

Accreditation of Examination Agencies - PEB Assessor Report

Applicant organisation:	The Patent Examination Board (PEB)
Authors:	■■■■ and ■■■■
Date of visit:	26 September 2022 at CIPA, 2nd floor, Halton House, 20-23 Holborn, London EC1N 2JD
Examination Agency staff met with:	<p>Damian Day, Chair of PEB Governance Board Dr Fiona Bor, PEB GB Patent Attorney Member Mike Williams, PEB GB Patent Attorney Member David Amos, PEB GB Lay Member Professor Carl Stychin, PEB GB Lay Member Dr Janet Chisem, FD1 Principal Examiner Tim Allsop, FD2 Principal Examiner Christopher Gibbs, FD3 Principal Examiner Martin Hyde, FD4 Principle Examiner Dr David Musker, External Examiner Angelina Smith, PEB Head of Qualifications Ruth Matthews, Qualifications Consultant.</p>
Date of report:	V 14122022 response from assessors to PEBs comments
Recommendation:	<p>The assessors recommend that PEB be accredited to deliver the Final Diploma Examinations on the basis that the mandatory requirements (listed in section 8) are implemented in full and that the recommendations (listed in section 8) are either implemented in full or if a decision is made not to implement a recommendation or to partially implement a recommendation that decision is adequately explained to the IPReg.</p> <p>All mandatory requirements and recommendations are to be complied with through the submission of appropriate documentary evidence and in discussion with IPReg by [IPReg to add date]. PEB to discuss with and supply to IPReg an action plan and implementation timetable.</p>

1. General comment

1.1 This report is in respect of the PEB application (July 2022) to continue to offer the Final Diploma examinations.

1.2 This is the first review of the Final Examination/Advanced Level Qualification by IPReg. This is a review of an examinations only qualification i.e. there is no PEB taught course. The IPReg Accreditation Handbook (second edition Summer 2021 update) does not define core subjects and learning outcomes or skills for this examination (although it is intended that it will do so in the future).

1.3 In March 2022 PEB were asked as part of the application process and in addition to documentary evidence required by the application form to submit a self-reflection document/report setting out how they ensure that:

-The qualification is awarded only to those candidates who meet specified learning outcomes (including academic and subject related skills and general transferable skills)

-The specified learning outcomes for each of the examinations are consistent with/refer to the Competency Frameworks and are at the required level (a minimum of level 6). It was suggested that PEB submit a mapping document and take into account the Mercer Review 2021 including the List of Skills and Knowledge, this being in effect a review and commentary on the current Competency Frameworks.

-The assessment determines whether each student has achieved the learning outcomes.

Such a document would give the assessors a picture of what the PEB consider a newly qualified Patent Attorney should know and be able to do.

1.4 At a Zoom meeting held on 24 May 2022 PEB explained that the information about learning outcomes would be supplied along with a mapping document referencing the Competency Frameworks where relevant. That the Mercer Review is “work in progress” however the assessors would receive a document setting out how PEB intended to approach it.

1.5 The application documents arrived with the assessors on time and are very clearly organised, for which the PEB is thanked.

1.6 The assessors reviewed the documentation supplied and asked for additional documents in an email dated 21 July 2022. The assessors received some of those documents on 22 August 2022 along with an explanation document (PEB Final Diploma Accreditation Submission Additional Document Request by IPReg Assessor-August 2022).

1.7 The assessors visited the PEB on 26 September 2022 and explained that certain items, that they had asked to look at, had been refused on the grounds that they are

confidential/covered by data protection legislation eg Governance Board minutes, actual student complaints, actual candidate scripts¹ including failed scripts, examiners' biographies. The PEB had provided full explanations for refusing to disclose certain documents in the "explanation document" referred to in paragraph 1.6 above. This evidence was requested in order for the assessors to corroborate evidence and validate findings. The assessors accept PEBs' explanation for non-disclosure however they are unable to pass comment on particular areas which would have been covered by this documentation. The assessors explained that this would be highlighted throughout the report where relevant; this necessarily meant that not all the required documentation had been submitted.

1.8 This report covers information received by the assessors on the actual visit and as a result of the additional document request in August 2022.

Quality Assurance cycle

1.9 The assessors asked PEB to describe and explain the processes that make up the quality assurance and enhancement of PEB practice. The assessors needed clarification as to which members of the PEB meet in the various committees, discuss for example the content of syllabus (other than legal updates), learning outcomes etc and make necessary changes (small and large scale). How would PEB approach, for example, implementation of the Mercer Review?

1.10 The PEB were asked to explain their structure as set out in document 5 The Quality Assurance and Quality Enhancement of the PEB Final Diploma and also in the QAA documentation (documents 16a,16b,16c).

1.11 PEB explained the structure of their organisation (document 5). The Governance Board (GB) is strategic i.e. decides in what direction PEB is heading and has oversight of the Examination Committee (EC). Members of the Governance Board take it in turns to sit on the Examination Committee to observe eg decisions re issues with candidates and identify good practice.

1.12 The Examination Committee deals with the practicalities of the examinations. The role of the Examination Committee is set out in the PEB Constitution i.e. The EC comprises the Chief and Principal Examiners. The EC also comprises ex-officio patent attorney and lay members of the GB as appropriate. Marking Examiners, or others with appropriate expertise such as the External Examiner, or others with appropriate expertise such as the External Examiner, may be invited to the EC. The Examination Committee takes place once a year usually straight after and on the same day as the Awarding Meeting. The Chief Examiner (currently this post is vacant, it has previously always been occupied by a practising patent attorney although this is currently under review) and Principal Examiners attend both meetings. Individual sub groups of the Examination Committee look at each of the four examinations.

1.13 The Head of Qualifications is responsible for the day-to-day management of the operation of the PEB and reports to the Chair of the GB.

¹ The assessors assumed that these would be anonymized.

1.14 The PEB team took the assessors through the yearly quality and assessment cycle. In March the Head of Qualifications commissions the examination papers via an email sent to the four Principal Examiners. The Principal Examiner for FD4 explained that he usually drafts the examination paper (made up of one long assessment task) with one or more Marking Examiners (with differing experience) to help him. In total FD4 has a pool of approximately 19 Marking Examiners. For FD1 (which comprises 9 questions) the team of Marking Examiners that contribute would be six or seven. The Principal Examiners work to a formalised timetable and draft papers need to be completed and sent to the Head of Qualifications by the end of May.

1.15 The draft papers are then sent to Testers (two per paper). This has been part of the process since 2015. These are members of the profession and are chosen to reflect a mixture of experience and present a balanced view. The FD2 Principal Examiner explained that they hunt out particular skill sets depending on the questions set and the requirements re feedback and comments. Testers are given instructions as to what is required of them (including answering the examination within the allocated time for candidates) and are asked to complete a template report. They are given two to three weeks to complete their tasks. Each Principal Examiner receives the Testers' reports for their examination. Testers raise a variety of issues e.g. clarity of drawings, focus on subsidiary rather than main points of a question, paper or question confusing, not enough time to complete the paper, what they can and cannot understand. Testers are sent the mark scheme after they have completed their initial report. Principal Examiners then take their comments onboard.

1.16 In June/July all four Principal Examiners and a Patent Attorney member of the GB attend a Question Paper Evaluation Meeting. The four papers are looked at holistically, -are they at the same level? -have any areas been repeated? - are the standards of the profession maintained? All four papers are considered. The Testers' comments are referred to.

1.17 The External Examiner receives the draft examination papers in parallel with the Testers, however he receives the mark schemes at the same time as the drafts.

1.18 The External Examiner was first appointed in May 2021 and was in place for the October 2021 session. The services that the External Examiner is contracted to provide are set out in the additional document PEB Response to the IPReg Assessors' Report under Requirement 1. The External Examiner commented that the process of circulating papers needed clarification. The assessors consider that as one full examination session involving the External Examiner has now been completed it is appropriate for PEB to review the role and responsibilities to ensure that it is working effectively.

Requirement 1: review role of External Examiner(s) to ensure fully involved in the assurance of standards, maintenance and enhancement of the quality of the assessment experience.

1.19 The Head of Qualifications and Qualifications Consultant also check the draft papers for clarity before they are sent for external proof reading and printing.

1.20 The candidates access and complete the examination papers online.

1.21 Marking Examiners are asked in advance whether they have a conflict of interest in respect of any candidate. The Head of Qualifications then allocates scripts using an automatic selection process (which allocates at random).

1.22 The Principal Examiners select 5 scripts which all Principal and Marking Examiners mark using the marking scheme. Because FD1 comprises a choice of questions the Principal Examiner ensures that the 5 scripts cover all 9 questions. The results of this exercise are collated and referred to at four separate Standardisation Meetings (previously held face to face and now conducted by Zoom). A Patent Attorney member and a lay member of the GB attend all four meetings (the latter fills in a template - the Standardisation Monitoring Form - covering how the meeting should be run), documents 10a-10d. This is where eg any conflicts of interest, outliers, any variations in answers, distribution of marks can be discussed. The mark scheme may be adjusted as a result of this meeting. Further papers may be marked within one week of the meeting, by all examiners, for a particular unit, using the amended scheme; in total 6/7 papers may go through this standardisation process.

