.2 address a specific deficiency identified in the *registered attorney's* practice; or
 - 43.3 compel the *registered attorney* to undertake a particular activity.
44. Conditions will be time limited, though may be extended where necessary, and will not normally be imposed on a long term or permanent basis.
45. In determining whether to impose conditions on an attorney's registration, *IPReg* will take into account relevant factors, including:
- 45.1 whether the *registered attorney* has demonstrated an inability or unwillingness to comply with *IPReg's regulatory arrangements* (if so, consideration should be given to whether disciplinary action is more appropriate);

- 45.2 whether the applicant or *registered attorney* is capable of abiding by the conditions imposed;
 - 45.3 the impact on the *regulatory objectives*; and
 - 45.4 the likelihood that the conditions will achieve the required aim.
46. Before making the decision to impose conditions, *IPReg* will advise the applicant or *registered attorney* of its intention to impose conditions and offer them the opportunity to make submissions.
47. Where *IPReg* makes a decision to impose conditions, it will:
- 47.1 explain in writing, why conditions have been imposed, with reference to the *regulatory objectives*;
 - 47.2 specify any remedial action required by the applicant or *registered attorney* in order to remove the conditions;
 - 47.3 set out any requirements for compliance with those conditions;
 - 47.4 set out how *IPReg* intends to monitor compliance with those conditions;
 - 47.5 specify the length of time the conditions will be in place;
 - 47.6 specify when any review may take place in which it will be determined whether the conditions are still appropriate and necessary;
 - 47.7 specify the means by which a variation or review of the conditions may be sought before the expiry of the conditions; and
 - 47.8 explain how the decision to impose the conditions may be appealed.

Authorisation requirements for role holders within a licensed body

- 6.3 A non-authorised person may be an *owner* of a *licensed body* if that person has been approved by *IPReg* to be an *owner* in accordance with Paragraph 6 of Schedule 13 to the *LSA* and in accordance with any other *prescribed* requirements.

7. Approval of *compliance officers*

- 7.1 In accordance with *IPReg's* standard operating procedure, *IPReg* may approve an individual's designation as *HoLP* or *HoFA* of a *licensed body* if satisfied that they meet the *prescribed* requirements relating to the *compliance officer* roles and that

they are in a position of sufficient responsibility to fulfil the duties of *HoLP* or *HoFA* (as applicable) in relation to the *licensed body*.

- 7.3 An application seeking approval as a role holder must be completed and the outcome notified to the relevant individuals in accordance with *IPReg's* standard operating procedure.

General requirements

48. Applications for authorisation of a non-authorised person, a *HoLP*, a *HoFA* or a role holder will be made via *IPReg's* online application form.
49. *IPReg* will assess all applications within six months taking into account the complexity of the application and the quality of the information provided.
50. An application for authorisation or approval will not be processed until the fee, as specified on *IPReg's* website, has been received.
51. Approval will be deemed granted on the date specified by *IPReg* and will be communicated in writing to the *registered body* or *licensed body*, as applicable, and the *person* concerned.
52. Decisions to refuse approval will be communicated in writing and may be appealed.
53. *IPReg* will advise the applicant of their right to appeal to the *PRB* or *TRB*, as applicable, and the timeframe within which the appeal must be received by *IPReg*.

Approval criteria

54. A person seeking approval as a *manager*, *owner* or *compliance officer* must satisfy *IPReg* that they are suitable to be involved in the provision of legal services, and to exercise influence over the conduct of the *licensed body*.
55. *IPReg* will not consider the person suitable where, either in this jurisdiction or another:
 - 55.1 they or any *licensed body* or other body of which they have previously been a *manager*, *owner* or *employee* has been:
 - 55.1.1 refused registration with, or authorisation by, another *approved regulator*;
 - 55.1.2 the subject of disciplinary sanction by a professional or regulatory tribunal, or regulatory authority, whether in England and Wales or elsewhere; or
 - 55.1.3 notified in writing by *IPReg* that it has not provided a satisfactory explanation as to matters at *IPReg's* request;
 - 55.1.4 they have been disqualified from being a *company* director;
 - 55.1.5 they have been disqualified from being a *manager*, *owner*, *HoLP* or *HoFA* under the *LSA*;
 - 55.1.6 they have been removed from the office of trustee for a charity by an order within the terms of s72(1)(d) of the Charities Act 1993;

- 55.1.7 they are an undischarged bankrupt, or have been adjudged bankrupt and discharged;
- 55.1.8 they have entered into a voluntary agreement or a *partnership* voluntary arrangement under the Insolvency Act 1986;
- 55.1.9 they have been a *manager* of a *company*, Limited Liability Partnership (LLP) or other body which has been the subject of a winding up order, an administration order or administrative receivership or which has entered into a voluntary arrangement under the Insolvency Act 1986 or has otherwise been wound up or put into administration in circumstances of insolvency;
- 55.1.10 they lack capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15 to 20 or section 48 of that Act are exercisable in relation to that person;
- 55.1.11 they are the subject of outstanding judgments involving the payment of money;
- 55.1.12 they have been sentenced to a term of imprisonment in criminal proceedings;
- 55.1.13 they are currently charged with an indictable offence, or have been convicted of an indictable offence or any offence under the *LSA*, the Solicitors Act 1974, the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006;
- 55.1.14 they have been the subject of an order under section 43 of the Solicitors Act 1974;
- 55.1.15 they have been involved in other conduct which calls into question their honesty, integrity or respect for the processes of law;
- 55.1.16 they have committed an offence under the Companies Act 2006; or
- 55.1.17 they have a previous conviction which is now spent for a criminal offence relating to bankruptcy, IVAs or other circumstances of insolvency.

56. IPReg will not approve as a *manager*, *owner*, *HoLP* or *HoFA* any corporate entity:

- 56.1 that has been the subject of a winding up order, an administration order or administrative receivership or which has entered into a voluntary arrangement under the Insolvency Act 1986 or has otherwise been wound up or put into administration in circumstances of insolvency;
- 56.2 where other matters that call its fitness and propriety into question are disclosed or come to light; or
- 56.3 in circumstances when the *licensed body* or the person concerned fails to disclose, refuses to disclose or seeks to conceal any matter within 54.1 or 54.2 above in relation to the approval application.

