



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

### **Self-assessment report**

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# Patent Examination Board Self-Assessment Report 2017 – 2018

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# Patent Examination Board Self-Assessment Report 2017 – 2018

## Foreword

This is the fourth 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 actions we have taken, to increase examination fees year on year by 20% for both the 2017 and the 2018 examinations, assure our financial security for the foreseeable future. This means that fee increases from 2019 examinations onwards will be kept to the minimum required to maintain our financial stability, whilst investing in quality and candidate support.

The infrastructure support issues with CIPA are now resolved, although the CIPA office move in the summer of 2017 produced some further to be expected issues which are also now resolved.

We have worked closely with IPReg on new Foundation Certificate accreditation requirements, and details of its progress are in this report on page 11 under 'Syllabus Review'. In June 2017 the PEB was subject to its second Qualifications Assurance Agency External Assurance visit, the report of which is published [here](#). We will be reporting to IPReg on progress in June 2018, before publishing our progress on the recommendations.

The PEB published the outcomes of the FD4 Research project conducted by Middlesex University in conjunction with IPReg, CIPA and the PEB. We continue to work on the suggestions from the FD4 research project, sometimes in collaboration with CIPA. So for example the FD4 Study Guide has been edited and updated by an examiner for the 2018 examinations, and there is a planned webinar for mentors who support FD4 students. This is organised by CIPA and supported by the PEB.

Following a PEB Governance Board (GB) strategic planning day in September 2017, the PEB is placing increased emphasis on candidates' understanding of the assessment requirements in general for all examinations. We have made a start on this during 2017 by issuing sample assessment materials to accompany the new Foundation Certificate syllabuses, providing detailed examiner annotation on the published pass sample scripts, and providing a marks breakdown to each candidate along with their overall result to show how the marks they gained were awarded by question or section. The issue of the understanding of and clarity about the assessment requirements will remain on the PEB agenda in 2018.

This will be my last self-assessment report as Chair of the PEB GB. I have been chair of the PEB since its inception in 2014, and will be departing at the end of 2018. It has been an eventful and sometimes challenging four years for the PEB, but with the examination board now established and operationally secure it is time for a new Chair to lead the PEB into its next phase.



**Robert Taylor, Chair of the PEB Governance Board**

# Patent Examination Board

## Self-Assessment Report 2017 – 2018

### 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 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 2017 to 31 March 2018 and relates to all examinations and related activities for the period.

Many measures within this report, including the survey feedback from examiners, indicates a continuing steady state as 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, work on a detailed Memorandum of Understanding with CIPA was started, and, a new member of the PEB administrative staff appointed in January 2017, left for promotion in January 2018. At the time of writing this post has yet to be filled. The CIPA office move in the summer of 2017 presented the usual challenges for all involved.

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 Certificate examinations from 2018 onwards. IPReg have worked collaboratively and consultatively with the PEB. As described below there have been some issues outside both IPReg's and the PEB's control, but we hope the next stages will be clarified soon.

### Constitutional matters

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

### PEB Governance Board

The GB met formally as follows:

30 June 2017;  
25 September 2017;  
05 December 2017;  
14 March 2018.

It held a teleconference in January 2018 to finalise the 2018-2019 budget, and a strategic development day on 5 September 2017.

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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 updated (January 2018) approval and reporting schedule which can be viewed [here](#).

The GB re-elected Dr Robert Taylor to serve as a lay member for three years, and as Chair for a fourth year. Debbie Slater, the Patent Attorney member who had resigned her post with effect from March 2017, was replaced by Fiona Bor whose first meeting was in June 2017. There were no other changes.

The GB appointments and reappointments policy and a performance review procedure makes clear 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.

During 2019 and 2020 three of the five GB members' terms of office (two lay and one patent attorney) are due to cease in accordance with the constitution. The GB is currently considering how best to manage this transition.

### **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 last year's report, it is intended that the three year business plan, not the terms of reference, will provide the objectives against which the PEB measure its performance.

At its September 2017 strategic planning day the PEB identified key priorities for further work. These were categorised into priority 1 2 and 3 activities. Level 1 activities included:

1. Improve intelligence on past and potential future CIPA membership and examination candidate numbers (including those taking IP qualifications with other providers in UK) to enable more effective planning of activities to support the sustainability of the PEB.
2. Provision of mentoring/training courses for mentors and/or employers (potentially in partnership with other providers)
3. Establish meetings with key CIPA staff to discuss issues of concern to the PEB
4. Establish meetings with key IPReg personnel

In 2018, at its second strategic planning day, the PEB will further refine these priorities, and will aim to translate these into a three year business/operational plan during 2018 – 2019.

### **Examination Committee**

The Examination committee met twice. The Foundation Certificate examiners met in January 2018, and the Final Diploma examiners in February 2018. Issues covered included the accreditation process and the return of the marks breakdown to candidates.

