

ANNEX A Track Change version

IPReg

**Application by The Patent Regulation Board and The Trade Mark Regulation Board  
for  
Approval of alterations to Regulatory Arrangements**

March 2011

## **Application to the Legal Services Board for approval of alterations to Regulatory Arrangements**

This is an application for approval to proposed amendments to the Disciplinary Rules applicable to registered patent and registered trade mark attorneys and bodies.

March 2011.

### **1 Rule 9 (b): Details of the proposed alterations**

In June 2009 IPReg issued a draft set of Disciplinary Rules for consultation.

Comments were received from interested parties in the wake of that consultation. The issues raised were noted for action but the pressure of the timetable for the implementation of the Legal Services Act 2007 required IPReg to adopt the draft Disciplinary Rules as pre-existing Regulatory Arrangements and these were approved by the UK Intellectual Property Office in its role as Regulator prior to implementation.

IPReg now wishes to make changes to these Rules in the light of the comments received from interested parties under the 2009 Consultation and a subsequent, consequential consultation that took place in May 2010.

The Rules have been revised as proposed in the initial consultation. The revised Rules have also been reviewed by external specialist solicitors to ensure compliance with human rights legislation and for the Board's own internal governance.

Substantively the Rules are very similar to those previously published. However a number of amendments have been made and the wording of the Rules has been clarified in the light of the comments previously submitted and the solicitors' review.

The principal changes can be summarised as follows:

#### **Procedural:**

- The jurisdiction of IPReg has been clarified (Rule 2)
- The powers of a Disciplinary Panel to recover costs has been expanded (Rule 15)

- The ability of IPReg to deal with complaints arising before 1<sup>st</sup> January 2010 has been expressly stated (Rule19) and IPReg has been given an express power to delegate (Rule 18)
- Timescales have been adjusted (various Rules)

#### **Substantive**

- The initial review procedure has been clarified. An initial review of a complaint will be undertaken by a Complaint Review Committee which will consist of two lay members and a relevant professional member of the main IPReg Board. This committee will have power to determine whether or not a prima facie case is raised, and to determine prima facie cases that are suitable for summary determination (Rules 5-8).
- New Rules 8 (9) (c) and (d) provide that the default Complainant shall be the relevant Registrar, but that the original Complainant can elect to pursue the case in a private capacity.
- The appeal procedure is new (Rule 17). In summary any appeal will be heard by an adjudicator who will be a solicitor or barrister of at least 10 years standing (Rule 17.3). Except as provided the appeal will be a review of process and will not take the form of a fresh hearing(Rule 17.4) The adjudicator may remit the case back to the Disciplinary Board or a further Disciplinary Board (Rule 17.6) The adjudicator may impose more severe sanctions (also Rule 17.6). The decision of the adjudicator may be published (Rule 17.8)

IPReg consulted on the bulk of the proposed changes in a consultation running from 19 April-31 May 2010. A copy of the consultation paper accompanies this application at Annex 1.

The Consultation was sent to all other Authorised Regulators and to CIPA and ITMA. The Consultation was published on the IPReg website.

Comments were received from the BSB and also CIPA and ITMA. Informal guidance was received from the SRA. These were considered at meetings of the above committee in July and in September 2010 and approved at the IPReg Board in September 2010.

One key issue which was highlighted by the consultation was whether it should be the original complainant or IPReg who ought to pursue the case after initial review (with the complainant as a witness). IPReg recognised that a complex case might be better brought by IPReg but the complainant might then question transparency and impartiality.

Rule 8 (9) (d) was, therefore, not the subject of consultation. However it was the subject of extensive discussion and was recommended to the IPReg Board by the IPReg Conduct & Disciplinary Committee following a meeting of that committee with the LSB who provided informal guidance. The amendment takes account of those comments.

2 **Rule 9 (c): Details of the Applicant's Regulatory Arrangements as are relevant to the Application (material changes only)**

Existing Rule	Tracked revisions and Comment	New Rule
<p><b><u>Introduction:</u></b></p> <p>The Chartered Institute of Patent attorneys (CIPA) is empowered by section 275A of the Copyright Designs and Patents Act 1988 to regulate persons entered in the Register of Patent Attorneys;</p> <p>The Institute of Trade Mark Attorneys (ITMA) is empowered by section 83A of the Trade Marks Act 1994 to regulate persons entered in the Register of Trade Mark Attorneys;</p> <p>The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly together as the IP Regulation Board (IPReg) now make the following provisions under section 275A of the Copyright Designs and Patents Act 1988 and under section 83A of the Trade Marks Act 1994, respectively, pursuant to Sections 185 and 184 of the Legal Services Act 2007.</p>	<p><b><u>Introduction</u></b></p> <p><del>The Chartered Institute of Patent attorneys (CIPA) is empowered by section 275A of the Copyright Designs and Patents Act 1988 to regulate persons entered in the Register of Patent Attorneys;</del></p> <p><del>The Institute of Trade Mark Attorneys (ITMA) is empowered by section 83A of the Trade Marks Act 1994 to regulate persons entered in the Register of Trade Mark Attorneys;</del></p> <p>The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly together as the IP Regulation Board (IPReg) now make the following provisions under section 275A of the Copyright Designs and Patents Act 1988 and under section 83A of the Trade Marks Act 1994, respectively, pursuant to Sections 185 and 184 of the Legal Services Act 2007.</p> <p><b><u>Comment</u></b></p>	<p><b><u>Introduction</u></b></p> <p>The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly together as the IP Regulation Board (IPReg) now make the following provisions under section 275A of the Copyright Designs and Patents Act 1988 and under section 83A of the Trade Marks Act 1994, respectively, pursuant to Sections 185 and 184 of the Legal Services Act 2007.</p>

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	The deleted sections referred to sources of authority that ceased to apply on 1 January 2010.	
<p><b><u>Rule 1 – Interpretation</u></b></p> <p>In these Rules, unless context otherwise requires:</p> <p>“CIPA” means The Chartered Institute of Patent Attorneys;</p> <p>“ITMA” means the Institute of Trade Mark Attorneys;</p> <p>“the Institutes” means ITMA and CIPA;</p> <p>“The IPReg Board” means the Patent Regulation Board of CIPA and the Trade Mark Regulation Board of ITMA working jointly together as the Intellectual Property Regulation Board</p> <p>“IPReg” means The Intellectual Property Regulation Board Limited (Company Number 6624948)</p> <p>“Patent Attorney Register” means the register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended;</p> <p>“Trade Mark Attorney Register” means the register kept under section 83 of the Trade Marks Act 1994 as amended;</p>	<p><b><u>Rule 1 – Interpretation</u></b></p> <p>In these Rules, unless context otherwise requires:</p> <p>“Administrator” means a person appointed in accordance with Rule 6.1;</p> <p>“Adjudicator” means a person appointed in accordance with Rule 0;</p> <p>“Appellant” means a person bringing an appeal under Rule 0;</p> <p>“Case Manager” means a person appointed in accordance with Rule 8.9(e) or deemed to be a case manager pursuant to Rule 8.9(f);</p> <p>“CIPA” means The Chartered Institute of Patent Attorneys;</p> <p>“Code of Conduct” means the rules of conduct for patent attorneys, trade mark attorneys and other Regulated Persons adopted from time to time by the IPReg Board and the special rules of professional conduct applicable to regulated persons conducting litigation or exercising rights of audience before the courts adopted by CIPA</p>	<p><b><u>Rule 1 – Interpretation</u></b></p> <p>In these Rules, unless context otherwise requires:</p> <p>“Administrator” means a person appointed in accordance with Rule 6.1;</p> <p>“Adjudicator” means a person appointed in accordance with Rule 0;</p> <p>“Appellant” means a person bringing an appeal under Rule 0;</p> <p>“Case Manager” means a person appointed in accordance with Rule 8.9(e) or deemed to be a case manager pursuant to Rule 8.9(f);</p> <p>“CIPA” means The Chartered Institute of Patent Attorneys;</p> <p>“Code of Conduct” means the rules of conduct for patent attorneys, trade mark attorneys and other Regulated Persons adopted from time to time by the IPReg Board and the special rules of professional conduct applicable to regulated persons conducting litigation or exercising rights of audience before the courts adopted by CIPA</p>