Specific requirements for compliance officers

57. A person seeking to be the *HoLP* must satisfy IPReg that they are:

- 57.1 a *manager* of the *licensed body*, which in this context means a director of a *company*, a member of an LLP or a *partner* in a *partnership*;
 - 57.2 in a position of sufficient responsibility to fulfil the duties of *HoLP* in relation to the *licensed body*;
 - 57.3 designated by the *licensed body* to be its *HoLP*; and
 - 57.4 a *registered attorney* or another type of regulated lawyer that *IPReg* deems appropriate.
58. A person seeking to be the *HoFA* must satisfy *IPReg* that they:
- 58.1 are a *manager* or an *employee* of the relevant body, though as such they may be provided with training and support by an external firm;
 - 58.2 are in a position of sufficient responsibility to fulfil the duties of *HoFA* in relation to the *licensed body*;
 - 58.3 are suitably qualified to fulfil the role of *HoFA* and designated by the *licensed body* to be its *HoFA*; and
 - 58.4 have experience of managing the finances of a firm within a legal services market, although they need not hold any particular professional qualifications.
59. In making its decision as to the suitability of a person to be a designated *HoLP* or *HoFA*, *IPReg* will take into account the candidate's:
- 59.1 seniority within the *licensed body*;
 - 59.2 experience and qualifications relevant to the role, including matters such as their experience of such roles within similar bodies;
 - 59.3 ability to fulfil their obligations taking into account the governance arrangements within the *licensed body*;
 - 59.4 access to information concerning the systems and controls of the *licensed body*;
 - 59.5 capacity to undertake the role, given any other commitments and conflicts of interest that may be apparent; and
 - 59.6 their knowledge and understanding of the legal services market and in particular patent and trade mark attorney firms.

Specific requirements for owners

60. A person seeking approval to be an *owner* must satisfy *IPReg* that the requirements in Paragraph 6 of Schedule 13 to the *LSA* are met.

Withdrawal of a role holder's approval

6.4	<i>IPReg</i> may withdraw a role holder's approval in accordance with <i>IPReg's</i> standard operating procedure.
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61. *IPReg* may withdraw a role holder's approval, if:

61.1 it is not satisfied that the role holder continues to be suitable to carry out their role;
or

61.2 it is satisfied that the role holder has breached any of *IPReg's regulatory arrangements*.

62. *IPReg* will give notice in writing to the *registered body*, the role holder, and where appropriate the registered *manager*, that approval will be withdrawn and set out the reasons for the withdrawal. The decision to withdraw approval may be appealed.

63. *IPReg* will advise the role holder of their right of appeal, and the timeframe within which the appeal must be received by *IPReg*.

Unforeseen events

5.3	<i>IPReg</i> will, in accordance with its standard operating procedure, set out:
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5.3.5	the circumstances in which registration is deemed to remain effective in unforeseen circumstances;
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64. If a *registered body* or *licensed body* experiences an unforeseen event resulting in them ceasing to comply with *IPReg's regulatory arrangements* set out in the Core Regulatory Framework, *IPReg* may deem the *registered body* or *licensed body* to have remained compliant where:

64.1 they have reported to *IPReg* in writing the unforeseen event within 7 days; and

64.2 the non-compliance is remedied within 28 days.

65. In such a case, the *registered body* or *licensed body* will be deemed to have been compliant with *IPReg's regulatory arrangements* and will not be liable for suspension or removal from the *register* by virtue of the temporary breach.

66. If the *registered body* or *licensed body* complies with the requirements of paragraph 64, *IPReg* will notify the *HoLP* or *manager*, as appropriate, in writing that they have been deemed to be compliant with *IPReg's regulatory arrangements*.

Temporary approval

7.6 In accordance with *IPReg's* standard operating procedure, *IPReg* will provide for the manner and form in which a *licensed body* should make an application to *IPReg* for temporary approval of a *HoLP* or *HoFA*.

67. *IPReg* may approve a *compliance officer* on a temporary basis due to any unforeseen event where, within 7 days of that event, the *licensed body*:

67.1 has reported to *IPReg* in writing that they cease to have a *HoLP* or *HoFA* and that this was an unforeseen event;

67.2 has designated a suitable person to act as *HoLP* or *HoFA*, as appropriate, on a temporary basis;

67.3 has made an application for temporary approval of the *HoLP* or *HoFA* in the form required as published on *IPReg's* website.

68. Paragraphs 61 – 67 above apply to applications for temporary approval of *compliance officers*.

69. *IPReg* may suspend a *licensed body* where the unforeseen event(s) resulting in non-compliance have not been:

69.1 adequately addressed; or

69.2 addressed within the timeframes set out above.

7.7 *IPReg* may withdraw a temporary approval in accordance with its standard operating procedure.

70. *IPReg* may withdraw approval of any approved person, whether approved on a temporary basis or not, if:

70.1 it is not satisfied that the approved person continues to meet the criteria for approval; or

70.2 it is satisfied that the approved person has breached any of *IPReg's regulatory arrangements*.

71. *IPReg* will give notice in writing to the *licensed body*, the approved person, and where appropriate the *HoLP* and *HoFA*, that approval will be withdrawn and set out the reasons for the withdrawal. The decision to withdraw approval may be appealed.

72. *IPReg* will advise the approved person of their right of appeal, and the timeframe within which the appeal must be received by *IPReg*.

Annual renewal of registration for registered persons

- 4.1 By the *prescribed* date each year, a *registered person* must renew their registration in accordance with *IPReg's* standard operating procedure.

73. Every *registered person* must renew their registration annually by 1 January. Registration is considered to be renewed when, in the case of each *registered person*:

73.1 their Annual Return has been submitted via their online *IPReg* account or as otherwise specified by *IPReg*; and

73.2 their practising fee has been received for the practice year which runs from 1 January to 31 December.

74. *IPReg* may allow *registered persons* to renew their registration on a date earlier or later than 1 January as may be specified from year to year. *IPReg* will aim to allow *registered persons* a period of at least six weeks to renew their registration before any regulatory action is taken.

75. *IPReg* will notify *registered persons* via electronic mail when they may renew their registration each year. *IPReg* may send reminder notifications to attorneys via electronic mail as it considers appropriate.

76. *Registered persons* that have not renewed their registration before 1 February in each year will be issued with a warning letter advising that failure to renew their registration before 1 March of that year will result in their registration being suspended. The warning letter will:

76.1 be sent by electronic mail and/or postal/courier service to the *registered person's* last known practice address;

76.2 set out the consequences of suspension from the relevant *register*; and

76.3 state that a penalty fee will be applied in accordance with the Practice Fee Regulations 2020, to the practising fee of any *registered attorney* if the *registered attorney* fails to renew their registration before 1 March of that year. No penalty fee will be applied to a *registered or licensed body*.

- 4.2 If a *registered person* fails to renew their registration within two calendar months of the renewal date, they may be suspended from the relevant *register* in accordance with *IPReg's* standard operating procedure.

Admission and Authorisation

77. *Registered persons* that have not renewed their registration before 1 March in each year may be suspended from the *register* with immediate effect. In such circumstances, the *registered person's* entry on the relevant *register* will show that they are suspended from practice.
78. IPReg will notify the *registered person* that they have been suspended. The notification will:
- 78.1 be sent by electronic mail and/or postal/courier service to the *registered person's* last known electronic mail and practice address;
 - 78.2 set out the consequences of suspension from the *register*;
 - 78.3 state that a penalty fee will be applied to the practising fee of any *registered attorney* if they seeks to renew their registration before 1 June of that year; and
 - 78.4 advise that unless they renew their registration before 1 June, their name will be removed from the relevant *register(s)*.
79. If a *registered person* who has been suspended renews their registration before 1 June by submitting their annual return and paying their practising fee and any penalty fee, their suspension will be revoked by IPReg.
80. IPReg may, in its absolute discretion, waive any late payment penalty fee.