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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 a visit and [report](#) by the QAA in June 2015, a second visit was arranged in May 2017. The report arising from this second visit and the recommendations (p.2) can be found [here](#). The GB is due to report to IPReg on its progress on actions in June 2018. The report recommends the next visit be in 2020.

### Financial matters

The PEB's Minimum Reserve Policy and Budgetary Policy were reviewed alongside the setting of the 2017-2018 forecast budget and can be found [here](#).

Following operating losses the GB agreed with CIPA and IPReg, two consecutive year on year 20% fee increases, starting with April 2017 budget.

The financial year 2016-2017 returned a small operating profit, and this, combined with a larger surplus returned in 2017-2018, has resulted in the PEB establishing a financially neutral position. Any operating surplus in the financial year 2018-2019, will therefore form the basis of the PEB accumulating reserves in accordance with its policies.

The 2018 – 2019 forecast budgets for the Qualifying Examinations and Introductory Certificate in Patent Administration (ICPA) can be found [here](#).

CIPA is not offering its Litigation Skills Course in 2018, and so the PEB has not created a forecast budget for delivering the related examinations.

### Reporting and approvals

The PEB has, as part of its approvals schedule, amended its policies and procedures for all 2018 examinations. These were published in January 2018 [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. A candidate dissatisfied with an FD4 examination result lodged a complaint.

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

The figures for this year and the comparison with previous years can be found [here](#).

The numbers of EARs lodged saw an increase from 15 to 21. For the first time, five of these were for ICPA. This increase in ICPA requests may have been prompted by the higher pass mark set in 2018. None of the five ICPA Stage 1 requests went to Stage 2 for a review of marking. One distinction ICPA candidate erroneously applied for an EAR. This application is included in the figure, but no EAR was conducted.

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For the Qualifying Examinations there was an increase in requests of one, to 16. Given the increased candidate numbers, this represents a fall in requests in percentage terms when compared to 2016. There was a marked increase though in the number of EaR Stage 2 requests made – up from seven to 14.

Four of the 14 EaR Stage 2 reviews were deemed a pass, having been previously awarded a marginal fail. All other EaR stage checks resulted in no change to the result issued. The PEB will be reviewing the advice and guidance given to examiners when reviewing marginal scripts before results are issued.

There was one Stage 3 request. This resulted in no recommendations for change that would ultimately have affected the candidate's result, but there are some suggestions for process improvement which the PEB are actively considering at the time of writing.

### **Data subject requests**

The PEB received two data subject requests in relation to the 2017 Qualifying Examination results. One resulted in a clerical error being uncovered which led to the candidate's mark being changed from a marginal fail to a pass.

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

The working instructions were reviewed and written, for the new website, database and finance system or rewritten or updated as necessary in January 2018. There are now 52 working instructions which cover the work of the PEB.

### **Reasonable adjustments granted**

A report comparing adjustments requested and granted in 2017 to previous years can be found [here](#). As a percentage of the entry the numbers for Qualifying Examinations remain within usual limits, although an increase in candidates being granted both a laptop and extra time is noted. There was a slight actual and percentage increase in the number of candidate entries being granted extra time for ICPA.

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

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

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 whole cohort special consideration were considered statistically. Such disturbances included the evacuation of an examination room when the fire alarm went off (not a test), and more general noise disturbances as reported by individuals or invigilators. 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. Where candidates are uncomfortable with their position in the examination hall they should take up any offer to be moved, rather than raising it as an issue after the examination.

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It has been noted that low level intermittent inside and outside noise at the Glasgow venue has become intolerable. As a result the Glasgow venue will be changed for the 2018 examinations.

### **Invigilators**

As reported in 2016, the PEB widened the pool of available invigilators in 2017 – 2018. On the whole this resulted in improved invigilation and fewer comments about the invigilators disturbing candidates. Invigilators were trained and issued with instructions.

Regrettably there was one issue created by an invigilator which affected a candidate. This was considered as a special consideration for that candidate.

The PEB also improved the invigilator instructions for and the process by which scripts are returned to the supplier for scanning. This results in fewer issues with getting the scripts to the scanner, although as reported in the incident section of this report below there was an issue created by DHL, but no scripts were lost.

All examinations 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. Where they affected candidates these were reported to the awarding meeting as a special consideration either for the individual or for the whole cohort.

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

There were no significant changes to or issues arising from the quality assurance of marking process, which proceed as described in previous reports, and as published to examiners in the Marking Instructions.

### **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 issues were noted.

The low pass rate for FD2 for the second year in a row has been addressed in part the relevant Examiner's Report [here](#). The examiner also expects to write a report for the CIPA journal before the 2018 examination.

The lower than expected pass rates for FC4 and FC5 are also addressed via the [Examiners' Reports](#), and via the [PEB's response to the Student Survey](#).