1.23 The assessors noted that these templates have been completed very sparingly eg in document 10a Final Diploma FD1 Standardisation Meeting Monitoring Form 2021. Under review of standardisation scripts the only comment is "This was discussed at length". The PEB explained that they have considered fuller minutes and minuting actual discussions.

1.24 The assessors noted that this is true (ie insufficient information recorded) of many of the minutes of meetings supplied in the application pack (see further examples later).

Requirement 2: meetings be fully minuted. Minutes should be an official record of discussions, decisions and actions taken. Currently it is not clear what happened and what actions taken/ not taken. All minutes should note what the discussion was and how the issue was resolved whether that be an action or no action required. Need to document board/committee adherence to the proper procedures. Minutes should be starting point for next meeting and are an integral part of the QA cycle and ensuring consistency.

1.25. A PEB GB patent attorney member attends Question Paper Evaluation Meetings and completes a Monitoring Report. A GB lay member attends Standardisation Meetings and completes a Monitoring Report (Documents 10a-d). GB lay and patent attorney members attend Awarding Meetings and a lay member completes a Monitoring Report (Document 11). This use of monitoring reports reflects good practice. However, the assessors noted that the Chair of the GB is also the GB lay member who attended and completed the report for FD1 and FD2 meetings in November 2021. If the GB oversee the Examinations Committee it is

difficult to see how this can work effectively if the Chair of the GB also attends and writes the report of eg a Standardisation Meeting.

1.26 The assessors suggest that in respect of the examination committees/boards there be a review of the membership, quorum, chair's action/limitations/exercise of discretion/conflicts of interest. PEB are advised to ensure that examination committees/boards understand their powers of authority and accountability. Also advised to review how PEB will maintain records of examination board decisions and factors taken into account in using discretion, Special Consideration etc.

Requirement 3: review roles, responsibilities etc. of each board/committee.

1.27 Marking Examiners contact the Principal Examiner if they come across any unexpected issues during the marking period. The FD2 Principal Examiner explained that throughout this period the examiners are in communication with each other eg perhaps a whole batch of scripts are failing. Every paper is double marked, the mean of the two examiners' marks is awarded unless pass/fail, difference of more than 11 marks or a marginal mark ie 47,48 or 49. This can apply to up to a third of the scripts and is resolved by Marking Examiners' reconciliation process. If the discrepancy cannot be resolved the Principal Examiner carries out a third marking.

1.28 Marks are uploaded to an awarding spreadsheet and are statistically analysed. The spread of marks is reviewed by the Chief Examiner. A new Chief Examiner has recently been appointed for the 2022 session; PEB is reviewing how the role will work in future sessions. The Principal Examiners review the statistical data (mean mark, mark distribution, standard deviation) for their own paper. In 2018 the pass mark for FD4 was lowered as a result of this process (where originally 11 candidates out of 200 would have been awarded a Pass). This process was recorded in the Awarding Meeting Monitoring report and in documents published on the PEB website for candidates' attention.

Requirement 4: review role of Chief Examiner to ensure fully involved in the assurance of standards, maintenance and enhancement of the quality of the assessment experience.

1.29 An Awarding Meeting is held in February/early March and comprises the Chief Examiner, four Principal Examiners, the GB Chair, two GB Patent Attorney members, a GB lay member, External Examiner, qualifications consultant and Head of Qualifications. The Awarding Meeting Monitoring form is completed by the GB Lay Member to ensure due process is followed in accordance with PEB Quality Assurance procedures. The processes to be followed are contained within the FD Marking and Awarding Instructions Section 2.6, Section 9 and Appendix 5 (Document 9 Final Diploma Marking and Awarding Instructions). Requests for special consideration are considered at this meeting. The assessors noted that the membership of this committee overlaps with other "overseeing" committees. PEB are advised to be clear about membership and how this sits with GB oversight. The Chief Examiner normally chairs the Awarding Meeting. The structure of the FD examining team contains just one Chief Examiner. There are four Principal Examiners, each with responsibility for one examination (Document 9). The Marking

and Awarding Instructions will be reviewed and amended to clarify the role of Awarding Meeting Chair. The assessors also noted that document 11 QE Final Diploma Awarding Meeting Monitoring Form February 2021 was very briefly completed, there are references to “detailed discussions...lengthy discussion [re lower pass rates]...” with no detail as to what those discussions covered.

See Requirements 2 & 3

1.30 After the Awarding Meeting there is the Examination Committee. The assessors noted that Principal Examiners make comments and raise issues at the Final Diploma Examination Committee (document 4e) however it is not clear what happens as a result. PEB explained that some points are agreed and others actioned - however there are no notes of this. Explained that sometimes the meeting results in harmonisation of group ideas. The assessors discussed the importance of minuted actions.

1.31 The mark schemes are published at the same time as the results are published.

1.32 The above discussion gave the assessors a clearer insight into each of the various committees and what they each do. It gave them insight into the day-to-day quality assurance cycle. As mentioned above the assessors are concerned as to the membership of certain committees - proper oversight, an integral part of the quality assurance cycle, must be maintained.

1.33 Decisions relating to assessment strategy are the responsibility of the PEB GB (PEB GB Terms of Reference paragraphs 3 and 4). Decisions about assessment are incorporated into the Setting and Marking and Awarding Instructions which are issued to all examiners. However, the assessors have not been given access to full PEB GB minutes setting out how and what decisions have been made over past 3 years.

1.34 It is clear that Principal Examiners have an opportunity to contribute to assessment strategy however it is difficult to identify completed actions in the Final Diploma Examination Committee minutes despite the document containing an action column (document 4e). Three sets of FD Examination Committee meetings were supplied in total. Referring to the Final Diploma Examination Committee February 2022 minutes (document 4e) PEB were asked if there had been any follow-up. Ideas, for reducing the number of repeat resitters, were discussed in this examination meeting in 2021 and again in 2022 - the assessors asked what has happened about this. Noted that there are no actions recorded against this item.

Periodic review

1.35 It is not clear to the assessors as to how major change is driven forward. PEB have obviously responded to some of the suggestions made in the external reviews and overhauled their assessment policies and procedures, for which they are commended. Without access to GB minutes it is not clear as to the process by which this happened. It is therefore not clear to the assessors how PEB would go about a full periodic review of the Final Diploma examinations, a full assessment, involving external experts and other stakeholders of the syllabus, learning outcomes,

threshold, level etc. Document 33 PEB Response to the Mercer Review Recommendations was included in the submission. On page 11 is a Draft Action Plan which will be developed further in the near future. The 2022-2025 Strategic Operational Plan was provided to the assessors in mid-September 2022. PEB's response to the Mercer Review was discussed at the meeting with the assessors. It was explained that the PEB GB has an Action Plan in place and will be monitoring this routinely at Governance Board meetings.

2. Quality

Assessment against the Required Features:

- *For a Foundation Level Qualification, the course provides the Foundation Level Qualification Core Subjects and Learning Outcomes (General Transferable Skills) as specified by IPReg*
- *For an Advanced Level Qualification, the course provides the Advanced Level Qualification Learning Outcomes [when in place]*
- *The course syllabus defines appropriate outcomes and attributes for each unit or module offered*
- *Regular review is undertaken to ensure continuing relevance*

Please provide comment on availability of evidence sources as per Annexure 'Evidence Sources Checklist'.

Advanced Level Qualification/ Mapping

2.1 The assessors were supplied with document 3 IPReg Competency Framework mapped to the PEB Final Diploma Syllabi. This maps the PEB syllabus against the Technical/ Advanced level / Intermediate Skill Sets in the Competency Framework. The assessors also requested any documentation mapping the PEB syllabus against the General/ Legal Skill Sets.

2.2 PEB replied that they have not done this type of mapping in the past and that the IPReg Accreditation Handbook does not require qualification providers to carry out this type of mapping exercise against general/legal skill sets. The assessors consider that mapping against general /legal skills is implied by the Handbook in particular item 43. PEB replied that paragraph 43 is in the section of the Handbook which has the main heading, "IPReg Accreditation Standards Core Subjects and Learning Outcomes-Foundation Level Qualification" (page 9) and also paragraph 13 that mentions General Transferable Skills is in the bullet point about Foundation Level qualifications but not the bullet point about Advanced Level qualifications. It therefore appears to PEB that IPReg's intention was that the General Transferable Skills applied at Foundation Level only. The assessors consider that mapping the syllabus against general/legal skill sets would be a useful exercise.

2.3 The assessors have reviewed the syllabi for the four FD papers, along with the associated 'Guidance for Candidates', 'Reading List' and 'The Examination'. While 'Learning Outcomes' are sometimes listed as skills being assessed rather than learning outcomes, the assessors are satisfied that PEB have followed processes and procedures to ensure that the syllabi are comprehensive and cover the range of knowledge and competencies that are needed to qualify as a UK Patent Attorney. The IPReg Competency Framework is defined in high level terms, and the assessors are satisfied that the competencies required by IPReg are aligned with what is assessed in the FD examinations.

