

Patent Examination Board

2022 Qualifying Examinations

PEB Governance Board's Response to the Candidate Survey

1. Introduction

Although this was another year of change to the manner in which the examinations were run this was less profound than was the case in the previous two years. Instead, the arrangements that were adopted sought to draw on the best elements of the online systems that had already been put in place. In taking this approach the PEB was seeking to be pragmatic and responsive to feedback from candidates, whilst preserving the integrity of the assessments.

There was also no change to the content and structure of the examinations. The PEB is, however, conscious of the recommendations of the Mercer Review and has resolved to undergo a major review of the syllabi and assessment methods for both the Foundation Certificate and the Final Diploma. Whilst this will not result in immediate change, it will take into account the comments that have been received in the candidate survey in this and previous years.

Finally, the structure of this response will be in keeping with the change made last year to adopt an action plan. The outcomes of the changes that were made following last year's survey are considered in Appendix One and this year's action plan forms Appendix Two to this response.

1.1 Response to the Survey

There was an increase in the number of responses to the survey, with 169 being received as compared to 142 in 2021. Although this is still well below the 299 responses in 2020, it is pleasing to see an increase in engagement with the survey. The PEB would like to thank those candidates who did respond for their generally constructive and thoughtful comments.

The PEB is also grateful to the Informals for their support and promotion of the survey. The results of the survey have been discussed with representatives of the Informals at the Candidate Consultative Committee. Suggestions and comments arising from that discussion have been incorporated into this response.

It should be noted that this response seeks to address the major issues that arose from the comments that candidates made. As a result, where a matter was raised by only one candidate this will not be addressed unless it is of particular importance.

1.2 The overall picture

As a whole, the results of the survey were positive with clear improvements in some areas on last year's survey in both the comments that candidates made and the ratings that they gave to aspects of the assessment process. Indeed, one candidate commented "Would not change anything next year. Everything worked well."

The most marked improvements appeared to be in the technical arrangements for the assessments, with both ProctorExam and Zoom being more highly rated than the system used in 2021. In part this seems to have resulted from the removal of the requirement for a separate camera/mobile phone in the room. In general, therefore, there was a relatively

small number of comments about the stressful nature of the exam arrangements when compared with 2021.

That being said, most candidates took a nuanced view of the arrangements that had been put in place. Many candidates suggested that, whilst the manner in which the assessments had been dealt with was better than in previous years, there were still some areas of concern and room for improvement.

In particular, candidates raised issues about the following matters:

- Trialling the Zoom system
- Invigilation in the Zoom rooms
- Arrangements in exam rooms
- The system for warning candidates that an examination was about to end and that they needed to upload their paper
- Uploading papers at the end of the exam (despite general satisfaction with the PEBx system as a whole)
- The annotation tools for the FD2 exam
- The system for dealing with reasonable adjustments
- Communications from the PEB.

In addition, some issues were raised about the examinations themselves, most notably FD1 and FD4 which were the two papers which attracted most comments.

2. Trialling the Zoom system

A number of candidates felt that that the Zoom system should have been part of the trial of the examination arrangements with one candidate reflecting these views when they commented that “It would be helpful to have some sort of Zoom invigilation aspect to the trial examination, in order to feel more confident about what was expected on the day of the exam.”

The PEB chose the Zoom system as the technology is generally familiar to candidates and is similar to Teams, which is the other system that candidates are likely to use. The PEB also provided candidates with a link that they could use to test their camera.

That being said, the PEB is keen to minimise any uncertainty that candidates might feel about the arrangements for the exams. Whilst it is not possible to run a full test of the system, the PEB will give a more detailed explanation in the Technical Requirements document for the next examination session about the manner in which the Zoom system will operate. A member of the Informals has also agreed to write about their own experiences of using the Zoom system as a candidate in order to help reassure those who will do so in the future.

3. Invigilation

There were several issues raised with invigilation in the Zoom rooms for the Finals assessments. Probably the most important of these for candidates was the responsiveness of the invigilators. There were two main elements to this concern: first, some candidates felt that invigilators could have responded more quickly to requests for assistance and, second, the invigilators weren't always able to answer questions about the technical issues that some candidates faced.

There were also issues with consistency specifically with respect to time warnings with one candidate commenting that “Some invigilators provided an audible alert at the end of the

exam time, however this was not consistent and a time warning would also have been appreciated". The specific issue of warnings is dealt with below at section 5.

