

26 February 2026

Richard Orpin
Legal Services Board
London
E20 1JQ

Sent by email only:
consultations@legalservicesboard.org.uk

Dear Richard

LSB Consultation - Encouraging a Diverse Profession

We welcome the opportunity to respond to the LSB's consultation on Encouraging a Diverse Profession, please find attached our response which we will publish on our website.

I would be very happy to discuss this response with you.

Yours sincerely



Fran Gillon
Chief Executive
Email: fran.gillon@ipreg.org.uk

IPReg's response to the LSB's consultation: Encouraging a diverse legal profession

About IPReg

1. IPReg is a small, specialist and agile legal services regulator. We regulate around 3,700 patent and trade mark attorneys and around 250 firms. These registrants provide predominantly business-to-business ("B2B") services. We have 10 members of staff (6 part-time and 4 full-time) and are funded almost entirely from practising fees paid by attorneys and firms. The UK-wide regulatory framework under which we operate is provided by the [Legal Services Act 2007 \(LSA\)](#), the [Copyright, Designs and Patents Act 1988](#) and the [Trade Marks Act 1994](#). The [Legal Services Board \(LSB\)](#) is IPReg's (and the other legal services regulators') oversight regulator.

Context

The wider economy and growth

2. The importance of intellectual property (IP) to the UK economy is recognised by the Government as vital to achieving its objective "to cement the UK's place as a global leader in science and technology and have the best creative industries in the world".¹ The patent attorney profession alone generates "around £1 billion for the economy in gross value added and approaching £750 million in exports".² It is therefore vital that the way the IP sector is regulated supports and indeed promotes investment and innovation and drives growth. The benefits of an open and competitive legal sector as a whole to the UK economy is highlighted in a [recent report](#) for the Ministry of Justice. Any proposed increase in the regulatory burden must therefore be considered in this context.

An increasing regulatory burden

3. Since April 2022, the LSB has introduced 7 new Statements of Policy/statutory guidance. These set out:
 - a. More than 20 new outcomes that all the frontline regulators must deliver;
 - b. More than 110 new expectation/considerations/factors to be achieved by all the frontline regulators;
4. In addition, the LSB's 2025 ethics consultation proposed to introduce another 5 outcomes and 17 new expectations /considerations/ factors to be achieved by all the frontline regulators. There are also 3 regulatory standards and 20 characteristics in the LSB's regulatory performance framework that all the regulators must demonstrate.

¹ <https://www.gov.uk/government/publications/ip-for-a-creative-and-innovative-uk-strategy-2024-to-2027/ip-for-a-creative-and-innovative-uk-strategy-2024-to-2027>

² CIPA [Innovation and Patents in the UK](#) (2024)

5. The draft policy statement on encouraging a diverse legal profession proposes an additional:
 - a. 4 new outcomes that all regulators must meet;
 - b. 18 detailed “core expectations” that all regulators must meet;
 - c. 7 “enhanced expectations” which all regulators should also consider meeting.

Evidence of problems in other sectors of the legal profession

6. These recent LSB policy statements are more often than not triggered by issues in particular sectors within the legal profession, but not in the patent and trade mark attorney professions we regulate. The case for change put forward in this most recent consultation (as with the professional ethics consultation and the first- tier complaints (FTCs) policy statement before it) appears predominantly based on other parts of the legal profession. For example, the justification for the prescriptive requirements on FTCs arose from issues in the solicitor and barrister sectors. The justification for the proposals on ethics was primarily because of issues such as the Post Office Horizon IT scandal, the misuse of Non-Disclosure Agreements and Strategic Lawsuits Against Public Participation. Again, these are not issues in the IP sector.
7. The LSB has not provided any evidence that in the predominantly B2B regulated IP sector there are issues so significant that additional regulation (such as that proposed in this most recent consultation) is required.

