

THE CHARTERED INSTITUTE OF PATENT ATTORNEYS
OLC CONSULTATION ON SETTING THE SCHEME RULES

1. CIPA is the representative part of the Approved Regulator for the 1,850 members of the patent attorney profession.
2. CIPA welcomes the opportunity to comment on the proposals, which generally seem to be appropriate.

Q1. Should we include some additional guidance in the scheme rules about how in-house complaints handling inter-relates to the Ombudsman scheme? If you agree, what form should this take? More generally, what can we do to promote good customer service in the legal profession? Please give examples and reasons.

3. We welcome the statement in the consultation paper that the draft aims to bring together in one place a summary of all the relevant material. We think it important that the scheme rules should stand alone and provide clear guidance to all potential users of the scheme. Consequently, we think it would be helpful for any in-house complaints handling guidance issued by the OLC to be included in the scheme rules. Since this is the first stage in dealing with complaints, it would help to provide guidance on best practice and to promote compliance with the complaints procedures. Further, since the Authorised Person will be liable to pay the case fee unless he has taken all reasonable steps to try to resolve the complaint under his or her complaints handling procedure, guidance on the reasonable steps to take will help to give Authorised Persons confidence in the scheme.

Q2. Should the OLC ask the Lord Chancellor to consider exercising this power to include the others we have suggested? Should we include anyone else? Please give your reasons why or why not.

4. We agree that the groups suggested fall into the category that the ombudsman scheme is directed to help.

Q3. Are there any gaps in who can come to the ombudsman scheme? Should we ask the Lord Chancellor to consider including anyone else and, if so, whom and why?

5. We have no suggestions for any other categories to be added.

Q4. What do you think about the current proposal for the time limit to bring a complaint? If you think it should be different, please say what time limits you would include and why?

6. We agree that a one-year period should generally be appropriate. We would comment in respect of the time limit in 4.5(b) that in intellectual property cases defects in work done may not become apparent for very many years, since IP rights have long-lasting periods. If a defect only comes to light very late in the life of the right, the files may have been destroyed and certainly the parties will have very hazy recollections of what occurred at the time the work was done and why particular actions were taken.

Q5. Do you have any comments on the approach to resolving disputes set out in the scheme rules?

7. The Informal resolution/Investigation approach seems to be very general/non-specific and we assume this is provide maximum flexibility, rather than to limit the approach; a statement

confirming this would be helpful. For example, we suggest that the statement “by whatever means it considers appropriate” could be repeated in the Investigation section.

Q6. The scheme rules also set out a framework for our ongoing relationship with approved regulators? Is this framework sufficient? If you think we should include something additional, what form should this take?

8. We believe that the proposals, particularly those in paragraphs 5.14, 5.24 (a) and (b) and 5.29 will provide the flexibility to involve the Approved Regulators in cases where this would be appropriate.

Q7. Are there any other points or issues you wish to raise in relation to the draft scheme rules? Do you think there is anything missing? Is there anything you disagree with? Please give your reasons.

9. We have no other comments to make.