



## **Patent Examination Board (PEB)**

### **Self-assessment report**

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# Patent Examination Board Self-Assessment Report

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# Patent Examination Board Self-Assessment Report

## Foreword

This is the third annual report of the Patent Examination Board (PEB), and covers the most challenging year since our establishment. The three main challenges the PEB has faced have related to our financial position, the infrastructure support for the PEB provided by CIPA and the accreditation requirements published by IPReg.

The details of these challenges, and the actions taken are described in the report that follows.

The PEB must be financially viable if it is to continue offering high quality qualifications. The actions we have taken assure our financial security for the foreseeable future. This means that future fee increases will be kept to the minimum required to maintain our financial stability.

Challenges associated with the infrastructure support provided by CIPA are in the process of being resolved and we will do our utmost to ensure in 2017/18 that all candidates receive the quality of service to which they are entitled.

We have worked closely with IPReg on new accreditation requirements and the FD4 research project. The close collaboration between PEB and IPReg in both the Foundation Review and the FD4 research has been gratifying and extremely valuable in terms of securing a high quality working relationship.

These challenges have meant that the PEB did not achieve all the tasks it set itself in last year's report. However, the key challenges of delivering high quality examinations in 2016/17 and of meeting all the requirements of the Quality Assurance Agency (QAA) external review have been met. There are new challenges for 2017/18, not least our second independent external review. We are better placed to meet these challenges than we were one year ago.



Robert Taylor, Chair of the PEB Governance Board

# Patent Examination Board Self-Assessment Report

## 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 (GB), 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 fit for purpose, reliable and valid.

## Summary

The report covers the period 1 April 2016 to 31 March 2017 and relates to all examinations for the period.

2016-2017, the PEB's third year of operation was a year in which, in many regards, the PEB 'came of age'.

Many measures within this report, including the survey feedback from examiners, indicates a steady state. The PEB constitution was settled and published, the Examination Committee met, and the PEB's published policies, procedures and instructions required only minor alterations and became more embedded with examiners, invigilators and candidates.

At an operational level there were a number of challenges. In addition to failing to recruit a satisfactory permanent member of the PEB administration team (finally resolved in January 2017), CIPA introduced a new website, database and accounting system. Whilst the website implementation was relatively unproblematic, issues with the database and the accounting system created problems which at the time of writing are just being resolved.

At a strategic level, IPReg announced via its Accreditation Handbook, the need for examination agencies to be accredited in order to be able to continue to offer the Foundation examinations from 2018 onwards. IPReg have worked collaboratively and consultatively with the PEB, and the indications are that a submission for accreditation will be favourably received.

Additionally IPReg launched a research project to look into the historically low pass rates for FD4 (P6). The PEB was represented on the steering group for this project. Again collaboration and openness typified the relationship between IPReg, CIPA, the PEB and the researchers. The final report has not yet been published, and the PEB expects to work with the relevant parties in 2017-2018 to implement any required and agreed actions.

The issue of the historical low pass rates for FD4 was on the QAA action plan which was put together by the PEB following the quality assurance of the PEB by the QAA in June 2016. The actions in the plan were completed during this period, and the QAA will revisit the PEB in May-June 2017.

Finally the PEB faced some severe financial pressures in 2016-2017, resulting in the planned for loss in the deficit budget being considerably higher than anticipated. In agreement with all stakeholders examination fees will increase by 20% in 2017-2018.

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## Constitutional matters

The PEB formally published its Constitution in March 2017. It is an amended version of the Constitution with which it was formally constituted in 2013. It can be found [here](#).

## Governance Board

The PEB Governance Board (GB) met formally as follows:

22 June 2016;

20 September 2016;

06 December 2016;

02 March 2017

It held a teleconference in January 2017 to discuss urgent matters relating to the 2017-2018 budget.

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](#).

The GB re-elected Julia Gwilt and Michael Yates to serve on the board for a further three years as professional member and lay member respectively, and re-elected Dr Robert Taylor to serve as chair for a third year. Debbie Slater, appointed from January 2016, resigned her post with effect from March 2017. Her replacement is expected to be appointed by May 2017. There were no other changes.

The GB developed an appointments and reappointments policy and a performance review procedure to make clear the processes to be followed in order that the requirements of the constitution should be met consistently.

## GB Terms of Reference (ToR)

An update on progress in achieving these and their continuing relevance can be found [here](#).

The majority of actions or objectives highlighted in last year's review of the ToR have been met. However, as detailed in the update, several objectives were not met, mainly as a consequence of having to adjust priorities to accommodate the unanticipated challenges that arose during 2016/17.