The current consultation

8. The consultation was an agenda item at the 3 February 2026 Chairs and Chief Executives meeting between the LSB and the frontline regulators. This was attended by the IPReg Chair and Deputy CEO. All the regulators made clear to the LSB that the proposed policy statement was unnecessarily prescriptive. In response, the LSB representatives advised attendees that they will not require regulators to implement all of the “must” expectations if the regulator considers that the expectation is not appropriate to achieving the outcomes.
9. We note the standard paragraph in the draft policy statement:

“Regulators are expected to pursue the outcomes by meeting the core expectations. However, regulators have discretion to take alternative steps to pursuing the outcomes to the expectations set out in this statement of policy, where they have clear evidence and reasons for why their proposed alternatives are more appropriate within their specific regulatory context to pursuing the outcomes”.³
10. Notwithstanding the statements made by the LSB at the meeting, it seems that the LSB’s clear intention is that all regulators must pursue the outcomes that the LSB sets (in this draft Policy Statement and others). Despite the wording of paragraph 24, the remaining paragraphs do not appear to provide regulators with any discretion about the

³ Paragraph 24

approach they might take on the outcomes or the core expectations. Even the word “must” is in bold which emphasises the compulsory nature of the requirements.

11. In our view, the LSB, in its oversight role, may suggest outcomes that regulators could pursue to encourage a diverse legal profession. In doing so, the LSB could provide examples of work and initiatives that regulators could undertake to meet those outcomes. However, we do not consider that the LSB has provided a firm basis for its proposed approach in the draft policy statement. Its approach is to compel regulators to adopt outcomes and then require them to undertake certain activities – through a set of core expectations which must be met - to achieve them; that, in our view, is the IPReg Board’s statutory duty.
12. There are many features in this consultation (and previous ones) which we consider raise concerns about the LSB’s approach when viewed against relevant provisions in the LSA and more widely. These are:
 - a. [LSA s1](#) – one of the regulatory objectives is “encouraging an independent, strong, diverse and effective legal profession”. In our view, the use of the term “legal profession” in other instances in the LSA indicates that it only includes lawyers. The LSB’s consultation seems to extend some of its requirements to all “regulated persons”.⁴ We would like to understand why the LSB considers that it has the *vires* to do this, given that the relevant regulatory objective is drafted more narrowly;
 - b. [LSA s3\(2\)](#) – the LSB needs to show in a more meaningful way than it has done in the consultation document how it has considered its own statutory duty to act in a way that it considers is the most appropriate way to achieve the regulatory objectives. We would expect this to include some analysis of the inevitable tensions between the different regulatory objectives as well as other policy options that the LSB has considered but ruled out because they are not the “most appropriate” way to meet the objectives; there is nothing in the consultation document to show that this has been done;
 - c. [LSA s3\(3\)](#) – the LSB needs to show how its proposals meet each of the better regulation principles. It is not sufficient just to assert that they do as the LSB does in this consultation (and others).⁵ Each principle should be considered in detail and in turn. We would expect this to include other options that have been considered and then ruled out because they did not meet one or more of the principles. In particular, we would expect to see very clear evidence that the proposals are proportionate and are targeted only at cases where action is needed in the regulated IP sector. We are required to provide this information as part of a rule change application to the LSB. It would be consistent for the LSB to do the same.
 - d. [LSA s28\(2\)](#) – this places a statutory duty on frontline regulators to, so far as is reasonably practicable, act in a way (a) which is compatible with the regulatory objectives, and (b) which the regulator considers most appropriate for the purpose

⁴ LSA s176

⁵ Paragraph 131 of the consultation document

of meeting those objectives (emphasis added). In doing so, we – as the regulator – must have regard to the principles of better regulation and any other principle we consider represents best regulatory practice. The LSB’s draft policy statement (and others which preceded it) generally impose significant requirements on the frontline regulators, including a disproportionate and unnecessary amount of prescriptive detail about what to include in their regulatory arrangements. This is inherently problematic and we consider that it fetters the IPReg Board’s discretion to decide what, in its judgement, it should do to fulfil its statutory duty. If it is indeed the case (as stated at the meeting on 3 February (see paragraph 8) that regulators do have discretion whether to adopt the LSB’s suggestions, then we would expect the LSB in its final decision document to amend its terminology throughout a finalised policy statement to make this clear (for example by amending the word “must” to “may”). If, on the other hand, the LSB decides to keep the “must” terminology, we would expect the LSB to provide a significant amount of guidance about what evidence it would require regulators to provide if they decided that either the outcomes and/or the core expectations set by the LSB were not appropriate to the regulator’s sector.

