

# **PEB Qualifying Examinations**

**2016 Examinations**

**Candidate Survey Report**

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## Contents

<b>Introduction</b> .....	3
<b>Profile of participants</b> .....	4
<b>Professional background</b> .....	4
<b>Engagement with the PEB</b> .....	<b>Error! Bookmark not defined.</b>
<b>Support Materials</b> .....	6
<b>Review of individual examinations</b> .....	8
<b>FC1</b> .....	9
<b>FC2 and FD4</b> .....	9
<b>FC3, FC4, FC5, FD1, FD2 and FD3</b> .....	10
<b>Relevance to professional work, and achieving the qualification</b> .....	10
<b>Examination content</b> .....	11
<b>Examination venues</b> .....	13
<b>Additional recommendations from candidates</b> .....	13

## Introduction

This report consolidates responses to an online survey conducted in December 2016, which sought feedback from candidates about the content of the PEB Qualifying Examinations and the usefulness of the preparation material. 227 respondents completed the survey.

Please note the PEB has published a response to the points raised in this survey.

Many candidates said that they found the past question papers, mark schemes and examiners' reports helpful in preparing for the examinations.

The survey also revealed:

- **Concerns about some examinations**, particularly FC2 and FD4 exams. These were criticised for having too much material to cover in the time, too much reliance on memorising obscure content, lack of relevance to professional work and inconsistent marking schemes.
- **Examination resitting**, 21% of candidates were re-sitting the FD4 examination, with 28 candidates (13%) having taken the examination more than three times.
- **Issues with venues** which candidates felt had impacted on their performance.

Comments included:

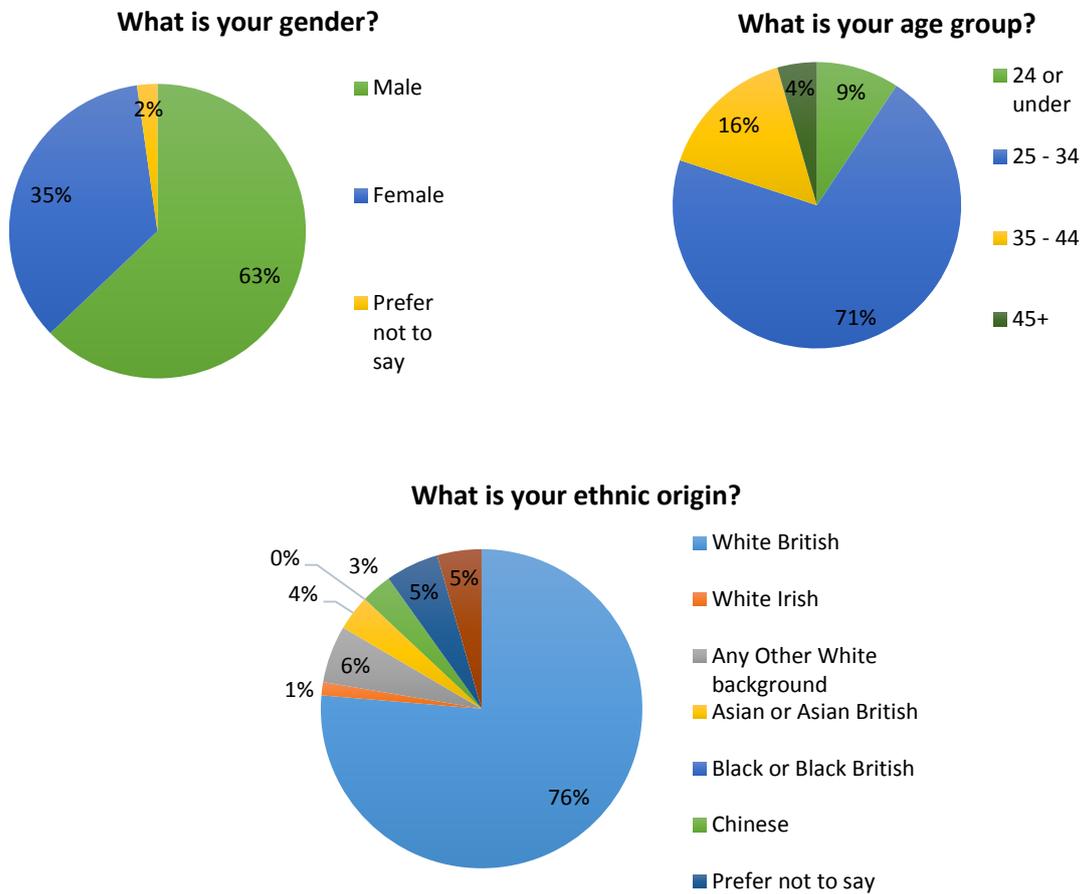
'The P2 examination is a lottery, as the syllabus is poorly defined and there are instances of questions coming up that have no bearing on the material that should have been covered.'

