

# Patent Examination Board

## 2021 Qualifying Examination Session – Response to Candidate Survey

### 1. Introduction

This was the second successive year of change to the manner in which the examinations were run. This reflected the ongoing impact of the pandemic and the desire to improve the arrangements for candidates in the light of comments from previous surveys. In particular, this year saw the introduction of the proctored invigilation system that was referred to in last year's response. As this was a major change, it will be considered in some detail below.

In contrast, the content and structure of the exams did not change substantially during this period although this is being kept under review. To that end, the PEB is actively engaging with the Mercer Review and has submitted a response to it. The PEB will in turn implement any appropriate changes that arise both from the Review and the requirements of IPReg.

More immediately, the structure of this response has been amended as a result of a recommendation from the recent QAA report on the PEB. An action plan has therefore been added to the end of the response. The survey will also be discussed at the next Candidate Consultative Committee meeting.

#### 1.1 Response to the Survey

It is worth noting that there has been a large decrease in the number of candidates who have completed the survey. This year only 142 responses were received. This is well below the 299 candidates who responded last year and indeed less than half the number of candidates who sat the assessments.

There is no easy explanation for this reduction in numbers as the survey was essentially dealt with in the same way as in previous years. Indeed, more extensive steps were taken to encourage candidates to complete the survey with the Informals being involved in the promotion of the survey.

In general, the numbers are still sufficient to give a reasonably accurate picture of the candidates' views with some clear issues emerging from the survey. At the same time, it should be noted that for at least one of the questions relating to FC5 only eight candidates responded. This means that the results for that question, which related to whether there was sufficient time to complete the paper, should be treated with some caution.

It should be said that the PEB is grateful to those candidates who did respond. The comments that were made were overwhelmingly constructive and should hopefully lead to an improved experience for candidates in the future.

#### 1.2 The overall picture

In general, candidates showed a relatively high level of overall confidence in the examination process. Certainly, the candidates rated it at essentially the same level as for 2020 which had been a vast improvement on the previous year. This seems to be attributable to the exams being online and the various mechanisms having been used to ensure fairness in the assessment of the candidates' performance.

Within that positive overall picture, there were a number of areas where issues arose that need to be addressed. These include:

- Technical problems with the ProctorExam system and to a much lesser extent PEBX
- Communication from the PEB concerning the exams
- The manner in which the trial of the examination system was carried out
- The setting, content and marking of the examination papers
- The support offered to candidates when preparing for the examination.

## **2. Technical Problems with the system**

### **2.1 Introduction**

Before considering the problems faced by some candidates, it should be said that the numbers affected were relatively small with only 4% of candidates experiencing technical issues. There were also some candidates who were happy with the system with one candidate commenting that the “PEBX and ProctorExam system are a great solution. Please do not switch to Wiseflow like the EQEs.”

That being said, the PEB is keen to eliminate any issues with the system as there were candidates who had a less favourable experience of it. Indeed, one commented that they “[w]ould prefer to use the WiseFLOW system used for EQEs,” whilst a number of candidates indicated that they would have preferred to revert to the system of invigilation that was used in 2020.

Even where candidates were supportive of the system they felt there could be improvements with one saying that whilst this was a “good ... attempt at holding the exams online, ... more work is definitely needed to improve things for the years to come.”

Within this general picture, the specific areas where candidates experienced issues are dealt with below.

### **2.2 Delay in accessing the paper**

Whilst candidates were generally happy with the PEBX system, a number noted that they had some difficulty in downloading the paper at the start of the exam with one candidate indicating that it took 10 minutes for them to do so. One candidate compared this unfavourably with the experience for those in the office who were given the papers immediately. Several candidates indicated that this might have been due to the numbers of people accessing the system at the same time.

It should be noted that 10 minutes is allocated for downloading and printing the question paper at the start of the examination and only one candidate was unable to do so. Candidates should therefore not be concerned if they cannot download the paper immediately.

### **2.3 Problems with the second camera**

A number of candidates experienced difficulties with use of their mobile phone as a second camera. There seemed to be a number of aspects to this: setting up the phone in the first place, the phone disconnecting from the system during the exam and the ProctorExam app draining the phone’s battery “in an extreme fashion”.

The problems that candidates experienced led some of them to question the usefulness of having the second camera. Thus, one candidate pointed out that the system “seemed unnecessary, given you could go for unsupervised toilet breaks,” whilst another felt that it would be difficult to cheat in the exams anyway. This issue was also linked to the question of making the exams open book.

