

## **IPReg consultation: withdrawal of accreditation of a qualification pathway**

The Chartered Institute of Trade Mark Attorneys (CITMA) is responding to the consultation by IPReg in its capacity as an Approved Regulator, as defined in the Legal Services Act 2007 (the Act) and as the representative body for Registered Trade Mark Attorneys and the wider trade mark and design profession. The review of the consultation and preparation of this response has been conducted by the Education, Policy & Development committee of CITMA on behalf of the CITMA Council.

We are grateful to IPReg for the opportunity to comment and would be happy to expand on any of the points raised.

### **Overall comments**

CITMA welcomes this step and thinks that the actions being taken are positive. There must be a clear and transparent process for the withdrawal of accreditation which should be used in exceptional circumstances.

However, there are some areas that we would like to see explored further or clarified. Whilst it is appreciated that this consultation concerns a 'high-level' procedure more detail will be required to avoid confusion and misunderstandings.

### **Question 1: What are your views on the circumstances in which accreditation would be withdrawn?**

- We agree that this should only be for serious cases when all other avenues have been explored.
- The circumstances under which accreditation can be terminated should have a wide ambit and be open ended.
- To that end, we would recommend avoiding being too prescriptive. A non-exclusive list of examples could be included in the handbook to provide some guidance. These could range from course specific issues (e.g. consistent failure to correct or update inaccurate course material, poor execution or drafting of examination papers, insufficient information being provided to students) to wider reaching matters (e.g. concerns over the running of the course or the institution's action/inaction more broadly on course or non-course related matters including conduct of the universities and lecturers.).

### **Question 2: Do you have any comments on the proposed procedure?**

- We would prefer greater detail regarding the procedure and more transparency overall. We felt the actual process for initiating this step could do with further clarification. For example, what is the process leading up to withdrawal and the timetable once an issue is raised?
- Para 11: It would be useful to have further information on what a programme of support or intervention may look like. If the issue raised has not been remedied within the specified period, does the withdrawal procedure commence at that stage?
- We would welcome further clarity on how the issue is to be tracked and monitored once raised.
- More information is needed on who will take the different roles at the beginning and throughout this process.

- It would be useful to have further information on the triggers, i.e. will evidence of performance need to be gathered and reviewed on a regular basis or will IPReg rely on receiving specific complaints?
- Our preference would be the former.
- If the latter, what nature of complaint would be sufficient to trigger this review process? How would a frivolous complaint be identified?
- If a decision to withdraw accreditation would require approval of both the IPReg Education Group and the IPReg Board, then we would suggest further details on the make-up of the Education Group are published to ensure transparency and understanding. Decision making arrangements need to be clear and judicially fair.

#### Alternative course providers

- Point 3.4 of the document states: “The decision and announcement of accreditation withdrawal will, wherever possible, be made in time for potential applicants to make another choice of course or examination.” For the first course this is feasible as the courses are administered via two separate institutions. However, Nottingham Law School is currently the only course provider for the second stage of qualification as a Registered Trade Mark Attorney.
- In the absence of an alternative course provider how will it be ensured that students are provided with a suitable route to qualification?
- We would welcome further information on the emergency provisions that would be put in place should this scenario arise. For example, does IPReg envision granting temporary, emergency accreditation to external partners/institutions (e.g. private companies, other universities or CITMA itself) to organise replacement courses/exams purely for the emergency period?
- While we appreciate “wherever possible” it must be stressed that it may not be acceptable to run, for example, an examination on course materials that have been deemed unsatisfactory as, notwithstanding how much this inconveniences students, the integrity of the exams and qualifications is imperative.

#### Early termination

- Point 3.5 confirms that where accreditation is withdrawn during a live course or exam period students will be allowed to complete the course. However, what provisions are in place if a circumstance arises very early in the academic year? Will, under any circumstance, the institution have to complete that year’s course and examinations?

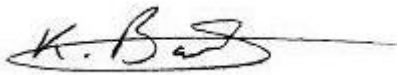
#### Re-takes and completion of the course

- Re-takes – are these to be held by the institution that has had the accreditation withdrawn? Or would the responsibility of the re-takes fall to the alternative course provider?
- As a person can re-take exams for up to three years following completion of a course at present (in some circumstances) how would this be accounted for if the institution lost its accreditation outside of the final year an institution is accredited for?
- What about students that are not re-taking but had to delay taking exams for unforeseen or other reasons (illness, maternity leave, personal circumstances, etc.)? Will there be an agreement in place with the new qualification provider to accommodate that student in the case of withdrawal?
- The financial considerations around these matters will also need to be taken into account, particularly for students who are self-funding, as the course fees are generally taken at the beginning of the year.

**Question 3: Is five working days an appropriate timeframe for an attorney qualification provider to put together a (different) case for consideration on appeal?**

- Five working days seems a little short.
- A minimum of ten working days would be more appropriate, but it depends on the nature of the point being appealed.
- If the qualification provider puts together a (different) case for consideration on appeal, CITMA's view is that IPReg should have a short deadline to reply. This is to minimise the disruption to and impact on current and future students; perhaps another ten working days?
- In general the provisions around the appeal are light on substance and we would suggest more thought is given to these to ensure any appeal mechanism is both robust and judicially fair.

For and on behalf of the Chartered Institute of Trade Mark Attorneys



Keven Bader  
**Chief Executive**

12<sup>th</sup> June 2020