'The results from FD4 (P6) do not appear to reflect the abilities of the candidates. It is commonly accepted that perfectly capable attorneys can fail P6 multiple times. Having to resit a paper when you are capable of doing the job is incredibly frustrating, holds back career progression and can have effects on personal life choices. Therefore I think that the P6 examination needs careful attention.'

Further comments from candidates are included in this report.

## Profile of participants

The majority of candidates were male (63%), aged 25-34 (71%) and White (84%).

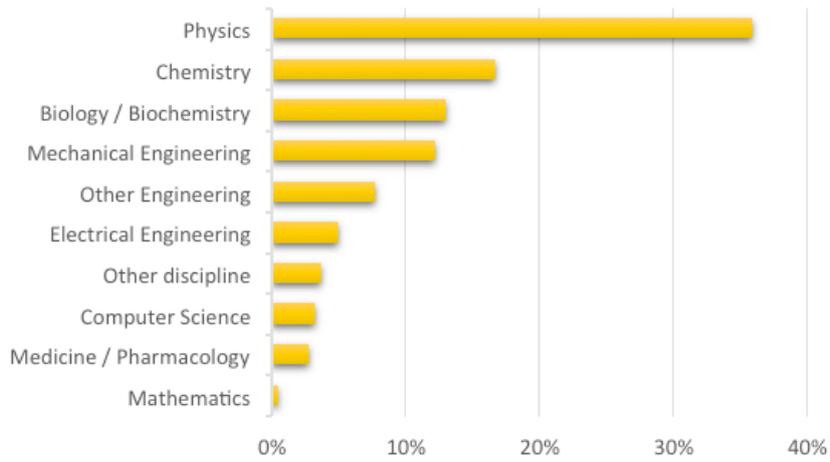


- 92% spoke English as their first language.
- 8% (18) of respondents said English was not their first language.
- 1% (3) of respondents stated that they had some form of mental or physical disability and 4.5% (10) preferred not to say.

## Professional background

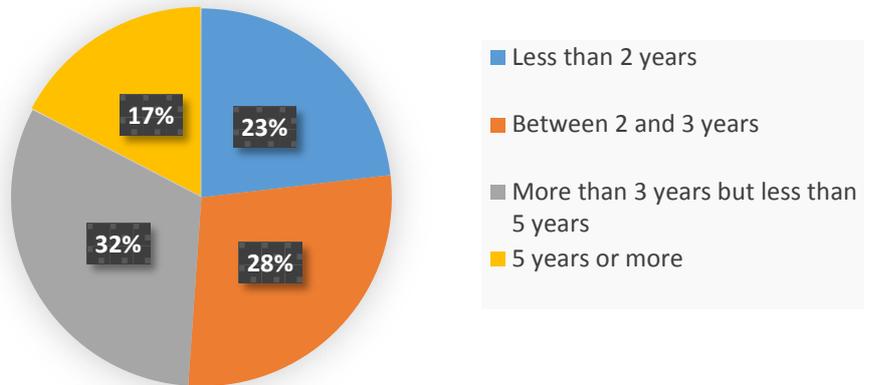
Physics was the most common disciplinary background for candidates, with over a third of respondents selecting this option (36%, 80 respondents).

### What is your disciplinary background?



The majority of candidates (60%) have between 2 and 5 years experience in the patent profession.

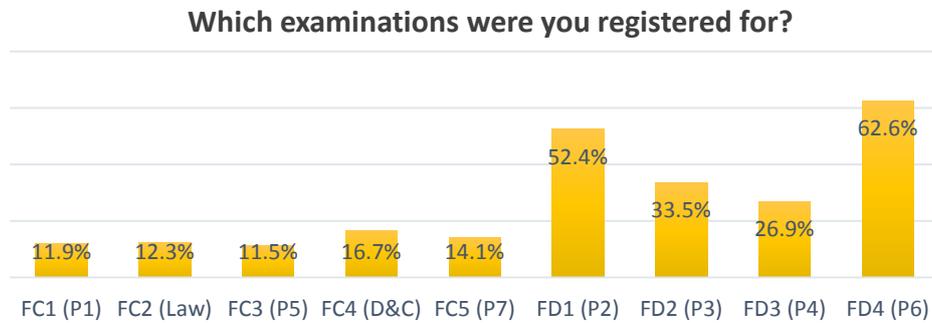
### How long have you been working in the patent profession?