2.4 The assessors understand that the PEB approach comes from a background of a professional qualifying examination, not an academic institution. However, it is hard for the assessors to understand at what level the FD examinations are positioned; the benchmark indicated being Level 7. The main evidence supporting this Level 7 positioning is that the FD papers are widely regarded as difficult, but by no means impossible, to pass and the candidates sitting FD papers are graduates who are heavily filtered in the process of gaining a training place, and will be academically able graduates. Paragraph 2.14 of the External Examiner's report on the 2021 examinations asks "Was the standard of the assessment consistent with that of UK higher education establishments where applicable, at QAA Level 7 and/or the IPReg Accreditation Handbook, so far as you could tell?". The External Examiner's answer was "Yes (to the extent that there are any comparables)". See also paragraph 2.14 below. The assessors acknowledge the important role of the External Examiner in checking that Level 7 is reflected in the examinations. However, the assessors are not confident that PEB has in place sufficient other processes and procedures, throughout the whole assessment process, to ensure that the advanced level outcomes are at Level 7, master's level.

2.5 The assessors note the awareness of PEB that there is a process involved in progressing along the path of quality assurance, external examination, listening to feedback and evolution of the FD examinations as the UK patent profession advances; this is dealt with in various places in this report and the assessors encourage this process actively.

Recommendation 1: PEB actively progress the enhancement of quality assurance, external examination, listening to feedback and evolution of the FD examinations as the UK patent profession advances.

2.6 The assessors did not see documentary evidence that PEB are assessing General/Legal Skill Sets appropriately. It is not clear to the assessors how a candidate would know that they would be assessed on these skills. They are set out in the Programme Specification however do not seem to be explicitly referred to again. They are not referred to in documents 20a-20d (Assessment Grids). The skill of application was referred to extensively during the visit by the Principal Examiners however General / Legal Skills are more extensive than application. The assessors note PEB's comment as set out in paragraph 2.2 above.

Final Diploma Programme Specification (document 1)

Assessment methods and criteria are aligned to learning outcomes

2.7 PEB were asked how they ensured that assessments measure the learning outcomes and meet nationally agreed sector reference points (credit volumes and level). They were asked if they have threshold assessment criteria ie criteria implied by the outcomes.

2.8 The assessors noted that the Programme Specification refers to “a minimum level of competency” and a “minimum pass descriptor”, that the FD examinations “are benchmarked within the QAA Frameworks for Higher Qualification Frameworks ...as being at Level 7 ...” and that attributes that a candidate would be expected to achieve across the FD as a whole are set out. However, the Assessors had not identified any weightings/ level descriptors /reference to these attributes within either document 7a Instructions for the Setting of Question Papers or the marking schemes.

2.9 The assessors wished to understand how the “minimum pass descriptor” and/or the “minimally competent script...” is reflected in marking schemes. They noted that it is referred to in document 6 How Qualifying Examinations are marked, however, not in document 7a Instructions for the Setting of Question Papers or document 8 QPEC 2020 Monitoring Form. In document 7a “level” is referred to, however, only that an examination should be set at the same level as previous papers.

2.10 The minimum pass descriptor is referred to in document 9 Marking and Awarding Instructions for Examiners, however it is not clear to the assessors how PEB ensure that it is applied consistently for borderlines. Examiners are instructed as follows - the minimum pass descriptor in Appendix 1 should be used when considering whether or not a candidate should pass or fail. As the minimum pass descriptor is not part of the marking scheme it seems as if it is left to the individual examiner to e.g. determine what the “primary points/key information...” are.

2.11 PEB were asked what steps they take to ensure that across all 4 papers they cover what a patent attorney needs to know and be able to do. PEB explained that the unit syllabi were developed as a suite of units to cover what a patent attorney needs to know and be able to do. The QPEC Meeting agenda (Annex A of documents 7a and 7b) includes at point 4: “Is there appropriate coverage across the syllabuses?”. If question papers give appropriate coverage of all four unit syllabi, and since the four units together assess what a patent attorney needs to know and be able to do, the attributes will be covered across the whole of the Final Diploma. The Chief Examiner carries out an oversight role. The assessors note this explanation. However, they suggest that, to ensure that the attributes across the whole of the Final Diploma are covered by the four examinations, these outcomes should be referred to more widely in the assessment documentation (including the assessment grids documents 20a-d).

2.12 PEB explained that this is a professional qualification rather than academic.

2.13 The Principal Examiners explained that they know what the syllabus is for each paper and which areas should be tested in each paper. Between the four Principal Examiners they ensure that each examination covers different areas. The syllabi are key eg novelty and invention come within FD1 however candidates are not set a whole question because this would be covered in FD4. FD1 covers law and practice and to pass candidates must be able to apply their knowledge. The assessments test application in a professional context at the entry level to the profession. The tools used by examiners are the syllabi and communications/conversations at the various examination meetings ensure alignment. The assessors note the importance of assessing application of knowledge.

2.14 The External Examiner commented that he had reminded examiners to look at the Level 7 descriptors during the examination process, and he himself had identified the questions as all being in the same ball park. Level 7 is implicit and within the profession they know what needs testing.

2.15 The Principal Examiners explained that as regards the minimal pass descriptor they try to set papers within which are examinable points that are finely balanced, the answer to which would distinguish between a pass and a fail script.

2.16 The assessors asked how any new examiners would know about this process. All examiners are required to attend the Standardisation Meeting for the examination they are marking. New examiners have additional scripts checked and receive feedback from the Principal Examiners, and they receive examiner training.

2.17 The FD1 Principal Examiner explained that re the marking scheme, answers in bold are specific wording that one would expect to see in a correct answer and words in brackets are additional. That the use of vocabulary, variations in answers and adequate descriptions are all important and taken into account.

2.18 One of the GB Lay members explained that the examination meetings are an iterative process, plenty of discussions are conducted around half marks and the pass descriptor. Another explained that there are points within the marking scheme that you expect most candidates to get and then exceptional points.

2.19 The assessors asked what would happen where a candidate gives dangerous advice in an answer. The FD1 Principal Examiner explained that you cannot take marks away but if the script were reviewed against the Minimum Pass Descriptor, then it would not meet the Minimum Pass Descriptor.

2.20 The assessors are concerned that this iterative process is not transparent to stakeholders including candidates and any new eg Principal Examiners. The process does not protect consistency of marking.

Requirement 5: Principal Examiner discussions are fully recorded in the minutes.

2.21 There was a comment from PEB, in respect of the question posed by the assessors re maintaining overall coverage of required attributes, that the examinations would not be able to give a rounded view as there is the possibility of

exemptions. The assessors assume that this has been taken into account by the relevant authority.

2.22 PEB were asked to explain the reference to credit values (100 credits seemed different to what was usual, one would expect 120 credits for FHEQ Level 7 integrated masters). PEB have explained that this qualification was at the same level as a master's degree without being a full master's degree. Section 4.1 of the Programme Specification states that "The Final Diploma examinations are benchmarked within the QAA Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies (2014) as being at Level 7, which is the standard for a master's degree".

2.23 The assessors also asked why there is a reference to notional learning hours. The fact that training is not within PEB's remit does not preclude the provision of guidance to trainers and candidates that will help them understand the amount of preparation likely to be required to complete the Final Diploma.

2.24 It was not clear to assessors how PEB are using credits. Credit is more than simply a record of learning. If PEB intend that it be used by course providers as a course-design tool then it should be stated as such and lead to collaborative course design. If it is being used to describe comparability of learning achieved in volume and intellectual demand and is there to help candidates plan their study in terms of learning outcomes and credit accumulation then more investigation needs to be carried out, with for example stakeholders, to discover how much workload is actually associated with a successful qualification. PEB have explained that they use credit values to indicate the size of the qualification/unit and the time it will take an average learner to achieve a unit or qualification.

2.25 PEB have assigned FHEQ Level 7 to this qualification. The requirement from IPReg is a minimum of Level 6. Assigning levels to qualifications promotes the accurate and consistent description and marketing of those qualifications by those who award them. The assessors suggest that the language used in the drafting of the learning outcomes in the Programme Specification does not fully reflect a Level 7 professional qualification. PEB are requested to review these learning outcomes and reflect on what a candidate is expected to know, understand and/or be able to demonstrate after successfully completing the assessments. Is this qualification pitched at level 7 or level 6? There needs to be an explicit reference in both the exam setting and exam marking instructions as to how the assessments test these holistic outcomes, marks should not be awarded on the basis of the sum of the outcomes from each of the four papers.

2.26 The Programme Specification contains a statement of the minimum acceptable level of achievement that a candidate has to demonstrate to be eligible for the qualification. However it seems that the level of minimum competence only comes into play for borderline /"marginal" scripts (see document 9 Appendix 1). PEB are advised to revisit the suggestions made in the Middlesex report and align learning outcomes, the minimum level of achievement and FHEQ level to assessment criteria. Only then will candidates have full transparency as to what they are expected to know, understand and/or be able to demonstrate to successfully complete these examinations.