Finally, there were also issues with background noise from other candidates or candidates asking technical questions during the examination. In response to this one candidate suggested that "it would be good if all candidates could be muted. I believe that the invigilator can do this universally on zoom" with other candidates making the same suggestion.

It should be said that these concerns were not universally shared with one candidate commenting that "the invigilators generally handled the Zoom exam room well, they were very responsive and asked participants to mute themselves to remove distracting noise during the exam".

More specifically, any inconsistency in the approach taken by different invigilators may also arise from a change in instructions about the time warnings to be given to candidates which is discussed below at Section 5. It should also be noted that the PEB did receive a report about noise in one of the Zoom rooms and emailed the candidates concerned to advise them that Special Consideration would automatically be applied to their scripts.

Nonetheless, the PEB acknowledges that there were issues with the system of invigilation and that action should be taken on these points. In particular, the PEB will act on the suggestion of one of the candidates for "Better training for zoom invigilators, both on how to use zoom and what to do if candidate needs help with zoom". The PEB also reviews the performance of individual invigilators and will not renew the contract of those invigilators who didn't reach the required standard. Finally, the PEB will review the instructions to invigilators in the light of the comments from candidates.

4. Arrangements in the exam rooms

Some candidates expressed concerns about aspects of the arrangements for the Zoom rooms. First, some candidates were unsure about the precise set up that was permissible with one asking for "Clearer guidance on what is and isn't allowed in the exam room." Whilst this is dealt with in the Essential Information and Technical Requirements documents that are published on the website for candidates (and can be taken into the examination room),, the PEB can review this when updating the information for candidates ahead of the 2023 exams.

Second, some candidates expressed concerns about the lack of security and identity checks. For the Foundation examinations it was suggested that there was no sweep of the rooms whilst for the Finals no apparent identity checks were carried out.

The PEB notes these concerns but is trying to ensure that any checks are kept to a minimum and carried out unobtrusively. Thus, for example, in the Zoom rooms the invigilator can carry out identity checks without disturbing candidates whilst the ProctorExam system automatically records potentially suspicious activity which is reviewed at a later date.

Third, a couple of candidates asked if the requirement for only one screen could be relaxed. This requirement is, however, imposed to help ensure the security of the exam. As a result, it is unlikely to be relaxed.

5. Time warnings in the exam and uploading

5.1 Time warnings

A number of candidates expressed concerns about the warnings that were given about timings in the examination. This related to both a warning that the examination was about to end and that the time for uploading the paper had begun.

The PEBX system did provide a visible warning but not everyone saw this with one candidate pointing out that “Warnings on pebx didn’t make a noise and could only be seen if the browser window was visible”. The comments suggest that this was a relatively common problem. At the same time, as noted in Section 3 above, there was some inconsistency with audible warnings given by invigilators with some candidates indicating that they had not received such warnings.

It should be said that following the problems with audible warnings in 2021, the PEB removed such warnings. Instead, candidates were told at Section 6 of the Technical Requirements document that “You are recommended to have a traditional clock where you can see it: there will be no audible warnings and breaks in internet connections may mean you miss the on-screen warnings or the PEBX clock freezes.”

The PEB does, however, recognise that this was an issue for candidates. After discussion with representatives of the Informals at the Candidate Consultative Committee, the PEB has agreed to consult on which announcements should be made at what time in the exam. It will also consider, what warnings, if any, should be given in the Foundation examinations where there are no human invigilators.

5.2 Problems with uploading answers

The main consequence of the problems with warnings was the difficulties that some candidates experienced with uploading their answers, particularly for the Finals examinations.

The PEB did note after the first of the Finals examinations that a small number of candidates had not uploaded their Answer documents. It therefore instructed invigilators to give warnings to candidates to upload their Answer documents in time.

For next year, once the consultation about warnings referred to above has taken place, the instructions to invigilators will be amended to inform them of when the announcement should be made and the precise wording that should be used for each announcement. This should avoid the issues with inconsistencies that have arisen this year.

That aside, several candidates indicated that they experienced problems with uploading their papers. The PEB did take into account that such problems might occur and so included “trouble shooting” advice in the Technical Requirements document. Candidates were advised to have this with them during the assessment. Candidates who failed to upload were told by the invigilator to email their answer documents to PEB.

One of the candidates who had difficulties in uploading their paper also suggested that “It would be useful to be able to view what you have uploaded once the exam has ended”. It is, in fact, possible to do so and candidates are advised of this prior to the exams.

