

IPReg's new requirements for transparency about costs and financial benefits

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Purpose of today

- ❑ Support you in achieving compliance now that the transitional period has ended
- ❑ Share some examples of what the requirements mean in practice following queries from attorneys
- ❑ Hear from the Legal Services Consumer Panel on the consumer perspective
- ❑ Hear from you and answer your questions



Client care – transparency of costs and financial benefits

From Code of Conduct:

- ❑ 1.1 Clients receive the best available information about your work and costs, both at the time of engagement and, when the context applies, as work progresses.

- ❑ 1.2 Clients receive an appropriate explanation of any financial benefits, including but not limited to any commission, foreign exchange uplifts, discount or rebate received as a result of their instructions.

- ❑ 1.4 Information about any referral arrangements in place, including the payment of a referral fee and fee sharing arrangements is provided to the client.

New regulations took effect 1st July 2023
Transitional period ended 31st October 2023

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Transparency - costs and financial benefits

- ❑ Overarching Principles require you to act with independence, honesty, integrity and in your client's best interests.
- ❑ New rule in the Code of Conduct includes commission, foreign exchange uplifts, discount or rebate received as a result of client instructions – deliberately quite broad.
- ❑ Changes to client facing information – prominent and clear, not buried in client care letter – potential clients should be able to make informed choice
- ❑ IPReg Information leaflet – consumers and small businesses – questions to ask your attorney about services and costs/charges.
- ❑ IPReg will not prescribe how requirements are met – our guidance should help you decide your approach.

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Legal Ombudsman guidance

- ❑ An Ombudsman's View of Good Costs Services (3rd edition – November 2023)

- ❑ Three key principles:
 - ❑ A client should never be surprised by the bill they receive;

 - ❑ If you intend – now or in the future – to charge your client for something, tell the client clearly, as soon as you reasonably can;

 - ❑ Keep clear and accurate records of all the cost information you provide, including any confirmation from the client that they understand what they will be charged.



Example – costs information

- ❑ Provide best available information about the work you will do and the likely cost to the client.
- ❑ Clear and transparent explanation of the terms on which your services are to be provided – includes written terms of business e.g. client care or engagement letter but you must consider how this information is presented.
- ❑ *Clients* includes potential clients – so you may also wish to provide some information on your website (though this is not mandatory). This might include a link to IPReg’s information leaflet or perhaps pricing information.
- ❑ Level of detail will depend on the client – private individuals likely to need more than in-house counsel. Use your judgement.



Example – referral arrangements

- ❑ IPReg recognises that the nature of IP legal services means that broad reciprocal and volume based bulk discounts can be beneficial to clients. This is not about prohibiting these arrangements.
- ❑ Clients should be made aware that you may receive financial benefits from such arrangements – we have not set a *de minimis*.
- ❑ Includes non-contractual ‘reciprocal arrangements’ – i.e. where no payment is made but you have an ongoing arrangements with certain agents/firms.
- ❑ You should explain to the client why the overseas agents you use are the most appropriate to deal with their matter.
- ❑ Should be clear that the client may choose another if they wish.



Example – foreign exchange

- ❑ IPReg understands there are different ways to mitigate the risks to you concerning foreign exchange fluctuations. We are not seeking to prescribe how you should go about dealing with these transactions.
- ❑ You are required to be transparent to clients about any ‘buffers’ or ‘uplifts’ applied, including where this is part of an ‘administration fee’. The client needs to understand when there is an additional charge and the reasons for that charge.
- ❑ This includes all clients for whom you are doing work and any future clients.
- ❑ You will know best the level of information your clients require e.g. changes to terms and conditions, a separate document or providing information on your website. Existing clients should be informed of these changes.



Query – value-based pricing

- ❑ IPReg has been asked whether the new rules prevent attorneys charging on a “value” basis i.e. the extra value that a client associates with your firm’s service rather than pricing based on time taken.
- ❑ Rule 1.1 requires the best available information to be made available to the client so that they can make an informed choice of legal services provider. It does not prevent specific business models. So - value pricing is OK providing all parties understand the approach taken to calculate it.
- ❑ Rule 1.3 requires that publicity in relation to work is accurate, fair and misleading.
- ❑ Wider duties to act with integrity and in your clients’ best interests also provide safeguards against excessive pricing.



Next steps and compliance

- ❑ Read the [guidance](#) for more information
- ❑ Transitional period – ended on 31 October 2023
- ❑ Thematic review in 2024/25
 - ❑ Assess how well the requirements have been embedded
 - ❑ Look at attorney and consumer perspective
 - ❑ Identify issues and provide examples of good practice



Talk to us!

- ❑ Questions?
- ❑ Email: info@ipreg.org.uk
- ❑ Website: [contact us](#)