- e. [LSA s49\(3\)](#) – we note that the LSA requires the LSB to publish policy statements about how it will exercise its statutory enforcement powers. The LSA also gives the LSB the power to publish a policy statement on “any other matter”. For any policy statement, the LSB must “have regard to the principle that its principal role is the oversight of approved regulators”. In our view, when the LSB exercises its discretion to publish a policy statement (i.e. there is no statutory requirement for it to do so) it should explain in detail how it has had regard to the principle that its primary role is the oversight of approved regulators. In the current consultation – and others – this has not been done. The LSB has merely stated that it has had regard to the principle that it is an oversight regulator;⁶ this is a concerning pattern. We would expect to see much more reasoning and evidence to enable regulators to understand how and why the LSB considers that each policy statement is a legitimate focus for an oversight regulator. This would include detailed consideration of why (for example) prescriptive requirements for matters that must be included in regulators’ regulatory arrangements is an appropriate course of action for an oversight regulator. For the avoidance of doubt, we consider that where there are currently differences in approach between regulators (whether on EDI or other issues), this is not evidence of consumer detriment. Rather, it reflects regulators’ understanding of their sector and their proportionate and targeted response to evidence that they have about where (and what type of) action is needed. It therefore follows that we do not consider that an oversight regulator could justify the imposition of additional regulatory burdens based on what the LSB considers “inconsistencies” between frontline regulators.
- f. [LSA s112\(2\)](#) – as far as we are aware, this is the only section in the LSA that states that regulators’ regulatory arrangements “must satisfy such requirements as the Board may, from time to time, specify [...]” (emphasis added) about first tier complaints (FTCs). We therefore question whether the LSB has the *vires* to specify

⁶ Paragraph 1 of the draft Statement of Policy. Not included in the consultation document.

detailed requirements about what regulators must include in their regulatory arrangements (as proposed in the current consultation) other than for FTCs;

- g. Lack of evidence of any issues in the regulated IP sector. Examples used are predominately from the solicitor and barrister professions. As far as we are aware, the LSB has not provided any compelling evidence that the onerous requirements it is proposing are proportionate and targeted in the regulated IP sector. The LSB's "case for change"⁷ contains very little evidence about the regulated IP sector. The only IPReg-specific data noted in the "case for change" is taken from our 2024 diversity survey:

- Registrants with disabilities (7%). Whilst this is clearly below the national average of 18%, only the CLSB has a higher number of registrants with disabilities (8.7%);
- Neurodivergent registrants (13%). This is close to the national average of 15%;
- Sex: 68% of trade mark attorneys are women and 37% of patent attorneys are women. This compares to the national average of 51%.

We outline below how we are using results from the survey in our work on diversity and why, in the IPReg Board's view, that approach is the most appropriate way to meet the regulatory objectives.

- h. We are very concerned about the impact that these requirements will have on all firms, but, particularly, small firms and their managers. In our view, given the onerous and disruptive impact that the LSB's proposals are likely to have, it is insufficient for it to state that it is for the regulators to undertake impact assessments. Prior to finalising the policy statement, we consider it imperative that the LSB undertakes a full impact assessment which follows a best practice approach such as the one set out in the Regulatory Policy Committee's [guidance](#). This would need to indicate the likely cost of this additional regulation for IPReg's registrants and would therefore indicate whether it might be a proportionate measure.

IPReg's work on diversity, equity, inclusion and belonging

13. Since May 2025, we have been working with an external adviser to help us to improve our approach to diversity, equity, inclusion and belonging. She is working closely with us on the Education Review and will also advise us on other aspects of our work. Her initial work on the Education Review has focused on:

- a. EDI terminology issues (e.g. 'equity' vs. 'equality'), including to inform stakeholder communications and engagement activity;

⁷ Annex B to the consultation document.