6. FD2 annotation tools and searchable PDFs

A relatively large number of candidates expressed concerns about the annotation tools for FD2. One candidate in particular, explained that it was time consuming to use the tools and that the alternative suggested by the PEB was unsuitable for them.

Candidates were advised that they could print off the relevant pages, annotate them by hand and then upload them. However, the PEB accepts that there might be a lack of clarity as to how candidates could upload their answers. This is therefore a matter that it will reconsider when updating the instructions for next year.

On a broadly related point concerning the format of the paper, one candidate suggested “Searchable PDF documents for the exam script. I think the exam did have it but please ensure it remains available! Sometimes it didn’t work on past papers because some kind of weird font was used which the PDF reader struggled to search – I presume this was intended to help candidates differentiate between documents but actually makes the exam more difficult if you can’t search the text for keywords.” The PEB has carried out a check using the search facility in different sections of the PDF of the October 2022 FD4 question paper. The search facility worked correctly. PEB intends to retain this feature for future question papers, but does not have technical resources to incorporate it in the published past question papers.

7. The question papers

7.1 Overview

As noted in section 1, the PEB is due to embark on a major review of the syllabi and assessment methods for all of the Qualifying Examinations. In undertaking this review the PEB will take into account the conclusions of the Mercer Review but will also consider other sources, with the views of candidates on the current assessments clearly being vital. It is impossible to anticipate the outcomes of that review but this next section should be read with that background in mind.

With respect to this year, it should be noted that, with some notable exceptions, there were improvements in the ratings given by candidates when asked about the extent to which the individual papers provided the opportunity to demonstrate their knowledge and understanding. This was particularly the case for FD3.

That being said, the ratings were less high for FC2, FC5 and FD1. It should, however, be said that there were very few comments on the Foundation question papers and the ratings for these papers last year were relatively high.

The overall picture is therefore an encouraging one with positive comments from candidates about the examinations with one noting: “These papers require preparation and practise on the part of the candidate. There is a wealth of material on how to prepare for these exams, including past papers. I therefore do not think the Question papers themselves needed any improvement this year.”

There were, however, a number of issues that were raised by candidates which still need to be considered. These issues were focussed on several main themes: the content of the question papers, the time allowed, the skills being tested and whether the assessments were therefore truly a test of the candidate’s ability to practise as an attorney.

7.2 The Foundation Certificate question papers

Despite the slightly lower rating given to FC2 and FC5 there were no substantive comments from the candidates about either paper. A possible explanation for the lower ratings is the amount of time allowed to complete the exam. On FC2, there were many more candidates who rated this as an issue this year and nearly half of candidates on FC5 who responded to the survey felt that there wasn't quite enough time to complete the paper.

That aside, there were one or two comments about the exams encouraging rote learning and simply being a test of memory. Whilst the PEB takes note of these comments this does not appear to have been a major concern for most candidates.

7.3 The Final Diploma question papers

Ranges in FD1 and FD4

Quite a few candidates expressed concern about the prominence given to the issue of ranges in FD1 and FD4 with one candidate suggesting that the PEB "Avoid themes through the papers both fd1 and fd4 focussed on ranges to a significant extent, if a candidate is not great at that subject which is only a tiny part of the overall picture they would fail the papers."

Aside from the issue of ranges appearing on more than one paper, there was also concern about the amount of time devoted to this issue on each paper individually. For FD1 one candidate commented that "Part B of FD1 felt quite unbalanced this year, in that two out of the three questions involved ranges". In a similar vein a candidate felt that "Having an entire FD4 paper based on ranges is unfair to candidates who have never worked with ranges before."

The PEB notes the concerns that candidates have raised and will consider them in future sessions.

With respect to the question of themes, after each paper has been written there is a meeting between the Principal Examiners to ensure that there is suitable coverage of different areas and that any overlap in content is kept to a minimum. All the papers are also reviewed by an External Examiner who again would ensure that a spread of issues is being assessed. In any event, not every candidate would take both FD1 and FD4. Nonetheless, coverage of the syllabi will continue to be reviewed by the Principal Examiners, the Chief Examiner and the External Examiner.

FD1

Aside from the question of ranges, candidates felt that "FD1 was too focussed on EP law" which was more appropriately dealt with by the EQEs. Again, the PEB has to ensure that all aspects of the curriculum are covered so that it meets IPReg's requirements.