Requirement 6: PEB ensures that the

- threshold standard for the qualification and learning outcomes are consistent with the relevant national qualifications framework (Note that PEB suggest the UK Regulated Qualification Framework (RQF) standards are the framework more relevant to professional awarding and examination boards).
- assessments measure the extent to which candidates achieve the learning outcomes both at, and beyond, the threshold level.
- measurement of student achievement beyond the threshold is reasonably comparable with those of other equivalent qualifications - via external examining and the use of external input.

3. Student choice, access and teaching arrangements

Assessment against the Required Features:

- *Students are informed, in a clear and timely manner, when a module/exam is not an IPReg Core Subject and it is not mandatory to qualification as an attorney*
- *Students have appropriate and timely access to support, resources and teaching staff*
- *Cohort extremes, such as vulnerable or non-traditional route students, are supported*

Please provide comment on availability of evidence sources as per Annexure 'Evidence Sources Checklist'.

Information for candidates

3.1 The PEB Final Diploma Accreditation Application Form document 0 states that "candidates have open access to the following information...". This includes the following website pages: Home, Regulations, Policies, Procedures, Registration, Support, IPReg Documentation, Communications, FAQs and Contact. PEB supplied the assessors with a list of everything that is made available on the website for candidates.

3.2 It is clear from the information on the website what examinations are mandatory to qualification.

Support and training resources for candidates

3.3 Candidates have access to the following support materials: Examination Information including Law Changes for the calendar year; Past Examination Materials: 1992- most recent past examination papers, mark schemes and examiner reports (the 2022 examination paper and subsequent past examination materials will be published on the website on the day that results are issued); Sample Assessment Materials: Sample Instructions for Candidates, Sample question papers and mark

schemes, FD4 Model Answers; Examination Guidance: FD1, FD2, FD3 and FD4 and Syllabi for the calendar year; Programme Specification and FD1, FD2, FD3, and FD4 Syllabi.

3.4 The reports that Principal Examiners produce are those referred to in Document 12 PEB Annual Report 2019-2020 Section 8.2. The reports are designed for candidates, staff in firms who deliver training and external providers of training and are published on the PEB website <https://www.cipa.org.uk/patent-examination-board/support/past-examination-materials/past-examination-materials-qualifying-examinations/2021-examinations/>.

3.5 On the visit the Principal Examiners explained that these reports cover what was done well and badly by candidates i.e. common problems, explanation of the aim of the paper, brief summary of the main issues, candidate weaknesses, reassurance and general feedback.

3.6 The assessors have looked, in the same way as a candidate would, at a sample (the 2021 FD papers and associated materials), and could find readily and helpfully grouped on the PEB website for each examination:

Question paper

Mark scheme

Examiner's report

Sample pass scripts showing marks being accumulated, one with a mark in the 50s and one with a mark in the 60s.

3.7 These resources are of assistance to candidates, and this is reflected in some comments of recent candidates set out in Appendix 1. There was a reference to 'preachy comments' from examiners; the assessors emphasise the need for comments to be constructively critical and framed with an eye both to candidates who sat the examination and to assist future candidates for the examination.

3.8 Document 31d PEB Candidate Consultative Committee Minutes 7 June 2022 refers to the PEB report on the 2021 qualifying examinations which is supplied to candidates. The assessors asked if this was included in the materials supplied and if not whether they could have sight of the reports for 2021, 2020 and 2019.

"The publication of the 2021 PEB Report on the 2021 Qualifying Examinations was not an established process. It was instigated in 2021 in order to provide helpful feedback to candidates on administrative and general matters, particularly those relating to the online examinations. It was published on the website <https://www.cipa.org.uk/wp-content/uploads/2022/03/PEB-Report-on-the-2021-Examination-Session.pdf>." This document is helpful and informative.

Formative/summative assessment

3.9 Although the examinations are summative in nature, due to the high failure rate they become formative for a significant number of candidates i.e. they have a developmental purpose. The PEB process is designed to help candidates learn more effectively by giving them feedback on their performance.

3.10 At the same time as candidates receive their results, they each receive an unmarked copy of their answer script by email, and for each examination, the marks awarded by question or section eg if there were 20 marks for a section they would see 11/20. The mark scheme and the Principal Examiners' reports (see above) are also published on the day of the results. At the focus group candidates commented that this feedback could be more helpful if it was more specific (Appendix 1).

3.11 The mark schemes, Principal Examiners' reports and sample pass scripts are published to help candidates understand what is required to achieve a pass. The assessors note that although candidates have access to sample pass scripts they do not see examples of failed scripts. This makes it very difficult for a candidate to assess what is required for a minimally competent script.

3.12 There is a real opportunity for PEB to make enhancements to both the assessments and feedback to individual candidates ensuring that both are purposeful and support the learning process. Feedback is timely. The assessors would suggest looking specifically at what sort of feedback do their candidates find constructive and developmental.

Requirement 7: review the type of feedback candidates find constructive and developmental and involve relevant stakeholders in this process.

Support for candidates other than that provided by the PEB website

3.13 In Documents 12 and 13 PEB Annual Report to IPReg 2019-2020 and 2020-2021 paragraph 1 refers to support provided by CIPA to candidates. It states that "Responsibility for training lies with the trainee's employer". PEB were asked if they have any input into this support as it would be useful for the assessors to see examples. Document 16c QAA External Assurance of the Policies, Procedures and Processes of the PEB December 2020 paragraph 26 refers to various forms of support, for candidates, the PEB were asked to supply information re mentor schemes, webinars etc. "PEB's remit is the provision of examinations, not the provision of training, study materials or mentoring for candidates. PEB has no input into the support provided by CIPA to patent attorney trainees ...no involvement in the mentoring scheme." The latter "... as stated in the 2020 QAA External Review Report, was offered through CIPA for candidates taking the Infringement and Validity (FD4) examination." "(PEB emboldening) PEB is required by its Constitution to operate independently of **CIPA** and so does not have access to information about the mentoring programme."

3.14 There are references to study guides in the documentation supplied. The assessors asked to see examples. Is there one for each of the four examinations? "PEB has no input into the content or publication of the Study Guides. The Study Guides, as stated on page 7 of the Accreditation Form, can be purchased through the CIPA website <https://www.cipa.org.uk/shop/> PEB provides Examination Guidance for all four Final Diploma units on the website <https://www.cipa.org.uk/patent-examination-board/support/examination-guidance/>

3.15 What concerns the assessors is that there are many references to support for candidates (other than that provided on the website) in the materials supplied.

However, it is not clear from this documentation who delivers this support and what relationship if any they have with PEB. Is there a potential for conflict of interest? In document 4e FD Examination Committee February 2022 Minutes there is a reference to Principal Examiners giving a training session for candidates. One attendee states "...that PEB should not be training candidates and examiners who did, volunteered in their own time to do so."

3.16 In the PEB FD External Examiner's Report on the 2021 session, document 15a there is a reference to examination technique courses: "The aim of the FD examinations is to test skills as well as the application of knowledge. Inevitably, since there is no course teaching the specific skills concerned (though there are examination technique courses), candidates depend on their on-the-job training, and not every candidate is exposed to the materials tested (for example infringement analysis and advice). Candidates who lack experience will (and should) find the examinations challenging."

3.17 PEB were asked to supply information about these examination technique courses eg outlines. The assessors asked who provides these, do PEB have any input into them? "PEB has no input into the content of external examination preparation courses. PEB understands that such courses are provided through external training providers, such as JDD <https://jddcourses.co.uk/>. PEB has no input whatsoever into these courses."

3.18 Another attendee of the FD Examination Committee February 2022 (see above) "mentioned that in examination settings where there is a structured exam system vs training relationships they work together. The way the training and examining was being done would have to change to achieve this. Subtle changes were being made because it took time to filter to candidates so education could catch up because the current education for the Final Diploma was not a structured system".

3.19 Equality, Diversity and Inclusion

How have PEB decided what level of support is or is not to be given? Decisions about PEB's activities are defined by its Constitution and Terms of Reference. To what extent are decisions regarding support governed by financial considerations? What steps do PEB take to ensure assessments accessible? The assessors referred to page 7 of the Accreditation Application form. Documents 7a and 7b contain guidance for Principal Examiners on producing question papers that are accessible. The Reasonable Adjustments Policy and Procedure set out how candidates with particular needs can be supported. Could a candidate pass if they were not in employment? In theory yes, but PEB is unaware of any candidates who are not employed as patent attorneys or in a similar role. The PEB Final Diploma Accreditation Application form p7 states responsibility for training lies with employer, however it later says "fair access to assessment for all candidates...".

"PEB aims to provide fair access to assessment for all candidates including those from different backgrounds, cultural identities and sexual orientations and those **entering the profession through different routes...**" [Assessors emboldening].