One major objective the PEB failed to achieve was the production of a three year business plan. The GB is now in a position to draft a plan for the period 2017-2020. The plan will detail specific objectives, and these, rather than the ToR, will be a more appropriate base against which to evaluate the annual performance of the PEB.

## Examination Committee

The Examination committee met three times, twice to consider the IPReg Foundation Certificate accreditation issues and the PEB's response to it, and once to consider the Final Diploma examinations (April 2017).

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## The Quality Assurance Agency (QAA) Report

It is a requirement of accreditation of the PEB by IPReg that the PEB is quality assured by the QAA. Following the report by the QAA in June 2015, the PEB produced an action plan and its final update on progress relating to these actions was published in November 2016 and can be found [here](#). The next visit of the QAA is in May 2017.

## Financial matters

The PEB's Minimum Reserve Policy and Budgetary Policy remained unchanged, and can be found in the PEB Self-Assessment Report from 2015 [here](#). Both policies will be reviewed in 2017-2018 following the setting of the 2017-2018 forecast budget.

The GB budgeted for and returned an operating loss for the financial year 2015 – 2016. Details of that loss, and the rationale for the examination entry fee increases for 2017-2018, can be found [here](#) in a communication prepared for stakeholders by the PEB. The GB agreed the fee increases with CIPA and IPReg.

The 2017 – 2018 forecast budgets for the Qualifying Examinations and Introductory Certificate in Patent Administration (ICPA) can be found [here](#). The fee increases should ensure that the PEB does not return a deficit budget on an ongoing basis, as this is clearly unsustainable. Nevertheless the challenges of maintaining industry standard levels of quality assurance and customer service on such a small customer base will remain a challenge.

At the time the budgets were set CIPA had not decided on the pattern of delivery for its Litigation Skills Course for 2017, so the PEB did not set a budget. Now the decision to run the course in the autumn of 2017 is made, the budget for the examinations element is now being set.

## Reporting and approvals

The PEB has, as part of its approvals schedule, amended its policies and procedures for all 2017 examinations. These are published [here](#).

## Complaints report

The complaints report is submitted to the GB in March of each year. Complaints are handled in accordance with working instructions which mirror the published PEB Customer Feedback Policy. There were four complaints.

Two complaints related to the ICPA examination, and two to the qualifying examinations. One of the complaints received in March 2017 is not resolved at the time of publication of this report.

In addition, as CIPA introduced a new database for examination registrations in 2016 there were a number of issues with the accuracy of data sent to qualifying examination candidates. These issues included:

- Duplicate (but accurate) examination letters
- Duplicate (and incomplete) examination letters

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Duplicate (blank) examination letters

Some candidates reported and/or complained about the issue. PEB dealt with these issues by responding as quickly as possible to each candidate and ensuring the candidate had the right information on an examination confirmation letter. PEB also issued an email to candidates inviting them to contact the PEB if they were in any way unsure about the status of their examination entry.

Some candidates were affected by more than one issue. All candidates were sent a complete and accurate letter which they used in the examination room.

This issue did not affect ICPA or Litigation Skills Course (LSC) candidates.

### **Enquiries about Results (EAR) received and processed with outcomes**

The numbers of EARs lodged saw a small actual increase, and as the total entry size has gone up for qualifying examinations they represent a similar percentage of the entry to previous years. The figure for this year and a comparison with previous years can be found [here](#). One EAR stage 2 has been deemed a pass, having been previously awarded a marginal fail. All other EAR stages checks results in no change to the result issued. There were no Stage 3 requests.

### **Status of PEB working instructions**

The working instructions due to be reviewed in January of each year, are in the process of being reviewed or rewritten. This is a more significant and substantial exercise than in previous years as ICIPA has adopted a new database, finance system and website, so some working instructions became redundant during the year, and others needed to be rewritten and others written from scratch.

### **Issues arising from Examiners' reports**

The 2016 Examiner Reports are available on the PEB website [here](#). In addition, comments are invited from examiners for the attention of the PEB GB. These were reported to the PEB GB in March 2017.

### **Reasonable adjustments granted**

Candidates apply for reasonable adjustments on the examination registration form. A report comparing adjustments requested and granted in 2016 to previous years can be found [here](#). As a percentage of the entry the numbers for qualifying examinations remain within usual limits, although there is a trend to increased number of actual requests for extra time. There were no requests for reasonable adjustments for the IPLC or ICIPA examinations.

### **Special Consideration requests made or reported**

A report comparing individual special consideration requests received by examination over the lifetime of the PEB can be found [here](#).