That aside, there were also concerns that FD1 was more a test of memory rather than analysis with one candidate commenting that "In correct practice, attorneys often check that their recollection of a deadline or formalities aspect is correct before advising a client. The present format of the exam requires all of this to be memorised which forms a very large portion of exam preparation but is not relied upon in modern practice.... In most cases having access to the Act within the exam would not help the candidate if they did not already know what sections are relevant... FD1 could certainly become more relevant to modern practice if it tested analytical skills more thoroughly than memorisation of the law."

Although this is an issue that has been discussed in Examination Committees, it is unlikely that there will be any immediate change to the format and nature of the FD1 exam. This is,

however, a question that will be considered by the PEB in the forthcoming review of assessments.

FD2

Apart from the question of the annotation tools which is discussed in Section 6 above there were no substantive comments about this paper.

FD3

There was one comment about time management in the FD3 paper although there was a big improvement in the ratings given by candidates on this issue. Otherwise there were no comments on this paper although, as noted above, it enjoyed a big improvement in the overall rating given to it by candidates. This is perhaps reflected in the 82% pass rate which was much higher than in 2021.

FD4

As was the case in previous years, FD4 was the assessment which provoked most comment. This focussed on the content and time allowed for the paper. Before considering the concerns that were raised on these issues, it should be noted that there were signs of improvement with respect to this paper.

The candidates gave the paper higher ratings for both timing and the extent to which the paper allowed them to demonstrate their knowledge and understanding. This is borne out by the pass rate which increased to 58%. This was the second highest pass rate for the FD examinations in 2022. There were also some positive comments from candidates with one indicating that “Generally speaking, this year’s FD4 paper was better than in previous years. It was relatively short, but there were still lots of issues to address.”

In contrast to this positive view, there were criticisms of the paper from the candidates. With respect to content, aside from the issue of ranges, some candidates seem to have been unsettled by the examination dealing with a chemical process. It should be said that for most candidates this appeared to be a temporary issue with one candidate noting that the “Vaguely chemical subject-matter was momentarily worrying, but fine in practice.” As it is, page 4 of the Candidate Survey Report shows that candidates come from a variety of backgrounds, with chemistry providing the second highest proportion of candidates after physics. The subject matter of the examination should vary across years to reflect the range of candidates’ backgrounds.

The other issue of concern with respect to FD4 was the timing of the paper and the impact this had on the answers that candidates could give. One candidate felt that “The paper does not allow enough time for candidates to demonstrate skills learnt” whilst another suggested that “If we had more time (or less content) then we could actually take in the information and assess it properly, rather than simply rushing to try to complete the paper in the time, and hoping that we have made sensible assessments along the way.” Such views lead some candidates to comment that FD4 wasn’t truly a test of fitness to practice and to suggest alternative forms of assessment. This is an issue that has been discussed before and will form a major element of the review of assessments that the PEB is due to embark upon. In the meantime, the examiners will continue to make refinements to the paper.

8 Reasonable adjustments

There were a couple of comments this year about the process for reasonable adjustments. These referred to two issues, first, the strict nature of the process, particularly the statement that the medical or other professional had to provide and, second, the time at which reasonable adjustments are processed.

The PEB is keen to ensure that such arrangements are dealt with fairly and indeed were commended by the Quality Assurance Agency for the manner in which reasonable adjustments are dealt with. In addition, no application for reasonable adjustments has been refused totally on the basis that the statement from the medical professional wasn't provided. Nonetheless, the PEB does need to have the necessary evidence to approve an application if it is to be fair to all candidates.

With respect to the time for dealing with reasonable adjustments, this cannot begin before registration opens in June. Candidates are then given until the end of August to submit their application and supporting evidence. There is therefore a relatively limited time window within which such applications can be processed. As it is, the PEB would urge candidates to submit their applications as early as possible to allow time for the applications to be considered and the necessary arrangements to be put in place.

More generally, the PEB is committed to working with the Informals and the CIPA's Diversity and Inclusion Committee to ensure that the process for dealing with reasonable adjustments is as fair as possible for all candidates.

9 Communications from the PEB

There were fewer comments this year about communications from the PEB and the scope of the issues that were raised were narrower. Nonetheless, concerns were raised by some candidates about the information that was provided for candidates with respect to the assessments and the manner in which the PEB dealt with emails.

With respect to the first of these concerns one candidate indicated that "The information published by the PEB was hard to keep track of. It wasn't communicated by anyone (apart from non-official channels). It would be helpful if there was one page on the which had all the up-to-date documents needed for the examination". In a similar vein another candidate felt that "emails indicating that information on changes to information was available would have been useful and appreciated".