3.20 PEB have implemented/designed systems to optimise access to assessment papers (see pages 7 and 8 Application form) i.e. the actual examination papers are

accessible. However, it is difficult to see if and how PEB are fulfilling their aim to be inclusive, those entering the profession through different routes (including those who work for eg small firms) do not have equal access and the same opportunities, to access the support and training required, to successfully complete the Final Diploma as candidates who work in firms who eg prioritise training. PEB's response is as follows: PEB's responsibility to candidates, as an external examining body, is to provide access to the assessment and to make examination-related support openly available to all candidates and potential candidates. Providing fair access to assessment also includes the provision of Reasonable Adjustments and the type of support for "vulnerable and non-traditional students" page 7 Accreditation Application form (document 0). As noted on page 8 of the Accreditation Application form, the 2020 QAA External Assurance Review report (Document 16c) in noting good practice said, "PEB remains sensitive to the needs of candidates wishing to sit its examinations and has put in place appropriate arrangements to accommodate individual needs. This is considered to be good practice (paragraph 48)". PEB commented that it is a feature of any examination or qualification system that some candidates will be advantaged by access to better educational or training opportunities. Awarding bodies can and should take steps to minimise disadvantage, but cannot completely eliminate it. Awarding bodies have an ethical responsibility not to act in a way that advantages individual candidates or groups of candidates, for example by offering paid-for resources or training on how to pass the exams. The responsibility to level the playing field cannot go beyond the remit as an examination body.

3.21 During the visit PEB explained that training is not within PEB remit and that there is a tension between the examination body and delivery of training. After the visit PEB explained that this was a reference to conflicts of interest and ethical issues that arise when examination boards deliver training.

3.22 The FD4 Principal Examiner explained that there are CIPA-arranged webinars provided by Principal Examiners for both candidates and tutors, he had delivered one of each for FD4. In the webinar the Principal Examiners made it clear what they are looking for in the examination. The FD1 Principal Examiner explained that she had delivered three such seminars, one a year. The FD2 Principal Examiner felt that there was a disconnect, the FD2 Principal Examiner had not been asked by CIPA to deliver such a webinar. CIPA generally arranges webinars in response to requests from candidates. PEB understands that CIPA has organised training and support webinars for candidates where PEB senior examiners have provided input. PEB has had no involvement in these events: arrangements were made directly between CIPA and individual examiners. Examiners are contracted under a contract for services, and the terms of their contracts do not enable PEB to impose restrictions on their activities. PEB is very conscious that there is a risk of conflict arising if examiners deliver training to candidates. Appendix 2 Guidance for Trainers in the FD Examiner Marking and Awarding Instructions (document 9) contains general guidance and reminds examiners of their contractual obligations. Furthermore, before scripts are allocated all examiners are asked to provide to PEB the names of candidates with whom they work or might otherwise have any conflict of interest.

3.23 The assessors asked about cohorts who did not follow the traditional route eg are not in patent attorney related employment - how are they supported? PEB

explained that the assessments are “open access” however candidates should not attempt the examinations unless they have completed five drafts. PEB does not have data on how long candidates have been employed, candidates do not register with PEB at the start of their training and so there is no way that PEB can access this data. The responsibility to take the examinations is on the candidate. The advantage of “open access” is that you can take the examinations even if you are employed in other types of jobs. The comment was made by PEB that “isn't this [open access] the same everywhere?”.

Enhancement -how does this happen? Periodic review?

3.24 The assessors were interested to hear PEB views on increasing candidate success (as this is mentioned in the documentation). They were asked to supply any notes of discussions they had had regarding increasing candidates' success rates eg through vivas, coursework etc.

3.25 As part of setting and marking examinations, PEB publishes information about areas of concern, but it would be inappropriate for PEB to engage with individual candidates to help them improve their performance.

3.26 PEB has recently developed and published its 2022-2025 PEB Strategic Operational Plan, which includes a commitment to wider curriculum review including methods of assessment. The assessors were provided with a copy of this Operational Plan before the visit and it is referred to later.

Student complaints

3.27 The assessors asked to see actual complaints since 2018. PEB cannot provide actual complaints since these are confidential to the individuals concerned and providing them would breach data protection legislation. (The IPReg Accreditation Handbook does not require qualification providers to provide actual complaints.)

3.28 Documents 12 and 13 of the original submission are the PEB Annual Reports to IPReg for 2019-2020 and 2020 – 2021. For details of complaints, see Section 7.1, which is on page 11 of the 2019-2020 Report and on page 15 of the 2020-2021 Report. These sections detail the number of complaints, nature and any actions taken in response.

3.29 The assessors asked to see actual complaints as it would have enabled them to corroborate evidence and validate findings. PEB explained that it does not require its candidates to agree to release of data to external organisations. PEB adheres to the CIPA Privacy Policy which states, “The information provided to us...will not be disclosed to any third party for any purpose unless agreed by you”. Accordingly, release of complaints, anonymised or otherwise, to the IPReg assessors would breach the CIPA Privacy Policy and data protection legislation. PEB also pointed out that in the request for additional documentation, the assessors at point 18 requested “actual complaints” not “anonymised complaints” PEB would have considered any request for anonymised complaints in light of data protection requirements and the CIPA Privacy Policy. Please note that the assessors would expect all documentation submitted to be anonymised in respect of

candidates/students and will make that clear in any future accreditation / reaccreditation process.

4. Assessment and appeals procedures

Assessment against the Required Features:

- *The assessment methods applied are fair*
- *Assessment methods allow for proper testing of the student's knowledge and competence against the syllabus topics*
- *Students with special educational needs or disabilities are not disadvantaged*
- *Students have clear information about the types of assessment, their dates and indications as to what constitute pass or fail marks, well in advance*
- *Assessment results are issued within a reasonable time frame, allowing students sufficient time to apply for re-sits or to enrol for new courses*
- *Students are provided with a written outline of appeal procedures governing examinations and course assessments*
- *There is at least one re-sit opportunity within a reasonable timeframe after results are available*
- *All final results are moderated in accordance with QAA requirements*

Please provide comment on availability of evidence sources as per Annexure 'Evidence Sources Checklist'.

Assessment strategy

4.1 PEB were asked whether they have a written assessment strategy other than what is in the Programme Specification and syllabi.

4.2 PEB does not have a formal "assessment strategy" document. (The IPReg Accreditation Handbook does not require qualification providers to submit an assessment strategy.)

4.3 In practice, PEB's assessment strategy is that Principal Examiners use the Programme Specification, Syllabi, Setting Instructions and Marking Instructions so that the principles of good assessment are applied in the question papers, mark schemes setting process and in marking and awarding processes. In addition to the information about assessment in the Programme Specification and Syllabi, Document 6 How Qualifying Examinations are Marked provides further information about assessment. Documents 7a FD1 Examiner Setting Instructions and Document 7b FD2-4 Examiner Setting Instructions set out how PEB applies the principles of good assessment.

4.4 Document 7b Examiner setting instructions - PEB were asked to supply templates for question papers and mark scheme. The templates provided are editable Word versions of the previous session's question paper and mark schemes, for example Documents 23a – 23h, the 2021 question papers and mark schemes provided in editable Word format to Principal Examiners writing 2022 question papers and mark schemes.

4.5 The assessors were supplied with Final Diploma Examination Committee meeting minutes dated 23 February 2022 (document 4e), 26 February 2020 and 13 February 2019 (additional documents 1 and 2). The PEB explained on the visit when these take place in the process, their aim and attendees. The EC has constitutional terms of reference which are available on the website.

4.6 The assessors asked about the purpose of the Awarding Meeting. The processes to be followed at this meeting are contained within the FD Marking and Awarding Instructions Section 2.6, Section 9 and Appendix 5 (Document 9 Final Diploma Marking and Awarding Instructions). PEB explained that the structure of the meeting is laid out in the meeting template form.

4.7 It is the opinion of the assessors that the minutes of the actual examination meetings could more fully evidence that these marking processes/policies (contained within the FD Marking and Awarding Instructions Section 2.6, Section 9 and Appendix 5 (Document 9 Final Diploma Marking and Awarding Instructions)) have been followed. Although it is clear, to the assessors, from talking to the Principal Examiners on the visit, that these processes/policies are followed.

4.8 The assessors asked what is the role of Principal Examiners and Chief Examiner; is it more than setting and marking papers? It is assumed that they are the subject specialists. Do they contribute to the assessment strategy? How are they selected, term etc. No individual Principal Examiners reports are made to eg the Governance Board. The assessors were supplied with some reports referred to in document 12 PEB Annual Report to IPReg paragraph 8.2 which are for candidates. PEB explained that additional document 8 was the advertisement for the FD4 Principal Examiner. As stated in the FD4 PE advertisement, desirable requirements for the role are: UK registered and experienced Patent Attorney; recent examining experience, preferably within the UK Patent Attorney Qualifying Examinations; recent relevant experience of education and training. PEB explained that all current Principal Examiners fully meet these requirements. Principal Examiners and the Chief Examiner are contracted on an annual basis. The role of Chief Examiner has not been vacant for some years until the resignation of the CE in early 2022. The procedure for the Selection and Appointment of Principal Examiners has been followed and the role has been filled for the 2022 session. Principal Examiners were invited to apply. PEB GB is reviewing the role requirements with a view to making a longer term appointment.

4.9 PEB to consider “whether the Chief Examiner’s and Principal Examiners’ verbal reports to the Award Board meeting should be minuted in detail” (Additional document 0).