There were a number of reasons why the PEB adopted this system. Primarily, this was to ensure the integrity of the examinations and thus to meet IPReg's regulatory requirements. The PEB was also responding to feedback from candidates in last year's survey to the effect that a proctoring system should be adopted. The PEB acknowledges the issues that candidates faced and has now reviewed the system that was used in the light of these comments. As a result, candidates will not need a second camera in the 2022 examinations.

#### **2.4 Inadequacy of the audible warning system**

There were a number of comments from candidates concerning the inadequacy of the audible warning system. For some candidates these warnings did not work at all, whilst for others the warnings were intermittent and gave an incorrect impression of the time available. More than one candidate pointed out that the problems with the warnings gave them a false sense of security and that this "caused confusion at a point in the exam where that is particularly undesirable". Several candidates commented that it would be better to simply remove this facility.

The PEB appreciates the issues that candidates experienced with the audible warning system which does not seem to have functioned in an acceptable way. The PEB will therefore remove this facility. As a result, candidates should adopt their own system for monitoring the time that they have available.

#### **2.5 The system disconnecting during the examination**

A number of candidates reported problems with the system disconnecting during the assessment. This was not confined to the issues relating to the use of phones referred to in 2.3 above. This had an adverse impact on those candidates who were affected as they were required to take time out of the examination in order to reconnect to the system.

The PEB understands that such problems should not occur in an assessment. Unfortunately, however, this is not something that is within the PEB's control, as these difficulties are attributable to the candidates' internet provider. Nonetheless, the PEB believes that the risk of such difficulties should be greatly reduced by the system that is to be adopted for invigilation of the 2022 examinations.

#### **2.6 The impact on the candidates**

Aside from the specific effects of the problems with the system, several candidates commented on how stressful the whole experience had been for them. In particular, a number of candidates commented that the system was unnecessarily complex and had placed more onus on them to ensure that everything was working correctly.

As a result of this, a number of candidates compared the system unfavourably with the arrangements in 2020 which had been simpler. Candidates also suggested that it would have been helpful to have had confirmation that they had passed the security checks and that they had set up the system in an appropriate manner. These matters probably contributed to the low rating in the candidate survey for the efficiency of the security checks and the overall ease of use of ProctorExam.

The PEB understands that technical issues such as these are unhelpful for candidates when they are taking the assessment and will bear in mind the views of candidates when making arrangements for the 2022 examinations. That being said, with respect to the security checks, these are carried by the Proctor Exam app and not controlled by the PEB. In any event, a candidate who is connected to Proctor exam and has completing all the stages

automatically will have passed the security checks. This is because candidates are unable to progress without completing the checks.

### **3. The trial of the system**

The PEB does seek to pre-empt the problems that might arise in using the system by means of the trial that offers the chance for candidates to test it and feed back on any issues they encounter. Some candidates appreciated the opportunity this gave them to familiarise themselves with the system with one candidate commenting that the “trials were a good idea. Please do those again next year!”

That being said, the same candidate echoed the views of some of their colleagues that “It would preferable to do them earlier,” as this would allow more time for any difficulties to be ironed out. Another candidate felt that “The PEBX trial wasn’t as useful as it could have been as the uploading didn’t work, so we didn’t get to test this before the exam”.

More generally, there was some dissatisfaction with the feedback which was given on the results of the trials. As a result, this was one of the two lowest rated areas in the responses about communications from the PEB.

Whilst the PEB understands the concerns expressed by candidates, there is no flexibility in the timing or arrangements for the trial. In order for the trial to be meaningful for candidates it has to take place when the system is essentially in the state it will be in when the exams are sat. As a result, it would not be possible for the trial to take place any earlier. That does still allow time for some adjustments but, of necessity, these should be relatively minor. This also accounts for the nature of the communication after the trial with the focus being on final preparations for the assessments at that point in the exam cycle.

Nonetheless, the PEB does take note of the suggestions from candidates about the manner in which the trial should be conducted. As far as possible, it will factor these suggestions in to the arrangements for the trial in 2022.

### **4. Communication from the PEB**

#### **4.1 Introduction**

In addition to the issue relating to the feedback from the trial outlined above, there were a number of concerns expressed by candidates with respect to the communication from the PEB.

It should be said that these were not universal with one candidate commenting that “The communication between the PEB and candidates having a cut off time for changes to be made was incredibly reassuring (particularly as someone who sat the EQE which was frankly a shambles compared to the PEB examinations).” This positive view was reflected in the ratings given by candidates to the questions in the survey relating to communication from PEB. Here, in 4 out of the 6 questions, over 50% of the candidates found the communication to be useful or very useful.

