



Patent Examination Board (PEB)

Self-assessment report 2019-2020

June 2020

PEB

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Foreword

This is the sixth annual report of the Patent Examination Board (PEB). The 2016 report highlighted three main challenges that the PEB faced. These were its financial position, the infrastructure support for the PEB provided by CIPA, and the accreditation requirements published by IPReg.

The PEB must be financially viable if it is to continue offering qualifications. The action taken, to increase examination fees year on year by 20% for both the 2017 and the 2018 examinations, assured PEB's financial security for the foreseeable future. The 3.3% fee increases from 2019 examinations onwards is intended to maintain financial stability, whilst investing in quality and candidate support.

In 2018-19, PEB carried out further work to implement IPReg's Recommendations relating to Foundation Certificate Re-accreditation requirements. At the time of writing, work is continuing on the outstanding Recommendation. Details of progress are in this report on page 10 under 'Foundation Accreditation'.

In June 2017 the PEB was subject to its second Qualifications Assurance Agency External Assurance visit, the report of which is published [here](#). PEB reported to IPReg on progress in June 2018, before publishing progress on the recommendations. The third QAA External Assurance review is due in 2020.

At the PEB Governance Board's (GB) Strategy Day in August 2018, it was determined that the PEB should focus on identifying and agreeing strategic priorities and associated actions that would form the basis of a three-year operational plan. The issue of quality of assessment remained a PEB focus in 2019-2020.

Following adverse publicity surrounding the 2018 FD4 examination, CIPA Council considered the issue at length as well as the education and assessment of patent attorney students in general. Council resolved that, through the CIPA Education Committee, CIPA would lead the "Mercer Review": a review of the training, support and assessment of trainees, including consideration of best practice in other professions where appropriate. The PEB Governance Board submitted a detailed response to the Call for Evidence issued by the Mercer Review.

PEB GB will continue to work with IPReg, CIPA, the CIPA Education Committee and stakeholders to develop the examination system to ensure that it produces patent attorneys with the requisite knowledge, skills and abilities.

During 2019-2020 two of the five GB members' terms of office (one lay and one patent attorney) ceased in accordance with the constitution. David Amos was appointed to replace Hilary Maxwell-Hyslop. Mike Williams was appointed to replace Julia Gwilt from 1 April 2020.



Michael Yates, Chair of the PEB Governance Board

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Purpose of this report

It is a requirement of the PEB Constitution that it produces an annual self-assessment report. This report is intended to provide information to all interested stakeholders, including the PEB Governance Board, the PEB Examiners, CIPA, IPReg and candidates, about the status and conduct of the PEB and its ability to discharge satisfactorily its responsibilities to conduct examinations which are valid, reliable and fit for purpose.

Summary

The report covers the period 1 April 2019 to 31 March 2020 and relates to all examinations and related activities for the period.

Previous reports had indicated a steady state as the PEB's published policies, procedures and instructions became embedded with examiners, invigilators and candidates. However, PEB experienced disruption to progress as a result of the issues that arose during the 2018 examination session and damaged the standing of PEB and CIPA within the profession.

In May 2019 in response to those issues and wider concerns, CIPA initiated the Mercer Review under the auspices of the Education Committee. PEB has undertaken to support that Review. In January 2020 the PEB GB submitted a wide-ranging response to the Call for Evidence .

Operations and staffing: The Head of Qualifications continued in post throughout the year. The Qualifications Consultant continued to undertake certain tasks previously within the remit of the Head of Education (who had retired at the end of 2018). A CIPA administrator provides support to PEB (equivalent to 50% of a full-time post)

Constitutional matters

The PEB published its Constitution in March 2017. During 2018 the PEB GB published both its own Terms of Reference and those of the PEB Examinations Committee. All three documents remained unchanged during this period and can be found [here](#).

PEB Governance Board

The GB met formally on the following dates:

19 June 2019
19 September 2019
11 December 2019
19 March 2020.

All the meetings were quorate. An agenda with standing items is used at all formal meetings with other items being added as required, and in accordance with the approval and reporting schedule which can be viewed [here](#).

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Dr Michael Yates continued in the role of Chair during the year. During 2019 - 2020 two of the five GB members' terms of office (one lay and one patent attorney) ceased in accordance with the Constitution. David Amos was appointed to replace Hilary Maxwell-Hyslop. Mike Williams was appointed to replace Julia Gwilt from 1 April 2020.

The GB appointments and reappointments policy and a performance review procedure set out the processes to be followed in order that the requirements of the Constitution should be met consistently, and all necessary performance reviews were carried out during the year.