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| <p>4.3 If a <i>registered person</i> is suspended from the relevant <i>register</i> under Rule 4.2, they may be removed from the <i>register</i> at IPReg's discretion, in accordance with IPReg's standard operating procedure.</p> |
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81. IPReg may decide not to remove any *registered person* from the *register(s)* if it considers that due to extenuating circumstances it would be inappropriate to do so. The *registered person* must demonstrate that extenuating circumstances apply.
82. IPReg will notify the *registered person* that their name has been removed from the *register*, of their right to appeal and the timeframe within which the appeal must be received by IPReg.

Other ongoing requirements

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| <p>5.3 IPReg will set out:</p> <ul style="list-style-type: none">5.3.1 any ongoing requirements with which a <i>registered person</i> must comply to remain on the relevant <i>register</i> |
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83. *Registered attorneys* must comply with all of the requirements set out in the Core Regulatory Framework, but for the purposes of 5.3 of Chapter 3 of the Core Regulatory Framework, the following are ongoing requirements with which a *registered person* must comply in order to remain on the relevant *register*:
- 83.1 the requirement set out in 2.2 in the Code of Conduct in Chapter 2 of the Core Regulatory Framework to maintain continuing competence and provide any such confirmation or evidence as *IPReg* requires;
 - 83.2 the requirement set out in 3.10 and 3.11 in the Code of Conduct in Chapter 2 of the Core Regulatory Framework to take out and maintain a policy of Professional Indemnity Insurance and, where necessary, run-off cover insurance; and
 - 83.3 the requirements set out in 3.3 – 3.7 in the Code of Conduct in Chapter 2 of the Core Regulatory Framework in relation to cooperation with and the provision of information to *IPReg* or any other regulatory supervisory and enforcement bodies or the *Legal Ombudsman*.
84. Where *IPReg* suspects that a *registered person* may have failed to comply with any of the requirements of registration in 83 above, the *registered person* will be issued with a warning letter advising that continued failure to comply with the requirements may result in suspension from the *register*. The warning letter will:
- 84.1 be sent by electronic mail and/or postal/courier service to the *registered person's* last known practice address;
 - 84.2 set out the non-compliant conduct identified;
 - 84.3 set out the consequences of suspension from the *register*; and
 - 84.4 specify the remediation that needs to take place in order to avoid suspension from the *register* and the timeframe in which it must take place.
- 5.3 *IPReg* will, in accordance with its standard operating procedure, set out:

 - 5.3.3 the circumstances it will consider and the procedures it will follow in determining whether to suspend a *registered person* from the relevant *register*, or to end such a suspension, and any associated rights of appeal;
85. If the *registered person* does not comply with the suspension warning letter in the timeframe specified, *IPReg* may suspend the *registered person* from the *register*. The *registered person* will be notified in writing that they have been suspended. The notification will:

- 85.1 be sent by electronic mail and/or postal/courier service to the *registered person's* last known practice address;
- 85.2 set out the reasons for the suspension;
- 85.3 set out the consequences of suspension from the *register*;
- 85.4 advise that unless the non-compliance is addressed within the timeframe specified, their name will be removed from the relevant *register(s)*; and
- 85.5 set out their right to appeal and the process to be followed.

Removal from the register

- 5.3 *IPReg* will, in accordance with its standard operating procedure, set out:
 - 5.3.4 the circumstances it will consider and the procedures it will follow in determining whether to remove a *registered person* from the relevant *register* and any associated rights of appeal;

- 86. *IPReg* may remove a *registered person* from the *register* where:
 - 86.1 the registration was granted due to error or fraud; or
 - 86.2 the *registered person* fails to address their non-compliance with ongoing registration requirements in paragraph 83 above in the timeframe specified.
- 87. *IPReg* may decide not to remove any *registered person* from the *register(s)* if it considers:
 - 87.1 that due to extenuating circumstances, it would be inappropriate to do so;
 - 87.2 that disciplinary action should be taken; or
 - 87.3 that to remove the *registered person* from the *register* could pose a risk to *clients*, their money or to any imminent or ongoing investigation.
- 88. In considering whether to remove any *registered person* from the *register*, *IPReg* will take into account the following factors:
 - 88.1 the *regulatory objectives*;
 - 88.2 the likelihood that the *registered person* will comply with *IPReg's regulatory arrangements* in the future;
 - 88.3 any correspondence from or engagement by the *registered person*;

- 88.4 whether disciplinary action is appropriate and therefore whether the *registered person* should remain suspended pending the outcome of any disciplinary action; and
 - 88.5 whether removing the *registered person* from the *register* could pose a risk to *clients*, their money or to any imminent or on-going investigation.
89. The *registered person* will be notified in writing that they have been removed from the *register*. The notification will:
- 89.1 be sent by electronic mail and/or postal/courier service to the *registered person's* last known practice address;
 - 89.2 set out the reasons for the removal;
 - 89.3 set out the consequences of removal from the *register*; and
 - 89.4 set out their right to appeal and the process to be followed.

Voluntary Removal

8.2 *Registered persons* can, unless subject to disciplinary proceedings, apply to *IPReg* for voluntary removal from the *register*, in accordance with *IPReg's* standard operating procedure.

90. A *registered attorney* may apply to remove themselves from either or both *registers* at any time. The attorney should read the Voluntary Removal guidance and submit a Voluntary Removal application form via their *IPReg* account.
91. A *registered body* or *licensed body* may apply to remove itself from either or both *registers* at any time. A person with the authority to do so, should contact *IPReg* to advise of their intent to wind down the business and/or remove it from the *register(s)*. The body will need to demonstrate that:
- 91.1 all *clients* have been notified and all matters have either been completed or transferred (with the *client's* consent) to a new practice;
 - 91.2 all *client money* and other property have been returned to the *client*;
 - 91.3 there are no outstanding *client* complaints;
 - 91.4 all third party agencies have been informed as appropriate (e.g. HMRC); and
 - 91.5 there has been compliance with 3.11 of the Code of Conduct in Chapter 2 of the Core Regulatory Framework.
92. Where *IPReg* has any concerns that to remove the *registered person* from the *register* could pose a risk to *clients*, their money or to any imminent or ongoing investigation, *IPReg* will decline any Voluntary Removal application or refuse any request to remove *registered person* from the *register* until:

- 92.1 *IPReg* is satisfied that there is no longer any risk to *clients*, their money or any investigation;
 - 92.2 any application or request is withdrawn; or
 - 92.3 any action taken under the disciplinary procedure is concluded.
93. *IPReg* will advise the *registered person* in writing if their application has been refused and when their name has been removed from the *register*, as appropriate.