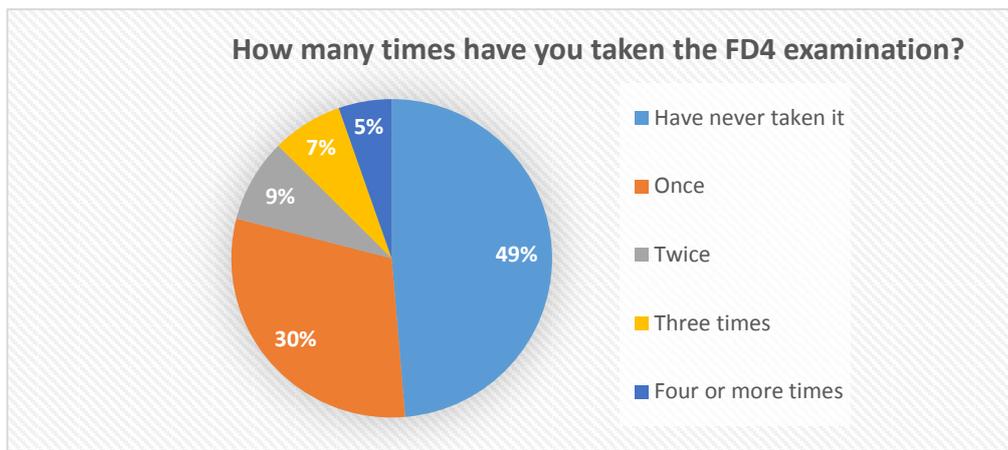
- Most candidates work in a private practice (89%, 201 candidates) and 9% (20) work in industry.
- 64% (144) of respondents work in companies of 50 – 249 employees and 18% (41) work in companies with more than 249 employees.

## Examinations taken

The largest number of candidates taking the survey had registered for the FD4 (63%) and FD1 (52%) examinations in 2016.



- 30% (68) of candidates said they were taking the FD4 examination for the first time. 21% (47) of respondents had taken the examination more than once before.
- 5% (12) of candidates had taken the examination more than four times.

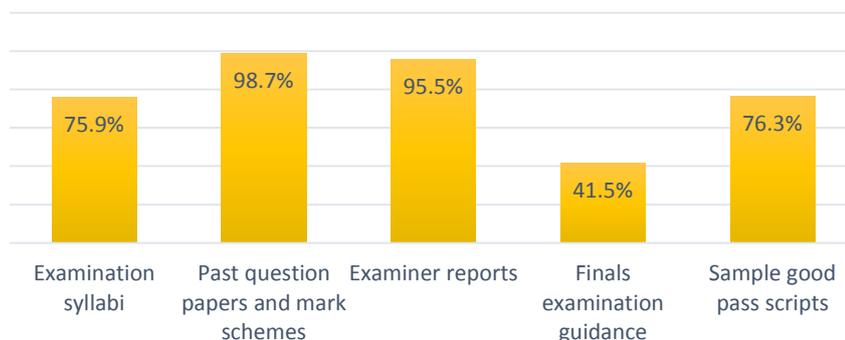


## Support Materials

Overall 97% of respondents felt that the support materials they used were useful to some degree in their examination preparation. Past question papers, mark schemes and examiners' reports were the most popular materials used by respondents, while less than half used final examination guidance in their preparations.

Other resources used included the PEB resources such as webinars and guidebooks, Nigel Frankland and Doug Ealey's books and JDD courses. 55% (123) found the materials very helpful and 42% (94) found them somewhat helpful. 3% (7) said that they were not helpful.