The pass rate for IPLC was 100%, and the ICPA pass rate, whilst lower than that of 2016 at 89%, was consistent with that of 2017 (79%) at 78%. It was noted that the pass rate boundary was higher than previous years. This is explained in the [Examiner's Report](#).

### **Incidents**

There were 12 incidents logged for the period. This compares with three in 2014-15 and three in 2015-2016, and 16 in 2016-2017.

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Three issues related to minor errors on the question papers or Candidate Cover Sheets for FD1, FD3 and ICPA. Where required the necessary action was taken at the time, and/or during the marking and awarding process to ensure that candidates were not disadvantaged.

Three incidents related to the print and distribution supplier or the courier DHL. One of these affected a few individual candidates who had to use a 'blank' question paper pack rather than one that was pre-populated with candidate data.

One incident affected all Qualifying Examination candidates (but not LSC nor ICPA). The results letters were sent out after the marks breakdown email had been sent, causing some confusion. This was rectified when the results letters were issued around 11.30am on results day. In future the despatch of the results letters will be confirmed before the marks breakdown is issued.

Four incidents affected individual candidates. These were rectified as soon as they came to light. Two of these changed a previous fail mark to a pass mark for each candidate, and were the direct result of human error.

One other issue concerned the preparation of the 2017 Law Update. This was an internal issue and did not affect candidates. The process for preparing this update was changed for the 2018 examinations.

### **Risk Register**

The PEB risk register is updated and reviewed quarterly. It remains in the format published in the [2015 version](#) of this report. Issues under close scrutiny during the year 2017-2018 have been the CIPA office move and the change to open plan office working, the change of officers at IPReg, and the need to establish good working relationships, and the PEB's reliance on CIPA for financial support. All three of these have now been reduced in rating on the register as the office move has settled down, effective working relationships have been established with key IPReg personnel, and by the end of the financial year 2017-2018 the PEB had largely repaid its accumulated debt to CIPA, and should from 2018 -2019 onwards be financially independent. Further, CIPA and PEB have agreed to put a memorandum of understanding in place about the services provided. This is currently being negotiated.

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

The 2017 examinations were fully resourced with examiners. As usual there were some new examiners marking the Final Diploma, particularly for FD4. These new FD4 examiners attended a training session and 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.

ICPA examiners were successfully recruited and trained. The majority of the ICPA examiners also marked the January 2017 examination paper. The two Principal Examiners for ICPA were unchanged.

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All the LSC examiners had set and marked the 2016 examination, and the External Examiner was unchanged.

All examiners were issued with comprehensive marking instructions, and 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. In future this will not be reported on, unless there is an exceptional year. 'Exemptions' for FD2 and FD3 via the EQEs are recognised by IPReg, rather than the PEB, as meeting their requirements for registration.

### **Examination Entries**

The upward trend in entry numbers for Qualifying Examinations as a whole continued in 2017. Full details can be found [here](#).

There was an overall increase of 7.4% in Qualifying Examination entry numbers with the Final Diploma examinations having a slightly larger percentage increase than the Foundation Certificate, but both were higher than in 2016.

The IPLC examination and ICPA examination entry remained stable.

### **Surveys**

The PEB issued its annual Student Survey to Qualifying Examination candidates after the 2017 examinations. The report is published [here](#). The PEB has published its response on the same page.

In 2017 the PEB commissioned a comparison report of the data from the student surveys 2014 to 2016. This too is published on the PEB communications page [here](#). The issue of the low pass rate for FD4 remains a persistent concern, and one which the PEB is actively seeking to address as outlined in several places in this report.

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 GB and the Examination Committees to further refine policy and processes. As last year, those who responded report general satisfaction with the processes and administration, with suggestions for minor improvements.

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## Syllabus review

There were no significant changes to the ICPA, LSC nor Qualifying Examinations syllabuses in 2017.

As announced in 2016, all the Foundation Certificate examinations were three hours in length in 2017.

The PEB submitted its request for accreditation to deliver the Foundation Certificate examinations in September 2017, with the intention of accreditation being granted for the 2018 Foundation Certificate examinations.

Unfortunately, after an initial visit by the assessor in September 2017, and the submission in early October 2017 of some further information, the assessor was incapacitated, and the process effectively stopped.

Whilst waiting for news on how the accreditation would proceed, and in accordance with the PEB's policy of publishing information by end of January for that year's examinations, the PEB published in January 2018, in agreement with IPReg, the new syllabuses (mapped to IPReg's Schedule A and Schedule B subjects and skills listed in IPReg's [Accreditation Handbook](#)). We announced the new common format for all Foundation Certificate examinations, and published sample examination papers for candidates preparing for the 2018 Foundation Certificate examinations.

The full accreditation process was restarted in May 2018, and at the time of writing the PEB are in discussion with IPReg about the next steps and timing of full accreditation. In the meantime, the PEB remains an authorised supplier of the Qualifying Examinations.