- b. Meaningful approaches to constructing and enacting equality impact assessments and embedding the approach into project activity (including to inform decision-making at key stages of the review).
- c. Optimising use of available data and intelligence to inform understanding of EDI issues, including in terms of understanding intersectionality issues and use this understanding to inform stakeholder engagement and the development of proposals.
- d. Addressing issues relating to additional learning needs and reasonable adjustments within the context of high-stakes assessment to uphold compliance with equalities legislation and high professional standards.
- e. Engaging with stakeholders on these issues.

14. We anticipate the subsequent work over the coming months will include:

- a. Pursuing diversity, equity, inclusion and belonging (DEIB) as a key theme within IPReg's education review;
- b. Developing IPReg's ongoing approach to capturing and using diversity data;
- c. Engaging with broader developments and potential new requirements in the legal sector relating to increasing diversity.

Education Review

15. We are undertaking an extensive review of education and have recently launched a 'Call for Evidence'. The Review has already been informed by significant stakeholder engagement, evidence gathering and the development of a Diversity, Equity, Inclusion and Belonging (DEIB) [evaluation framework](#).
16. The purpose of the Review is to ensure the qualification routes into the patent attorney and trademark attorney professions remain up-to-date and responsive to changes in professional practice, employer and consumer needs. This includes identifying how qualification routes can be more accessible and inclusive, while ensuring that high education and professional standards continue to be upheld.

Other diversity work

17. In terms of IPReg's work on diversity other than in the Education Review:
- a. We remain committed to keeping a ring-fenced reserve (currently £20,000) to fund suitable diversity initiatives as set out in our 2026 practising certificate fee application to the LSB;
 - b. Given the requirement for a STEM degree to become a patent attorney, in the IPReg Board's judgement, the most appropriate way to encourage a diverse legal profession is to support organisations which tackle directly the barriers to people

undertaking STEM subjects. This means that we provide donations to [In2Science](#) and similar organisations;

- c. We also support the work that [IP Inclusive](#) undertakes in the IP sector. IP Inclusive is an award-winning initiative formed by individuals and organisations from across the intellectual property (IP) sector, who work together to make our community more inclusive, diverse, open and fair. Given the enormous breadth of IP Inclusive's work (currently and historically) in the IPReg Board's judgement, supporting its work is much more likely to encourage a diverse legal profession than IPReg could do alone;
 - d. We have also undertaken diversity surveys in 2017, 2021, 2024; another survey will be undertaken in 2026. The results of the surveys are published so that all stakeholders can see what changes have occurred over time. We use the results of the surveys to inform our approach to DEIB, including through the Education Review.
18. The LSB has not explained why, given all the work that IPReg is undertaking to improve diversity, equity, inclusion and belonging in the regulated IP sector, it is nevertheless a proportionate and targeted approach for the LSB to impose additional requirements on IPReg.

IPReg's approach to regulation

19. Once the LSB's final policy statement is published, the IPReg Board will consider whether the LSB's outcomes and core expectations are, in its judgement, the most appropriate way to meet the regulatory objectives. In doing so, we will take into account the principles of better regulation. We are also likely to consider whether [Right Touch Regulation](#) (as an example of best regulatory practice)⁸ provides an appropriate framework against which to assess the LSB's requirements and/or suggestions. In reaching a decision, we are also likely to take into account that there may be a tension between various of the regulatory objectives. For example, any requirement on firms to publish diversity data is very likely to introduce costs and may therefore work against the objective to encourage competition, which may in turn not be in consumers' interests. This will all need to be weighed up carefully.

Responses to the LSB's questions

Q1a. Do you agree that these proposed outcomes will help to address the barriers to encouraging a diverse legal profession? Are there any further, or alternative, outcomes we should consider?

