

## **PEB response to Candidate Survey**

### **Introduction**

PEB officers, PEB examiners and the PEB Governance Board would like to thank candidates for completing the 2018 Candidate Survey. We are very grateful that you took the time to give your feedback; all of which is carefully reviewed and informs the ongoing monitoring of the Qualifying Examinations.

262 candidates completed the survey out of a total number of 1013 candidate entries.

The following is the PEB's response at this point in time. Examiners' reports, all of which are on the PEB website, also address many of the candidate comments and provide detailed information about each question, and how it was attempted.

Some of the issues raised include

- Time pressure of FD4 (P6)
- Paper errors
- Perceived inconsistency of marking and difficulty in examination preparation
- Perceived lack of relevance to testing fitness for the job of Patent Attorney
- Lack of accountability for, and transparency of, the examination process.

To address this last point, the following is a summary of the purpose and process of the PEB qualifying examinations.

### **PEB Qualifying Examinations**

The overriding aim of the PEB is to set examinations which enable as many candidates as possible to demonstrate their ability to reach the required standards. Success at Foundation Level demonstrates suitability to proceed to preparation for Finals. Success at Finals confirms fitness to practise as a fully qualified Patent Attorney.

The syllabi and learning outcomes, which are reviewed each year, show clearly the knowledge and skills expected at each level, and it is those which inform the setting of the papers. They can be seen at <http://www.cipa.org.uk/patent-examination-board/support/syllabi-for-2019/>

All the examinations are set by qualified Patent Attorneys who follow strict setting instructions. The draft papers are reviewed by a team which consists of the Chief Examiner for the particular examination, the Principal Examiner for the individual paper and a Governance Board Patent Attorney. Each draft paper is also sat by two qualified Patent Attorneys, one of whom is recently qualified, under examination conditions. Their comments cover all aspects of the paper including the clarity, difficulty of the paper together with the time allowed for completion.

The marking of the papers is done by marking examiners all of whom attend standardisation meetings after a script selection has been marked, and who are answerable to the paper's Principal Examiner. The Awarding Meetings are chaired by the Chief Examiner, and also attended by two members of the Governance Board: a Patent Attorney and a Lay Member.

The Governance Board consists of both Patent Attorneys and Lay Members – the latter all have experience in general assessment, including the assessment of other professions. Further information on the marking process for the Final Diploma can be found here: <http://www.cipa.org.uk/patent-examination-board/communications/general-communications/>

The processes outlined above are to ensure that the examinations remain valid and reliable. Quality Assurance systems in place are designed to support an ongoing programme of examination improvement and development.

PEB is answerable to the Governance Board, who in turn are accountable to its Regulator, the Intellectual Property Regulation Board (IPReg) who oversee both the syllabi and the examination processes to ensure that the examinations offered by PEB are fair, relevant, and fit for purpose.

PEB and CIPA have separate roles where the examinations are concerned. PEB is responsible for the administration of the examination from setting of papers through to the issuing of results. As an Examination Board, it is not involved with the provision of training for the examinations. This is handled by CIPA, through its Education Committee.

CIPA is reviewing the overall training and support it offers for the examinations: *'Council resolved that, through the Education Committee, CIPA will lead a review of the training, support and assessment of students, including consideration of best practice in other professions where appropriate. We will work with the PEB, IPReg, our members and other stakeholders to develop the education and examination system to ensure that it produces patent attorneys with the knowledge, skills and abilities required to excel nationally and internationally'*. [extract from the CIPA website] – <http://www.cipa.org.uk/policy-and-news/latest-news/cipa-announces-a-review-of-the-training-support-and-assessment-of-students/>

## **Foundation Certificate Examinations**

The Foundation papers, now all three hours in length, are seen as having enough time for completion. However, apart from FC2, the majority of respondents did not think that the Foundation papers offered a chance to show knowledge, or that they fairly represented learning outcomes. However, the pass rates, which ranged from 69% - 88%, show that the majority of candidates easily satisfied the requirements of the individual papers.

### **FC5 – paper error**

At Awarding, each question on each paper is reviewed to see how it has performed. If there is a question for which the majority of candidates have scored very low marks, it will be scrutinised to see if there was an identifiable reason, such as an ambiguity or setting error. In that very rare case, a decision will be made as to whether to discount the question completely. This year, in FC5, part of one question was found not to be on the current syllabus. It was decided to remove that question from the overall marks total, after ensuring that no candidate was disadvantaged by not having the marks for that question allowed.

Despite stringent checking procedures, errors do sometimes occur. This is regrettable and taken very seriously. As well as any necessary adjustments being made at the marking

stage, the examination processes are reviewed to see if any changes are necessary to avoid a similar error in the future.

## **Final Diploma Examinations**

At Awarding, the pass mark for FD4 was modified using the 'borderlining process and minimal pass descriptor'. Further information about how this arose, and the procedure followed can be found at <http://www.cipa.org.uk/patent-examination-board/communications/general-communications/peb-governance-board-statement-on-2018-fd4/>

PEB recognises the importance of maintaining contact with employers. Last year, it hosted a meeting of Patent Attorney employers to find out to what extent they felt the Final Diploma met their requirements. Overall, they were satisfied with the examination and its content, and felt that the examination was fit for purpose. Regular meetings with employers will continue.

There were comments about the perceived level of difficulty of some of the papers – some candidates felt that FD1 was harder this year despite a higher pass rate than the three previous years. There is never the intention to make a paper more difficult year on year. It would also be counter-productive and unacceptable to mislead candidates deliberately, the papers are designed to be challenging, but always fair.

## **Candidate comments**

Difficulties raised by candidates are considered each year when setting papers. The highest level of dissatisfaction with individual papers this year focussed on FC5 and FD4. The complaints for FD4 were mainly regarding time constraints and the difficulty and relevance of the paper itself.

Some candidates commented that candidates who do not work in mechanical fields are disadvantaged in the drafting and infringement papers. A research project funded by IPReg indicates that, at least for FD4, this is not the case; a summary of these findings can be found in recent article in the CIPA Journal. [Feb 2019 pp 8-9]

One specific issue raised in the candidate comments is the marking process and reconciliation of final marks. At the moment, all the qualifying examinations have a fixed pass mark of 50%. This is not uncommon, and can be moderated if necessary, as was done for FD4.

However, a project is underway to consider the introduction of a variable pass mark. The advantage of this is that it allows pass marks to reflect the difficulty of a paper in an explicit and systematic way. However, changing a marking system needs careful management to ensure that the standard of the examinations does not change. Updates on this project will be posted on the website.

Comments on the venues were mostly positive. Specific problems, such as heating, are taken up with the venue concerned. Requests for examination centres in different locations are dependent on there being sufficient numbers to make it financially viable. Similarly, two examination sittings a year would entail expansion in numbers of both PEB administrative

staff and examiners. Current demand would not make this possible without a considerable increase in fees.

### **Conclusion**

The PEB recognises the high-stakes nature of these examinations and will continue to work to ensure their integrity and relevance. Unfortunately, this year there have been a number of unacceptable comments from candidates, bordering on the abusive, some of which have been sent directly to examiners. There are channels for candidates to give feedback on the examinations throughout the year and this is always welcomed and noted.