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<p>“registered person” means —  (a) a registered patent attorney;  (b) a registered trade mark attorney; or  (c) a body (corporate or unincorporate) entered in the patent attorney register or the trade mark attorney register;</p> <p>“regulated person” means a registered person, an employee of a registered person, or a manager of a body which is a registered person;</p> <p>“manager” in relation to a body, has the same meaning as in the Legal Services Act 2007;</p> <p>“Complainant” means a person making a complaint and includes any person natural or legal;</p> <p>“Complaint” means:  (a) a report made by an ombudsman in accordance with Section 143 (2) of the Legal Services Act 2007 ;    (b) a complaint alleging a breach of the Common Code of Conduct and/or the Common Litigation Code of Conduct by a regulated person;    (c) a complaint made in accordance with the Charter of CIPA or the Articles of Association of ITMA against a Member of either Institute alleging conduct in breach of the Charter or</p>	<p>and ITMA in their roles as authorised bodies under the Legal Services Act 2007;</p> <p>“Complainant” means a person making a Complaint (including a person making a complaint under an ombudsman scheme which is the subject of a report made by an ombudsman under section 143 (2) of the Legal Services Act 2007) and includes any person natural or legal;</p> <p>“Complaint” means:    a complaint under an ombudsman scheme which is the subject of a report made by an ombudsman in accordance with section 143 (2) of the Legal Services Act 2007;    a complaint alleging a breach of the Code of Conduct by a Regulated Person;    a complaint made in accordance with the Charter of CIPA or the Articles of Association of ITMA against a member of either Institute alleging conduct in breach of the Charter or Articles or any codes, rules, bye-laws or other standards thereunder as the case may be; or    a complaint alleging misconduct in breach of any combination of the above;</p> <p>“Complaint Review Committee” or “CRC”</p>	<p>and ITMA in their roles as authorised bodies under the Legal Services Act 2007;</p> <p>“Complainant” means a person making a Complaint (including a person making a complaint under an ombudsman scheme which is the subject of a report made by an ombudsman under section 143 (2) of the Legal Services Act 2007) and includes any person natural or legal;</p> <p>“Complaint” means:    a complaint under an ombudsman scheme which is the subject of a report made by an ombudsman in accordance with section 143 (2) of the Legal Services Act 2007;    a complaint alleging a breach of the Code of Conduct by a Regulated Person;    a complaint made in accordance with the Charter of CIPA or the Articles of Association of ITMA against a member of either Institute alleging conduct in breach of the Charter or Articles or any codes, rules, bye-laws or other standards thereunder as the case may be; or    a complaint alleging misconduct in breach of any combination of the above;</p> <p>“Complaint Review Committee” or “CRC”</p>
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<p>Articles or any codes, rules, bye-laws or other standards thereunder as the case may be;</p> <p>(d) a complaint alleging misconduct in breach of any combination of the above;</p> <p>“Code of Conduct” and “ Litigation Code of Conduct” mean, respectively, the said unified Codes jointly adopted by the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working together as the IP Regulation Board</p> <p>“Joint Disciplinary Panel” or “JDP” means the body appointed pursuant to Rule 4 of these Rules;</p> <p>“Disciplinary Board” means a board of the JDP appointed in accordance with these Rules for the hearing of a Complaint or any matter connected with a Complaint;</p> <p>“Respondent” means any person against whom a Complaint is made;</p> <p>“Regulatory Objectives” means the regulatory objectives as defined in Section 1 of the Legal Services Act 2007;</p> <p>“Professional Principles” means the professional principles as defined in Section 1 of the Legal</p>	<p>means the body appointed pursuant to Rule <b>Error! Reference source not found.</b>;</p> <p>“Disciplinary Board” means a board of the JDP appointed in accordance with these Rules for the hearing of a Complaint or any matter connected with a Complaint;</p> <p>“EPO” means the European Patent Office;</p> <p>“General Complaint” means a Complaint that the Disciplinary Panel determines is not a Trade Mark Complaint or a Patent Complaint;</p> <p>“The Institutes” means ITMA and CIPA;</p> <p>“IPReg” means The Intellectual Property Regulation Board Limited (Company Number 6624948);</p> <p>“The IPReg Board” means the Patent Regulation Board of CIPA and the Trade Mark Regulation Board of ITMA working jointly together as the Intellectual Property Regulation Board;</p> <p>“ITMA” means the Institute of Trade Mark Attorneys;</p> <p>“Joint Disciplinary Panel” or “JDP” means the body appointed pursuant to Rule 4;</p>	<p>means the body appointed pursuant to Rule <b>Error! Reference source not found.</b>;</p> <p>“Disciplinary Board” means a board of the JDP appointed in accordance with these Rules for the hearing of a Complaint or any matter connected with a Complaint;</p> <p>“EPO” means the European Patent Office;</p> <p>“General Complaint” means a Complaint that the Disciplinary Panel determines is not a Trade Mark Complaint or a Patent Complaint;</p> <p>“The Institutes” means ITMA and CIPA;</p> <p>“IPReg” means The Intellectual Property Regulation Board Limited (Company Number 6624948);</p> <p>“The IPReg Board” means the Patent Regulation Board of CIPA and the Trade Mark Regulation Board of ITMA working jointly together as the Intellectual Property Regulation Board;</p> <p>“ITMA” means the Institute of Trade Mark Attorneys;</p> <p>“Joint Disciplinary Panel” or “JDP” means the body appointed pursuant to Rule 4;</p>
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<p>Services Act 2007;</p> <p>“Member” means any Member of CIPA or ITMA within the jurisdiction of their respective disciplinary arrangements;</p> <p>“Trade Mark Complaint” means a Complaint exclusively or substantially concerning the practice or conduct of the Respondent as:</p> <p>(a) a registered person entered in the Trade Mark Attorney register, including a registered trade mark attorney working as a Trade Mark &amp; Design Litigator,</p> <p>(b) a regulated person regulated by virtue of their relationship with a registered person entered in the Trade Mark Attorney register, or</p> <p>(c) as a Member of ITMA;</p> <p>“Patent Complaint” means a Complaint exclusively or substantially concerning the practice or conduct of the Respondent as</p> <p>(a) a registered person entered in the Patent Attorney register, including a registered patent attorney working as a Patent Attorney Litigator,</p> <p>(b) a regulated person regulated by virtue of their relationship with a registered person entered in the Patent Attorney register, or</p>	<p>“Manager” in relation to a body, has the same meaning as in the Legal Services Act 2007;</p> <p>“OHIM” means the Office of Harmonization for the Internal Market;</p> <p>“Parties”, in relation to a Complaint or any proceedings under these Rules relating to a Complaint, means the Case Manager appointed in respect of a Complaint and the Respondent, and “Party” means the Case Manager or the Respondent;</p> <p>“Patent Attorney Litigator” means a registered patent attorney holding a certificate issued by CIPA under the Legal Services Act 2007 authorising its holder to conduct litigation;</p> <p>“Patent Attorney Register” means the register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended;</p> <p>“Patent Complaint” means a Complaint exclusively or substantially concerning the practice or conduct of a Respondent as:</p> <p>a Registered Person entered in the Patent Attorney register, including a registered patent attorney working as a Patent Attorney Litigator;</p>	<p>“Manager” in relation to a body, has the same meaning as in the Legal Services Act 2007;</p> <p>“OHIM” means the Office of Harmonization for the Internal Market;</p> <p>“Parties”, in relation to a Complaint or any proceedings under these Rules relating to a Complaint, means the Case Manager appointed in respect of a Complaint and the Respondent, and “Party” means the Case Manager or the Respondent;</p> <p>“Patent Attorney Litigator” means a registered patent attorney holding a certificate issued by CIPA under the Legal Services Act 2007 authorising its holder to conduct litigation;</p> <p>“Patent Attorney Register” means the register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended;</p> <p>“Patent Complaint” means a Complaint exclusively or substantially concerning the practice or conduct of a Respondent as:</p> <p>a Registered Person entered in the Patent Attorney register, including a registered patent attorney working as a Patent</p>
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<p>(c) as a member of CIPA;</p> <p>“General Complaint” means Complaints that the Disciplinary Panel determines are not Trade Mark Complaints or Patent Complaints; and</p> <p>“Registrar” means a person appointed by the relevant Institute to maintain the patent attorney register or the trade mark attorney register.</p>	<p>a Regulated Person regulated by virtue of their relationship with a Registered Person entered in the Patent Attorney register; or</p> <p>as a member of CIPA;</p> <p>“Professional Principles” means the professional principles as defined in section 1 of the Legal Services Act 2007;</p> <p>“Register(s)” means the Patent Attorney Register and/or the Trade Mark Attorney Register;</p> <p>“Registered Person” means:</p> <p>(a) a registered patent attorney;</p> <p>(b) a registered trade mark attorney; or</p> <p>(c) an entity (corporate or unincorporate)</p> <p>entered in the Patent Attorney Register or the Trade Mark Attorney Register;</p> <p>“Registrar” means a person appointed by the relevant Institute to maintain the Patent Attorney Register or the Trade Mark Attorney Register;</p> <p>“Regulated Person” means a Registered</p>	<p>Attorney Litigator;</p> <p>a Regulated Person regulated by virtue of their relationship with a Registered Person entered in the Patent Attorney register; or</p> <p>as a member of CIPA;</p> <p>“Professional Principles” means the professional principles as defined in section 1 of the Legal Services Act 2007;</p> <p>“Register(s)” means the Patent Attorney Register and/or the Trade Mark Attorney Register;</p> <p>“Registered Person” means:</p> <p>(a) a registered patent attorney;</p> <p>(b) a registered trade mark attorney; or</p> <p>(c) an entity (corporate or unincorporate)</p> <p>entered in the Patent Attorney Register or the Trade Mark Attorney Register;</p> <p>“Registrar” means a person appointed by the relevant Institute to maintain the Patent Attorney Register or the Trade Mark Attorney Register;</p>
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	<p>Person, an employee of a Registered Person, or a Manager of an entity which is a Registered Person;</p> <p>“Regulatory Objectives” means the regulatory objectives as defined in section 1 of the Legal Services Act 2007;</p> <p>“Respondent” means any person against whom a Complaint is made;</p> <p>“Trade Mark Attorney Register” means the register kept under section 83 of the Trade Marks Act 1994 as amended;</p> <p>“Trade Mark Complaint” means a Complaint exclusively or substantially concerning the practice or conduct of a Respondent as:</p> <p>(a) a Registered Person entered in the Trade Mark Attorney register, including a registered trade mark attorney working as a Trade Mark &amp; Design Litigator,</p> <p>(b) a Regulated Person regulated by virtue of their relationship with a Registered Person entered in the Trade Mark Attorney register, or</p> <p>(c) a member of ITMA;</p> <p>“Trade Mark and Design Litigator” means a registered trade mark attorney holding a</p>	<p>“Regulated Person” means a Registered Person, an employee of a Registered Person, or a Manager of an entity which is a Registered Person;</p> <p>“Regulatory Objectives” means the regulatory objectives as defined in section 1 of the Legal Services Act 2007;</p> <p>“Respondent” means any person against whom a Complaint is made;</p> <p>“Trade Mark Attorney Register” means the register kept under section 83 of the Trade Marks Act 1994 as amended;</p> <p>“Trade Mark Complaint” means a Complaint exclusively or substantially concerning the practice or conduct of a Respondent as:</p> <p>(a) a Registered Person entered in the Trade Mark Attorney register, including a registered trade mark attorney working as a Trade Mark &amp; Design Litigator,</p> <p>(b) a Regulated Person regulated by virtue of their relationship with a Registered Person entered in the Trade Mark Attorney register, or</p> <p>(c) a member of ITMA;</p> <p>“Trade Mark and Design Litigator” means a</p>
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	<p>certificate issued by ITMA under section 28 of the Courts and Legal Services Act 1990 authorising its holder to conduct litigation;</p> <p>“Statement of Case” means a formal charge detailing particulars of the breach(es) of the Code of Conduct alleged to have occurred, the rule(s) allegedly infringed and the legal and factual reasons which are considered to lead to the conclusion that the Code of Conduct has been breached;</p> <p>“UKIPO” means the United Kingdom Intellectual Property Office.</p> <p><b>Comment</b> The changes are principally consequential to reflect new terms used in the Rules. The opportunity has also been taken to place the Definitions in alphabetical order and to make some minor non-substantive amendments to the terminology/wording.</p>	<p>registered trade mark attorney holding a certificate issued by ITMA under section 28 of the Courts and Legal Services Act 1990 authorising its holder to conduct litigation;</p> <p>“Statement of Case” means a formal charge detailing particulars of the breach(es) of the Code of Conduct alleged to have occurred, the rule(s) allegedly infringed and the legal and factual reasons which are considered to lead to the conclusion that the Code of Conduct has been breached;</p> <p>“UKIPO” means the United Kingdom Intellectual Property Office.</p> <p><b>Comment</b> The changes are principally consequential to reflect new terms used in the Rules. The opportunity has also been taken to place the Definitions in alphabetical order and to make some minor non-substantive amendments to the terminology/wording.</p>
<p><b>Rule 2 – Jurisdiction</b></p> <p>2.1 These Rules shall apply to Complaints relating to members of CIPA and/or ITMA and any aspect of a Regulated Person’s conduct except matters within the exclusive jurisdiction of the Office for Legal Complaints</p>	<p><b>Rule 2 – Jurisdiction</b></p> <p><del>2.1</del> These Rules <del>shall</del> apply to Complaints relating to <del>members of CIPA and/or ITMA</del> <del>a Regulated Person and</del> any aspect of <del>the</del> <del>conduct of</del> a Regulated <del>Person’s</del> <del>conduct</del> <del>Person</del> except <del>for</del> matters within the exclusive jurisdiction of the <del>Office for</del> <del>Legal</del> <del>Complaints</del> <del>Ombudsman</del>.</p>	<p><b>Rule 2 – Jurisdiction</b></p> <p>2.1 These Rules apply to Complaints relating to a Regulated Person and any aspect of the conduct of a Regulated Person except for matters within the exclusive jurisdiction of the Legal Ombudsman.</p> <p>2.2 At the request of CIPA and ITMA these Rules also apply to members of CIPA</p>