20. We consider that the proposed four outcomes themselves are laudable (subject to a potential amendment (see paragraph 31)). They are outcomes that the IPReg Board could consider adopting. However, as we have set out above, the LSB has not provided any evidence that it has the *vires* to require regulators to pursue those outcomes.
21. The proposed outcomes seem likely to help address some barriers to encouraging a diverse legal profession. However, given the inherent difficulty in establishing cause and

⁸ LSA s28(3)(b)

effect in changes in diversity, we do not consider it is possible to say that they “will” help to address those barriers.

Q1b. Do you agree that the proposed outcomes should be pursued by regulators through a set of specific expectations?

22. We do not agree with the extensive set of very specific core expectations which regulators “must meet”. IPReg’s approach is to regulate only when there is clear evidence that regulation is needed and it is the most appropriate way to meet the regulatory objectives. In the IPReg Board’s judgement, IPReg’s approach is most likely to protect consumers and promote competition. Consistent with this approach, we have a principles-based [Core Regulatory Framework](#) which sets out Overarching Principles and the Code of Conduct for all regulated persons.

23. We have significant concerns at the very detailed core expectations which sit underneath the LSB’s proposed outcomes. They are a “one size fits all” approach which is not supported with any compelling evidence from the regulated IP sector to demonstrate that the core expectations are proportionate and targeted only where action is needed.

24. The proposed policy statement states “Regulators are expected, taking account of their regulatory context, to pursue the following outcomes”.⁹ However, the detailed prescription in the proposed 18 core expectations which must be delivered and the 7 enhanced expectations which regulators are expected to consider do not appear to provide IPReg with any ability to vary from those expectations.

Q1c. Do you agree that the proposed structure of core and enhanced expectations under the general outcomes offers an effective way to set a clear minimum standard (emphasis added) for all regulators, while also encouraging regulators to consider additional steps, where appropriate?

25. We do not agree with the proposed structure, nor that it is appropriate for the LSB to set a “minimum standard” that all regulators must meet. A majority of the expectations are detailed, prescriptive input/process requirements. They in turn are underpinned by detailed footnotes that include further considerations and prompts. We consider the policy statement should only include discretionary outcomes that regulators should be encouraged to pursue if they are appropriate and relevant in their regulated sector.

26. For this reason, we consider that the distinction between “core” and “enhanced” expectations is not relevant given that our view is that the LSB should not be imposing requirements which may fetter IPReg’s discretion to exercise its regulatory functions under [LSA s28](#).

Q2a. Do you agree with the proposed Outcome 1 (*Regulators take strategic, evidence-based and collaborative actions to encourage a diverse legal profession*)?

27. Please see above which sets out our view on the LSB’s proposed approach.

⁹ Paragraph 21

Q2b. Do you agree that the proposed expectations will help regulators to pursue Outcome 1? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

28. The 4 core expectations (1 of which has 6 separate detailed provisions) are underpinned by 6 detailed footers which set out further matters for the regulators to consider about diversity data being captured and analysed. These create layers of minutiae which result in heavily detailed and prescribed requirements rather than expectations. Additionally, we are very concerned about the suggestion that capturing diversity data should be done on a firm-by-firm basis. In particular, if it is captured and analysed within a firm, depending upon the size of the firm, it may be possible to inadvertently identify individuals through what should be anonymised responses.
29. In the IPReg Board's judgement, the most appropriate way to build up a body of evidence about changes in diversity is for IPReg to commission surveys by independent agencies and to publish the results in an anonymised way. Firms who can see a commercial benefit in having more diverse teams will be incentivised by that to introduce their own initiatives to improve diversity; regulators (including the LSB) should not be imposing requirements on firms unless there is clear evidence that it would be proportionate and targeted only where action is needed.
30. We are concerned that asking questions on every protected characteristic is neither proportionate nor targeted. For example, marriage and civil partnership is a protected characteristic, but collecting data on it could not inform any policy development in the legal services regulatory sector; it would be a tick box exercise. In the IPReg Board's judgement, it is more appropriate to obtain data such as socio-economic data (which is not a protected characteristic) as well as data on relevant protected characteristics. These can genuinely inform policy development in the regulated IP sector.

