

Patent Examination Board

2019 Examination Session – Response to Candidate Survey

Introduction

283 candidates completed the 2019 Candidate Survey out of a total of 530 candidates and 1119 paper entries. PEB officers, PEB examiners and the PEB Governance Board would like to thank all those who completed the 2019 Candidate Survey for taking the time to give their feedback. All the feedback is circulated to the Chief Examiners and Principal Examiners, carefully analysed and reviewed and informs the ongoing monitoring of the Qualifying Examinations.

The Candidate Survey shows that the findings for 2019 included the following issues

- FC2 (English Law) considered more difficult and obscure
- FD4 (Infringement and Validity): in the view of many candidates, improved from 2018 but still 'not fit for purpose'; incremental improvements have not been enough to address a fundamental problem with the exam
- Time pressure problems were not alleviated by increase in the exam time because papers also increased in length
- Overall lack of confidence in the PEB to run a fair exam system, and frustration that candidate feedback is not being taken on board.

This response will address each of these points. It should be read in conjunction with the Examiners' Reports which go through the questions or tasks on each paper in detail identifying candidate strengths and addressing aspects of the paper which caused problems. The reports also take note of the Candidate Survey results and comments.

Despite obvious constraints, for many professions, written examinations are one of the preferred means of testing that trainees have the required knowledge and skills to operate safely and effectively in the workplace at different levels. Everyone involved with the examinations at PEB is aware of the high-stakes nature of both the Foundation and Finals examinations, and the demands placed on candidates to demonstrate the minimum level of competence in order to pass. The content of the examinations and their delivery is a dynamic process. In the interest of continuing improvement, based on feedback from candidates, examiners, tutors and employers, incremental changes are made to the examinations. Such changes are made up to the point at which they still reflect the content, format and standard as agreed by the regulator, the Intellectual Property Regulation Board (IPReg).

All information relevant to the examinations is designed to be transparent and accessible to candidates: the syllabi, past papers, examiners' reports, other supporting documentation and webinars. On the website, under Past Papers, there are also sample pass scripts for each paper at both Foundation and Finals <https://www.cipa.org.uk/patent-examination-board/support/examination-information/past-examination-materials-qualifying-examinations/2018-examinations/>.

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These scripts are genuine marked candidate scripts; they have been typed to ensure anonymity and for ease of reading.

Each year there are new initiatives to help with preparation. For example, in early 2019, at the request of IPReg, the *PEB Foundation Certificate Programme Specification* was completely rewritten to give more detail on the examination, its level, and how candidates can demonstrate that they meet the learning outcomes which show that they have the required knowledge and skills itemised in the syllabus. Further information on this can be found later in the report. The Survey did reveal, however, that not all the candidates knew about or had made use of all the available resources.

All examinations have regular reviews and any wholesale changes need to be part of a formal review process. As mentioned last year, CIPA instigated a review into training and assessment, the Mercer review. Representations have been taken from all examination stakeholders and the review has reached its next stage of planning. PEB is fully supportive of this review and is making available all relevant documentation including Candidate Surveys. Trainees were encouraged to respond to the review. It is a complex exercise and as such, it will take time before draft proposals are published for comment. Any changes will have to allow external course providers and in-house trainers the opportunity to make any necessary adaptations to their training, assessment and supervision. Additionally, any significant changes will have to be approved by IPReg.

Foundation Examinations

This year, on average, over 60% of the respondents thought that the four of the five Foundation papers provided a chance to show knowledge, fairly represented learning outcomes and allowed enough time. The exception was FC2.

FC2 – English Law

Candidates were critical of the topics chosen for this paper in Part A, which was less well answered than Part B. PEB is obliged to test all parts of the syllabus, which has been approved by IPReg, and so it is incumbent on candidates to ensure that they have familiarised themselves with the whole syllabus, whether or not it is of immediate relevance to their particular work. On Part B, The Principal Examiner commented that candidates demonstrated not only very good knowledge of the law but confidence to apply that law to the facts.

Unfortunately, there was an incorrect IPReg rule number in one question. However, measures were taken during the marking process to ensure that no one was penalised.

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The pass rate for FC2 was 83%.

Final Diploma Examinations

The results this year were disappointing, with three out of the four papers showing a decreased pass rate.

Concern was raised about double marking and borderline scripts. To clarify, the process currently followed is that if one Examiner gives a mark of 47, 48 or 49, both marking Examiners review the script during reconciliation to agree whether or not the fail is marginal. If the averaged total then falls within the 47-49 band, the Principal Examiner reviews the paper. In other words, every mark that falls within the 47-49 bracket is reviewed during reconciliation. The current version of document on the PEB website: *How Qualifying Examinations are Marked* <https://www.cipa.org.uk/resources/assets/attachment/full/0/149147.docx> reflects this.

The lowest satisfaction rating for the four Finals papers is FD4.

FD4 - Infringement and Validity

This is still the paper that attracts most complaints. It is a long, and extremely challenging paper. However, the pass rate of 35%, albeit disappointing, does show that some candidates are able to meet the criteria for a pass. The Examiner's report goes into detail and also itemises the changes that were made to the paper in light of the previous year's feedback. The mark scheme for this paper cannot indicate all possible responses that will attract marks, alternative answers are always reviewed, and credit given if appropriate. It is not a paper that should be attempted too early, and candidates are advised to take advice as to their readiness to sit. In common with previous years, candidates reported time pressure. However, the changes made to this paper were designed to remove some of the complexity and demands of the paper, so the time allowed was deemed to be reasonable.

Additional help for FD4 was offered this year in the form of a webinar. 64% of respondents found this very or somewhat useful. It was noted that not all candidates knew of its existence. Candidates should regularly check the PEB website for new materials. A list of all the materials used by candidates for their examination preparation is given in the Survey.

Time pressure

Draft question papers are sat by patent attorney testers. They work the draft papers under examination conditions before the editing of the papers starts, so any feedback on timing can be incorporated. Testers include recently qualified attorneys, and if there are any comments about undue time pressure, this is addressed. When,

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at the request of IPReg, the length and design of Foundation papers was changed, this was not used as a means of increasing the content of the papers. Foundation is benchmarked against the QAA Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies (2014) as being at Level 6 – a professional graduate certificate. The changes in format and timing were made to ensure that this level was demonstrated consistently across the papers. Further information can be found in the *PEB Foundation Certificate Programme Specification 2019*

<https://www.cipa.org.uk/patent-examination-board/support/syllabi-for-2020/>

With the exception of FC2, on average, respondents thought there was the right amount of time for the Foundation papers. However, this was not the case for the Finals Examinations, with FD4 attracting the lowest average on the rating scale.

Examination venues

Feedback was sought on the different venues. Individual comments on the venues are noted, and where appropriate, either changes are implemented by the venue administration (e.g. room temperature) or, the venue itself is changed. Every effort is made to find venues near where there is most demand, but this is not always possible.

Conclusion

PEB will continue to seek to deliver the Qualifying Examinations to the highest possible standards. The quality assurance processes in place ensure that feedback from all examination stakeholders is considered and where possible, within the constraints of the examinations, incremental improvements are made. Candidate feedback is always welcomed and noted.