### What, if any, materials on the PEB website did you use to prepare for your examination(s)?



Candidates had particularly positive feedback for the mark schemes and examiners' reports in giving a better insight into how to approach the exams and clarifying the requirements:

- 'Good to be able to get into the mind-set of the Examiner, especially with more recent papers where more useful comments/the marking scheme was provided.'
- 'The past papers, Examiners' reports and, in particular, the mark schemes were extremely useful in giving me an understanding of the calibre of answers that were required'
- 'It was very useful to be able to attempt past paper questions in preparation for the exams and mark my answers with the help of the mark schemes and examiner comments.'
- 'It's good to know what the examiners are looking for, especially in FD4 (P6)'
- 'Recent pass scripts are very helpful and have improved in recent years by showing marks awarded. Mark schemes are invaluable.'

Some candidates raised concerns about consistency – both within examination question papers, and also between years, as they felt that the examination requirements had changed. This made the preparation materials less helpful, and also seemed to contribute to the candidates feeling that the requirements for the qualification are unclear, inconsistent and therefore unfair. Several candidates felt that the level of difficulty varied a lot between years. The following comments are representative of the comments made in the survey about this point:

- 'The syllabus for FD4 (P6) isn't as helpful as it does not tell you how this is marked in the paper. Some of the past papers seem inconsistent in terms of how marks have been awarded which can be confusing, particularly if you are resitting and repeatedly scoring close to the pass mark.'
- 'The past papers and mark schemes were very helpful. However, the Examiner's reports were often unhelpful and even condescending without offering constructive advice.'
- 'The inconsistent nature of the examination and its marking means you have to be careful how you use them.'
- 'This year's apparent shift of question style did not have very much antecedence, so previous papers had partially reduced relevance.'
- 'The format, length and structure of this year's FC2 examination was far removed from the papers of the last decade. Because of this, the material available inadequately prepares a candidate for this new examination format.'
- 'I felt that the consistency across papers is just not there. This makes it difficult to know what the examiners are looking for.'

- 'Amount required to write for each mark seems arbitrary and inconsistent across all exams, making it difficult to determine whether a question has been adequately answered or not.'
- 'FD4 questions seem very variable, not always easy to pick out patterns in what the examiner is looking for.'
- 'On the previous P6 examination I took, the two examiners gave me marks that were 14 marks apart.'
- 'Examiner reports vary hugely in how comprehensive and useful they are. Additionally, there are some errors in some of the mark schemes and examiner reports.'
- 'Useful materials are on the PEB website, but it is extremely difficult to find anything on the PEB website.'

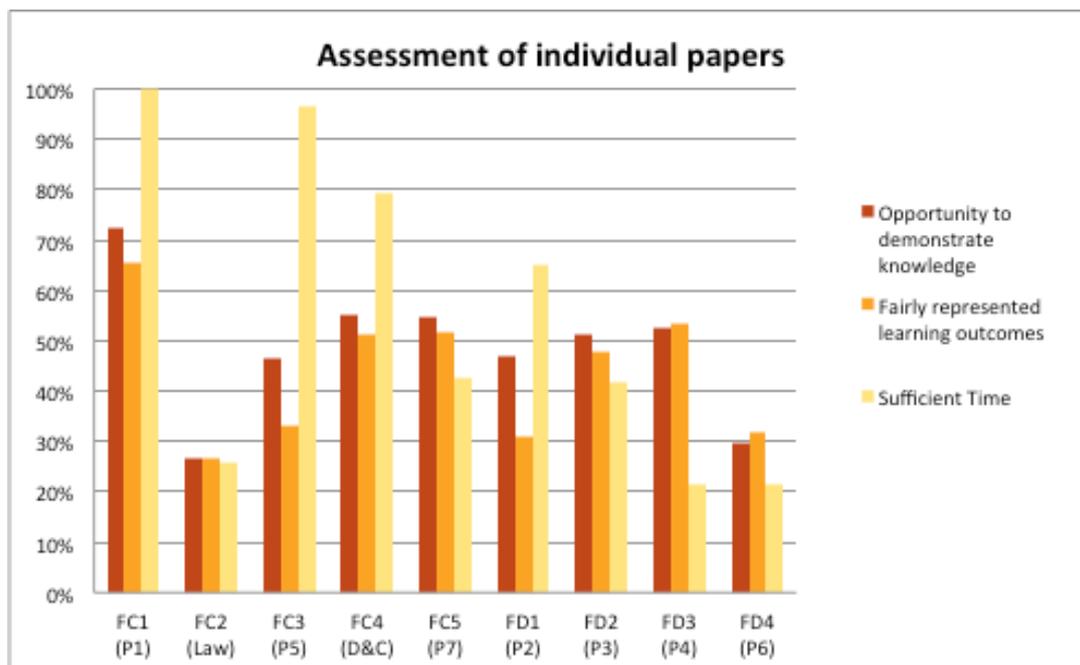
Some candidates requested older mark schemes to be posted online:

- 'For old exams, there are no mark schemes; the expected answers are unpredictable, so it would be nice to have marking schemes for older papers as well'

## Review of individual examinations

Candidates were asked to comment on each examination, with respect to:

- whether the question paper gave them a sufficient opportunity to demonstrate their knowledge and understanding
- whether the question paper fairly represented the learning outcomes provided for the examination
- whether there was sufficient time to complete the question paper.



*NB: This includes candidates who answered 'a great deal' or 'a lot' when asked: to what extent the examination 'gave them opportunity to demonstrate their knowledge' / 'fairly represented learning outcomes'. It does not include the further ~30-40% of candidates who said 'a moderate amount'.*

## **FC1**

The FC1 question paper was the most positively received of the examinations (though it should be noted that only 12% of candidates were sitting this examination).

- 72% of respondents felt the question paper FC1 (P1) gave them a 'great deal' or 'a lot' of opportunity to demonstrate their knowledge and understanding.
- 66% of respondents felt that the FC1 (P1) examination question paper represented the learning outcomes 'a great deal' or 'a lot'.
- 100% of respondents said there was enough time. 48% said there was 'plenty of time'.

## **FC2 and FD4**

FC2 (Law) and FD4 (P6) were highlighted as the examinations where most candidates felt there was not enough time and that they did not have adequate opportunity to demonstrate knowledge and understanding.

### **For FC2 (Law):**

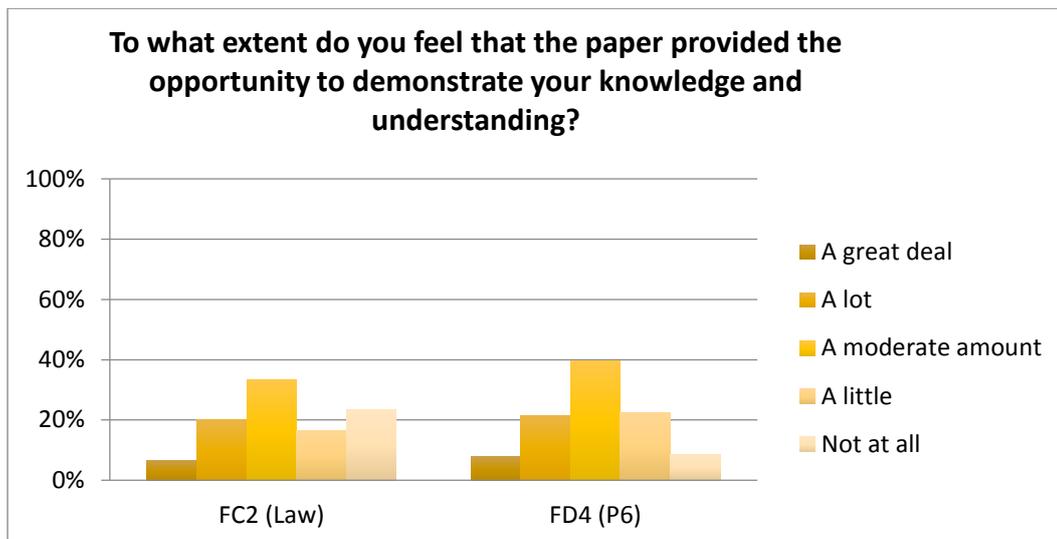
- Candidates who sat the examination were split equally about whether there was or was not enough time to answer this question paper.
- 40% felt that the paper represented the learning outcomes 'a little' or 'not at all' and that they had little or no opportunity to demonstrate their knowledge and understanding.
- A third of candidates said it represented learning outcomes 'a moderate amount'.

Comments included:

- 'Whilst I felt the two hour time limit for the examination was enough for this year, I can easily see why people struggle to complete this paper. In my view, a reading of the syllabus should allow for a reasonable attempt at an examination without having to trawl through answers to past papers to obtain the relevant knowledge.'
- 'The changes to English Law (FC2) have made the examination an almost pointless exercise. The questions on the 2016 paper, which are comparable with questions from previous years, attracted far fewer marks than in the past. This left candidates scrambling to try to write full answers to questions not worth many marks, as it is not clear how much detail is required to achieve the maximum marks. Either more time is needed, or the question paper should be simplified. There was also not even enough time to fully read the lengthy questions, which left candidates attempting to answer questions having briefly scanned the question.'