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	<p><u>2.2 At the request of CIPA and ITMA these Rules also apply to members of CIPA and/or ITMA.</u></p> <p><b>Comment</b></p> <p>In Rule 2.1 the reference to the OLC has been changed to refer to LeO.</p> <p>In Rule 2.2 the jurisdiction of IReg over Institute Members (which is an independent of the Regulatory regime) is clarified to be permissive.</p>	and/or ITMA.
<p><b>Rule 3 – Administration</b></p> <p>3.1 IPReg shall provide administrative and any other necessary support services to the JDP and Disciplinary Boards, including by administering the handling of Complaints and all related materials, making arrangements for the conduct of hearings, the attendance of parties, representatives and witnesses, the presentation of evidence and liaising (in particular in the receipt and transmission of correspondence) between the JDP, the Disciplinary Boards, the Institutes, the Registrars, Complainants and Respondents and any other interested parties in a timely and proportionate manner in accordance with the Regulatory Objectives.</p>	<p><b>Rule 3 – Administration</b></p> <p>3.1 IPReg shall provide administrative and any other necessary support services to the JDP and Disciplinary Boards, including by administering the handling of Complaints and all related materials, making arrangements for the conduct of hearings, the attendance of parties, Parties, representatives and witnesses, the presentation of evidence and liaising (in particular in the receipt and transmission of correspondence) between the JDP, the Disciplinary Boards, the Institutes, the Registrars, Complainants and Respondents Parties and any other interested parties persons in a timely and proportionate manner in accordance with the Regulatory Objectives.</p>	<p><b>Rule 3 – Administration</b></p> <p>3.1 IPReg shall provide administrative and any other necessary support services to the JDP and Disciplinary Boards, including administering the handling of Complaints and all related materials, making arrangements for the conduct of hearings, the attendance of Parties, representatives and witnesses, the presentation of evidence and liaising (in particular in the receipt and transmission of correspondence) between the JDP, the Disciplinary Boards, the Institutes, the Registrars, Parties and any other interested persons in a timely and proportionate manner in accordance with the Regulatory Objectives.</p> <p>3.2 Insofar as the same are not otherwise provided for in these Rules the IPReg Board,</p>

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<p>4.8 The IPReg Board may at the request of the JDP or a Disciplinary Board co-opt Members to the JDP or a Board.</p>	<p>have an additional casting vote in the event of any tied vote.</p> <p>4.6 If at any time there is a shortfall of <del>Members the IPREG</del> members of the JDP the IPReg Board may, in consultation with the chair of the JDP, and CIPA and ITMA, appoint temporary members to fill such vacancies as necessary, the maximum term of any temporary appointment being the balance of the term lying vacant.</p> <p><del>4.7 The IPREG</del> IPReg Board may at the request of the JDP or a Disciplinary Board co-opt <del>Members to the JDP or a members to a Disciplinary</del> Board.</p> <p>4.8 Lay members appointed or co-opted in accordance with Rules 4.6 or 4.7 shall be persons whose suitability for public appointment has previously been <u>recognised by another public body.</u></p> <p><b>Comment</b></p> <p>4.2: The process for appointing Attorney Members of the JDP has been clarified to be “open and competitive”.</p> <p>4.3 The definition of “lay” member has been amended to exclude those with legal professional qualification, in line with LSB guidelines.</p>	<p>4.6 If at any time there is a shortfall of members of the JDP the IPReg Board may, in consultation with the chair of the JDP, and CIPA and ITMA, appoint temporary members to fill such vacancies as necessary, the maximum term of any temporary appointment being the balance of the term lying vacant.</p> <p>4.7 The IPReg Board may at the request of the JDP or a Disciplinary Board co-opt members to a Disciplinary Board.</p> <p>4.8 Lay members appointed or co-opted in accordance with Rules 4.6 or 4.7 shall be persons whose suitability for public appointment has previously been recognised by another public body.</p>
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	<p>4.4 The initial terms of JDP Members are arranged so that subsequent fixed terms of 3 years will overlap, ensuring staggered fixed-term appointments in the future.</p> <p>4.5 This now provides that a lay member will chair the JDP</p> <p>4.8 provides for passporting suitably – referenced lay members into office if they are co-opted or appointed to remedy a shortfall, this being a proportionate solution to a short-term situation.</p> <p>All other changes are of a minor style/formatting nature.</p>	
<p><b><u>Rule 6 - Procedure on receipt of Complaints</u></b></p> <p>6.1 Upon receipt of a Complaint it shall be reviewed by IPReg to establish whether it complies with any formalities or other requirements stipulated in accordance with Rule 3.3. If the Complaint does not comply, IPReg shall inform the Complainant accordingly and invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, IPReg shall reject the Complaint as inadmissible.</p> <p>6.2 If the Complaint is found admissible, IPReg shall:</p>	<p><b><u>Rule 6 – Procedure on receipt of Complaints</u></b></p> <p><u>6.1</u> Upon receipt of a Complaint <del>it shall be reviewed by IPREG, IPReg shall appoint an Administrator to review the Complaint to</del> establish whether <del>the Complaint</del> complies with any formalities or other requirements stipulated in accordance with <u>regulations or other arrangements made under Rule 3.2(a).</u></p> <p><u>6.2</u> If <del>the</del> Complaint does not comply, <del>IPREG with the formalities or other requirements stipulated in accordance with regulations or other arrangements made under Rule 3.2(a),</del></p>	<p><b><u>Rule 6 – Procedure on receipt of Complaints</u></b></p> <p>6.1 Upon receipt of a Complaint, IPReg shall appoint an Administrator to review the Complaint to establish whether the Complaint complies with any formalities or other requirements stipulated in accordance with regulations or other arrangements made under Rule 3.2(a).</p> <p>6.2 If a Complaint does not comply with the formalities or other requirements stipulated in accordance with regulations or other arrangements made under Rule 3.2(a), the Administrator shall inform the Complainant</p>

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<p>(a) Send a copy of the Complaint to the Respondent informing him that the matter is to be reviewed by the SCRC and inviting him to file, within a period of one month, from the date of the communication brief and concise observations (which may include admissions) in order to assist the SCRC to determine the status of the Complaint; and</p> <p>(b) Confirm to the Complainant that the Respondent has been sent a copy of the Complaint, that his observations have been requested and that the matter will be reviewed by the SCRC.</p> <p>6.3 Any observations filed shall be copied to the Complainant for information. Any observations filed after the expiry of the one month period shall be ignored in the SCRC's determination of a case to answer.</p>	<p><del>the Administrator</del> shall inform the Complainant accordingly and invite <del>him the Complainant</del> to remedy the deficiencies noted within a period of <del>two months</del> 14 days. <del>The Administrator may extend the period for providing information under this Rule 0 if the Respondent provides the Administrator with good reasons for extending the period. Save in exceptional circumstances only a single extension of the period for providing information in mitigation shall be permitted.</del> If the deficiencies are not remedied before the time limit <del>(including any extension)</del> expires, <del>IPREG</del> IPReg shall reject the Complaint <del>as inadmissible without reference to the CRC.</del></p> <p>6.3 if the Complaint is found <del>admissible,</del> <del>IPREG shall:</del> <del>to comply with the formalities or other requirements stipulated in accordance with regulations or other arrangements made under Rule 3.2(a), the Administrator shall:</del></p> <p>(a) <del>send</del> a copy of the Complaint to the Respondent informing him that the matter is to be reviewed by the <del>S</del>CRC and inviting him to file, within a period <del>of one month,</del> of 28 days from the date of the communication brief and concise observations (which may include admissions) in order to assist the <del>S</del>CRC to determine the status of the Complaint; <del>in accordance with Rules 7 and 8;</del></p>	<p>accordingly and invite the Complainant to remedy the deficiencies noted within a period of 14 days. The Administrator may extend the period for providing information under this Rule 0 if the Respondent provides the Administrator with good reasons for extending the period. Save in exceptional circumstances only a single extension of the period for providing information in mitigation shall be permitted. If the deficiencies are not remedied before the time limit (including any extension) expires, IPReg shall reject the Complaint without reference to the CRC.</p> <p>6.3if the Complaint is found to comply with the formalities or other requirements stipulated in accordance with regulations or other arrangements made under Rule 3.2(a), the Administrator shall:</p> <p>(a) send a copy of the Complaint to the Respondent informing him that the matter is to be reviewed by the CRC and inviting him to file, within a period of 28 days from the date of the communication, brief and concise observations (which may include admissions) in order to assist the CRC to determine the status of the Complaint in accordance with Rules 7 and 8;</p> <p>(b) confirm to the Complainant that the Respondent has been sent a copy of the Complaint, that his observations have been</p>
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	<p>(b) <del>Confirm</del>confirm to the Complainant that the Respondent has been sent a copy of the Complaint, that his observations have been requested and that the matter will <u>be reviewed by the CRC.</u><del>be reviewed by the SCRC.</del></p> <p>6.4 Any observations filed shall be copied to the Complainant for information. <u>Unless the Respondent provides the Administrator with good reasons for extending the period for response under Rule 6.3(a) and the Administrator agrees to the extension, any observations filed after the expiry of the <del>one</del> month 28 day period shall be ignored in the CRC's determination of a case to answer. Save in exceptional circumstances, only a single extension of the period of response shall be permitted.</u></p> <p><b>Comment</b></p> <p>Although substantial the non-consequential amendments essentially add clarity and greater rigour to the Complaint reception process</p>	<p>requested and that the matter will be reviewed by the CRC.</p> <p>6.4 Any observations filed shall be copied to the Complainant for information. Unless the Respondent provides the Administrator with good reasons for extending the period for response under Rule 6.3(a) and the Administrator agrees to the extension, any observations filed after the expiry of the 28 day period shall be ignored in the CRC's determination of a case to answer. Save in exceptional circumstances, only a single extension of the period of response shall be permitted.</p>
<p><b><u>Rule 7 Review and assessment of a case to answer</u></b></p> <p>7.1 The SCRC shall review the Complaint and any Observations received from the Respondent within one month after the end of the period referred to in Rule 6.2 to determine whether or</p>	<p><b>Comment</b></p> <p>A tracked change is pointless as the bulk of the wording, along with the scope of the Rule, have been changed.</p> <p>Whereas the original rule covered the CRC's</p>	<p><b>Rule 7 – Initial processing by the Complaints Review Committee</b></p> <p>7.1 The CRC shall review the Complaint and any observations received from the Respondent after the end of the period for filing observations referred to in Rule 0 to</p>