The specific concerns expressed by the candidates are set out below:

#### **4.2 Documents produced prior to the assessment**

There was some criticism from candidates about the information that was sent out by the PEB prior to the assessment with, for example, one candidate commenting that “All the information was spread across different documents, and it was not easy to find the

documents on the PEB website. Similarly, another candidate felt that “The Essential Information and technical requirements documents were very long and at times unclear.”

As noted in Section 4.1, the comments from these candidates did not express the majority view. In the survey, 62% of candidates rated the Essential Information document as very useful or useful, whilst 59% took the same view with respect to the Technical Requirements document. Within the latter document there are some Frequently Asked Questions which 52% of candidates rated as useful or very useful.

Whilst the PEB recognises that these documents are relatively detailed, there is no alternative to them being so. The PEB is trying to ensure that candidates have as much information as they can about the exams so that they can properly prepare for them. There was some criticism of the PEB in the candidate survey in 2020 concerning the “piecemeal” nature of communication from the PEB. In response to this, the PEB simply issued two main documents (Essential Information and Technical Requirements) which were designed to be sufficiently comprehensive to deal with any concerns that candidates might have.

### **4.3 Communication during the assessment**

There were several concerns raised about communication during the assessment. One candidate suggested that “It would be good to get some sort of confirmation that you have correctly uploaded a response”.

The same candidate indicated that “I worry I could get to March next year and only then find out my answer was not properly uploaded.” Other candidates expressed similar concerns and suggested that even if an instant confirmation couldn’t be provided, this could be done in advance of the results.

It was, in fact, relatively straightforward for candidates to check if their paper had been uploaded correctly with a number of candidates doing so. The PEB will endeavour to make this clearer in the Technical Requirements and Guidance document for 2022. In any event, the PEB identified the small number of candidates who failed to upload and advised them individually that they would not be receiving a result.

There were also some issues with the support that was available to candidates who experienced technical problems during the assessment. One candidate indicated that “candidates having to wait 20 minutes into their exam time in order to speak to someone at the PEB ... is unacceptable”.

Those candidates who did ask for assistance during the exams didn’t always have a good experience. One candidate felt that “the proctorexam chat was not at all helpful, it would have been preferable to be able to contact PEB during the exam” whilst another commented that “The proctors I communicated with had no idea of the PEBX rules”.

Candidates did suggest solutions to these issues with one indicating that “a helpline for issues is a must”. This was also an issue which prompted candidates to call for a return to the arrangements that were in place in 2020 or at least some system of in person invigilation as this would be “secure and any problems would be dealt with swiftly and easily”.

The PEB appreciates the concerns that candidates have raised about these issues and is grateful for the suggestions that have been made about how the arrangements could be improved in the future.

With respect to the ProctorExam chat support, this is provided by support staff who are under contract to ProctorExam. The PEB issued guidance to these staff but their role is

limited to ProctorExam and not PEBX. That being said, staff from the PEB and the PEBX contractor monitored the ProctorExam chat throughout the examination and attempted to resolve issues where possible. The PEB will review the guidance provided for ProctorExam support staff for 2022

More generally, the comments from candidates will be factored into the PEB's decision-making over the arrangements to be used in 2022.

#### **4.4 Nature of communication from the PEB**

The other area where candidates raised issues related to the nature of email responses from the PEB with one candidate noting that "Email responses were very late and extremely rude". Indeed, responses to email queries was the lowest rated of the forms of communication from the PEB.

Another candidate who noted "that the responses from the PEB were often somewhat combative in tone" did also recognise the broader context for this. They therefore indicated that "I am appreciative of the fact that members of the PEB were under a lot of pressure to get the online exams working and compliant with IPREG's requirements this year."

It is not possible to comment conclusively on the concerns raised by candidates as no specific examples were given of the emails received. Nonetheless, the PEB apologises to candidates who were upset by the tone of any communications from the PEB.

As noted in the introduction, this is the second year where major changes have had to be made to the examination system. This has placed considerable pressure on those who run the exams. The PEB is therefore reviewing the staffing of the support for the examinations with a view to increasing it.

In the interim, candidates are urged to carefully read the documentation that PEB issues so that the numbers of enquiries relating to information that has already been published is reduced. It would also be appreciated if all candidates adopted a professional tone in their own communications with the PEB.