Additional grounds to remove or suspend a registered person

- 8.1 *IPReg* may suspend or revoke a *registered person's* registration and must follow the notification processes in accordance with *IPReg's* standard operating procedure.

94. *IPReg* may remove or suspend a *registered person* from the *register* if it is satisfied that:
- 94.1 the registration or the licence was granted as a result of error or fraud;
 - 94.2 the *registered person* no longer meets the requirements for registration;
 - 94.3 the *registered person* has breached one or more terms or conditions of its registration or licence;
 - 94.4 the *registered person* has been deemed compliant with *IPReg's regulatory arrangements* despite a breach due to unforeseen circumstances, and the breach has not been remedied within 28 days;
 - 94.5 a non-authorised person is an *owner* of the *registered person*;
 - 94.6 a non-authorised person who is subject to the duty in section 90 of the *LSA* fails to comply with that duty;
 - 94.7 the body, a *manager*, an *owner*, a *compliance officer* or an *employee* of the body fails to comply with any duty imposed by *IPReg* or under any enactment including s176 of the *LSA*;
 - 94.8 the body has ceased to practise;
 - 94.9 an *approved regulator* other than *IPReg* has authorised the body;
 - 94.10 *IPReg* has received an application for voluntary removal as set out above at 91;
 - 94.11 for any other reason it would be against the *regulatory objectives* for that body's registration to continue.

95. Decisions to suspend or remove a *licensed body* or *registered body* will be communicated to the body and its *HoLP* or registered *managers* as appropriate, setting out the reasons for the suspension or removal and the process for appealing the decision.

Restoration to the register

- 5.3 *IPReg* will, in accordance with its standard operating procedure, set out:
- 5.3.7 the requirements as to how a *registered person* obtains re-entry to the relevant *register*.

96. An attorney or body whose name has been removed from the *register* may be restored to the *register*, upon application, and at the absolute discretion of *IPReg* as follows:
- 96.1 An attorney seeking restoration to the *register* should make an application using the form published on *IPReg's* website⁷; or
- 96.2 A person with authority on behalf of a body should contact *IPReg* to discuss arrangements to apply for restoration.
97. An application for restoration will not be processed until any fee, equivalent to the annual practising fee in the relevant practice category together with the *compliance officer* fees (where applicable), has been received.
98. In the case of an individual attorney, *IPReg* may direct that a penalty fee be payable where restoration is sought following removal for failure to renew registration.
99. The attorney or body's application must be accompanied by the following information:
- 99.1 where removal was due to a failure to renew registration:
- 99.1.1 an explanation of their failure to renew their registration in accordance with the requirements of this standard operating procedure;
- 99.1.2 an explanation of any failure to respond to *IPReg's* correspondence in connection with registration renewal; and
- 99.1.3 an explanation as to how they will ensure they renew their registration in a timely manner going forward; and
- 99.2 in the case of an attorney:
- 99.2.1 whether they have continued to work,
- 99.2.2 whether they have worked in any other regulated industry (whether or not relevant to intellectual property) since their removal from the *register* and if so, what industry it was and who they were regulated by; and
- 99.2.3 how they have kept their knowledge of *patent attorney work* or *trade mark attorney work* up to date, whether they have completed any CPD, ongoing

⁷ A hardcopy application form can be obtained from *IPReg* should an applicant require one

learning or training since they had been removed from the *register* and evidence of same; or

- 99.3 in the case of a body, whether it had continued to trade during the period in which it was removed from the *register*, including whether it had provided any *reserved legal activities* in that time.
100. *IPReg* will refuse the application for restoration if it is not satisfied that the attorney or body is capable of complying with any of *IPReg's regulatory arrangements*.
101. *IPReg* will notify the applicant, in writing, of the outcome of their application, advising them of rights of appeal and the timeframe within which the appeal must be received by *IPReg*.

Investigation and disciplinary requirements

This part of the standard operating procedure covers the provisions set out at Chapter 4 of *IPReg's* Core Regulatory Framework which addresses investigation and disciplinary requirements. For avoidance of any doubt, the text appearing in the boxes throughout this part of the standard operating procedure are extracts taken directly from Chapter 4 of the Core Regulatory Framework.

Disciplinary and Interim Orders Tribunal

1. The *Disciplinary and Interim Orders Tribunal* will be appointed by *IPReg* from time to time and will consist of both lay and professional members none of which may have been a member of the *IPReg* Board, of the *CIPA* or *CITMA* Councils, or staff of *IPReg*, in the three years prior to their appointment. Professional members may be current or retired *registered attorneys* or those currently or formerly regulated by another *approved regulator*.

Investigatory steps

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| 1.1 | Where <i>IPReg</i> has or receives information which suggests a <i>regulated person</i> may have breached any of its <i>regulatory arrangements</i> , it may, in accordance with its standard operating procedure, investigate to whatever extent it considers necessary. |
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2. *IPReg* may receive complaints from any *person* about a *regulated person*.
 3. A complaint must be lodged on the Complaint Form as published by *IPReg* from time to time. *IPReg* may consider complaints lodged by electronic mail or by post, but all complaints must be made in writing.
 4. *IPReg* will not usually investigate where the complainant merely makes an allegation which is not supported by any, or any sufficient evidence. Nor it is likely that *IPReg* will investigate vague complaints about a *regulated person's* practices or procedures; the complainant needs to clearly express the alleged conduct complained of such that *IPReg* can identify which of its *regulatory arrangements* (if any) may have been breached.
 5. *IPReg* may or may not advise the subject of the complaint that a complaint has been received about them, at this stage. If *IPReg* decides it needs to disclose the complaint to the *regulated person* in order to investigate further, the complainant will need to consent to the disclosure. This means that the complainant must agree that their identity and at least a summary, if not a full copy, of the complaint may be shared. *IPReg* will usually be unable to investigate further if it cannot disclose this information to the *regulated person* as it will be extremely difficult for them to respond adequately to the complaint.
 6. It will usually be appropriate to disclose the complaint to the *regulated person* where *IPReg* considers that the *regulated person* may be able to clarify any information or if they have information which is not available from any other source, such as a complaint file or a firm policy.