In 2016, an additional process was introduced to check details with the venue prior to the examination taking place. Despite this candidates were affected in three venues as follows: by a fire alarm test, by noise from building works and by the late delivery of desks. These were noted as

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cohort special considerations and the affected candidates were written to and advised of the action that would be taken.

The venue checklist has been amended to reemphasise the need to check that any fire alarm test issue has been noted by the venue.

All special considerations, both from individuals and those affecting whole cohorts, were reported at the relevant awarding meeting and the results of those affected by a special consideration were considered statistically. By comparison to candidates who were unaffected by any disturbance, no detrimental effect on examination performance was detected in any of the disturbed cohorts. Individual special consideration candidates' results were scrutinised on a case by case basis.

### **Invigilators**

Some invigilators, either by their actions or inactions, were themselves the cause of issues at a venue or failed to try to rectify an issue. Several new invigilators were introduced to the pool in 2016-2017 and the PEB intends to further widen the pool of available invigilators in 2017-2018.

### **Quality Assurance of the setting process**

The quality assurance process for the setting of question papers, described in the 2014 version of this report, was adopted for the examination papers sat by candidates in 2016. A schedule of a typical question paper production process, adopted for all question paper setting, can be found in Appendix 11 of the 2015 report. This process remained unchanged in 2016. This item will not be reported on again unless there are significant changes to the process.

The PEB has introduced in April 2017 a set of Setting Instructions for the setting of the Foundation Certificate question papers. This has consolidated best practice and the various instructions that have been issued in the past. Its use and effectiveness will be monitored at least annually.

### **Quality Assurance of the marking process**

All examiners were required to attend a standardisation meeting at which the marking of common scripts ensured the mark scheme was scrutinised and amended, and examiners' marking standardised. This process was improved in 2016 by the introduction of a recording mechanism of the outputs of the standardisation marking process. Not all the Final Diploma Examiners were able to attend the main meeting, but alternative meetings were arranged. The mark schemes were full and complete at the end of the process. A retiring examiner who had marked for 10 years for both JEB and PEB remarked:

*I think the examination system as a whole has become a more certain place in which to operate and that the last couple of years have provided a welcome boost to the transparency of the process for examiners and candidates alike. I have great confidence in the ability of the system to deliver reliable and repeatable results.*

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New examiners had to submit a mid-marking sample of their marking to their supervisor, and they are closely monitored.

Final Diploma examinations are double blind marked, and where these two marks fall outside stated boundaries, are subject to a further review process, which includes the Principal Examiner, and where appropriate the Chief Examiner, to arrive at the mark to be awarded.

Qualifying examination examiners report broad satisfaction with the processes in place. This information has been gathered via the annual Marking Examiners' Survey.

IPLC and ICPA examination scripts are marked in one day at a marking meeting.

During awarding some potential issues with the marking of a small percentage of the ICPA examiners became apparent. As a result a decision was taken for the Principal Examiners to review all the scripts. Some questions on some scripts had not been marked in strict accordance with the mark scheme. Some of these were outwith the acceptable range and the examiners concerned will not be invited to mark again without suitable training and/or closer monitoring. As a result of this issue the supervision process for ICPA examiners will be reviewed before the 2017 examination.

Awarding meetings, following a set agenda, were held for all examinations. At each meeting rank order, conflict of interest, special consideration, malpractice and any issues from invigilators' reports were considered. The relevant comments from the Student Survey report were also tabled at these meetings, and the marks were scrutinised in detail before deciding on the final marks to be awarded.

### **Number of administrative appeals lodged and outcomes**

There were no administrative appeals lodged during the period covered in this report. This issue will only be reported on in future reports where an administrative appeal is lodged.

### **Results and pass rates**

Results were issued on the published dates. The qualifying examination pass rates were generally within previous boundaries as reported [here](#), although some annual changes were noted. In particular the low pass rate for FD2 has been addressed via the relevant Examiner's Report [here](#) and the PEB response to the student survey [here](#).

The pass rates for IPLC were 100%, and the ICPA pass rate fell slightly from 89% in 2016, the first year of the examination to 79%. Any trends with regard to the ICPA pass rate will be kept under review, as this is only the second year of the PEB offering this examination.

### **Incidents**

There were 16 incidents logged for the period. This compares with three in 2014-15 and three in 2015-2016.

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Three related to issues with venues, two to issues relating to invigilators and one to ICPA examiner marking. These, and the actions the PEB will be undertaking as a result of these incidents, are reported on elsewhere in this report.