### **5. Support for candidates**

Candidates did make a number of suggestions in the survey about the sort of support that might be useful to them in preparing for the examinations. This can be grouped into four main areas: study guides/materials, revision groups/webinars, the ability to contact examiners and model answers/part papers.

As the PEB is an examination-only agency, it is not involved in any preparation for the assessments. As a result, it doesn't provide study guides, although see below. Similarly, it is not involved in any of the tuition for the examinations although some candidates did recognise that this is an issue that should be raised with CIPA rather than the PEB.

With respect to contact with examiners, there are some opportunities for candidates to engage with them during the year which are facilitated by the Informals and CIPA more generally.

As it is, on the PEB website, there is a specific section containing a broad range of resources to assist candidates in their preparation for the examinations (see <https://www.cipa.org.uk/patent-examination-board/support/> ). This is very comprehensive and the survey indicates that candidates found the material contained to be helpful – particularly the past papers and mark schemes.

## **6. The examination papers**

### **6.1 Fairness and mark schemes**

Before considering the individual papers, there were some broader issues raised about the examinations which largely revolved around the manner in which the papers were marked. There were a number of concerns expressed by candidates in relation to this issue. Some candidates felt that the mark schemes were too prescriptive with one commenting that “The mark schemes are too rigid and almost require you to read examiners’ minds. You can make equally valid points which don’t attract marks.”

At the same time, there was concern expressed about a perceived lack of consistency between markers who candidates felt had too much discretion in their marking. Finally, some candidates considered that there could be more transparency in outlining how the marks were awarded.

That being said, some candidates did indicate their support for the manner in which the PEB approached this with one candidate commenting that “The double marking and automatic checks on close results or when there is a large diversion between markers is encouraging.”

Similar questions relating to the marking of the papers were touched on in last year’s response to the candidate survey where the process of marking and standardisation was set out in full. As it is, details of this system are available for candidates on the PEB website at <https://www.cipa.org.uk/patent-examination-board/procedures/examination-procedures/>. This makes it clear that there are robust processes for ensuring that candidates are treated fairly and consistently. The system is also subject to scrutiny by the External Examiner and so there is independent oversight of the process.

### **6.2 The overall rating of the papers**

Aside from the points referred to above, there were no broader themes concerning the papers which emerged from the candidates’ responses to the survey. The vast majority of candidates felt that the papers provided them with an opportunity to demonstrate their knowledge and understanding although this rating did vary between the different papers.

Set against that, candidates were far less happy about the amount of time that they had to complete the papers particularly for the Finals examinations. This was most pronounced in FD4 and a number of candidates provided narrative comments on this paper which will be considered below. Elsewhere this issue wasn’t considered in detail by the candidates in the comments they gave.

There were also some concerns expressed about the clarity of the questions. This was particularly the case for FD1 and FD4 and so will be dealt with specifically in relation to those papers.

### **6.3 The Foundation papers**

As noted in Section 1.1 above, for the Foundations papers there was a low response to some of the survey questions and therefore the views expressed might not be entirely representative of the candidates as a whole. In any event, very few comments were made about any of the papers and so there are no great issues to respond to.

Three out of the eight candidates who responded indicated that there was nowhere near enough time for the FC5 paper. The reason for this might well have been the number of questions in Part A with one candidate commenting “FC5 ...had far too many 1, 2 and 3 mark questions; and the marks available did not appear proportionate to the amount of

knowledge required to answer the questions.” This issue has been discussed by the PEB Foundation Examination Committee and in future there should be fewer such questions in the paper.

More generally, as noted in the response to last year’s candidate survey, there has been a move towards questions demanding more application and less simple recall of the law. There were therefore no comments about this issue in this survey apart from one FC1 candidate who indicated that they “felt unprepared for those in section A because they require more application of the law which is typically found in section B”. Candidates should factor this change of approach into their preparation for the future Foundations papers.

## **6.4 The Finals papers**

### **FD1**

A number of the candidates commented on the wording of this paper. Their concern about this was reflected in the view of one candidate who said that “It is unfair to set high standards for candidates when the paper is itself poorly written.” The candidates specifically pointed to the use of the words Important and Confidential in question 1 on the paper.

This issue was considered by the examiners who noted that in addition to the internal scrutiny process, this paper was considered by both the External Examiner and a Patent Attorney member of the PEB Governance Board who had been an examiner in the past. In addition, it was felt that part of the skill of the Finals papers was in interpreting information however it was presented.

