

PEB Qualifying Examinations

PEB Response to the Report on the Consultation on Final Diploma Proposed Changes

September 2024

1. General

The PEB would like to thank everyone who responded to the online consultation or forward comments by email.

The many positive and helpful comments that were received are welcomed by the PEB.

This Report on the Consultation was produced by an external consultant working independently of the PEB. It is not possible to provide a response to every comment submitted. This Response will, therefore, focus on the key findings and address the comments that were made a number of respondents.

2. Key Findings

The PEB will consider the key findings of the survey report. These are shown below with the PEB's initial response in red.

- Many respondents felt that the use of synoptic marking was good in theory but were concerned that it would be difficult in practice to make this fair and transparent: **The specimen mark schemes [here](#) show how assessment will work across the four papers. There will be a review of question papers and mark schemes after the first examinations in 2025.**
- Many respondents asked for the PEB to consider making the exams open book, and some recommended that the PEB draw on experience of the EQEs. **This suggestion was considered at length as part of the review process. It was decided that currently it was operationally not feasible. However, the PEB will continue to review the possibility of introducing some element of open-book examinations.**
- Throughout the survey, respondents said there was not enough information to comment, and they requested that more detailed guidance, papers and mark schemes be released as soon as possible to enable further consultation. **Proposed syllabi, specimen question papers and specimen mark schemes are now published on the PEB website [here](#). The second phase of consultation is now under way and comments should be forwarded to pebconsultation@cipa.org.uk by 3 pm on 29 November 2024. Final versions of syllabi, specimen question papers and specimen mark schemes will be published in January 2025.**
- Concerns were raised that the process is being rushed through, and that there must be a sufficient transition and preparation period so that candidates are not disadvantaged, otherwise respondents felt that several of the proposed changes risked lowering pass rates. **The PEB understands this concern. However, the re-development timetable has in effect been a result of the need for the PEB to meet the regulator's (IPReg's) re-accreditation requirements by March 2025.**

- Revisions don't go far enough to meet the needs of candidates with disabilities, and some respondents felt the proposed changes could further disadvantage people with additional needs. **The PEB will continue to work on the development of assessments that better meet the needs candidates with particular requirements. The PEB Reasonable Adjustments Policy will continue to be the key way in which the PEB provides support for candidates who may be disadvantaged.**

3. Feedback on individual units

3.1 FD1

- Removal of designs: For FD1, there was most concern about the removal of designs, as an essential area for patent attorneys to be competent and tested. ***“Designs are not similar to trademarks or copyright, where there are other professions that specialise in them - if patent attorneys are not equipped to handle them, then no-one else really is.”*** Representations were received both for and against removing designs from FD1. This issue is currently under review.
- “We urge the PEB to include EDI (equity, diversity and inclusion)-related issues, for example the avoidance of discrimination, in the relevant part of the FD1 syllabus. **The PEB will consider whether and how EDI issues can be assessed within FD1.**
- “Ethics is a large subject and much of it is not related to practice as an attorney in relation to a client. Thus, I consider that in this respect, the syllabus should limit the scope of ethics to matters which directly impinge on the attorney-client relationship. **The PEB's intention is to focus on ethical matters which relate directly to the patent attorney role.**
- “Introducing ethics into part A seems duplicative of assessment of IPReg code of conduct in FC2. That said, FD1 genuinely seems the more appropriate point to test ethics, in the context of a practice question.” **It is not intended to duplicate the assessment of ethics in FC2, but rather to assess higher level analytical skills in the context of a scenario where ethical issues arise. The assessment of ethics in FC2 will also be reviewed in due course as part of a wider FC review.**
- Removal of Japan: **There was support for removal of Japan, but representations were received against it. The proposed syllabus has been amended to include Japan.**
- If the intention is to move towards a more “Part B”-heavy mark exam, then the complexity of Part B questions should be reduced and/or the questions should be more detailed so as to reduce ambiguities – otherwise, the proposed changes would seem likely to introduce new time pressures to FD1. We are concerned that the changes proposed for FD1 place too great a weight in favour of the longer scenario questions. The proposed transition would appear to negatively impact candidates who have been preparing for FD1 in its current form in the course of previous examination seasons/tutorials. **The PEB is very aware of the different issues that can arise when the format of an examination is changed. Work is already under way to ensure that the changes do not disadvantage candidates and that the revised examinations deliver fair access to assessment.**
- I believe it is important to have some form of negative marking/penalty for statements which prejudice a client's position (not currently featured in the marking system) and I

feel that overall moderation of marks (to a modest extent) can help ensure a more consistent pass standard between years. Personally, I feel that candidates can currently do a lot wrong and still pass, so I strongly feel the pass standard should not reduce. **The Minimum Pass Descriptor has been reviewed and amended to address this issue. It is published in the revised syllabus in Section 7.2. The proposed mark schemes also address this issue more specifically.**

3.2 FD2

There was limited feedback on FD2. All comments received will be considered in due course.

3.3 FD3

There was limited feedback on FD3. All comments received will be considered in due course.

3.4 FD4

- There were mixed opinions about the proposed changes to the FD4 examination. Some felt that the changes were a move in the right direction towards an exam more reflective of everyday practice and more manageable for candidates. Some felt the exam is still “fundamentally broken” and that it still needs a more radical overhaul. Others felt that the changes constitute a “dumbing down” that would be harmful for the profession.
- Opinions were divided on the reduction of time for FD4 and the pre-release of material. The move to make the exam more manageable for candidates was welcomed by most (but not all) respondents, but respondents were not confident that the PEB would suitably adjust the content for FD4 to make it manageable in the shorter exam time, and there were also concerns that the benefits of pre-release would be cancelled out by making the content more difficult. Several respondents raised concerns that this would advantage candidates from larger firms who may get more support to prepare. Others suggested that the ability to understand complex material in limited time was of itself a key patent attorney skill that should be tested.

The PEB is very aware of the range of issues that can arise when the format of an examination is changed. It is hoped that the publication of the proposed syllabus specimen question paper and specimen mark scheme will enable candidates and training leads to understand the proposed changes. Work is already under way to ensure that the changes do not disadvantage candidates and that the revised examinations provide fair access to assessment.

4 Impact on candidates with protected characteristics (other than disability)

Whilst responses to this question focussed on disability, not on other protected characteristics, the responses received will all be considered.