Two incidents related to issues or apparent issues with minor errors in two Foundation Certificate papers. These were addressed on the day at all venues across the country.

Three issues involved the despatch of candidate scripts from venues, and their safe receipt at the third party supplier of print services. There appear to be a number of causes for these issues. No candidate scripts were lost. The third party of print suppliers' expertise was invaluable in tracking down and accounting for any missing packets. These incidents did not affect candidates.

There are considerable challenges in working with venues that might only be acting as an examination centre for a day or two. Combined with non-compliance by an invigilator and /or issues with the courier, reducing such incidences can be difficult. The PEB will increase its collaboration with the venues in this area, and will improve its instructions to invigilators.

Three issues related to the PEB examination. One was a short burst of noise outside the venue during the written examination. Extra time was added to the examination to address this issues. The other issues related to human error in the recording of LSC candidates undertaking the oral examination. Neither of these incidents affected the candidate or the marking.

The remaining incidents related to the third party supplier. Both these issues have been addressed. They did not affect candidates directly.

### **Risk Register**

The PEB risk register is updated and reviewed quarterly. It remains in the format published in the 2015 version of this report. Two issues under close scrutiny during the year 2016-2017 have been the migration by CIPA to a new database and a new website, and the potential impact of IPReg policies on the viability of the PEB. As reported elsewhere the new database did create some issues which are now resolved and relations with IPReg have improved during the year.

### **Issues arising from invigilator reports**

Invigilators were trained and issued with instructions. All examination were fully staffed, and all invigilators submitted a report on each examination within twenty four hours of the examination. Matters arising from these reports were compiled and actioned in the appropriate manner. Where they affected candidates these were reported to the awarding meeting as a special consideration.

### **Quality and status of examiners**

The 2016 examinations were fully resourced from the examiner perspective. There were two new marking examiners appointed to the Foundation Certificate, and, as usual, some new marking examiners marking the Final Diploma.

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IPLC and ICPA examiners were successfully recruited and trained. All the LSC examiners had set and marked in 2015 and the majority of the ICPA examiners had also marked the January 2016 examination paper. The two Principal Examiners for ICPA were unchanged.

All examiners received, as appropriate, training on setting question papers and marking instructions.

All examiners were subject to performance appraisal via a quality assurance report completed by the supervising examiner.

### **Exemptions granted**

There were no exemptions granted for FC2 English Law.

### **Examination Entries**

The upward trend in entry numbers for qualifying examinations as a whole continued in 2016. Full details can be found [here](#).

Following the 35% increase in entries for Foundation Certificate in 2015, there was a small decline of 9% in 2016, but an increase of 22% in Final Diploma entries.

The board noted that this increase in Final Diploma entries is largely due to firms' recruitment patterns in previous years.

There were only 17 candidates taking the IPLC examination, whilst the ICPA examination entry remained stable at around 140.

### **Third party suppliers**

The benefits of a professional supplier of print, scanning and distribution continued to accrue as the PEB worked with them for a second year. Issues identified in 2015 with working with the technical drawing supplier have now been resolved.

There were no other major third party suppliers engaged by the PEB in 2016, nor any new ones anticipated in 2017. The PEB will only report on this issue in future to identify any significant changes or issues.

### **Surveys**

The PEB issued its annual Student Survey to qualifying examination candidates after the 2016 examinations. The report is published [here](#). The PEB is pleased to have offered and published a response to the points raised by candidates, and expects to continue to do so, resources allowing.

In 2017-2018 the PEB is to commission a comparison report of all of data from the student surveys 2014 to 2016. It is hoped that improvements might be observed and that it will highlight any persistent issues that it might seek to address.

All the qualifying examination examiners are surveyed annually as to their views of the quality assurance of marking, including standardisation and supervision, and awarding. The results of this survey are shared with all examiners, and used by the PEB GB and the Examination Committees to Final 16.05.17

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further refine policy and processes. Many examiners report increasing satisfaction with the processes and administration, with suggestions for minor improvements.

### Syllabus review

There were no significant changes to any PEB examination syllabuses in 2016.

As a result of the feedback gathered in the Student Survey the PEB has decided that all Foundation Certificate examinations will be three hours in length in 2017, and in addition to mentioning it in the [response to the student survey](#), has published a note to that effect [here](#), and advised the CIPA Informals.

The PEB met with IPReg to discuss the [Accreditation Handbook](#) and the PEB's desire to seek accreditation for the Foundation Certificate Examinations. This was a positive meeting and the PEB will be submitting its request for accreditation in 2017 for the 2018 Foundation Certificate examinations.