4.10 Overall, the PEB processes for marking and moderation are clearly articulated. Through fully minuting/recording examination meetings PEB would be able to ensure that they are consistently operated.

Requirement 8 - a written and transparent assessment strategy.

Setting and marking instructions - how do they relate to learning outcomes/Level 7? How are borderline scripts dealt with?

4.11 The assessors do not find the setting and marking instructions helpful in tying in with learning outcomes and Level 7. The assessment seems to aim at setting and marking exams which are benchmarked on past papers and results.

4.12 As a sample, the assessors looked at FD1 of 2021, and noted how the mark scheme was applied to the sample scripts. The marking scheme was applied consistently to the sample scripts, but marks are accumulated throughout the sample scripts as and when particular points were picked up and answered appropriately. There was no evidence of weighting of particularly important points, or evidence of what would happen if a candidate gave particularly bad advice. During the visit, there was an indication from PEB that particularly bad advice would be taken into account on borderline cases. FD Marking and Awarding Instructions Section 5.3 Marginal Script Review (document 9) sets out the way in which borderline scripts are dealt with. The Minimum Pass Descriptor states: A candidate who achieves the level of minimal competence: will have met all the major learning outcomes of the assessment as evidenced by a general knowledge and application of fundamental aspects of law and practice within the script but not necessarily within every answer; demonstrates a satisfactory performance overall, weaknesses are limited to areas such as patchy coverage of relevant material, minor inaccuracies and irrelevancies; will not have produced contradictory statements or statements that would undermine advice provided or a client's patent rights. However, the assessors understand that the Minimum Pass Descriptor is used when considering marginal scripts. Given that these FD exams are the doorway to qualification, the assessors would expect to have some sanction for particularly bad advice even if it is not a marginal script.

Actual student scripts (anonymised)

4.13 PEB were asked to supply an actual candidate pass, borderline and distinction script for each paper. Assessors were given sample pass scripts (documents 24a-24h) however they are the same scripts that are supplied to candidates on the website.

4.14 PEB explained that it is not possible to provide additional scripts from the 2021 examinations. In order to comply with data protection requirements, and in accordance with the PEB Return of Assessment Materials Policy <https://www.cipa.org.uk/patent-examination-board/policies/results-and-post-results-policies/>, PEB's contractor destroyed the 2021 scripts 3 months after results were issued.

4.15 The assessors note that PEB website states the following (assessors emboldening):

“Archiving Candidate scripts, audio-visual files and online data logs are held by PEB for 3 months after the date the results are published, and then they are destroyed, except where they are anonymised and retained as exemplars, for use in training, for research purposes, **or for monitoring standards over time**. Candidate script, audio-visual files and online data logs will also be retained in the event of a malpractice investigation.”

4.16 Distinctions are not awarded. This was stated on page 18 of the Application Form under Assessment and appeals procedures, line 4: “Distinction scripts not applicable as the PEB Final Diploma issues Pass/Fail results”. The sample scripts documents 24a-24h are actual candidate scripts. The scripts provided as documents 24a-h show examiners’ annotations in the places where they were in the original script, albeit in typescript rather than handwriting. This is to assist candidates.

4.17 The assessors asked to see copies of some papers showing marks breakdown. PEB was unable to provide marked scripts (other than those published on the PEB website) because they were destroyed by PEB contractors three months after issue of results, in accordance with PEB’s Return of Assessment Materials Policy (Archiving).

4.18 As the assessors were unable to look at and assess any fail scripts or any actual scripts i.e. to see the actual marks, comments etc made by Marking Examiners it is impossible to assess how they use the minimal competence test. There is, therefore, no written evidence that the minimal competence test is applied consistently across the four papers or from year to year.

4.19 The assessors have not been told by any other institution that they could not have access to anonymised scripts. It is suggested that PEB should compare the time for retention of scripts with like institutions. The assessors find this policy, of three-month retention, particularly concerning when there was no external examiner appointed until May 2021.

Requirement 9 - in future scripts are retained for an appropriate length of time for accreditation and reaccreditation exercises.

Candidates are supported and prepared for assessment

4.20 The assessors have already discussed possibilities for enhancing support through more targeted individual feedback. It is interesting to note that the QAA suggested PEB have a borderline pass for candidates to look at. Please see Document 16a “In order to give candidates a clearer sense of the Examiners’ expectations, PEB is recommended to draw one of these examples from the group just above the threshold pass mark rather than solely from the highest scoring candidates.”.

Training examiners

4.21 The documents made reference to training of examiners. PEB were asked to supply any documentation relating to that. PEB supplied documents 5a FD4 New Marking Examiner Training Agenda 2019 and 5b FD4 Training Mark Spreadsheet

Template additional documents relate to the 2019 new examiner training session. Additional Document 6 New Marking Examiner Training Agenda 2020 relates to the 2020 new examiner training session. No new examiners were appointed in 2021 and therefore no new examiner training took place in that year.

4.22 New examiners are trained and training takes place during the standardisation meetings. Members of the GB who have academic training knowledge have also completed examination training.

Examiner performance - appraisal process

4.23 The documentation states that each examiner's performance is reported to the PEB. The assessors asked to see these reports for last 3 years.

4.24 Currently, Principal Examiners informally evaluate all examiners within their team of examiners. Formal reports do not exist. Reporting by Principal Examiners to the Head of Qualifications is either verbally at the time of the Examination Committee meeting, or by email before contracts for the next session are issued to marking examiners.

4.25 However, PEB is currently reviewing its approach to examiner performance review. The introduction of an examiner appraisal system is included in the 2022-2025 PEB Strategic Operational Plan. At its June 2022 meeting the PEB GB approved implementation of an appraisal system for the 2023 examination session. The assessors noted that the operational plan is at a very high level. PEB expanded that whilst there are financial and other considerations to be taken into account, including the fact that any such change will involve an amendment to examiner contracts, the overriding objective is to improve PEB's quality assurance processes.

4.26 PEB was asked to supply Principal Examiners' list, biographies, length of term, exam papers covered etc. This request was in order for the assessors to corroborate evidence and validate findings.

4.27 PEB contracts Principal Examiners on the basis of an annual contract covering a specific examination session. Under GDPR, PEB cannot release names, biographies, and number of years' involvement as Principal Examiners unless they each agree and supply their biographies. PEB adheres to the CIPA Privacy Policy. PEB have not previously asked its examiners, who sign a contract for services not an employment contract, to agree to release of data to external organisations. Release of examiner biographies to the IPReg assessors would breach both the CIPA Privacy Policy and data protection legislation. When vacancies occur, the role is advertised. Document 8 is a 2020 Principal Examiner Job Advertisement which lists the role requirements. Applicants' applications are scored against the role requirements.

4.28 PEB were asked to supply marking examiners list, short biographies, length of term, exam papers covered etc. This request was in order for the assessors to corroborate evidence and validate findings.

4.29 PEB contracts around 55 examiners on the basis of an annual contract covering a specific unit in a specific examination session. Under GDPR, PEB cannot release names, biographies, and number of years' involvement as examiners unless they each agree and supply their biographies. The list of marking examiners is reviewed each year to ensure they are current practitioners. PEB considers that release of 55 examiner biographies is excessive and not necessary because the information about the required qualifications and experience for examiners can be provided by other means such as the examiner recruitment advertisement provided as additional document 9.

4.30 Document 9 is an Examiner Job Advertisement which lists the role requirements. Applicants' applications are scored against the role requirements.

4.31 All examiners have a contract for services requiring professional standards of behaviour. They are required to raise potential conflicts of interest.

4.32 No term is stated for Principal Examiners, the longest serving is the FD3 Principal Examiner. Contracts are renewable every year.

4.33 It was noted that GB members have an initial contract for three years and this can be extended once for another three years.

4.34 An appraisal process has been recently discussed for Principal Examiners and will be implemented in 2023 and then cascaded down. A performance review system for GB members has been in place since the PEB was established in 2014.

Destination data

4.35 No destination data was provided however the assessors noted that on the website there is example of additional data collection for the 2017 FD4 examination - pass rates by gender and in the QAA report 2020 page 6 it states that "data on candidates characteristics has been collected annually...". The assessors asked to see any data collected for the past 3 years. Assessors were provided with the available data in 29a and 30a the Candidate Survey Reports following the 2020 and 2021 examinations.

4.36 PEB explained that the data on the 2017 FD4 examination was produced as part of a one-off research exercise. Such data as has been collected on candidates' characteristics in the past three years is included, in the form of graphs and charts, in the Candidate Survey reports for the 2019, 2020 and 2021 sessions. The 2018 and 2019 Candidate Survey Reports were provided as documents 3a and 4a of the additional documents.

4.37 The meeting discussed the usefulness of data in forming future policy, eg resit data, progression data. The PEB feel that academic qualifications are scientific not legal and therefore do not help in a linear way. The assessors would argue that without carrying out statistical analysis based on data it is difficult to defend this view.

4.38 A member of the GB has been carrying out some data collection and analysis which seems to suggest “a low pass rate with a long tail” where candidates take examinations at the beginning of their training- this will be published soon.

Results publication - is assessment timely?