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<p>not the Complaint discloses a <i>prima facie</i> case. If the SCRC determines that there is no case to answer, the Complaint shall be rejected and the Complainant and the Respondent shall be notified forthwith of the SCRC's decision.</p> <p>(See below for Rule 7.2 <i>et seq.</i></p>	<p>powers to sift and process Complaints, the new rule deals solely with the procedures for determining admissibility/formal compliance. The role of the CRC is now covered by new Rule 8</p> <p>Note in particular that Rule 7.3 introduces a limitation period for Complaints</p>	<p>determine whether the Complaint is an admissible Complaint.</p> <p>7.2A Complaint shall be considered an admissible Complaint if:</p> <p>a) it is received in time (see Rule 0); and</p> <p>b) the subject matter of the Complaint falls within IPReg's jurisdiction (see Rule 0).</p> <p>7.3A Complaint is to be treated as received in time if</p> <p>a) either, it was received by IPReg, CIPA,, ITMA or an ombudsman within the period of 12 months from the date on which:</p> <ul style="list-style-type: none"> <li>i) the matters giving rise to the Complaint occurred; or</li> <li>ii) the Complainant first became aware that he had grounds for complaint;</li> </ul> <p>b) or, it relates to matters not falling within the period set out in 7.3(a) above and the Complainant provides sufficient reasons why the Complaint could not have been brought earlier.</p> <p>7.4 If a Complaint is received outside the period set out in Rule 7.3(a) above, the CRC shall inform the Complainant accordingly and</p>
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		<p>invite the Complainant to provide, within a period of 14 days, reasons why the Complaint could not have been brought earlier. If no or insufficient reasons are provided before the period of 14 days expires, the CRC shall reject the Complaint as inadmissible.</p> <p>7.5The subject matter of the Complaint falls within IPReg’s jurisdiction if it raises issues as to the professional conduct of a Regulated Person and is not purely a complaint about the level of service provided by such a person.</p> <p>7.6If the Complaint is not admissible within the meaning of Rule 7.2(b) and 0, the CRC shall reject the Complaint and inform the Complainant that the Complaint falls outside the jurisdiction of IPReg and refer the Complainant to the Legal Ombudsman.</p> <p>7.7If a Complaint is admissible, and the Complaint concerns the actions of any Regulated Person who is acting in their capacity as:</p> <p>a)a recognised sole practitioner regulated by the Solicitors Regulation Authority;</p> <p>b)a self-employed barrister regulated by the Bar Standards Board; or</p> <p>c)a Manager or employee of an entity or</p>
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	<p>person authorised by another approved regulator to carry on an activity which is a reserved legal activity;</p> <p>the CRC shall refer the Complaint to the relevant regulator and suspend investigation of the Complaint until the investigation by the other regulator is concluded.</p> <p>7.8If a Complaint is admissible, and the Complaint concerns a Regulated Person who is subject to regulation by a professional regulator other than one to which Rule 0 applies, the CRC may suspend investigation of a Complaint if the CRC considers that the Complaint would be better dealt with by the other regulator and either:</p> <p>a)a corresponding complaint is proceeding in front of the other regulator; or</p> <p>b)the other regulator agrees to investigate the Complaint.</p> <p>7.9A Complaint suspended by virtue of Rule 0 or 0 shall be resumed when the investigation by the other professional regulator has been concluded. The CRC shall take into account the determination of the case by any other regulator when:</p> <p>(a)determining whether or not a Complaint discloses a <i>prima facie</i> case or whether or</p>
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		<p>not processing a case further would be disproportionate or otherwise not in the public interest under rule 8.2; and</p> <p>(b) determining whether or not a case is suitable for determination by a summary procedure under rule 8.5.</p> <p>The result of the determination of the case by the other regulator shall also be included in the material submitted to a Disciplinary Board if the Complaint is referred to a Disciplinary Board.</p>
<p><b><u>Summary Procedure – Rule 7.2 et seq, 2009 Rules</u></b></p> <p>7.2 If the SCRC determines that a Complaint discloses a <i>prima facie</i> case, the SCRC shall, having regard to the public interest, the Common Code of Conduct, the Regulatory Objectives and the Professional Principles, determine whether in the opinion of the SCRC the matter would best be dealt through a summary procedure because::</p> <p>7.2.1 further proceedings would be disproportionate and unnecessary taking account of all the circumstances including without limitation:</p> <p>(a) whether the matter is of a purely technical or trivial nature;</p>	<p><b><u>Comment</u></b></p> <p>Again, a “tracked” comparison is of no value as Rule 7.2 has been wholly replaced by <a href="#">new Rule 8</a>. The new rule retains the basic structure and content of the original review/sift procedure and the summary determination provisions, whilst clarifying time periods and process detail/steps.</p>	<p><b><u>Rule 8 Review and assessment of a <i>prima facie</i> case and summary proceedings</u></b></p> <p>8.1 This Rule applies where a Complaint has been found to be admissible under Rule 0 and the investigation of the Complaint:</p> <p>a) has not been suspended by virtue of Rule 0 or 0; or</p> <p>b) has been resumed under Rule 0.</p> <p>8.2 If a Complaint is found to be admissible, the CRC shall review the Complaint and any observations received from the Respondent to determine:</p> <p>a) whether the Complaint fails to disclose a <i>prima facie</i> case; and</p>