Q2c. Are there any enhanced expectations that would be better placed under core expectations under Outcome 1? Are there any core expectations that would be better placed under enhanced expectations under Outcome 1?

31. Please see above which sets out our view on the LSB's proposed approach.

Q3a. Do you agree with the proposed Outcome 2 (*Regulators take effective steps to ensure regulatory approaches, processes and decision-making support equality and fairness and do not undermine efforts to encourage a diverse profession*)?

32. We are unclear why the latter part of the Outcome "*and do not undermine efforts to encourage a diverse profession*" is needed and on what basis the LSB considers regulators would seek to undermine such efforts.

Q3b. Do you agree that the proposed expectations will help regulators to pursue Outcome 2? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

33. One of the core expectations under this outcome is that "*regulators must take steps to effectively support fair disciplinary and enforcement processes by: ...regularly collecting and analysing data across all stages of disciplinary and enforcement processes to help identify patterns or risks of inconsistent or unfair outcomes*".

34. At the time of drafting this response, IPReg has 10 open cases under investigation or awaiting a disciplinary hearing. This figure is consistent with the previous year. Given the very low figures involved in IPReg's disciplinary and enforcement processes, we are very concerned that collecting and analysing data is likely to identify individuals with protected characteristics. We do not consider that this would encourage a more diverse legal profession.

Q3c. Are there any enhanced expectations we could set for regulators to pursue Outcome 2?

35. Please see above which sets out our view on the LSB's proposed approach.

Q4a. Do you agree with the proposed Outcome 3 (*Regulators support fair, flexible, and accessible pathways into, within and back into the professions that encourage a diverse legal profession*)?

36. Please see above which sets out our view on the LSB's proposed approach. Please also see the significant amount of work conducted to date and planned in the [Education Review](#).

Q4b. Do you agree that the proposed expectations will help regulators to pursue Outcome 3? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

37. Please see above which sets out our view on the LSB's proposed approach.

Q4c. Are there any enhanced expectations that would be better placed under core expectations under Outcome 3? Are there any core expectations that would be better placed under enhanced expectations under Outcome 3?

38. Please see above which sets out our view on the LSB's proposed approach.

Q4d. Are there any additional expectations, either core or enhanced, we should set under Outcome 3 to reduce barriers faced by authorised persons when moving between and/or re-entering the professions (e.g., following a prolonged absence from practice for health, caring or other reasons)?

39. Please see above which sets out our view on the LSB's proposed approach.

Q5a. Do you agree with the proposed Outcome 4 (*Regulators ensure their frameworks effectively support authorised persons to uphold professional conduct, behaviours, and competencies that encourage a diverse legal profession*)?

40. Please see above which sets out our view on the LSB's proposed approach.

Q5b. Do you agree that the proposed expectations will help regulators to pursue Outcome 4? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

41. Three of the proposed core expectations and one of the enhanced expectations, underpinning Outcome 4, will require the regulators to support and encourage "a fair, healthy and inclusive professional environment". The LSB has not defined what

“healthy” means but has explained in meetings with us that it means mental health and wellbeing. We agree that employers should have policies in place that support good mental health and that this is fundamental for overall health and quality of life.

42. For that reason, IPReg already has in place an Overarching Principle that applies to all regulated persons to “act in a way that encourages equality, diversity and inclusion in and by the profession”.¹⁰ This is supported by the requirement that: “Any information which suggests a breach of any of IPReg’s or another approved regulator’s regulatory arrangements is reported promptly to IPReg or another approved regulator, as appropriate.”¹¹ Since July 2023 (when this requirement was introduced) IPReg has received two reports under this provision. One of these is currently under investigation. The LSB has not provided any evidence that IPReg needs to introduce additional regulation to support its investigations into regulatory breaches. In our view, in the regulated IP sector, Employment Tribunals are the appropriate body to consider matters such as whether an employer has breached a legal duty to their employees. It is not clear on what basis the LSB considers it is appropriate for legal services regulators to be required to introduce requirements about the health of a registrant’s workforce and to monitor that. In the regulated IP sector, organisations such as IP Inclusive (see its [Mental Health Hub](#)) and [LawCare](#) provide expert resources and support on these issues. In the IPReg Board’s judgement, this is the most appropriate way to provide support for the mental health and well-being of those working in the regulated IP sector.