GB Terms of Reference (ToR)

These were revised, updated and published in December 2017. The purpose of the revision was to create terms of reference at a higher level since, as explained in the 2017-2018 report, it is intended that the three year business plan, not the terms of reference, will provide the objectives against which the PEB measures its performance.

At its August 2018 Strategy Day the PEB identified key priorities for further work. These priorities were further refined at its second strategic planning day in September 2018, with the aim of translating these into a three year operational [plan](#) during 2018-2019.

Examination Committee

The Foundation Certificate and Final Diploma Examination Committees both met in February 2020 following the Award meetings.

The Quality Assurance Agency (QAA) Report

It is a requirement of IPReg accreditation of the PEB that the PEB is quality assured by the QAA. The QAA reported following visits and in June 2015 and May 2017. The report arising from this second visit and the recommendations (p.2) can be found [here](#). The GB reported to IPReg on its progress on actions in June 2018. The report recommended the next visit be in 2020.

Financial matters

The PEB's Budgetary Policy (January 2018) requires PEB to establish a Reserve to ensure the financial independence of the PEB and continuity of funding. PEB recognises that sudden, large increases in examination fees could penalise candidates in the short term and will therefore accumulate a reserve over a minimum period of five years.

Following operating losses in 2015-2016, the GB agreed with CIPA and IPReg, two consecutive year on year 20% fee increases in both 2017 and 2018. The operating surpluses generated in the financial years 2016-2017, 2017-2018 and 2018-2019 have formed the basis of the PEB accumulating reserves in accordance with its Budgetary Policy.

The 2020-2021 forecast budgets for the Qualifying Examinations and Introductory Certificate in Patent Administration (ICPA) are Appendix A of this report.

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Reporting and approvals

As part of its routine approvals schedule, and in order to meet IPReg's requirements for re-accreditation of the Foundation Certificate, PEB had reviewed all its policies and procedures for 2019 examinations. During the year, the Reasonable Adjustments policy, and the Withdrawal and Refunds policy were reviewed and amended for the 2020 examinations. They are available [here](#).

Complaints

Complaints are handled in accordance with working instructions which mirror the published PEB Customer Feedback Policy.

One formal complaint was received about the FC2 examination. The candidate correctly stated that there was an error in one question. The steps outlined under Quality of Assessment (page 7) were taken. The candidate also said that another question was off the syllabus. This was investigated and the Principal Examiner advised that the topic was within the syllabus.

Two formal complaints were received in relation to confusion around the use of highlighters in the ICPA examination. The first was a series of emails from a patent attorney who had mentored a candidate; the second was a similar series of emails from a candidate. The regulations relating to use of highlighters in ICPA were reviewed. The Instructions for Invigilators and the Essential Information issued to candidates before the examination have been amended to make it clear that highlighters are permitted.

Enquiries about Results (EaR) received and processed with outcomes

The numbers of Enquires about Results, broken down by stages, are set out in Appendix D together with previous years' figures for comparison.

The number of EaRs resulting from October 2019 Qualifying Examinations was lower than for 2018 examinations. Two Foundation Stage 1 clerical checks resulted in changes to results.

Subject Access Requests

As at mid-June 2020, 12 candidates had submitted a total of 21 Subject Access Requests. It was evident that a number of the candidates who submitted requests for script annotations on multiple units had made requests for the same units in previous years.

Twelve of the requests could not be dealt with within the 30-day time limit because the external storage facility had been closed at the start of the Covid-19 lockdown.

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Status of PEB working instructions

There were no changes in the year to the 53 working instructions which cover the work of the PEB.

Reasonable adjustments granted

PEB received 54 requests for Reasonable Adjustments for Qualifying Examinations and one for ICPA. It was noted that there was a pattern of increasingly complex Reasonable Adjustment requests in the 2019 examinations.

Appendix C shows adjustments requested and granted in 2019-20 compared with previous years.

Invigilators

The pool of invigilators was again stable in 2019-2020. The majority of QE invigilators had previously invigilated. All invigilators for Qualifying Examinations took part in a training teleconference.

All ICPA invigilators had previously invigilated and there were only minor changes to the ICPA Instructions for Invigilators, so ICPA invigilators were not required to participate in training.

All examinations were fully staffed. At a very late stage, one QE invigilator revealed mobility issues and conflicts of interest with candidates and so had to be replaced at short notice.