<p>(b) the extent of any material prejudice or loss caused or likely to be caused to the Complainant or to any other person by reason of the Respondent's acts;</p> <p>(c) whether a matter involves the integrity or honesty of the Respondent;</p> <p>(d) the Respondent's standard of care and conduct in the matter leading to the alleged breach;</p> <p>(e) whether the Respondent's handling of the matter, once drawn to his attention, was reasonable and what, if any, steps he has taken to terminate and prevent any repetition of the alleged breach;</p> <p>(f) whether any material harm has been caused to the standing of the Respondent's Profession;</p> <p>(g) the past disciplinary record of the Respondent;</p> <p>(h) whether the Complaint is frivolous or vexatious;</p> <p>(i) whether it is a case of doubt or difficulty or which involves a matter of public interest):</p> <p>And</p>		<p>b) whether progressing the Complaint further would be disproportionate.</p> <p>8.3In determining whether, progressing a Complaint further would be disproportionate the CRC shall:</p> <p>a)have regard to the public interest, the Code of Conduct, the Regulatory Objectives and the Professional Principles; and</p> <p>b)take account of all the circumstances of the case including, without limitation:</p> <p>i)whether any alleged breach is of a purely technical or trivial nature;</p> <p>ii)the extent of any material prejudice or loss caused or likely to be caused to the Complainant or to any other person by reason of the Respondent's acts;</p> <p>iii)whether the Complaint involves the integrity or honesty of the Respondent;</p> <p>iv)the Respondent's standard of care and conduct in the matter leading to the alleged breach;</p> <p>v)whether the Respondent's handling of the matter, once drawn to his attention, was reasonable and what, if any, steps he has</p>
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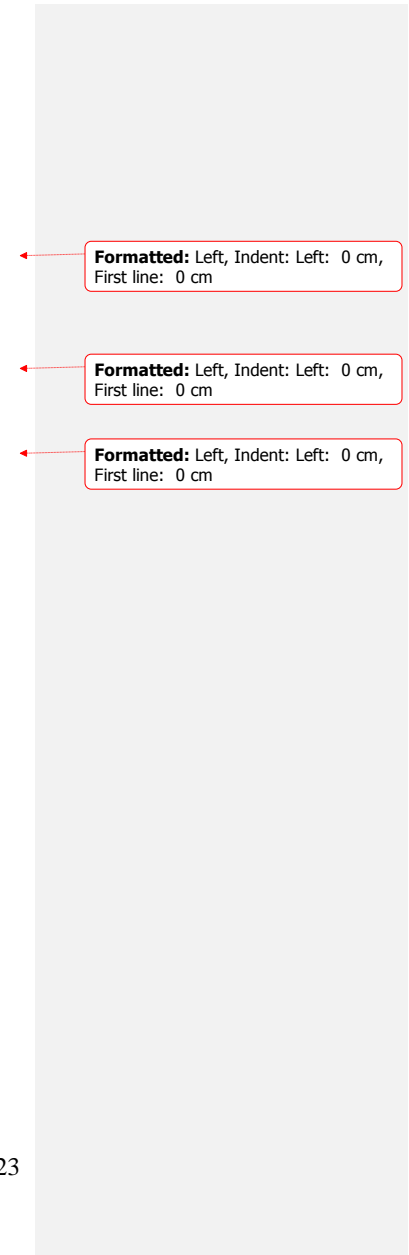
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<p>7.2.2 In the opinion of the SCRC, the issuance of a Notice under Rule 7.3 is sufficient to deal with the matter.</p> <p>7.3 If the SCRC determines under Rule 7.2 that there is a <i>prima facie</i> case but that the matter would best be dealt with through a summary procedure it shall propose to the Respondent, copied to the Complainant, that it shall issue a Notice to the Respondent stating that in the opinion of the SCRC a prima facie case has been made out and if appropriate making a recommendation as to actions to be taken by the Respondent to avoid any repetition of the breach. The Respondent shall have one month from the service of that information to elect, by informing the SCRC in writing, that instead he wishes the matter to be heard by a Disciplinary Board.</p> <p>7.4 If no such election is made by the Respondent the SCRC shall</p> <p>a) issue the said Notice and inform the Registrars of the Registers in which the Respondent is registered that a Notice has been issued and require that this be noted against the Respondent's entry in the Register for a period of three years from the date of the Notice;</p> <p>(b) send a copy of the Notice to the Complainant; and</p>		<p>taken to terminate and prevent any repetition of the alleged breach;</p> <p>vi) whether any material harm has been caused to the standing of the Respondent's profession;</p> <p>vii) the past disciplinary record of the Respondent; and</p> <p>viii) whether it is a case of doubt or difficulty or one which involves a matter of public interest.</p> <p>8.4 If the CRC determines that a Complaint discloses fails to disclose a <i>prima facie</i> case; or that progressing the Complaint further would be disproportionate, the CRC shall issue a written decision rejecting the Complaint and the Complainant and the Respondent shall be notified forthwith of the CRC's decision.</p> <p>8.5 If the CRC determines that a Complaint discloses a <i>prima facie</i> case and that progressing the Complaint further would not be disproportionate, the CRC shall determine whether, in its opinion, the matter is suitable to be dealt with through a summary procedure.</p> <p>8.6 A matter may be dealt with through a summary procedure where the CRC is of the</p>
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<p>(c) make such an order for the Complainant's costs as the SCRC considers appropriate and just.</p> <p>7.5 Where a Respondent elects under Rule 7.3 for the matter to be heard by a Disciplinary Board, then the Disciplinary Board shall, when considering an award of costs, consider in particular (but without limitation) whether and if so to what extent the Respondent acted unreasonably, unnecessarily or disproportionately in making that election, and if the Respondent has so acted this may be reflected in any award of costs for or against the Respondent.</p> <p>7.6 If where the SCRC considers that there is a prima facie case for the Respondent to answer, but that dealing with the matter through a summary procedure would not be appropriate, or if a Respondent has made an election under Rule 7.3 the SCRC shall inform the JDP which will proceed forthwith to appoint a Disciplinary Board to determine the matter. When informing the JDP, the SCRC shall also inform the JDP whether in the opinion of the SCRC the Complaint should be treated as a Trade Mark Complaint, a Patent Complaint or a General Complaint. The Complainant and the Respondent shall be notified of the SCRC's decision to refer the matter to a Disciplinary Board.</p>		<p>opinion that, if the Complaint were upheld, the issuance of a notice, warning or reprimand under Rule 8.8 would be sufficient to deal with the matter and further proceedings would be disproportionate and unnecessary. In determining whether, in its opinion, a Complaint should be dealt with through summary procedure the CRC shall consider all the matters set out in Rule 8.3.</p> <p>8.7 If the CRC determines that there is a <i>prima facie</i> case and that in its opinion, the matter would best be dealt with through a summary procedure, the CRC shall notify the Respondent of its opinion and invite the Respondent, within a period of 14 days, to:</p> <p>a) elect, by informing the CRC in writing, that he wishes the matter to be heard by a Disciplinary Board; or;</p> <p>b) accept that the Complaint may be dealt with through a summary procedure and provide the CRC with any further information the Respondent wishes to be taken into account in determining whether to uphold the Complaint and/or in mitigation of any penalty if the Complaint is upheld.</p> <p>The CRC may extend the period for providing information under Rule 8.6(b) if the Respondent provides the CRC with good reasons for extending the period. Save in</p>
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		<p>exceptional circumstances only a single extension of the period for providing information in mitigation shall be permitted.</p> <p>Any communications under this Rule shall be copied to the Complainant for information.</p> <p>8.8If the Respondent does not elect for the matter to be referred to a Disciplinary Board, the CRC shall, after considering any additional information submitted by the Respondent, determine whether the Complaint is made out and, if it is:</p> <p>a)issue a notice, warning or reprimand and send copies of the issued notice, warning or reprimand to the Respondent and Complainant ;</p> <p>b)inform the Registrar(s) of the Register(s) in which the Respondent is registered that a notice, warning or reprimand has been issued and require that this be noted against the Respondent's entry in the Register(s) for a period of:</p> <p>i)6 months in the case of a notice;</p> <p>ii)1 year in the case of a warning; and</p> <p>iii)3 years in the case of a reprimand; and</p> <p>a) make such an order for payment of the</p>
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		<p>Complainant's costs by the Respondent subject to such scales and limits as are published by IPReg from time to time as the CRC considers appropriate and just.</p> <p>8.9If the CRC considers that there is a <i>prima facie</i> case, but that dealing with the matter through a summary procedure would not be appropriate or if a Respondent has made an election under Rule 8.6:</p> <p>a)the CRC will notify the Complainant and the JDP and the JDP will proceed promptly to appoint a Disciplinary Panel;</p> <p>b)the CRC will advise the JDP whether in the CRC's opinion the Complaint should be treated as a Patent Complaint a Trade Mark complaint or a General Complaint;</p> <p>c)(subject to 8.9(d)) from the date of the determination of the CRC the Complainant will be Registrar of the relevant Register or Registers;</p> <p>d)within 7 days of notice of the determination of the CRC the original Complainant may elect to pursue the Complaint in their own name but if such election is made the Registrar of the relevant Register may require the complaint then to be brought in joint names of the original Complainant and the Registrar;</p>
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		<p>e)where a Complaint is then brought by the Registrar (either solely or in joint names) it will appoint a Case Manager to bring the Complaint to the JDP; and</p> <p>f)where the provisions of (e) above do not apply references in the remaining provisions of these Rules to a Case Manager shall mean the Complainant.</p>
<p><b><u>Rule 9 - Pre-Hearing steps</u></b></p> <p>9.1 Within 14 days of the constitution of a Disciplinary Board, IPReg will notify the Complainant and the Respondent of the commencement of the Disciplinary Board stage of the proceedings and will invite the Complainant to file within one month of the commencement of such stage any further facts, evidence (including Witness Statements of any person to be called at the Hearing) or other matter on which it intends to rely.</p> <p>9.2 As soon as possible after the expiry of that period IPReg will forward any matter so filed by the Complainant to the Respondent and invite the Respondent to file within one month any further facts, evidence or other matter on which it intends to rely in its defence.</p> <p>9.3 As soon as possible after the expiry of that period IPReg will forward any matter so filed by</p>	<p><b><u>Rule 10 - Pre-Hearing steps</u></b></p> <p>10.1 <del>Within 14</del>28 days of the constitution of a Disciplinary Board, <u>the Case Manager appointed by</u> IPReg will notify the Complainant and the Respondent of the commencement of the Disciplinary Board stage of the proceedings and <del>will invite the Complainant to file within one month</del><u>serve on the Respondent:</u></p> <p>a) <u>_____ a Statement of Case; and</u></p> <p>b) notice of the <del>commencement of such stage any further facts,</del> <u>evidence (including <del>Witness Statements</del>witness statements of any person <del>to be called at the Hearing) or other matter on which it) on which the Case Manager</del></u> intends to rely;<u>; and</u></p> <p><del>9.2 As soon as possible after the expiry of that period IPReg will forward any matter so</del></p>	