Unfortunately, the points made by these two candidates are incorrect. All of the information on the examinations was published on the PEB website and only minor changes were made on one occasion. All candidates were emailed about these changes at the email addresses which they used to register for the examinations. The Informals also publicised the fact that new information had been released.

One candidate did comment that the information provided was verbose but overall the ratings given by candidates suggested a good level of satisfaction with the information that they had been given. As it is, the documents are designed to be comprehensive and deal with any questions the candidates might have.

That aside, some candidates did comment on the nature of the emails that they received from the PEB which they felt were inappropriate. One candidate was more specific in that they indicated that "Peb communications can be abrupt". The same candidate also suggested that "Peb seems under resourced."

The PEB apologises for any communications from them which were inappropriate but as was suggested in the comment above, there is a small team at the PEB which can come under pressure at busy times of the year. The PEB has now appointed an Examinations Co-Ordinator who will assist with enquiries from candidates and will generally provide more resource for the administration of the exams. As it is, in this year's survey there was an improvement in the rating that candidates gave to the response to email queries from the PEB.

10. Conclusion

The PEB is very grateful to the candidates who responded to the survey. The comments were largely constructive and will help to inform the manner in which the assessments are dealt with in the years to come. In particular, they will form part of the evidence base for the forthcoming review of assessments. In the meantime, the comments for this year will help with the PEB's planning for 2023 and should result in improvements in the arrangements for candidates.

Appendix 1

Update on 2021 Action Plan

Area (please specify)	Candidate feedback	Rationale for decision	Change 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.</p> <p>The audible warning system will no longer be used.</p>	<p>Satisfaction ratings from candidates were much higher this year for the technical arrangements for the exams. This was helped by the removal of the requirement for the second camera.</p> <p>There were, however, problems with the warning system, albeit of a different type. These are dealt with in this year's action plan.</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</p>	<p>There were no comments about the timing of the trial this year. There were also no concerns expressed about the trial of the PEBX system.</p> <p>A number of candidates did comment on the lack of a</p>

			provide an alternative time to take the trial if that is possible.	trial for the Zoom rooms and this is dealt with in this year's action plan.
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	The PEB will work with the supplier of the proctoring system to improve support during the exam. Where invigilation is carried out through Zoom, candidates will be able to communicate with the invigilator through the chat system.	There were no comments about the support provided for the proctoring system. However, candidates raised a number of issues about the support from invigilators. Again, this is dealt with in this year's action plan.
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	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. 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	A new Examinations Co-ordinator was appointed in November and will be assisting candidates during the 2023 examinations. Work has been carried out on the new website. There will, however, be no further changes to the website until the end of the 2023 examinations so as to avoid any disruption to candidates

			requesting information that is already publicly available.	
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Appendix 2

2022 Action Plan

Area (please specify)	Candidate feedback	Rationale for decision	Change implemented	Impact on candidate experience (include candidate views on action taken)
Warnings about time during the assessment	Candidates commented that they were unable to see the warnings given by the PEBX system and that there was a lack of consistency in the warnings given by invigilators	To help candidates ensure that they finish the examination on time and upload their papers before the cut-off point ("End of Upload time")	The PEB will consult with candidates about the nature and timing of warnings to be given. Once a decision has been reached on this the instructions to invigilators will be changed to reflect this decision and will include a precise form of words that each invigilator should use.	
Trial of the system	The candidates wanted a trial of the Zoom system so that they were fully aware of the arrangements before they sat the assessment.	To try to ensure that candidates know exactly what the system is before they attempt the assessment so the experience is less stressful for them.	<p>The PEB will provide a more detailed explanation of the Zoom invigilation system in the Technical Requirements document issued before the examinations.</p> <p>A member of the Informals will write a piece about their experience of the Zoom invigilation system as a candidate in 2022.</p>	
Invigilation	Candidates wanted better and more timely assistance from invigilators during	To provide better support for candidates during the examination	The PEB will review the training that it is given to invigilators. It will also amend the	

	the exam. They also wanted invigilators to ensure there was no external noise by muting other candidates.	and ensure they are not disturbed.	instructions for invigilators where necessary.	
Annotation tools for FD2	Candidates expressed concerns about the difficulty in using the annotation tools in FD2 and were uncertain about the alternative arrangements that the PEB had suggested	To ensure that candidates do not lose time dealing with such issues.	The PEB will review the Technical Requirements document to provide clearer information on the annotation tools and the alternatives to using the tools.	