43. The expectations under Outcome 4 also specify very detailed requirements that regulatory codes of conduct must:

- a. *“Have and appropriately monitor a clear duty...for all authorised persons to not bully, harass, victimise or discriminate against others and to treat those with which they engage fairly and with dignity and respect”;*
- b. *“Have and appropriately monitor an additional standard for managers of authorised and regulated persons to effectively encourage and support a fair, healthy and inclusive professional environment that values diversity and to challenge any behaviour that contravenes the relevant duty”;*
- c. *“Have and appropriately monitor clear competence frameworks for authorised persons that require them to develop and demonstrate, at the point of authorisation and throughout their careers, relevant and appropriate knowledge and skills in encouraging equality, valuing diversity and advancing healthy and inclusive professional environments”;*
- d. *“Have and appropriately monitor additional competence standards for managers of authorised and regulated persons to ensure that they possess core skills required to manage in a fair, compassionate and inclusive way and to respond to the individual needs and circumstances of those they manage”.*

¹⁰ [Overarching Principles](#): Principle 6

¹¹ [Code of Conduct](#) paragraph 3.4

44. As set out above, we have significant concerns about the detailed requirements that the LSB wants to impose on IPReg with no evidence that these are proportionate and targeted in the regulated IP sector. The proposed requirements include vague concepts which it may not be possible for regulators to define or monitor such as setting competence standards which ensure that managers are “fair” and “compassionate” (emphasis added).

Q5c. Are there any enhanced expectations that would be better placed under core expectations under Outcome 4? Are there any core expectations that would be better placed under enhanced expectations under Outcome 4?

45. Please see above which sets out our view on the LSB’s proposed approach.

Q6a. Do you agree our proposed timelines for implementation are achievable?

46. The consultation suggests implementation timeframes of 3 months, 6 months and 12 months after publication of the final policy statement:
- a. 0-3 months – The LSB works closely with regulators to ensure a clear understanding of the aims and expectations of the statement of policy;
 - b. 3-6 months - Regulators assess current activity against the outcomes and expectations to identify gaps and set out clear plans that show how and when regulators will meet the core expectations and, where relevant, enhanced expectations;
 - c. 12 months after publication - Regulators will be able to demonstrate that they have taken or are planning to take effective steps to pursue the outcomes by meeting expectations (including, where relevant, the enhanced expectations) in the statement, with time-bound plans to meeting these within a reasonable timeframe if not yet met.
47. The ability to meet these timelines depends upon when the policy statement is issued, the form that it takes (in particular whether it retains all the detailed expectations) and any other contemporaneous requirements of both the LSB and the individual regulator’s own business plan commitments and business-as-usual regulatory activities. In addition, the proposed timelines do not seem to take into account the need for regulators to consult on changes to their regulatory arrangements and to submit rule change applications to the LSB. It is unlikely that regulators will be able to assess “when and how expectations will be met” given that they are inextricably linked to other elements in any diversity strategic action plan, as well as other societal factors.
48. The LSB has provided little rationale for the timescales associated with the “desired results”¹² of the policy statement. Nor has it provided any assessment of how other, external factors may impact on those outcomes. These include wider factors, such as, broader government policy, education systems (e.g. at school level) and social frameworks. We also know that direct causation of changes in diversity are very difficult to prove. Given all these factors, we consider that the desired results after 3-5 years

¹² Table A on page 13

such as “*reduced barriers to routes into and through the profession*”, “*qualifying routes and providers encourage greater diversity in the professional pipeline*” are unlikely to be attainable in that timescale. The [In2Science](#) diversity initiatives have made it clear from experience and detailed monitoring that 10 years is a reasonable timeframe for seeing real changes in practice in the STEM and IP sectors.

Q6b. Are there any reasons why a regulator would not be able to meet these milestones? Please explain your answer.