Investigation and disciplinary requirements

7. Where a decision has been made at the outset that the complaint does not engage *IPReg's regulatory arrangements* or that another organisation is better suited to investigate, *IPReg* will not usually tell the *regulated person* that a complaint has been made about them.
8. In assessing a complaint, *IPReg* may take into account information it already holds about a *regulated person*. *IPReg* may also adjourn the matter pending enquiries being made or proceedings being undertaken in a different forum (for example in civil proceedings) or by a different body (such as the *Legal Ombudsman*, another legal services regulator, the Police or HMRC).
9. Within 10 working days of receipt of a complaint, *IPReg* will assess whether further information is required to determine whether it should investigate. If further information is required:
 - 9.1 from the complainant or a third party, *IPReg* will write to the relevant person setting out the information required and providing a reasonable timeframe within which to respond; or
 - 9.2 from the subject of the complaint, *IPReg* will write to that *regulated person*, setting out:
 - 9.2.1 an overview of the complaint received;
 - 9.2.2 the information *IPReg* is requesting the *regulated person* provide and the timeframe within which it should be provided; and
 - 9.2.3 the possible outcomes of any investigation which may follow.
10. Within 20 working days of receipt of the information requested under 9.1 and/or 9.2, *IPReg* may take any investigatory steps it considers appropriate including:
 - 10.1 making any further request for information from any other *person*, setting out the timeframe within which that information should be provided; and
 - 10.2 appointing a third party to assist with, advise on or conduct an investigation, including:
 - 10.2.1 external investigators;
 - 10.2.2 *legal advisers*, including specialists and / or experts to provide technical advice; and/or
 - 10.2.3 members of the *PRB* or *TRB*, as appropriate.
11. A failure by a *regulated person* to respond to any request for information may constitute a breach of *IPReg's regulatory requirements* and may lead to disciplinary action.

IPReg Standard Operating Procedure
Investigation and disciplinary requirements

IPReg decisions

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| 1.3 | Whether or not an investigation takes place, <i>IPReg</i> may, in accordance with its standard operating procedure: |
| 1.3.1 | close the <i>case</i> with or without advice being given to the subject of the complaint; |
| 1.3.2 | refer the <i>case</i> to the <i>Disciplinary and Interim Orders Tribunal</i> for consideration of an <i>interim order</i> ; or |
| 1.3.3 | refer the <i>case</i> to the <i>Case Examiners</i> for further consideration. |
12. A *case* may be closed under 1.3.1 of Chapter 4 where, upon consideration of the information before it, including any information arising out of an investigation in accordance with this standard operating procedure, *IPReg* is not satisfied there is sufficient evidence of a breach of its any of its *regulatory arrangements*.
13. Advice given under 1.3.1 of Chapter 4 may include:
- 13.1 Advice as to future conduct;
- 13.2 Advice to undertake or cease to undertake an action or particular practice; and
- 13.3 Any other advice *IPReg* deems appropriate having regard to all the information obtained.
14. Any advice *IPReg* provides under 1.3.1 of Chapter 4 will not be published and will not be binding on the *regulated person*. However, if the *regulated person* chooses not to take *IPReg's* advice and a further complaint is made against them of a similar nature in the future, *IPReg* will be entitled to take this into account.
15. If the decision is made that the case should be closed, *IPReg* will inform the complainant and will provide reasons for that decision, in writing. There is no right to appeal a decision made not to refer the case to Case Examiners, or not to investigate further. In some cases, the complainant may be advised that any investigation is premature and that *IPReg* may be able to consider it again in the future once certain events, such as UKIPO or court proceedings, have concluded.
16. In respect of 1.3.2 of Chapter 4, *IPReg* may apply to the *Disciplinary and Interim Orders Tribunal*, for an *interim order* in respect of the relevant *regulated person*, where it has concerns that an order is:
- 16.1 necessary to protect the public;
- 16.2 is otherwise in the public interest; or
- 16.3 is in the *registered attorney's* own interests. The procedure and notice requirements of such an application are set out below in 35 – 42.

IPReg Standard Operating Procedure
Investigation and disciplinary requirements

17. A *case* may be referred to the *Case Examiners* under 1.3.3 of Chapter 4, where, upon consideration of the information before it, including any information arising out of an investigation, *IPReg* is satisfied there is sufficient information to demonstrate there may be a breach of its *regulatory arrangements*.

Case Examiner referral and preparation

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| 1.4 | Where a <i>case</i> is referred to the <i>Case Examiners</i> , <i>IPReg</i> will, in accordance with its standard operating procedure: |
| 1.4.1 | serve a notice on the respondent, together with a summary of the complaint and any evidence obtained which supports the complaint; |
| 1.4.2 | invite the respondent to make submissions and/or provide any material they wish the <i>Case Examiners</i> to consider; and |
| 1.4.3 | carry out any further investigation it considers necessary as a result of any submissions made and/or material provided by the respondent. |
18. A notice under 1.4.1 of Chapter 4 will:
- 18.1 set out a summary of the complaint received;
 - 18.2 set out a summary of the provisions of the *regulatory arrangements* the *regulated person* is alleged to have breached;
 - 18.3 contain a bundle of the evidence to be put before the *Case Examiners* for consideration; and
 - 18.4 specify the date upon which any submissions or material must be provided by the *regulated person*, being 20 working days from the date of the notice, unless an extension is sought and obtained from *IPReg*.
19. Upon receipt of any submissions or material provided by the *regulated person* under 18.4 above, *IPReg* may carry out any further investigation as required.
20. *IPReg* will make appropriate arrangements for the appointment of *Case Examiners* to consider the *case*, including if appropriate, a set date upon which the *Case Examiners* will consider the *case*.
21. Upon receipt of any submissions or material provided by the *regulated person* under 18.4 above, or failing the receipt of any submissions or material by the date set out in the notice above, *IPReg* may:
- 21.1 decide that no further action is required and close the complaint; or
 - 21.2 prepare a bundle of papers for the *Case Examiners* containing:
 - 21.2.1 a summary of the complaint received;
 - 21.2.2 a summary of the provisions of the *regulatory arrangements* the *regulated person* is alleged to have breached;

IPReg Standard Operating Procedure
Investigation and disciplinary requirements

21.2.3 the bundle of evidence served on the *regulated person*; and

21.2.4 any submissions or materials provided by the *regulated person*,

22. Where the *case* is to be referred to the *Case Examiners*, *IPReg* will provide the bundle set out at 21.2 above to the *Case Examiners* and to the *regulated person* no less than five working days before the date the *Case Examiners* will consider the papers and make a decision.

Case Examiners – Consideration and Decision

- 1.5 The *Case Examiners* will, in accordance with *IPReg's* standard operating procedure, consider whether there is a *case to answer*.
- 1.6 After consideration of the *case*, the *Case Examiners* may determine that:
- 1.6.1 the *case* be closed with or without advice being given to the respondent;
 - 1.6.2 further investigation needs to take place and provide such advice or direction to *IPReg* as they consider appropriate;
 - 1.6.3 the *case* be referred to the *Disciplinary and Interim Orders Tribunal*;
 - 1.6.4 the *case* be resolved by mutual agreement between the parties, by way of one or any combination of;
 - 1.6.4.1 a warning,
 - 1.6.4.2 a reprimand;
 - 1.6.4.3 the signing of an *undertaking*;
 - 1.6.4.4 a financial penalty;
 - 1.6.4.5 suspension from the *register*;
 - 1.6.5 the *case* be referred to the *Disciplinary and Interim Orders Tribunal*.