<p>the Respondent to the Complainant and shall invite the Complainant to file within one month any further facts, evidence or other matter, strictly in reply.</p> <p>9.4 The Complainant or the Respondent may, on request, obtain an extension of up to three months both for the filing of further facts, evidence or other matter and for the appointment of the Hearing if he provides a reasonable justification for such an extension.</p> <p>9.5 Either party may file further facts, evidence or other matter with the leave of the Disciplinary Board.</p> <p>9.6 The Disciplinary Board may give judgment on any admissions by the Respondent, without the need for a Hearing, if it sees fit and if the parties agree.</p> <p>9.7 As soon as possible after the end of the period referred to in Rule 9.4 IPReg shall appoint a hearing date, the hearing to be held as soon as is reasonably practicable but in any event no later than six months hence. An Oral Hearing will take place only if a Party so requests by a date no later than one month before the date appointed for the Hearing. Otherwise the Disciplinary Board will be convened on the date appointed for the Hearing and the Complaint will be decided on the basis of the papers and materials before it.</p>	<p><del>filed by the Complainant to the Respondent and</del> invite the Respondent to file within <del>one month</del><u>28 days of the giving of such notice</u> any further <del>facts,</del>evidence <u>(including witness statements of any person)</u> or other matter on which <del>it</del><u>the Respondent</u> intends to rely in its defence.</p> <p><del>9.3 As soon as possible after the expiry of that period IPREG will forward any matter so filed by the Respondent to the Complainant and shall invite the Complainant to file within one month any further facts, evidence or other matter, strictly in reply.</del></p> <p>10.2<u>The Case Manager shall provide the Complainant with a copy the papers served on the Respondent and shall keep the Complainant informed of all subsequent developments.</u></p> <p><u>10.3 Following receipt of notice of any further evidence or other matter the Respondent intends to rely upon, and in any event within 14 days of the expiry of the period referred to in Rule 10.1, the Case Manager will serve on the Respondent any further evidence or other matter, strictly in reply.</u></p> <p><u>10.4 The Chair of the Disciplinary Board may, on at the request, obtain of either Party, grant an extension of up to three months time both for the filing of further facts,</u>evidence</p>	
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<p>9.8 If no Hearing is requested IPReg shall invite the Parties to file written arguments no later than 5 clear working days before the Disciplinary Board is to consider the complaint.</p> <p>9.9 If a Hearing is requested, it will be heard in public unless the Disciplinary Board determines that it should be held in private in the public interest, for reasons of public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the Disciplinary Board in special circumstances where publicity would prejudice the interests of justice. If held in public the press and other members of the public may be excluded from all or part of the Hearing.</p>	<p>or other matter and for the appointment of the <del>Hearing date for the determination of the Complaint</del> if <del>the Party making the request</del> provides a reasonable justification for such an extension.</p> <p>10.5 Either <del>party</del>Party may file further <del>facts,</del> evidence or other matter with the leave of the Disciplinary Board.</p> <p>10.6 The Disciplinary Board may give judgment on any admissions by the Respondent, without the need for a <del>Hearing</del>an oral hearing, if it sees fit and if the <del>parties</del>Parties agree.</p> <p>10.7 As soon as possible after the end of the period referred to in Rule <del>9.4 IPREG</del>0, <del>or of any extension granted under Rule 0,</del> IPReg shall appoint a <del>hearing date, the hearing date for the determination of the Complaint,</del> to be held as soon as is reasonably practicable <del>but in any event no later than six months hence.</del> An <del>Oral Hearing</del>oral hearing will take place only if a Party so requests by a date no later than <del>one month</del>28 days before the date appointed for the <del>Hearing</del>determination of <del>the Complaint.</del> Otherwise the Disciplinary Board will be convened on the date appointed for the <del>Hearing</del>determination of <del>the Complaint</del> and the Complaint will be decided on the basis of the papers and materials before it.</p>	
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	<p>10.8 If no <del>Hearing</del> oral hearing is requested <del>PREG PREg</del> shall invite the Parties to <del>file</del> submit written arguments, <u>to be filed</u> no later than <del>5 clear working</del> 7 days before the Disciplinary Board is to consider the <del>complaint</del> <u>Complaint</u>.</p> <p><del>10.9 If a Hearing</del> an oral hearing is requested, it will be <del>heard</del> held in public unless the Disciplinary Board determines that <del>it should be held in private in the public interest, the press and other members of the public may be excluded from all or part of the hearing</del> for reasons of public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the <del>parties</del> Parties so require, or to the extent strictly necessary in the opinion of the Disciplinary Board in special circumstances where publicity would prejudice the interests of justice. <del>If held in public the press and other members of the public may be excluded from all or part of the Hearing.</del></p> <p><b><u>Comment</u></b></p> <p>Although the changes are substantial, most relate solely to procedure. The principal material changes are:</p> <p>a) In R 10.2 (a), that a formal statement of case/charge must be served on the</p>	
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	<p>Respondent so that he may understand the case against him (CIPA having received legal advice that this is necessary under the Human rights Act)</p> <p>b) In R 10 (7), the removal of the absolute requirement to hold a hearing within 6 months.</p>	
<p><b><u>Rule 10 – Miscellaneous Procedural Matters</u></b></p> <p>10.1 Subject to the express provisions of these Rules, a Disciplinary Board shall have full powers to adopt such procedures as it thinks fit for the fair determination of the issues before it including powers to allow amendment of the Complaint and to adjourn its proceedings.</p> <p>10.2 The Disciplinary Board may give any directions deemed necessary or appropriate for the hearing of a Complaint before it. In the interests of procedural economy and if it is proportionate to do so, the Disciplinary Board may delegate its power to give directions to one of its number</p> <p>10.3 Without prejudice to paragraph 10.1, directions may be made about documentation, inspection, Statements, skeleton arguments and the place or time of any Hearing.</p> <p>10.4 IPReg may refer to the Disciplinary Board responsible any procedural matter in a particular</p>	<p><b><u>Rule 11 – Miscellaneous Procedural Matters</u></b></p> <p>11.1 Subject to the express provisions of these Rules, a Disciplinary Board shall have full powers to adopt such procedures as it thinks fit for the fair determination of the issues before it, including powers to allow amendment of the Complaint and to adjourn its proceedings.</p> <p>11.2 The Disciplinary Board may give any directions deemed necessary or appropriate for the <del>hearingdetermination</del> of a Complaint before it. In the interests of procedural economy and if it is proportionate to do so, the Disciplinary Board may delegate its power to give directions to one of its number.</p> <p>11.3 Without prejudice to <del>paragraph 10.1</del><u>Rule 0</u>, directions may be made about <del>documentation, inspection, Statementsstatements</del>, skeleton arguments and the place or time of any <del>Hearinghearing</del>.</p>	<p><b><u>Rule 11 – Miscellaneous procedural matters</u></b></p> <p>11.1 Subject to the express provisions of these Rules, a Disciplinary Board shall have full powers to adopt such procedures as it thinks fit for the fair determination of the issues before it, including powers to allow amendment of the Complaint and to adjourn its proceedings.</p> <p>11.2 The Disciplinary Board may give any directions deemed necessary or appropriate for the determination of a Complaint before it. In the interests of procedural economy and if it is proportionate to do so, the Disciplinary Board may delegate its power to give directions to one of its number.</p> <p>11.3 Without prejudice to Rule 0, directions may be made about documentation, inspection, statements, skeleton arguments and the place or time of any hearing.</p> <p>11.4 IPReg may refer to the relevant</p>

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	<p>held in public unless Rule 10.9 applies.</p> <p><del>11.7 No application or allegation in respect of Complaint which a case to answer has been certified referred to the Disciplinary Board under Rule 8.8</del> may be withdrawn without the consent of the Disciplinary Board</p> <p><u>Comment</u></p> <p>The changes are clarificatory only.</p>	<p>the Disciplinary Board under Rule 8.8 may be withdrawn without the consent of the Disciplinary Board</p>
<p><b>Rule 12 – evidence</b></p> <p>12.1 Unless otherwise ordered, evidence shall be given by witness statement, statutory declaration or affidavit, such evidence to have been filed with IPReg in accordance with these Rules and any directions given thereunder.</p> <p>12.2 A party wishing to call a witness or to seek a witness’s attendance for cross examination shall seek a direction to that effect. In the event a person directed to attend to give evidence fails to attend the Hearing the person’s evidence shall be inadmissible unless the Disciplinary Board otherwise directs</p>	<p><b>Rule 13 – Evidence</b></p> <p>13.3 Decisions of the Disciplinary Board may only be based on the evidence which has been put orally or in writing to the Respondent and on which the Respondent has been given an opportunity to answer. If reliance is to be placed on any matter in a document, the relevant portion of the document must be brought to the attention of the Respondent and the Respondent must be given an opportunity to comment. If any opinion as to the actions required of a practitioner acting with reasonable skill is relied upon appropriate evidence must be tendered</p> <p><u>Comment</u></p>	<p><b>Rule 13 – Evidence</b></p> <p>13.1 Unless otherwise ordered, evidence shall be given by witness statement, statutory declaration or affidavit, such evidence to have been filed with IPReg in accordance with these Rules and any directions given thereunder.</p> <p>13.2A Party wishing to call a witness or to seek a witness’s attendance for cross examination shall seek a direction to that effect. In the event that a person directed to attend to give evidence fails to attend an oral hearing the person’s evidence shall be inadmissible unless the Disciplinary Board otherwise directs.</p> <p>13.3 Decisions of the Disciplinary Board may</p>

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	R13.3 is a new Rule with no equivalent on the '09 Rules. It introduces rigour to the submission of evidence and its use in the determination of Complaints.	only be based on the evidence which has been put orally or in writing to the Respondent and on which the Respondent has been given an opportunity to answer. If reliance is to be place on any matter in a document, the relevant portion of the document must be brought to the attention of the Respondent and the Respondent must be given an opportunity to comment. If any opinion as to the actions required of a practitioner acting with reasonable skill is relied upon appropriate evidence must be tendered.
<b><u>Rule 13 - Hearings and determination of the Complaint</u></b>	<b><u>Rule 14 – Oral hearings and determination of the Complaint</u></b>	<b><u>Rule 14 – Oral hearings and determination of the Complaint</u></b>
13.1 At a Hearing the Parties may represent themselves or be represented through representatives of their own choosing. Parties may examine or have examined witnesses against them. In cases where the Disciplinary Board finds a Complaint proved it shall not determine a penalty without having given the Respondent an opportunity of putting forward mitigation.	14.1At <del>a Hearing</del> an oral hearing the Parties may represent themselves or be represented through representatives of their own choosing. Parties may examine or have examined witnesses against them.	14.1At an oral hearing the Parties may represent themselves or be represented through representatives of their own choosing. Parties may examine or have examined witnesses against them.
13.2. After completion of the matter, including any Hearing which may be held, the Disciplinary Board shall give a reasoned written decision setting out the Complaint, the facts, and its conclusion as to what should follow, the decision being forwarded to IPReg, the appropriate	<del>Disciplinary Board finds</del> shall give a reasoned written decision setting out the Complaint, its findings of fact, and its conclusion as to whether the Complaint as set out in the Statement of Case has been proved.	14.2After completion of the matter, including any hearing which may be held, the Disciplinary Board shall give a reasoned written decision setting out the Complaint, its findings of fact, and its conclusion as to whether the Complaint as set out in the Statement of Case has been proved.
	14.3In the event and to the extent that the Complaint as set out in the Statement of Case	14.3n the event and to the extent that the Complaint as set out in the Statement of Case