4.39 PEB were asked about the timeliness of results publication. The examinations are sat in the middle of October each year, candidates receive their results end of March following year, PEB avoid clashing with the sitting of the EQEs in response to candidate complaints about clashing i.e. the process takes 6 months.

4.40 Note that candidates will always need to qualify as a European Patent Attorney, so avoidance of clashing is appropriate.

Assessment is explicit and transparent

4.41 PEB were asked how they ensure that their policies and procedures are explicit, transparent and accessible to candidates.

4.42 Candidates see document 6 How qualifying examinations are marked and document 1 Programme Specification however not document 7 Examiner setting instructions. They have access to the Candidate Survey Report and response to the candidate survey. Documentation can be accessed on the PEB website.

4.43 The Head of Qualifications notifies the CIPA Education Committee, Informals and profession, whenever there is something new, on the website. There is a “consciousness [of what is going on] because it is a small profession” eg the Informals know about eg the “minimum pass descriptor” because they have raised it with PEB. However, what about candidates in small firms? The assessors are concerned that important information might not be easily accessible to all. This was mentioned in the Candidate Feedback Appendix 1. PEB explained that all information for candidates or stakeholders is published on the PEB website. PEB actively encourages candidates (in documents, by communication with the Informals and when appropriate in emails to candidates) to access the information on the PEB website. According to PEB there can be no candidate for whom PEB’s information for candidates could not be accessible; working in a small firm could not restrict any candidate’s opportunities to access exactly the same information.

Assessment to reflect learning styles

4.44 The assessors asked about types of assessment to reflect differing learning styles. For example, there are no multiple-choice questions, “the drafting paper is about drafting...not sure [syllabus] is amenable to any other way [of assessment]”. Candidates meet variation in assessment methods on the Foundation Certificate. PEB commented that a number of different methods of assessment are used in the Final Diploma examinations, as appropriate, to test different areas of the required knowledge, understanding and skills. FD1 uses short answer questions and longer structured scenario-based questions and part-questions to assess knowledge, understanding and the skills of analysis and evaluation. FD2, FD3 and FD4 primarily assess professional competence. They comprise longer structured assessment

tasks, based around a scenario presented as a series of realistic documents, that reflects the patent attorney role. PEB feel that the drawbacks of multiple-choice questions would outweigh any potential benefits.

Ongoing assessment issues

4.45 FD4 -the assessors commented on the ongoing issues with FD4 and asked what was the plan going forward. The FD4 Principal Examiner answered that this was “a good question...how we change things is a challenge, where we make departures [we are met with] hands in the air. There is an unwritten statement that the examinations will be consistent”.

4.46 The External Examiner explained that the format of the marking scheme had changed over time. It was now clearer as to smaller points to be picked up. The new structured mark scheme had been introduced to allow more consistency, “it had lost its qualitative feel”.

Assessment encouraging academic integrity

4.47 PEB were asked how they tackled security with the examinations being online. PEB explained that the Foundation Certificate examinations employed a proctoring system, the Final Diploma was invigilated by Zoom. It was more difficult to cheat on the FD assessments because it is more skills based and there is “nothing to help them [candidates]...” available.

4.48 There had previously been discussions on the visit about conflicts of interest - candidates and examiners. PEB are advised to review their processes to ensure that everyone (including the 50+ markers) involved in assessment and associated processes is competent to undertake their roles and fulfil their responsibilities.

4.49 There was a short discussion re recycling papers/training invigilators/consequences of misconduct and the measures PEB have in place to ensure the security of the assessment. Recycling questions- PEB do not use exact copies of previous examinations however in FD1 they do reuse individual questions and update the details. The FD1 Setting Instructions (document 7a specify the limit on the permitted percentage of re-used questions in a question paper.

Assessment is inclusive and equitable

4.50 PEB were asked about the steps they take to ensure that assessment tasks are sufficiently inclusive, giving all candidates fair opportunities to demonstrate learning outcomes without barriers to access. This was mentioned in the Candidate Feedback Appendix 1. Document 7a FD1 Setting Instructions Section 5.4 highlights key points to consider in ensuring questions do not disadvantage particular groups of candidates. Document 7b FD2-4 Setting Instructions Section 3.3 directs setters to select a technical field that will be accessible to all candidates. It is not clear to the assessors if this is also considered by the Question Paper Evaluation Committees. It might usefully tie in with considering different forms of assessment and learning styles.

4.51 Candidates with special educational needs or disabilities are asked to specify this on the registration form and reasonable adjustments are considered and made by the Head of Qualifications and the Consultant once they have submitted evidence. A written record is kept of decisions to ensure consistency.

4.52 The discussions suggest that currently assessment setting is approached starting with the four examinations, the sum of which makes the qualification. The assessors suggest that in any future review assessment planning needs to be “top down”-beginning with the award.

4.53 It is clear that policies and procedures for marking assessments and moderating marks are clearly articulated, however it is not clear that they are consistently operated because of how meetings are minuted. For example, where borderline marks are identified, other than statements in marking instructions re minimally competent scripts, the assessors are unable to comment on whether the minimum pass descriptor is consistently and fairly applied.

4.54 It is not clear that there is any process for regular periodic review of assessments as there is no assessment strategy. PEB are advised to have a written procedure for monitoring, evaluation and reporting to ensure continuous improvement. Apart from the year-on-year cycle of delivering assessments PEB are advised to ensure systematic evaluation and enhancement of assessment policies regulations and processes. The assessments themselves seem to be unvarying. PEB is advised to come up with a process to ensure that the assessment methods used measure candidates' achievement of assessment criteria and learning outcomes.

Requirement 10. Assessment methods and criteria to be aligned to learning outcomes. Review and articulate a process to ensure that assessments relate directly to learning outcomes, reflect the professional qualification and ensure candidates can show the range of knowledge skills and attributes required by the profession.

Requirement 11. Draft clearly articulated assessment criteria, weightings and level descriptors that can be understood by candidates and examiners involved in the assessment process to ensure assessment is reliable, consistent, fair and valid.

Requirement 12. Create a process for regular review of the validity of the assessments. This process to measure how well assessments test the outcomes they claim to measure. Process to cover not just annual review but also periodic review supported by external subject specialists and external examiners.

Requirement 13. Consider variety in assessments which would help develop a range of skills and competencies and assess a range of learning styles. A variety of assessment methods would encourage integrity.

Requirement 14. Review whether each candidate has an equal opportunity to demonstrate their achievement through the assessment process. If not,

consider how to communicate openly with candidates as to what prior study/experience needed.

Requirement 15. Candidates need to be clearly informed of the purpose and requirements of each assessment and standards expected. They cannot do this without access to examples of failed scripts.

Requirement 16. Feedback on the assessments must explicitly relate to the stated learning outcomes and assessment criteria.

Recommendation 2. Enhance individual feedback on examinations. Candidates need support to understand and interpret assessment criteria. This is something that PEB is ideally placed to provide. Candidates need to understand how the criteria enable the examiners to recognise differential candidate achievement. More could be made of formative assessment opportunities, feedback needs to be timely (which it is) but it must also be understandable, constructive and help them achieve.

5. External assurance

Assessment against the Required Features:

- *The programme is subject to external review by the QAA, or an equivalent external assurance agency, that is acceptable to IPReg*
- *Student feedback is sought and acted upon as appropriate*
- *Mechanisms are in place to ensure that course/assessment content is up-to-date*

Please provide comment on availability of evidence sources as per Annexure 'Evidence Sources Checklist'.

External review

5.1 The assessors were supplied with the QAA reports QAA External assurance of the PEB's Policies, Procedures and Processes June 2015, June 2017 and December 2020 (documents 16a, 16b and 16c) and document 28 Actions arising from the QAA External Assurance Reports. The assessors were given action plans presented to the PEB GB following the 2015 and 2017 reviews and an excerpt from the September 2021 GB minutes documenting that all eight recommendations in the 2020 QAA report had been met. Document 28 was compiled in June 2022 for the visit and although helpful, the assessors would have expected to see primary sources from 2015 through to the present day setting out discussion, decisions and actions taken in response to this external advice. This request was in order for the assessors to corroborate evidence and validate findings.

5.2 The same can be said of the July 2022 response to the Middlesex Report, March 2017 (document 32). Document 16b QAA report June 2017 refers to the Middlesex Report March 2017. PEB made the Middlesex Report available to the assessors

which was helpful (additional document 7). The assessors asked if there are any other documents (other than document 32) which action the QAA recommendation to actively engage with findings of Middlesex research project.

5.3 PEB explained that the Middlesex Report was commissioned by IPReg. However, it no longer appears to be available on the IPReg website. It can however be found as Appendix 5 of the Mercer Review Report <https://www.cipa.org.uk/?s=Mercer> and was attached as additional Document 7.

5.4 The current Head of Qualifications has been in post only since late 2018. None of the current Governance Board members were in post at the time of the Middlesex report. As far as PEB has been able to ascertain, no relevant documentation exists in relation to the Middlesex Report beyond what has been set out in Document 32 PEB Response to the 2017 Middlesex Report.