49. As above, it will depend upon timing of the final policy statement being issued, the form it takes, any other contemporaneous requirements of both the LSB and our own business plan commitments (such as our Education Review) as well as our business-as-usual regulatory activities.

Q6c. Do you have views on whether and how the LSB could take additional steps to support compliance with the proposed statement of policy (e.g., through either formal or informal outputs, such as guidance and/or other relevant resources)?

50. For the reasons set out in this response, we do not consider that it is appropriate for the LSB, as an oversight regulator to issue the policy statement as it is currently drafted.
51. We suggest that the most appropriate approach would be guidance from the LSB that its four outcomes might be appropriate for regulators to adopt, subject to their own assessment about whether they are the most appropriate way to meet the regulatory objectives.
52. The suggestion by the LSB that it would monitor delivery of the outcomes in the regulatory performance assessment framework introduces another layer of complexity into that area of work. The [Sourcebook of Standards and Characteristics](#) which we must consider when assessing our performance under the framework, now includes over 200 “examples of evidence”, “relevant LSB publications” and external documents.
53. The frontline regulators host an EDI Forum which meets regularly and which the LSB attends. We suggest that the Forum could be used for sharing lessons learned regarding pursuit of the outcomes and to identify where there might be common shared issues.
54. Given that there are constraints to what the frontline regulators can deliver, we suggest it would be more appropriate for the LSB to use its convening powers to bring together government bodies, education departments and the professional bodies to help drive forward this work.

Q7a. Have you identified any equality impacts (both positive and negative), we haven’t considered which, in your view, may arise from our proposed statement of policy?

55. We note that the LSB has not provided any evidence to support its equality impact assessment or its overall impact assessment.¹³ It merely asserts that its proposals are likely to have a positive impact. IPReg would only be in a position to provide evidence about the impact of the LSB’s proposals after it had consulted on them. However, as stated in this response, we are concerned about the cost that the changes would

¹³ Paragraphs 124 – 132 of the consultation document.

impose on regulated firms and sole traders and note that the LSB has not made any assessment of this.

Q7b. Do you have any evidence relating to the potential impact of our proposals on specific groups with certain protected characteristics, and any associated mitigating measures that you think we should consider?

56. Please see our response to Q7a.

Q7c. Are there any other wider equality issues or impacts that we should take into account and/or any further interventions we should take to address these in our proposed statement of policy?

57. The case for change put forward by the LSB seems predominantly based on other sectors of the legal profession. We therefore urge the LSB to focus on those issues through a different regulatory tool than a sector wide blanket approach to a policy statement with numerous additional detailed expectations.

Q8. Do you have any comments on the potential impact of the draft statement of policy, including the likely costs and anticipated benefits?

58. We consider that the LSB should have provided its analysis of the likely costs and benefits in its consultation document. This analysis should have been undertaken by the LSB as part of its consideration of whether its proposals are proportionate and targeted only at cases where action is needed. If the LSB has not undertaken this analysis, then it should be done now and the result provided in its decision document.

59. In our view, the proposed core expectations are likely to place disproportionate and burdensome responsibilities on firms, managers of firms and authorised persons. The costs involved in firms putting these measures in place are likely to be significant, to the potential detriment of economic growth, innovation and deregulation in the sector. The provisions are likely to have a disproportionate impact on smaller legal services firms. We suggest that the LSB should undertake a detailed regulatory impact assessment before finalising its proposals. [Guidance](#) from the Regulatory Policy Committee (RPC) is likely to help the LSB undertake this work.

Q9a. Do you have any comments on how the LSB, either independently and/or in partnership, might develop further measures alongside the proposals set out in the consultation to encourage a diverse profession?

60. See above.

Q9b. Do you have any views on whether the LSB could take additional steps alongside setting expectations for regulators in the draft statement of policy to encourage a diverse profession? If yes, please share your reflections on the most appropriate and potentially effective routes the LSB could take to achieve this.

61. Please see above.

Q9c. Do you have any further comments on our proposals that you would like to share?

62. No