23. *IPReg* will appoint *Case Examiners* from the *Disciplinary and Interim Orders Tribunal*, comprising:
- 23.1 one lay person; and
 - 23.2 one professional person, being any *LSA authorised person*,
- to consider a *case* referred under 1.3.3 of Chapter 4.
24. The appointed *Case Examiners* will consider the bundle prepared in accordance with 21.2 above without an oral hearing and will be asked to decide whether or not there is a *case to answer* in respect of *IPReg's* concerns.
25. Where the *Case Examiners* decide under 1.6.1 of Chapter 4 that there is no *case to answer*, they may prepare advice for *IPReg* to provide to the *regulated person*.

Investigation and disciplinary requirements

26. Any advice given under 1.6.1 of Chapter 4 would not be binding and it would not be published. However, should the respondent choose not to act on the advice and a further similar complaint is made against them in the future, *IPReg* will be entitled to take this into account in considering the subsequent complaint.
27. Where the *Case Examiners* decide that further investigation is required in accordance with 1.6.2 of Chapter 4 before they can reach a decision, they may give such advice or direction to *IPReg* as to the investigatory steps to be taken. In such circumstances, the complainant (where applicable) and the *regulated person* will be given written notice of this decision.
28. Where the *Case Examiners* decide that there is a *case to answer*, but that the *case* is suitable for resolution by mutual agreement between the parties in accordance with 1.6.3 of Chapter 4, the *Case Examiners* will:
 - 28.1 recommend a proposed sanction from those contained in 1.6.3 of Chapter 4;
 - 28.2 set out a proposed costs order;
 - 28.3 provide the *regulated person* with notice of the *Case Examiners'* decision and recommended proposed sanction and costs order; and
 - 28.4 invite the *regulated person* to reach an agreement with *IPReg* on facts and to provide any additional material in mitigation.
29. If after a reasonable period of time, being no less than 20 working days, a mutual agreement cannot be reached, the *Case Examiners* will be informed and will refer the *case* to the *Disciplinary and Interim Orders Tribunal* for consideration and determination.
30. Where the *Case Examiners* decide that there is a *case to answer*, the *case* will be referred to the *Disciplinary and Interim Orders Tribunal* for consideration and determination in accordance with 1.6.4 of Chapter 4.

Case Examiner Decisions

31. Within 5 working days of the *Case Examiners'* decision, *IPReg* will provide a copy of that decision to the *regulated person* and to the complainant, informing them of the outcome and the next steps, as appropriate.

Interim Orders

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| <ol style="list-style-type: none">2.1 An <i>Interim Orders Panel</i> drawn from a pool of individuals from the <i>Disciplinary and Interim Orders Tribunal</i>, and supported by a <i>legal adviser</i> and, where necessary, a <i>technical adviser</i>, will consider and determine applications for <i>interim orders</i>. |
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32. *IPReg* will appoint an *Interim Orders Panel* consisting of two lay members, one of whom will be appointed as Chair, and one professional member, being any LSA authorised person.
33. *IPReg* will appoint a *legal adviser* to assist the *Interim Orders Panel*.

Investigation and disciplinary requirements

34. *IPReg* may appoint a *technical adviser* to assist the *Interim Orders Panel* where the *case* deals with the competency of an attorney, or otherwise requires technical knowledge in order to understand and adjudicate on the issues.

- 2.2 When determining whether an *interim order* needs to be imposed, the *Interim Orders Panel* will need to be satisfied that imposing such an order:
- 2.2.1 is necessary for the protection of the public; is otherwise in the public interest; or is in the *registered attorney's* own interests; and
- 2.2.2 is a proportionate response to the risks identified.

35. In accordance with 1.3.2 of Chapter 4, *IPReg* may apply to an *Interim Orders Panel* for an *interim order* in respect of a *regulated person*.

36. An application by *IPReg* for an *interim order* may be made where there is:

- 36.1 compelling evidence of a serious breach of *IPReg's regulatory arrangements*, and
- 36.2 evidence of immediate or current risk to consumers, *clients'* interests or *client money*.

37. In deciding whether to make an application, *IPReg* will also consider the following:

- 37.1 whether public confidence in the profession(s) would be damaged if the respondent was able to continue to practise in an unrestricted way, pending the outcome of the disciplinary process;
- 37.2 whether the respondent has any previous disciplinary history or history of failing to comply with regulatory requirements;
- 37.3 the likelihood of risk of repetition of the alleged breach pending the outcome of the proceedings;
- 37.4 whether there are any restrictions in place on the respondent's practice imposed by an employer (although the Panel will bear in mind that such restrictions may not be in place if the respondent chooses to move practice);
- 37.5 the nature of the practice of the respondent; the risk profile an attorney not actively practising presents is very different to that of a Sole Trader;
- 37.6 the likely impact on the respondent's existing *clients* should the *interim order* be granted; in seeking to protect consumers and *clients'* interests by having an *interim order* in place, the interests of the respondent's current *clients* may be risk if their attorney was suddenly unable to continue to act for them.

38. Any application under 35 above must, unless there are reasonable grounds not to, be served on the respondent *regulated person* and set out:

- 38.1 the grounds for the application, addressing the factors set out in 2.2 of Chapter 4;
- 38.2 whether notice is being given to the *regulated person* and if not, why;
- 38.3 the duration and terms of the proposed order;

Investigation and disciplinary requirements

- 38.4 that the *regulated person* may, within five working days of the date of the application, provide a response consenting to the application or setting out why the application should be refused; and
- 38.5 the date on which the *Interim Orders Panel* will consider the application.
39. PReg will convene, on the date set out in its application, the appointed *Interim Orders Panel*, *legal adviser* and *technical adviser*, where appointed, to consider *IPReg's* application, any submission from the *regulated person* and oral argument from both parties.
40. If the *Interim Orders Panel* is satisfied of the matters set out in 2.2 of Chapter 4, they may impose an *interim order* and in doing so must set out:
- 40.1 the restrictions imposed by the *interim order*;
- 40.2 the duration of the order;
- 40.3 the reasons for making the order;
- 40.4 when the first review must take place and that reviews are to occur every six months, thereafter;
- 40.5 that an earlier review may take place on application of *IPReg* or the *regulated person*, where there is information to indicate that the order should be varied, or withdrawn, sooner.
- 40.6 that the *regulated person* may appeal the *Interim Orders Panel's* decision to an *Independent Adjudicator*.
41. If the *Interim Orders Panel* is not satisfied of the matters set out in 2.2 of Chapter 4, they must refuse to impose an order.
42. Where possible the same *Interim Orders Panel* that imposed the original order should consider any review or application to vary or withdraw the *interim order*.