### **FD2**

As with the other Finals papers, the candidates indicated in their ratings that there was insufficient time for this paper. On this point, one candidate did mention that “The amending tool for FD2 was ... too time consuming to use for exam situations.” This was, however, an isolated comment and so whilst the PEB will consider this point as part of the review of the system it does not seem to have been a major issue for the candidates.

Otherwise, little of note arose from the comments in the survey in relation to this paper.

### **FD3**

The position for this paper is very similar to FD2 in that the ratings suggest that time was an issue, but this was not picked up in any meaningful sense in the comments from the candidates. The two comments that were made suggested that the paper was not as well drafted as it could have been with one suggesting that “clear hints” should have been given as to what the examiners were looking for. As was suggested above, this approach would be inconsistent with a Masters level qualification where candidates are expected to be able make judgements of their own based on the information they are given.

### **FD4**

As in previous years, this was the paper that drew most comment from the candidates, most of which revolved around the two main issues from previous years: the lack of time available and the related question of the content of the paper. As one candidate commented, “FD4 has grown into this leviathan of a paper that seems to be focused on how a candidate deals with time pressure rather than anything else.” As a result, some candidates felt that the paper bore “little resemblance to real world patent practice”.

Several candidates linked this time pressure to their view that the paper was too complex and that there were too many legal issues in it. On the content more generally, some candidates also felt disadvantaged because of the subject matter of the assessment.

The examiners discussed the comments from candidates and noted that although this paper might have been more difficult than last year, the content of the paper had as a whole been reduced. Thus, while there are undoubted time pressures, steps have been taken to deal with this. In addition, the subject matter was accessible to all as it related to a device to be used with a climbing rope. Indeed, this was recognised in the comments of some candidates.

As it is, the difficulties that candidates encountered this year related to the manner in which they dealt with the paper. It was felt that candidates weren't successful because their answers weren't logically constructed and so were inconsistent across the paper.

## **7. The Enquiries about Results (Appeals) process**

Although not specifically related to the papers or this year's examinations, there were some candidates who expressed dissatisfaction with the Enquiries about Results process. This is a matter that has been raised by the Informals in the Candidate Consultative Committee and will be kept under review by the PEB.

## **8. Conclusion**

The PEB is very grateful to the candidates who did respond to the survey for their constructive and thoughtful comments and the suggestions they made for improvement. In a period when, of necessity, the PEB is having to make changes to the examination system it is helpful to have input from candidates so that improvements can be made to what is an evolving system. The PEB will therefore take into account the issues that candidates have raised as part of its planning for 2022 particularly with respect to the technical requirements for the online examination system.

With respect to the points that candidates have made about the question papers, this is, of course, a matter which will be determined by the eventual outcome of the Mercer Review. The PEB has responded to the Review and will consider how best to take forward any changes that need to be made to the examinations as a result of the review.

## Action Plan

Area (please specify)	Candidate feedback	Rationale for decision	Change to be implemented	Impact on candidate experience (include candidate views on action taken)
Technical requirements of the proctoring system	Candidates experienced problems with the second camera and audible warnings	To improve the candidate experience and reduce the onus on candidates	<p>The proctoring system will only be used for the FC exams with the FD exams reverting to invigilation through Zoom.</p> <p>Where proctoring is used the system will not require the use of a second camera. The audible warning system will no longer be used.</p>	
Trial of the system	The trial didn't properly test the system	To try to ensure that issues that candidates experience are dealt with before the final exams	<p>The PEB will provide a chance for candidates to fully test the system prior to the 2022 assessments.</p> <p>In exceptional circumstances, if the PEB is made aware of candidates' difficulties in taking the trial examination at the allotted time, it will endeavour to provide an alternative time to take the trial if that is possible.</p>	
Communication during the exam/ invigilation	Candidates wanted better help with technical problems in the exam and preferred live invigilation	To provide better support for candidates and more immediate forms of communication during the exam	<p>The PEB will work with the supplier of the proctoring system to improve support during the exam.</p> <p>Where invigilation is carried out through Zoom, candidates will be able to</p>	

			communicate with the invigilator through the chat system.	
Communication with the PEB	Candidates wanted more client-friendly and quicker responses from the PEB	To provide more support for candidates around the time of the exam	<p>The PEB is seeking to increase its staff base with the employment of an Examinations Co-Ordinator who should be able to help improve communication by relieving pressure on other staff.</p> <p>The PEB is also working with the Candidate Consultative Committee and CIPA more generally to improve the PEB website with the aim of allowing candidates to access information more easily. This should reduce the volume of emails requesting information that is already publicly available.</p>	