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<p>Attorney Litigator;</p> <p>(iv) A suspension for such term and subject to such conditions as the Disciplinary Board thinks fit of the Respondent from membership of the Institutes;</p> <p>(v) The expulsion of the Respondent from either Institute;</p> <p>(vi) Striking the Respondent from the Register of Trade Mark Attorneys, and/or the Register of Patent Attorneys;</p> <p>(vii ) Cancelling the Respondent's certificate to practice as a Trade Mark and Design Litigator and/or as a Patent Attorney Litigator;</p> <p>(viii) an order requiring the Respondent to undertake training or other activities pertinent to any disciplinary breach or breaches found to have been proven by the Disciplinary Board;</p> <p>(ix) A recommendation to the UKIPO, EPO and/or OHIM that the Respondent's recognition or authorisation should be withdrawn;</p> <p>(x) an order to pay a fine up to Level 5 of the standard scale of fines for summary offences as set out in section 37 of the Criminal Justice Act 1982 as amended from time to time;</p> <p>(xi) an order to pay a proportion of or the full costs of the disciplinary procedure, including the Complainant's costs.</p> <p>13.4 The Disciplinary Board shall not make any order for redress to the Complainant or any other person.</p> <p>13.5 If the Respondent does not comply with the</p>	<p>(d) <del>if the Respondent is a Registered Person a direction that the Respondent's entry be removed from the relevant Register, either permanently or during such period</del> and subject to such conditions <del>as the Disciplinary Board thinks fit of the Respondent from membership of the Institutes;</del> (as to restoration or otherwise) as may be specified in the direction</p> <p>(e) <del>an order cancelling</del> the Respondent's certificate to <del>practice</del>practise as a Trade Mark and Design Litigator and/or as a Patent Attorney Litigator;</p> <p>(f) <del>an order requiring the Respondent to undertake training or other activities pertinent to any disciplinary breach or breaches found to have been proven</del> by the Disciplinary Board;</p> <p>(g) <del>notification of the decision to the</del> UKIPO, EPO and/or OHIM <del>together with a recommendation</del> that the Respondent's recognition or authorisation should be <del>withdrawn</del>;</p> <p>(h) <del>an order to pay a fine up to Level 5 of the standard scale of fines for summary</del> offences as set out in section 37 of the Criminal Justice Act 1982 <del>as</del> amended from time to time;</p>	<p>permanently or during such period and subject to such conditions (as to restoration or otherwise) as may be specified in the direction;</p> <p>e)an order cancelling the Respondent's certificate to practise as a Trade Mark and Design Litigator and/or as a Patent Attorney Litigator;</p> <p>f)an order requiring the Respondent to undertake training or other activities pertinent to any disciplinary breach or breaches found to have been proven by the Disciplinary Board;</p> <p>g) notification of the decision to the UKIPO, EPO and/or OHIM together with a recommendation that the Respondent's recognition or authorisation should be withdrawn;</p> <p>h)an order to pay a fine up to Level 5 of the standard scale of fines for summary offences as set out in section 37 of the Criminal Justice Act 1982 as amended from time to time;</p> <p>i)a recommendation to the Councils of CIPA and/or ITMA that the Respondent be suspended from membership of the Institutes for such term and subject to such conditions as the Disciplinary Board thinks fit;</p>
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<p>any of sanctions imposed the Disciplinary Board can, on an application by any interested or aggrieved person make an order suspending or striking the Respondent from the Registers or suspending or excluding the Respondent from membership (including as a student) of the Institutes without further reference to the Respondent.</p>	<p><u>(i) a recommendation to the Councils of CIPA and/or ITMA that the Respondent be suspended from membership of the Institutes for such term and subject to such conditions as the Disciplinary Board thinks fit;</u></p> <p><u>(j) a recommendation to the Councils of CIPA and/or ITMA the Respondent be expelled from either or both Institutes;</u></p> <p><u>14.4 In the event that the Disciplinary Board issues a notice, warning or reprimand, the Disciplinary Board shall inform the Registrar(s) of the Register(s) in which the Respondent is registered that a notice, warning or reprimand has been issued and require that this be noted against the Respondent's entry in the Register(s) for such a period as is set out in Rule 8.7(b).</u></p> <p>14.5 The Disciplinary Board shall not make any order for redress to the Complainant or any other person.</p> <p>14.6 If the Respondent does not comply with the any of sanctions imposed the Disciplinary Board <del>can</del>, <u>may, of its own motion or</u> on an application by any interested or aggrieved person, make an order suspending or striking the Respondent from the <u>Registers or Register(s) or recommending</u> suspending or excluding the Respondent from membership (including as a student) of the Institutes</p>	<p>j) a recommendation to the Councils of CIPA and/or ITMA the Respondent be expelled from either or both Institutes;</p> <p>k) In the event that the Disciplinary Board issues a notice, warning or reprimand, the Disciplinary Board shall inform the Registrar(s) of the Register(s) in which the Respondent is registered that a notice, warning or reprimand has been issued and require that this be noted against the Respondent's entry in the Register(s) for such a period as is set out in Rule 8.7(b).</p> <p>14.5 The Disciplinary Board shall not make any order for redress to the Complainant or any other person.</p> <p>14.6 If the Respondent does not comply with the any of sanctions imposed the Disciplinary Board may, of its own motion or on an application by any interested or aggrieved person, make an order suspending or striking the Respondent from the Register(s) or recommending suspending or excluding the Respondent from membership (including as a student) of the Institutes. The Disciplinary Board shall give the Respondent 14 days to provide any explanation for the failure to comply, and it shall take account of any such explanation when making its decision.</p> <p>14.7 Any decision of the Disciplinary Board</p>
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	<p><u>without further reference to the The Disciplinary Board shall give the Respondent 14 days to provide any explanation for the failure to comply, and it shall take account of any such explanation when making its decision.</u></p> <p><u>14.7Any decision of the Disciplinary Board under Rule 14 shall be forwarded to IPReg, the appropriate Registrar and the relevant Institute (both CIPA and ITMA in the case of a General Complaint), and served upon the Complainant and the Respondent. The decision shall be published on the IPReg's website and in its journal, either in whole or in part, once it has become final, i.e. no appeal has been made within the time laid down by the Rules or any such appeal has been dismissed. The published version of the Board's decision may exclude any matters for reasons of public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the Parties so require, or to the extent strictly necessary in the opinion of the Disciplinary Board in special circumstances where publicity would prejudice the interests of justice. The notice of publication of the decision will in all cases include the names of the Respondent and the Complainant, save where exceptional circumstances exist.</u></p> <p><u>14.8Where considered appropriate IPReg</u></p>	<p>under Rule 14 shall be forwarded to IPReg, the appropriate Registrar and the relevant Institute (both CIPA and ITMA in the case of a General Complaint), and served upon the Complainant and the Respondent. The decision shall be published on the IPReg's website and in its journal, either in whole or in part, once it has become final, i.e. no appeal has been made within the time laid down by the Rules or any such appeal has been dismissed. The published version of the Board's decision may exclude any matters for reasons of public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the Parties so require, or to the extent strictly necessary in the opinion of the Disciplinary Board in special circumstances where publicity would prejudice the interests of justice. The notice of publication of the decision will in all cases include the names of the Respondent and the Complainant, save where exceptional circumstances exist.</p> <p>14.8Where considered appropriate IPReg may request either or both of the Institutes also publish any decision either via the Institute's website(s) and/or Journal(s).</p>
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	<p><u>may request either or both of the Institutes also publish any decision either via the Institute's website(s) and/or Journal(s).</u></p> <p><b>Comment</b></p> <p>The principal changes allow for a plea in mitigation, and detail the publication of Decisions. Costs is now wholly dealt with in Rule 15.</p>	
<p><b>Rule 14 – Costs</b></p> <p>14.1 The Disciplinary Board may make such order as to costs as it shall think fit including an order—</p> <p>(a) disallowing costs incurred unnecessarily; or</p> <p>(b) that costs be paid by any party judged to be responsible for wasted or unnecessary costs, whether arising through unreasonable, unnecessary or disproportionate conduct, non compliance with time limits or otherwise.</p> <p>14.2 The Disciplinary Board may order that any party bear the whole or a part or a proportion of the costs.</p> <p>14.3 The amount of any costs to be paid shall be fixed by the Disciplinary Board.</p> <p>14.4 The Disciplinary Board may also make an order as to costs under this Rule—</p>	<p><b>Rule 15 – Costs</b></p> <p>15.1 The Disciplinary Board may make such order as to costs as it shall think fit including an order—</p> <p>a) disallowing costs incurred unnecessarily; or</p> <p>(b) that costs be paid by any party judged to be responsible for wasted or unnecessary costs, whether arising through unreasonable, unnecessary or</p> <p>(c) disproportionate conduct, non compliance with time limits or otherwise.</p> <p>15.2 The Disciplinary Board may order that any party bear the whole or a part or a proportion of the costs.</p> <p>15.3 The amount of any costs to be paid shall be fixed by the Disciplinary Board <u>subject to such scales and limits as are published by</u></p>	<p><b>Rule 15 - Costs</b></p> <p>15.1 The Disciplinary Board may make such order as to costs as it shall think fit including an order:</p> <p>a) disallowing costs incurred unnecessarily; or</p> <p>b) that costs be paid by any Party judged to be responsible for wasted or unnecessary costs, whether arising through unreasonable, unnecessary or</p> <p>c) disproportionate conduct, non compliance with time limits or otherwise.</p> <p>15.2 The Disciplinary Board may order that any Party bear the whole or a part or a proportion of the costs.</p> <p>15.3 The amount of any costs to be paid shall be fixed by the Disciplinary Board subject to such scales and limits as are published by IPReg from time to time.</p>

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<p>(a) where any application or allegation is withdrawn or amended;</p> <p>(b) where no allegation of misconduct is proved against a Respondent.</p>	<p><u>IPReg from time to time.</u></p> <p>15.4 The Disciplinary Board may also make an order as to costs under this Rule—;</p> <p>a) where any application or allegation is withdrawn or amended;</p> <p>b) where no allegation of misconduct is proved against a Respondent.</p> <p>15.4 <u>An award of costs under this Rule may include costs and expenses incurred by IPReg in respect of the Administrator, Case Manager, CRC and Disciplinary Board (including the costs of any legal adviser appointed in accordance with Rule in connection with or preparatory to the determination of the Complaint.</u></p> <p><u>Comment</u></p> <p>The principal change is the inclusion of the power to recover IPReg’s costs. In a departure from the 09 Rules, this can now be made against any Party.</p>	<p>15.4 The Disciplinary Board may also make an order as to costs under this Rule:</p> <p>a) where any application or allegation is withdrawn or amended;</p> <p>b) where no allegation of misconduct is proved against a Respondent.</p> <p>15.5 An award of costs under this Rule may include costs and expenses incurred by IPReg in respect of the Administrator, Case Manager, CRC and Disciplinary Board (including the costs of any legal adviser appointed in accordance with Rule <b>Error! Reference source not found.</b>) in connection with or preparatory to the determination of the Complaint.</p>
<p><b><u>Rule 16 – Appeals</u></b></p> <p>16.1 Either the Complainant or the Respondent may appeal to an independent person or body of persons (none of whom shall at any time be or have been registered or regulated persons or</p>	<p><b><u>Rule 17 – Appeals</u></b></p> <p>17.1 <u>The Complainant or the Respondent may appeal against a decision or order of the Disciplinary Board by giving notice in writing to IPReg setting out the decision or -order</u></p>	<p><b><u>Rule 17 – Appeals</u></b></p> <p>17.1 The Complainant or the Respondent may appeal against a decision or order of the Disciplinary Board by giving notice in writing to IPReg setting out the decision or order</p>