Lead invigilators at each venue submitted a report on each examination within 24 hours of the examination. Matters arising from these reports were compiled and actioned where appropriate. Those that required consideration at Award meetings included disturbances at two venues.

Quality of assessment

There were no significant changes to the assessment quality assurance processes issued to examiners in the Instructions for the Setting of Examination papers and mark schemes and the Instructions for Marking and Awarding for either Qualifying Examinations or for ICPA. However, the importance of compliance with data protection regulations, particularly during marks reconciliation, was highlighted to Principal and Marking Examiners.

Similar issues arose with the potential to impact on assessment quality as had done in the previous year.

FC2 contained a question on the IPReg Code that referred to an incorrect rule number. Candidates are not expected to know the Rule numbers but in order to be fair to all candidates, the decision was made to award the candidates the higher of the following marks:

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- Their mark out of 100 with the marks for question 11 included
- A mark out of 100 calculated by removing the marks for question 11 and scaling the total mark for the remaining questions from 97 to 100.

In addition, and in line with standard practice, all candidates' work which fell just below the pass mark using either approach was reviewed.

The statistics in Appendix B of this report indicate that candidates were not disadvantaged as a result of the question paper error.

FD4: once again the Student Survey contained a greater number of adverse comments on this question paper than others. The Student Survey is considered on page 10 of this Report.

FD2 Standard Setting Trial

Work on trialling different methods of standard setting at FD2 Awarding has been carried out over a period of time. An external consultant provided expertise. Experienced examiners took part in a number of sessions. In the event none of the methods trialled was found to be suitable. However, work continues with the aim of identifying and accepted and reliable method of setting the pass mark for Final examinations.

Results and pass rates

Results were issued on the published dates.

There were continuing concerns about the low pass rate for FD4. This is now a topic for the Mercer Review.

The Examiners' [reports](#) provide further information.

Appendix B of this Self-Assessment Report contains the year-on-year examination statistics.

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Incidents

Summary of incidents logged		
Year	Number logged	Notes
2019 - 2020	32	As at mid-May, 40 incidents had been logged. The apparent increase may in part reflect increased diligence in incident reporting. 37 incidents related to QEs, 4 to ICPA. Question papers: 8 Venues/exam delivery 19 Marking and post-results 12 Other: 2
2018 - 2019	17	10 incidents related to problems with running examinations. Others related to FC4, FC5 and FD4 issues.
2017 - 2018	12	
2016 - 2017	16	
2015 - 2016	3	
2014 - 2015	3	

Risk Register

The PEB risk register is updated and reviewed quarterly. In addition the format and content of the register were reviewed. Theoretical risks were archived.

A key risk factor towards the end of the year was linked to the printing and script storage contractor, where a key member of staff had resigned.

At the end of March, the Covid-19 situation was the major risk factor.

Quality and status of examiners

The 2019 QE examinations and ICPA 2020 examinations were fully resourced with examiners.

For the second year running there was a new Principal Examiner for Foundation FC4.

All other Principal Examiners were experienced.

As usual there were some new examiners marking the Final Diploma, particularly for FD4. New FD4 examiners attended a training session covering administrative and quality processes, assessment principles and sample script marking. This was well received. All examiners underwent the usual standardisation and supervision process. In accordance with procedure, where a candidate's script was allocated for marking to a new examiner, the second marker was a more experienced examiner.

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The two Principal Examiners for ICPA were unchanged. Sufficient ICPA examiners were successfully recruited and trained.

All examiners were issued with comprehensive marking instructions, and were subject to performance appraisal via a quality assurance report completed by the supervising examiner.

Examination Entries

Entries for Qualifying Examinations were slightly higher than for 2018. Appendix A of this Self Assessment Report contains the QE entry figures with 2017 and 2018 as a comparison.

The ICPA January 2020 examination entry saw a 9% increase from 161 to 176. .

Student survey

The PEB issued its annual Student Survey to Qualifying Examination candidates after the 2019 examinations.

The 2019 report is published [here](#). The PEB's response is on the same page.

Syllabus review

There were no significant changes to the syllabuses for ICPA or Qualifying Examinations Final Diploma syllabuses in 2019.

Foundation Accreditation

The PEB's request to IPReg for accreditation to deliver the Foundation Certificate examinations was submitted in September 2017, with the IPReg Assessor's report finalised in July 2018. It identified a number of areas of good practice and set out a Required Measure and Recommendations.