### **For FD4 (P6):**

- Just under a quarter of candidates felt there was enough time and 35% of candidates felt that there was 'nowhere near enough time' for the FD4 (P6) question paper.
- 40% of candidates said saying that the question paper represented the learning outcomes 'a moderate amount'



Candidates commented:

- ‘The length of the P6 examination is excessive.’
- ‘It’s an unreasonable examination. It makes no sense why it’s so time pressured. It also makes no sense that people who practise in the life sciences are expected to do an examination that is not in their field.’
- ‘Way too much material to cover in P6 in the allotted time; not realistic test of skills and not representative of how you would work in real life practice’
- ‘FD4 is an exercise in how fast you can write neatly. A total frustration and not remotely representative of real-life work.’

These comments are representative of similar comments made by other respondents.

### FC3, FC4, FC5, FD1, FD2 and FD3

Feedback was positive for these question papers. At least half of candidates felt that they had the opportunity to demonstrate their knowledge in these six papers, and that the papers fairly represented learning outcomes.

For FC3, FC4, and FD1, most candidates reported that they had sufficient time to complete the papers. While it was not as problematic as for FC2 and FD4 (above), more than 50% of candidates felt that there was not enough time to complete papers FC5, FD2 and FD3.

### Relevance to professional work, and achieving the qualification

173 (77%) of respondents have been working in the patent industry for over two years and some felt that though they were capable of doing the job they were being held back by a difficult and unrealistic examination.

- ‘I believe the three exams I took were harder than last year’s, so once again it feels like a moving of the goal posts in terms of UK qualification.’

- 'The examination papers asked questions which are not relevant to day to day practice and instead covered subjects which are almost never encountered. While a certain amount of this should be put in an examination, this year felt particularly disproportionate.'
- 'The FD4 (P6) examination is a poorly structured paper. Whether you pass or fail is somewhat arbitrary depending on the whim of the mark scheme, and certainly does not reflect or correlate to a professional's ability and competence in the relevant area of daily practice. The standard of the papers is enormously variable, and it is simply not good that the barrier to professional qualification is so unpredictable and arbitrary.'
- 'No one in the industry would be expected to deal with a validity and infringement issue such as that posed in the examination in such little time and without the option to speak with the client.'
- 'FD4 appears to be improving, it is becoming clearer what is actually being examined. However, the need for this examination in this format remains unclear. This hurdle, which bears no relation to the demands of biotech practice (I have been doing this job for 15 years), appears to exist solely to limit intake into the profession. No other branch of the legal profession places a similar obstacle before its trainees. I will not be a better or worse patent attorney for having passed it - I will simply be older, poorer and more cynically predisposed to question the purpose of the professional regulator's existence.'
- 'Even a casual comparison of today's exams to those of ~20 years ago shows that exams have gotten significantly more difficult. I think the level they are at now (i.e., passable with significant preparation and understanding) is about right, but I hope the PEB will resist efforts to make it more difficult than it is now. What does need to be improved is for the exams to be more realistic - for example, it is unrealistic to compel people to construe every claim integer in the P6 examination, yet this is what people must do in order to pass. Finally, it should be noted that patent searching is one of the skills of the patent attorney that is currently not tested nor is any standard set for it.'
- 'It is quite apparent that to gain a 'part qualified' status as a patent attorney, there are much easier routes to take than the CIPA exams. The Queen Mary course offers teaching with explanation of the subject matter, with simpler exams (for example, the equivalent 'basic English law' examination is multiple choice). The Bournemouth course offers an even simpler route, with only one examination. These easier routes, for obtaining the same qualification, completely devalue the foundation exams. It is difficult to see why CIPA chooses to see these qualifications as an acceptable alternative, when the requirements for the courses are so different to those of the exams.'

## Examination content

Related to the question of professional relevance, several candidates commented that this year's examinations tended towards being able to recite more obscure parts of the law which a patent attorney would not reasonably be required to know for their work:

- 'Questions that require rote repetition of an obscure section of an act is pointless. In no real scenario would anyone ever have to recite the definition of a design court (this year's DnC paper). For some key sections, some rote learning/regurgitation may be appropriate.'