Disciplinary stage

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| 3.1 | A <i>Disciplinary Panel</i> drawn from a pool of individuals from the <i>Disciplinary and Interim Orders Tribunal</i> will consider and determine referrals made by the <i>Case Examiners</i> . |
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43. *IPReg* will appoint a *Disciplinary Panel* comprising two lay members, one of whom will be appointed as Chair, and one professional member, being any *LSA authorised person*.

IPReg Standard Operating Procedure
Investigation and disciplinary requirements

- 3.2 In accordance with its standard operating procedure, *IPReg*:
- 3.2.1 will serve on the respondent, details of the allegation against them and any evidence upon which it seeks to rely;
 - 3.2.2 will appoint a *legal adviser* to assist the *Disciplinary Panel*; and
 - 3.2.3 may, where necessary, appoint a *technical adviser* to assist the *Disciplinary Panel*; and
 - 3.2.4 may at any time before the commencement of the *Disciplinary Panel* hearing, request a *case management* hearing be scheduled either on its request or that of the respondent where it considers it appropriate to do so.

- 44. *IPReg* will appoint a *legal adviser* to assist the *Disciplinary Panel*.
- 45. *IPReg* may appoint a *technical adviser* to assist the *Disciplinary Panel* where the *case* deals with the competency of the respondent, or otherwise requires technical knowledge in order to understand and adjudicate on the issues.
- 46. Following referral by the Case Examiners to a Disciplinary Panel, *IPReg* must serve a formal allegation on the respondent that particularises the alleged breaches of the regulatory arrangements.
- 47. At any point after the formal allegation is served, the respondent may admit some or all of the allegations. Admitted allegations will be deemed proved.
- 48. After service of the formal allegation, either party may request a case management hearing take place at which:
 - 48.1 the respondent may be asked whether any of the allegations are admitted;
 - 48.2 directions for progression of the *case*, including the exchange of evidence, skeleton arguments or any other materials, may be given;
 - 48.2 a date for final hearing may be set; and
 - 48.3 any other directions required, may be given.
- 49. The parties may agree a timetable ahead of any such *case management* hearing, which may be conducted on the papers.
- 50. Either party may request additional *case management* hearings be scheduled. Such requests should be made in writing to the Chair of the *Disciplinary Panel* who may, at their discretion, accept or refuse such a request.

Disciplinary Panel hearing procedure

- 3.3 In accordance with *IPReg's* standard operating procedure, the *Disciplinary Panel* will:
- 3.3.1 appoint from its number, a Chair;
 - 3.3.2 delegate to the Chair, the authority to agree and conduct *case* management hearings;
 - 3.3.3 consider *cases* referred to it by the *Case Examiners*, applying the civil standard of proof to any questions of fact;
 - 3.3.4 conduct the hearing in whatever manner it considers appropriate to ensure the fair and expedient hearing of the *case*;
 - 3.3.5 record its decision in writing and provide reasons;
 - 3.3.6 specify when an order imposed under 3.4 below takes effect.

51. *Disciplinary Panel* hearings will take place on the papers, but may take place orally at the request of either party, by way of an application to the *Disciplinary Panel*. Any such application will need to demonstrate why the applicant considers that an oral hearing is necessary.
52. Where an application for an oral hearing is granted, such a hearing will ordinarily take place remotely via a video conferencing facility, and will proceed in the following stages:
- 52.1 consideration of and determination as to facts and misconduct;
 - 52.2 consideration and determination as to sanction.
53. Each party may be legally represented.
54. Each party will present its case on the allegation(s) in dispute, and call its witnesses, including, where applicable, any experts.
55. The *Disciplinary Panel* may ask questions of each of the parties.
56. If at the facts stage at 52.1 above, the *Disciplinary Panel* finds that IPReg has not, to the civil standard, proved the matters alleged, the *Disciplinary Panel* must dismiss the case.
57. If the *Disciplinary Panel* finds that the breaches found proven do not amount to misconduct, the *Disciplinary Panel* must make no finding as to misconduct or sanction.
58. If at the misconduct stage at 52.1 above, the *Disciplinary Panel* finds that the breaches found proven amount to misconduct, the *Disciplinary Panel* may progress to make a finding as to sanction.
59. Should the *Disciplinary Panel* consider a sanction is warranted, it must have regard to:
- 59.1 any aggravating or mitigating features of the proven conduct; and

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59.2 *IPReg's* Sanctions Guidance in force, and

may seek and receive submissions from the parties as to the appropriate sanction to be imposed.

60. The *Disciplinary Panel* may impose one or more of the sanctions set out in 3.4 of Chapter 4, and in doing so, must make an order as to when the sanction takes effect.

Review of disqualification orders

3.5.2 A disqualification:

3.5.2.1 can be imposed for a definite or an indefinite period, with an optional non-review period; and

3.5.2.2 following any applicable non-review period, must be subject to a review, either at the request of the *person* upon whom the disqualification has been imposed or earlier by *IPReg* if *IPReg* is satisfied there is sufficient evidence to demonstrate the disqualification order is no longer required, or it is no longer necessary, proportionate or in the public interest to maintain the disqualification order.

61. On application of *IPReg* or the disqualified person, and in accordance with the requirements in 3.5.2.2 of Chapter 4, the *Disciplinary Panel* will review the imposition of that order.
62. Where possible, the *Disciplinary Panel* that imposed the disqualification order will conduct the review.
63. An application to review a disqualification order must set out the grounds upon which the review is sought, being that:
- 63.1 the applicant is satisfied that there is sufficient evidence to demonstrate that the disqualification order is no longer required; and
- 63.2 it is no longer necessary, proportionate or in the public interest for the disqualification order to remain in place.
64. Where an application is made by the disqualified person, *IPReg* may within 10 working days, serve submissions in response to that application.
65. Where an application is made by *IPReg*, *IPReg* must ensure the disqualified person is given the opportunity to provide any submissions in response to that application.
66. The *Panel* will consider such an application on the papers, unless one or both parties apply for an oral hearing, which if granted, will ordinarily take place remotely.

Appeals

- 4.1 The respondent who is subject to a sanction imposed by the *Disciplinary Panel* under 3.4 may seek to appeal that decision by way of a review by an *Independent Adjudicator*.

4.2 Appeals may be sought on one or more of the following grounds:

 - 4.2.1 an error of law;
 - 4.2.2 a procedural flaw;
 - 4.2.3 a mistake of fact;
 - 4.2.4 the discovery of new evidence which was not available at the time the decision which is now the subject of appeal was first made.