Following discussions between PEB and IPReg, IPReg advised PEB that delivery of the implementation plan would not be subject to intensive oversight although PEB should notify IPReg when it considered the Required Measure had been met. In January 2019 PEB forwarded its response to the Required Measure and the Recommendations to IPReg and notified IPReg that it considered the Required Measure would be met by implementation of specific recommendations for the 2019 examinations.

A timetable for implementation of the outstanding Recommendations was also provided. PEB has committed to completing the remaining Recommendations either for the 2020 examination session or for the 2021 session.

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Appendix A PEB Qualifying Examinations and IPAC Forecast Operating Budget April 2020 – March 2021

Qualifying Examinations Forecast Operating Budget from April 2020 - March 2021				2018-2019 figures based on March 2019 accounts updated June 2019				
		Forecast 2020- 2021	Assumptions and comment	Actual 2018-2019	GB meeting rate			
Entries and Price								
No.foundation entries		312	Based on average of 2018 & 2019	337		RPI (Sep 2019)factor		1.024
Charge per foundation paper (unit) £		305	Increase by RPI Sep 2019	298				
No.finals entries		768	Based on average of 2018 & 2019	782				
Charge per finals paper £		457	Increase by RPI Sep 2019	446				
No. international entries		16	Based on average 2018 & 2019	17				
International premium £		308	No change	308				
Income								
Foundation Examinations		95160		81504				
Finals Examinations		350976		325296				
International premium		4928		5236				
Exemptions Fee		0		0				
Exam cancellation fees		1200		0				
Late Entry Fees		600		576				
EARs		10000	Asssuming EARs are lower in 2020-2021	21888				
Total income		462864		£434,500				
Expenditure								
Examiner Fees		163,336	See QE exam fees tab	154057				
Examiner Expenses		6,500	See QE exam fees tab	5676		chair rate		

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GB Fees		32,912	16 days for 5 members	33845	398	465		
GB Expenses		6500	Based on 2018- 2019	6180				
Exam Logistics		54399	10% increase on 2018-2019 costs	49454				
Exam Logistics (certificates)		1597	10% increase on 2018-2019 costs	1452				
Invigilation		10,500	Based on 2018 -2019 costs	10004				
Invigilation expenses		3,500	Based on 2018 -2019 costs	2932				
Printing		500		0	?			
Courier		2500	Based on 2018 -2019 costs	2320				
Exam venues		33000	Based on 2018-2019 costs	31004				
Reasonable adjustment		5000	estimate					
R&D		10,000		2963				
Bank Charges		175	Based on 2018 -2019 costs	133				
External Review Costs		5000						
Payroll and consultant costs (incl. NI& pensions)		32812	5% increase on 2018-2019 budget	26644				
Misc.		4000	Based on 2018 -2019 costs	2714				
Irrecoverable VAT		5500	Based on 2018-2019 costs	5086				
Website upgrade		5000						
Fee to British Council		4000	Based on 2018 -2019 costs	3766				
Contribution to surplus		40000	Aim to achieve budget surplus of 200,000 in 5 Years					
Total Expenditure		426,731		315658				
Balance		36,133						

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IPAC Forecast Operating Budget from April 2020 - March- 2021			2019 figures based on March 2019 accounts updated June 2019			
	Forecast 2020-21	Assumptions and comment	2019			
Entries and Price						
IPAC entries	168	Based on average of 2019 & 2020	179	RPI (Sep 2019)factor		1.024
Charge per IPAC assessment £	381	RPI increase	372			
EARs	400		0			
Income	64408		66588			
Examiner Fees	14,422	See IPAC examiner fee tab for examiners and testers fees	13590			
GB Fees	3,700	Estimate				
GB expenses	250	Estimate				
Examiners & Testers expenses	1600		1307			
Exam Logistics	4816	10% increase on 2018-19 costs	4378			
Exam Logistics (certs)	600	estimate				
Invigilation + expenses	1348	10% increase on 2018-19 costs	1225			
Courier	0	Generally covered within SCD budget	0			
Exam venues IPAC	3941	10% increase on 2018-19 costs	3583			
Bank Charges	50					
Payroll/consultants (incl. NI & pensions)	1650	10% increase on 2018-19 costs	1500			
Misc.	500	As 2018-2019 budget	0			
Irrecoverable VAT	100	As 2018-2019 budget	0			
Contribution to surplus	3500	10% of expenditure	3000			
Total Expenditure	36,477		28583			
Balance	27,931					