- ‘There is too much focus in the foundation exams on reciting the law as written in the statute. It would be reasonable for this to be expected for core topics, but in some cases (particularly on the trade mark examination) a lot of marks were available for precise recitation of relatively obscure parts of the syllabus.’
- ‘The law tested in P2 2016 is a bit obscure. Testing whether or not the candidate is a ‘safe pair of hands’ seems to have stopped and checking the candidate knows some nigh on obsolete parts of the patents act seems to have taken its place. This is a little disappointing.’
- ‘What is the point in memorising the whole Patents Act while not knowing what does it mean? Pointless. Would be much better if the questions required a bit more using brain and a bit less memorising of random knowledge.’
- ‘It felt that both FD1 and FD2 were moving in the direction of asking questions with more obscure answers, apparently moving closer to the EPO's approach of equating the ability to learn obscure facts with being able to competently practice as a patent attorney. FD1 looked for answers to issues that (in my experience) rarely arise in practice, and FD2 seemingly pushed towards a plug-and-socket type of draft that candidates were only likely to be familiar with if they had gone out of their way to learn the frankly less practically useful areas of drafting. Such requirements of course form a part of the necessary study for exams, but the papers seemed to rely overly much on it.’
- ‘I was disappointed after P5. I felt this years paper was structured such that it was difficult to demonstrate understanding but instead focused disproportionately on reeling off facts about territories; demonstrating memory skills. It is my understanding that, in practice, this is not how the profession works as UK attorneys would always seek advice from foreign associates before advising clients of matters of importance.’
- ‘This year it very much felt as if the examiners were scraping the bottom of the barrel in order to find questions which had not been asked previously. The result was examination papers which asked a number of questions which are not relevant to day to day practice and instead covered subjects which are almost never encountered. While a certain amount of this should be put in an examination, this year felt particularly disproportionate.’
- I am aware that in previous years, complaints have been made as to how pointless the simple memorization of facts is ... Evidently, in the last couple of years the Examination board has decided that to make the exams useful for candidates, the knowledge should be more applied. However, the syllabus remains just as broad and now an unpredictable mixture of both is required. This is especially apparent in the Basic English Law examination. The questions not only cover a much broader sample of the syllabus but also require a high level of applied knowledge. It is therefore difficult for candidates to ascertain what level of knowledge is required to answer questions. A base understanding of all subject material is required for the part A section, as well as in-depth knowledge for the part B section. Additionally, only two hours are given for a paper which, previously, required a much larger proportion of regurgitation of facts, and much less application which requires more time.’

## Examination venues

Candidates were very positive about the venues. Comments included:

- 'The QM venue was really lovely inside which helped with the examination nerves'
- 'The PEB exams have generally got very nice venues.'

The Bristol and Leeds venues were praised by several candidates. In some venues, candidates said that poor organisation and disruptions had adversely affected their performance. Several candidates complained of construction works close to the examination room and poor lighting which affected their focus, and while some acknowledged that this was out of the PEB's control they also felt that this should be taken into consideration. In one location, the desks and chairs were not set up, which resulted in a delay of one hour starting the examination, and several candidates said this caused excessive stress, and they had not had food from 10:00am until 4:00pm.

Other comments included:

- 'One venue had a fire alarm in the middle of the examination, completely derailing my train of thought. This was entirely unacceptable. The examination should be redone in a new venue. I am appalled at the lack of quality in the venue in all respects.'
- 'The lighting in the venue was so insufficient that I came out with a headache and extremely painful eyes. It was clear that not all of the lights were turned on and when I took time out of answering questions to ask if additional lights could be turned on, I was told it was not possible.'

## Additional recommendations from candidates

Minor recommendations from candidates included:

- A day's break between P2 and P6, rather than on consecutive days
- Start the examination at the advertised time (some exams started early for no specific reason, and the candidate had to make adjustments to the timings)
- Please supply parking information for the venue
- More signs to examination room would have been useful
- Allow Foundation papers to be taken in Singapore
- More support for candidates re-taking the exams
- Better proof-reading to avoid mistakes in the exams
- 'It would be nice if mark schemes could be posted early, since there is such a long wait... Early release of a mark scheme may give candidates some idea as to how they have done and a little piece of mind'
- 'Stop using CIPA membership numbers as candidate numbers. The examiners remember and this clouds their judgment'.