4.3 In accordance with *IPReg's* standard operating procedure, *IPReg* will specify:

 - 4.3.1 the manner in which an appeal must be lodged, including the form of an appeal, costs and any time limitations;
 - 4.3.2 the standard timeframe for the hearing and determination of an appeal, unless there is a reasonable need to deviate from that timeline.
67. An appeal to an *Independent Adjudicator* must be made within 20 working days of the decision which is the subject of the appeal being made.
68. Such an appeal must be lodged on the Appeal Form as published by *IPReg* from time to time and must:
- 68.1 specify the decision and order, if applicable, being appealed;
 - 68.2 specify the ground(s) on which the appeal is being made, being one or more of those specified in 4.2 of Chapter 4; and
 - 68.3 be accompanied by any supporting witness statement, other submissions and evidence.
69. *IPReg* may, within 20 working days of receipt of the appeal document, provide a response to the appeal to the appellant.
70. Within 10 working days of *IPReg's* response being provided to the appellant, *IPReg* will:
- 70.1 in the case of matters appealable to an *Independent Adjudicator*:
 - 70.1.1 appoint an *Independent Adjudicator* to consider and determine the appeal; and
 - 70.1.2 schedule an appeal hearing,

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71. The *Independent Adjudicator* will consider an appeal on the papers but an oral hearing may take place at the request of either party, by way of an application. Any such application will need to demonstrate why the applicant considers that an oral hearing is necessary.
72. *IPReg* will communicate the outcome of the appeal to the Appellant within five working days of the decision being made.

4.4 In the event that an *Independent Adjudicator* dismisses a request for an appeal, in whole or in part, the applicant may further appeal to the First Tier Tribunal of the General Regulatory Chamber.

73. An appeal to the First Tier Tribunal of the General Regulatory Chamber must be lodged within 20 working days of the appeal decision being communicated to the appellant.

Costs

5.1 In accordance with *IPReg's* standard operating procedure, the *Case Examiners*, a *Disciplinary Panel* and an *Independent Adjudicator* may make an award of costs.

74. In the event of a finding in favour of *IPReg* by the *Case Examiners*, a *Disciplinary Panel* or an *Independent Adjudicator*, *IPReg* may make an application to the applicable decision maker for its reasonable costs in investigating and bringing proceedings (including appeal proceedings) against the *regulated person*.
75. In advance of any application for costs, *IPReg* will serve upon the respondent a costs schedule setting out the costs claimed and why they were incurred. The respondent will therefore have the opportunity to dispute any costs claimed and prepare submissions or evidence to demonstrate their means to pay any costs award that may be made.

Publication

6.1 In accordance with *IPReg's* standard operating procedure, it may publish decisions made by *Case Examiners*, an *Interim Orders Panel*, a *Disciplinary Panel* and an *Independent Adjudicator*.

76. *IPReg* will publish its allegation against a *regulated person* five working days before a scheduled disciplinary hearing.
77. *IPReg* will publish the outcomes and decisions of:
- 77.1 *Case Examiners*, in respect of mutual agreements; and
- 77.2 the *Interim Orders Panel*, *Disciplinary Panel* and *Independent Adjudicator*.
78. The following publication periods will apply:

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- 78.1 a decision to impose a warning will be published for two years or any lesser period determined by the decision making body;
- 78.2 a decision to impose a reprimand will be published for five years or any lesser period determined by the decision making body;
- 78.3 a decision to impose a fine will be published for a period of five years;
- 78.4 a decision to impose an *undertaking* will be published for a period of five years;
- 78.5 a decision to impose conditions on the practice of a *regulated person* will be published for the period of time the conditions apply or any other specified time period;
- 78.6 a decision to suspend a *registered person* will be published for the duration of the suspension or any other specified time period;
- 78.7 a decision to remove a *registered person* from the *register* will be published for a period of five years;
- 78.8 a decision to impose a disqualification order will be published for the duration or the disqualification, or until the disqualification ceases to be in force;
- 78.9 a decision to award an order for costs against a *regulated person* will be published for the period of time for which any other order imposed will also apply.

Waivers

This part of the standard operating procedure covers the provisions set out at Chapter 6 of *IPReg's* Core Regulatory Framework which addresses miscellaneous requirements including waivers. For avoidance of any doubt, the text appearing in the boxes throughout this part of the standard operating procedure are extracts taken directly from Chapter 6 of the Core Regulatory Framework.

- 2.1 In accordance with its standard operating procedure, *IPReg* will provide for:
- 2.2.1 the manner and form in which a *regulated person* should make an application for a waiver under this Core Regulatory Framework;
- 2.2.2 the factors it will take into account when considering and determining any such application.

General requirements

1. Applicants may apply to *IPReg* to waive any of its *regulatory arrangements* or other requirements other than in relation to:
 - 1.1 Any *regulatory arrangement* which reflects a statutory requirement;
 - 1.2 Adherence to the *Principles*;
 - 1.3 Any direction made by *Case Examiners*, the *Interim Orders Panel* and *Disciplinary Panel* or the *Independent Adjudicator* in connection with disciplinary proceedings;
 - 1.4 The prohibition against acting where your own interests conflict with that of your *client*;
 - 1.5 The qualifications required to gain entry to either *register*, other than in relation to historic qualifications as set out in Note 3 of Schedule 3 to the Examination and Admission of Individuals to the Register Rules.
2. Applicants should make their application for a waiver in relation to any of *IPReg's* *regulatory arrangements* via *IPReg's* online application form⁸. There is no application fee.
3. *IPReg* may, save for as set out at 1 above, waive a *regulatory arrangement* or other requirement of its own volition.

⁸ A hardcopy application form can be obtained from IPReg should an applicant require one

4. Applications should be made in advance of any intended non-compliance with *IPReg's regulatory arrangements* or requirements. Other than for waivers of CPD requirements, *IPReg* is unlikely to grant waivers retrospectively.
5. *IPReg* aims to reach a final decision on applications for waivers within 10 working days. Decisions will be made in writing.
6. Decisions are usually made by the *CEO* or the Head of Registration (on authority delegated by the *CEO*). Where the decision maker has any doubt as to whether an application should be granted, the matter can be referred to the *PRB* and/or *TRB* for determination.
7. *IPReg* may seek to verify any information provided.
8. In granting an application, *IPReg* may direct as a condition of the waiver that the applicant inform any other party, including *clients*, that the waiver is in place.
9. There is no right to appeal any decision made in relation to a waiver application.
10. Summaries of waiver applications and decisions will normally be published.

Factors IPReg will take into account when considering a waiver application

11. *IPReg* will take into account the following non-exhaustive factors as are relevant to the individual application:
 - 11.1 The impact on the *regulatory objectives*;
 - 11.2 The previous regulatory history of the applicant, including whether they have previously demonstrated an inability or unwillingness to comply with *IPReg's regulatory arrangements* or requirements;
 - 11.3 Whether the applicant has previously sought a waiver for exemption from the same or similar *regulatory arrangement* or requirement;
 - 11.4 The extent to which the reason for the waiver is due to an avoidable act or omission by the applicant;
 - 11.5 Whether there are any other reasonable steps the applicant can take in order to comply with the relevant *regulatory arrangement* or requirement;
 - 11.6 The extent to which the applicant can satisfy the objective of the *regulatory arrangement* or requirement in question in another way.