Appendix B Pass Rates

2019 Qualifying Examinations

Year	2019 %	2018 %	2017 %	2016 %	2015 %	2014 %	2013 %	2012 %	2011 %	2010 %	2009 %	2008 %	2007 %	2006 %	2005 %
Foundation Certificate															
FC1 (P1)	81.94	85.20	86.00	93.61	90.91	90.32	94.44	73.53	89.47	89.47	82.76	100.00	84.00	89.29	84.00
FC2 (Law)	83.33	88.46	89.36	80.95	95.45	91.89	85.71	88.24	90.00	68.00	61.70	61.54	69.44	71.11	65.22
FC3 (P5)	81.43	82.00	88.00	87.18	94.00	83.78	82.86	78.13	85.71	75.00	93.10	93.75	80.65	86.67	86.67
FC4 (D&C)	74.58	72.13	64.81	73.68	76.00	69.23	75.68	81.82	65.63	70.27	64.86	47.27	68.33	69.09	84.21
FC5 (P7)	71.93	69.39	80.95	91.30	94.76	94.70	88.89	96.15	86.21	83.33					
Final Diploma															
FD1 (P2)	47.35	60.98	48.12	47.95	57.79	67.79	54.65	48.85	52.17	54.17	50.62	66.51	59.72	51.53	51.08
FD2 (P3)	33.33	53.78	34.23	33.07	44.86	50.89	58.88	53.54	51.30	45.35	60.33	55.56	44.14	50.36	51.77
FD3 (P4)	58.33	72.97	57.48	58.82	60.78	60.19	68.63	62.50	57.28	55.81	65.35	39.34	57.01	44.78	50.34
FD4 (P6)	35.33	33.80	41.20	41.73	38.81	41.62	43.61	36.45	42.92	54.21	39.17	40.87	55.69	46.40	44.40

Paper		FC1	FC2	FC3	FC4	FC5	FD1	FD2	FD3	FD4	Total
Total number of candidates	2017	50	47	52	55	42	243	149	128	301	1067
	2018	54	52	55	61	49	246	119	111	266	1013
	2019	72	66	70	59	57	245	111	96	317	1093

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2019 ICPA

Pass rates 2016 – 2019					
Year	2020	2019	2018	2017	2016
ICPA	80%	55.00%	78.99%	79.00%	89.29%

Grade boundaries and percentage in grade						
		Pass	Merit	Distinction	Total pass %	Total number of candidates
2020	Grade Boundaries	70-86%	88-96%	98-100%		
	Percentage in grade	52%	25%	3%	80%	148
2019	Grade Boundaries	79-91%	93-95%	96-100%		
	Percentage in grade	36%	11%	8%	55%	176

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Appendix C Reasonable Adjustments

Examination	Adjustment granted	2014 QE	2015 QE	2016 QE	2017 QE	2018 QE	2019 QE	2015 ICPA	2016 ICPA	2017 ICPA	2018 ICPA	2019 ICPA
Foundation Certificate	Extra time	5	5	0	0	5	1					
	Extra time/supervised rest breaks	0	0	0	0	0	3					
	Laptop	0	0	0	0	5	3					
	Laptop, extra time, screen reader and headphones	0	0	0	0	0	5					
Final Diploma	Extra time	11	12	17	21	12	15					
	Supervised Rest Breaks	0	4	1	0	0	3					
	Extra time/supervised rest breaks/other	0	0	0	0	0	3					
	Laptop	4	8	4	5	4	9					
	Extra time and laptop				12	6	7					
	Coloured lenses/overlay/paper/modified print	3	4	1	0	0	0					
	Other	0	3	0	0	2	5					
ICPA	Computer							0	0	0	0	1
	Extra time							1	0	3	1	0
Total number of requests		23	36	23	38	34	59	1	0	3	1	1
Total number of candidates making the requests		9	13	21	17	18	22	1	0	3	1	1
Requests as percentage of total examination entries		3%	4%	2%	4%	3%	5.4%	1%	0	2%	0.5%	0.6%

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Enquiries about Results

	2019			2018			2017			2016	
	Stage 1	Stage 2	Stage 3	Stage 1	Stage 2	Stage 3	Stage 1	Stage 2	Stage 3	Stage 1	Stage 2
QEs	27	19	0	47	40	3 (FD4)	16	14	1	15	7
Changed results	2	0	0	0	5 (4 FD4 and 1 FD1)	0	0	2 changed to Pass	0	0	1 changed to Pass
ICPA	0	0	0	6	3	0	5	0	0	0	0
Changed results	0	0	0	0	2 changed to Pass	n/a	0	n/a	n/a	n/a	n/a
Totals	27	19	0	53	43	3	21	14	1	15	7