

IPReg Consultation – Removing restrictions on providing pro bono advice

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. We are grateful to IPReg for the opportunity to comment.

In response to the specific questions posed by IPReg in the consultation we would make the following comments.

Question 1

We fully support the proposal to allow in-house attorneys and inactive attorneys to do pro bono work.

Question 2

We are not aware of any other categories of attorney that are currently prevented from providing pro bono advice.

Question 3

We would support the introduction of a new rule specifically covering pro bono advice which would make it clear and simple, however the rule does not in itself enable in-house attorneys to provide pro bono advice.

Whilst some in-house departments may be supportive of pro bono work, this support is unlikely to extend to putting dedicated PII in place (most in-house departments will not have any kind of PII).

In the absence of PII cover provided by a third party, in-house trade mark attorneys would still be prevented from engaging in pro bono work.

The lack of access to PII cover represents a significant barrier to in-house trade mark (and patent) attorneys wishing to engage in pro bono work and we would be keen to explore with IPReg how this could be overcome.

Question 4 and 5

We support that CPD needs to have been completed before pro bono advice is provided if there has been a two-year (or greater) period not in active practice.

The proposed amendment to the CPD Regulations is not entirely clear and we would suggest that greater clarity is required on exactly what must be completed if there is a two-year period (or greater).

Is the requirement that 28 hours (two years' of CPD) must be completed before pro bono advice can be given?

If this is the case, it would seem to be excessive.

Does the CPD have to be completed within a set timeframe?

Are there certain elements of CPD which need to be completed depending on the pro bono work that an individual is looking to assist with?

Question 6

We agree that no changes are required to the Litigation Rules.

Question 7

The LawWorks Pro Bono Protocol is sensible and we would support guidance to attorneys providing pro bono work that they should have due regard to the protocol and the standards of service expected.

CITMA refers to this in the terms and conditions provided to members who volunteer to give advice at our free advice clinics. The relevant extract from the terms and conditions is below:

Advice given by volunteers at a clinic should be provided in the same way as if a paying client was seeking advice. Volunteers are expected to provide a professional service and must remember that they are conducting the clinic as a representative of CITMA. Volunteers are expected to be aware of what pro bono advice is and standards expected as set out in the LawWorks pro bono protocol - <https://www.lawworks.org.uk/why-pro-bono/what-pro-bono/pro-bono-protocol>

We would be happy to discuss any of these points further with representatives from IPReg if it would be of assistance.

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



Keven Bader
Chief Executive

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