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<p>Members of the IPReg Board) appointed by the IPReg Board (the Appeal Board) .</p>	<p><u>appealed against and the grounds for appeal. Any such appeal must be received by IPReg no later than 21 days after the date on which the decision or order was served upon the Party appealing.</u></p>	<p>appealed against and the grounds for appeal. Any such appeal must be received by IPReg no later than 21 days after the date on which the decision or order was served upon the Party appealing.</p>
<p>16.2 The Appeal Board may admit, or invite, further submissions from any party to the proceedings and from the Complainant. However an appeal shall be by way of review and not by way of a full rehearing and fresh evidence may only be considered if the Appeal Board is satisfied that:</p>	<p><u>17.2 The only grounds for an appeal against a decision of a Disciplinary Board are one or more of the following:</u></p>	<p>17.2 The only grounds for an appeal against a decision of a Disciplinary Board are one or more of the following:</p>
<p>(i) it could not previously have been obtained with reasonable diligence; and</p>	<p>a) <u>the decision of the Disciplinary Board) The Appeal was wrong in that the Disciplinary Board gave insufficient weight to or drew incorrect conclusions from any material before it, which was or should have been material to its determination;</u></p>	<p>a) the decision of the Disciplinary Board was wrong in that the Disciplinary Board gave insufficient weight to or drew incorrect conclusions from any material before it, which was or should have been material to its determination;</p>
<p>(ii) if it had been before the Disciplinary Board it would have had an important influence upon the determination of the matter.</p>	<p>b) <u>the decision was flawed because of a serious procedural or other irregularity in the proceedings before the Disciplinary Board</u></p>	<p>b) the decision was flawed because of a serious procedural or other irregularity in the proceedings before the Disciplinary Board;</p>
<p>16.3 In each appeal the Appeal Board will determine the procedure to be followed and may hold a preliminary hearing for determining issues relating to the production of fresh evidence and the conduct of the appeal.</p>	<p><u>c) the Appellant has acquired new evidence that:</u></p>	<p>c) the Appellant has acquired new evidence that:</p>
<p>16.4 The Appeal Board may impose any of the sanctions set out in 13.3 above and may vary or set aside any such sanctions imposed at the Disciplinary Board Stage.</p>	<p>i) <u>could not previously have been obtained with reasonable diligence; and</u></p>	<p>i) could not previously have been obtained with reasonable diligence; and</p>
<p>16.5 At the end of the Appeal Stage, if the appeal has not been withdrawn by the Appellant, the Appeal Board will issue a reasoned, written decision. The decision shall be</p>	<p>ii) <u>if it had been before the Disciplinary Board it would have had an important influence upon the determination of the matter.</u></p>	<p>ii) if it had been before the Disciplinary Board, would have had an important influence upon the determination of the matter.</p>
<p></p>	<p>d) <u>the Disciplinary Board did not have power to make the order appealed against;</u></p>	<p>d) the Disciplinary Board did not have power to make the order appealed against;</p>

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<p>pronounced publicly, either in whole or in part, save where all or part of any Hearing of the appeal was held in private and such publication would frustrate the legitimate reasons for which it was so held</p>	<p><u>e)the penalty imposed by the Disciplinary Board under Rule 14.3, or an order for costs under Rule 15 was excessive in light of the Disciplinary Board’s decision on the facts or the Appellant’s circumstances.</u></p> <p><u>17.3Upon receipt of an appeal, the IPReg Board shall appoint a person (an “Adjudicator”) to determine the appeal. An Adjudicator shall be a solicitor or barrister of at least 10 years’ qualification.</u></p> <p><u>17.4 The Adjudicator may admit, or invite, further submissions from any Party to the proceedings. However an appeal shall be by way of review and, shall not by way of a rehearing (unless the Appellant is appealing under Rule 17.2(c)). If the Appellant is appealing under Rule 17.2 (c), fresh evidence may be not be admitted unless the Adjudicator is satisfied of the matters set out in Rule17.2(c)(i)and 17.2(c)(ii).</u></p> <p><u>17.5In each appeal the Adjudicator will determine the procedure to be followed and may hold a preliminary hearing for determining issues relating to the production of fresh evidence and the conduct of the appeal.</u></p> <p><u>17.6The Adjudicator may affirm or vary the decisions and sanctions of the Disciplinary</u></p>	<p>e)the penalty imposed by the Disciplinary Board under Rule 0, or an order for costs under Rule 15 was excessive in light of the Disciplinary Board’s decision on the facts or the Appellant’s circumstances.</p> <p>17.3Upon receipt of an appeal, the IPReg Board shall appoint a person (an “Adjudicator”) to determine the appeal. An Adjudicator shall be a solicitor or barrister of at least 10 years’ qualification.</p> <p>17.4The Adjudicator may admit, or invite, further submissions from any Party to the proceedings. However an appeal shall be by way of review and, shall not by way of a rehearing (unless the Appellant is appealing under Rule 17.2(c)). If the Appellant is appealing under Rule 17.3(c), fresh evidence may be not be admitted unless the Adjudicator is satisfied of the matters set out in Rule17.2(c)(i)and 17.2(c)(ii).</p> <p>17.5In each appeal the Adjudicator will determine the procedure to be followed and may hold a preliminary hearing for determining issues relating to the production of fresh evidence and the conduct of the appeal.</p> <p>17.6The Adjudicator may affirm or vary the decisions and sanctions of the Disciplinary</p>
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	<p><u>Board, may (on allowing an appeal under Rule 17.2(c)) remit the matter for determination by the Disciplinary Board which determined the Complaint or a differently constituted Disciplinary Board, and may make such ancillary orders as the Adjudicator sees fit. For the avoidance of doubt, the Adjudicator may impose a more severe sanction than that imposed by the Disciplinary Board.</u></p> <p><u>17.7The Adjudicator may make such order as to costs as he thinks fit and Rule 15 shall apply as if references to the Disciplinary Board were references to the Adjudicator.</u></p> <p><u>17.8After completion of the procedure determined by the Adjudicator, if the appeal has not been withdrawn by the Appellant, the Adjudicator will issue a reasoned, written decision. The decision shall be pronounced publicly. The published version of the Adjudicator’s decision may exclude any matters for reasons of public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the Parties so require, or to the extent strictly necessary in the opinion of the Adjudicator in special circumstances where publicity would prejudice the interests of justice.</u></p> <p><b>Comment</b></p>	<p>Board, may (on allowing an appeal under Rule 17.2(c)) remit the matter for determination by the Disciplinary Board which determined the Complaint or a differently constituted Disciplinary Board, and may make such ancillary orders as the Adjudicator sees fit. For the avoidance of doubt, the Adjudicator may impose a more severe sanction than that imposed by the Disciplinary Board.</p> <p>17.7The Adjudicator may make such order as to costs as he thinks fit and Rule 15 shall apply as if references to the Disciplinary Board were references to the Adjudicator.</p> <p>17.8After completion of the procedure determined by the Adjudicator, if the appeal has not been withdrawn by the Appellant, the Adjudicator will issue a reasoned, written decision. The decision shall be pronounced publicly. The published version of the Adjudicator’s decision may exclude any matters for reasons of public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the Parties so require, or to the extent strictly necessary in the opinion of the Adjudicator in special circumstances where publicity would prejudice the interests of justice.</p>
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	<p>The Appeal provisions in the original Rules were minimal, especially as to the choice of a person to hear the appeal, the basis for appeals, the powers of the tribunal and the procedure to be followed. These changes address those issues.</p>	
Not applicable	<p><b><u>Rule 18 – Delegation</u></b></p> <p><b><u>Comment</u></b></p> <p>The new Rule gives IPReg express permission to delegate its Disciplinary process to an external provider if it is expedient or appropriate to do so. This ties in with tentative proposals for a single administrative process common to all (or more likely the smaller) ARs.</p>	<p><b><u>Rule 18 – Delegation</u></b></p> <p>18 The IPReg Board may delegate to an external body nominated by it responsibility for implementing this procedure or parts of this procedure to be undertaken by IPReg.</p>
Not applicable	<p><b><u>Rule 19 – Commencement</u></b></p> <p><b><u>Comment</u></b></p> <p>This is self-explanatory.</p>	<p><b><u>Rule 19 – Commencement</u></b></p> <p>19 These Rules shall apply to all Complaints received on or after <b><i>[date of publication ]</i></b> whether the subject matter of the Complaint arose or commenced before or after that date.</p>

**3 Rule 9 (d): Statement in respect of each alteration explaining how and why the alteration will help to promote, be neutral towards or be detrimental to each of the Regulatory Objectives.**

A statement for each individual alteration would be unnecessarily repetitive. For the most part the alterations should be neutral towards the Regulatory Objectives, as they clarify the disciplinary process rather than introduce new or controversial matter. Such new substantive Rules as are introduced, such as a detailed appeal structure, improve the Arrangements to the benefit of Consumers and Professionals alike.

**4 Rule 9 (e): Statement explaining how and why the Applicant feels that the alterations requested fulfil the applicant's obligations to comply with its obligations under section 28 of the Act to have regard to the Better Regulation Principles**

The Applicant submits that the more detailed procedures in the new Rules comply with the Better Regulation Principles of transparency, consistency and proportionality.

**5 Rule 9 (f): A statement explaining the desired outcome of the alteration and how the applicant intends to assess whether the desired outcome has been achieved.**

The desired outcome is improvement and clarification of the Rules so that they may serve all stakeholders more effectively.. No separate assessment of the outcome, beyond its enactment, is necessary.

**6 Rule 9(g): A statement explaining whether the proposed alteration is one that affects areas regulated by other Approved Regulators.**

Although the changes have been widely consulted on and was open to input from other Approved Regulators, as the changes do not represent any extension or reduction of the totality of the relevant arrangements as at the coming into force of the Act, they do not affect areas regulated by other Regulators [CHECK – Anne, did we get any specific inputs from other ARs?]

**7 Rule 9 (h): Details of when the Applicant hopes to implement the alteration**

The Applicant wishes to implement the changes as soon as possible.

**8 Rule 9 (i): Full details of all consultation processes undertaken and responses received by the Applicant in relation to the alteration, which should include consultations of Approved Regulators and other appropriate regulators when applicable;**

A copy of the consultation is attached as Annex 1.

9 **Rule 9 (j): Such other explanatory material as the Applicant considers is likely to be needed for the purposes of Part 3 of Schedule 4 to the Act.**

The Applicant has no other material to submit. It does not consider an Impact Assessment is required or proportionate for the alterations requested. It has not identified any risks that require monitoring or evaluation.

A copy of the existing disciplinary Rules is annexed (Annexure 2).

A copy of the proposed new Disciplinary Rules is annexed (Annexure 3)