5.5 PEB regards the Middlesex Report as a historic document which raises valuable issues, some of which remain ongoing and will be addressed. PEB has developed and published its 2022- 2025 PEB Strategic Operational Plan, which was forwarded to IPReg on 16 September 2022 and made available to the assessors. It includes a commitment to wider curriculum review including FD4 review.

5.6 Over the last seven years experts have given sound advice eg suggestions to tackle the issue of low pass rates of the FD4 exam, and it is not altogether clear to the assessors that this advice has been fully considered and actioned where appropriate. Some of the same issues seem to reappear year after year. For example there is still work to be done to align the learning outcomes to the assessment criteria (see Middlesex Report document 7 additional documents page 81) "The findings revealed a level of uncertainty among most of the examiners about how effectively the learning outcomes are met by the assessment process. Moreover, the way the exam is marked does not allow any inferences to be made about whether trainee patent attorneys have met the learning outcomes. Given the improved changes to the 2015 FD4/P6 exam syllabus, in terms of the provision of learning outcomes and examination guidance notes, it is important that marking examiners (and tutors/mentors) understand and actively engage with the 'language' of learning outcomes and their understanding of how these align with the assessment process - rather than view these as 'educational jargon' - so as to meet PEB's original objective to improve transparency for candidates, making it clearer what knowledge and skills are being tested in the exam so that candidates can be better prepared as well as providing greater transparency on how marks are being awarded."

5.7 The assessors asked why PEB had not responded fully to these suggestions. It was explained that most of the current members of PEB were not around when this was published. PEB had recently reviewed this and some of the suggestions were a cost issue. Other suggestions re eg standard setting models were not the right models for such a small organisation.

Requirement 17: PEB

- review the ways in which they make use of external experts to contribute to their assessment practice,

- **consider what external experts they might use in future, the processes to approve and engage external experts and**
- **ensure roles and responsibilities of external experts clear and communicated to relevant stakeholders.**

External Examiners

5.8 The assessors were supplied with one External Examiner report plus action plan for 2021 session, (documents 15a and 15b). There are no other External Examiners reports for the Final Diploma. Accreditation Application Form page 4 “The FD External Examiner was appointed with effect from May 2021. The first External Examiner report was produced in March 2022 covering the 2021 examination session. The assessors needed to understand the role of the External Examiner and how they contribute to the overall assessment process.

5.9 Document 15a The External Examiner’s report is on the website. PEB explained that the Action Plan arising from this report is discussed at the GB and is sent to the External Examiner (this is not on the website as it is an internal document). Once completed the actions are communicated to the External Examiner. Actions that are relevant to the Principal Examiners are communicated to them. There were no actions immediately relevant to Principal Examiners in document 15a. A recommendation such as that relating to Special Consideration (paragraph 4.11) lies within the remit of the PEB GB and PEB staff. PEB explained that this recommendation has been addressed and a revised Special consideration policy and procedure will be introduced for 2023.

5.10 The assessors are disappointed that an External Examiner has only been appointed relatively recently and there is, so far, only one External Examiners report (document 15a) PEB FD External Examiners Report on the 2021 session. External examiners comment impartially and informatively on professional standards, candidate achievement and assessment processes that leads to the award of the qualification. External examiners verify that the awards are sound and the process safe. Their reports are an integral part of any accreditation/ reaccreditation process. PEB are not considering additional External Examiners. They feel that a single External Examiner is better able to contribute to monitoring of standards etc across the four units than four external examiners. The assessors suggest that PEB reviews this decision. There seems to be no policy for their own Principal Examiners to take on roles as external experts for other providers?

Requirement 18: PEB document what processes they will use to

- **approve and engage external examiners,**
- **ensure that they are appropriately briefed and provided with access to necessary information,**
- **ensure nomination approval and engagement process robust and avoids conflicts of interest,**
- **collect external examiner feedback and**
- **inform them of any changes they have made because of their feedback.**

5.11 Although it is clear that PEB involve external advisors it is not clear that they have robust policies and procedures governing the contribution to quality assurance

of these external experts. The assessors have not seen sufficient evidence that PEB have effective measures in place to ensure that the input from external experts has been considered and will be in the future considered, and where appropriate actioned and that a timely and reasoned response is made not only to the experts but also to stakeholders on actions taken or not taken as a consequence.

5.12 Examination agencies should use one or more external experts as advisers to provide impartial and independent scrutiny on the approval and review of the assessment process that leads to the award of the qualification.

5.13 The validity of assessment -how well an examination measures what it claims to measure - is reviewed through both annual and periodic review supported by external subject specialists and the external examiner. The assessors are satisfied that the annual review is being carried out professionally and fairly, although the discussion and decisions could be more fully recorded. However there seems to be no process for periodic review. PEB explained that periodic review was delayed because the Mercer Review was awaited. Furthermore, the Covid pandemic meant PEB had to direct attention to protecting the interests of candidates by delivering the examinations online. PEB commented that they have now embarked on a full review of the Qualifying Examinations and produced an Action Plan and that the review will lead into a process for periodic review.

5.14 PEB are advised to review the processes for the nomination, approval and engagement of external examiners and other independent external experts. They should ensure that the roles of those providing external expertise are clear to the candidates, examiners and other stakeholders. They should ensure that externals are given sufficient and timely evidence and training to enable them to carry out their responsibilities. PEB are advised to put in place effective mechanisms to provide a response to input from external examiners and external advisers.

Student feedback and closing the loop

5.15 The assessors asked about actual student survey results. Page 13 of the application states that “previous candidate surveys can be found here...” however they are not the actual surveys but reports on the surveys. PEB was asked to provide all actual candidate surveys (including quantitative and qualitative information) for 2021, 2020, 2019 and 2018. Document 29a QE Candidate Survey Report 2020 notes that there are full candidate comments reports. PEB was asked to also provide evidence of how the feedback loop is closed (as recommended by QAA report 2020).

5.16 PEB submitted 2018 and 2019 QE Candidate Survey Reports and PEB Responses additional Documents 3a, 3b, 4a and 4b respectively. The assessors were told that it is not possible to provide the raw data from the Candidate Surveys. PEB staff have no involvement in converting the raw data into the Report format. The process of preparing the Candidate Survey Reports is that the raw data is sent to an external consultant who quality assures the raw data, converts it into the graphs and charts presented in a Survey Report and produces the analysis.

5.17 The external consultant includes the full qualitative information in the Report. The sole exceptions to this are where several comments repeat the same point [note from assessors that in this case the report might indicate the number of times the same comment is made] or where it would be inappropriate to publish a particular comment, for example if it is offensive or makes a criticism of a named individual.

5.18 The 2020 and 2021 QE Candidate Survey Reports were provided in the original submission as documents 29a and 29b. Documents 30a and 30b in the original submission are the formal PEB responses to the 2020 and 2021 Candidate Surveys. Pages 10-11 of Document 30b are the 2021 Action Plan.

5.19 PEB explained that as regards closing the feedback loop, Documents 12 and 13 of the original submission are the PEB Annual Reports to IPReg for 2019-2020 and 2020 – 2021. Changes PEB has made as a result of candidate feedback are set out in Section 8, which is on pages 11-12 of the 2019-2020 Report and on pages 17-18 of the 2020-2021 Report. Candidate Survey Reports and PEB's Responses are considered at the March Governance Board meeting before publication. The Candidate Survey Report on the 2021 session was an Agenda item at the September 2022 meeting of the Candidate Consultative Committee.

5.20 The assessors asked about closing the loop by raising one example in document 29a, page 11, where there are comments about the overall satisfaction with the examinations. It is not clear to the assessors what action has been taken in response to these comments. The report says several candidates raised concerns about clarity of questions and clarity of marking - the assessors are unable to see where this is covered in document 29b PEB Response to the candidate survey 2020 examinations. This response states that issues raised will be covered by the Mercer Review. "The criticisms discussed in the section above are an element of a more general concern amongst candidates that the examinations are not an adequate test of fitness to practice. This concern seems to be largely focussed on the time pressures (see section 2) and the need to simply regurgitate large amounts of the law (see section 8). There were also some specific concerns about the subject matter of the examinations, particularly FD4, which was considered to be too "mechanical". It was felt that this made the exam inaccessible to candidates from a "Biochemistry/Chemistry/Pharma background". The whole question of the nature of the examinations is, of course, central to the Mercer Review and therefore there will be no fundamental change to the assessment process until the outcome of the review is known. It should, however, be noted that the examinations are set and marked by experienced members of the profession who are drawn from a variety of disciplines and practice contexts." Whilst the assessors note PEB's comments (that the first sentence of Section 8 makes the point that this concern about memorising large amounts of law applied "particularly at Foundation level" and also that the FD4 Examiner's Report noted that: While the subject matter again falls in the mechanical domain, examiners with backgrounds in chemistry and biotechnology were involved in setting the paper to ensure that the technical subject matter would be accessible to all candidates") the issue being raised is when and how will candidates's concerns be addressed.

5.21 How will PEB ensure this happens, there seems to be no written process whereby all these actions are captured and implemented? PEB's view

communicated to the assessors in document 33 and after the visit is that the implementation of the Mercer Review recommendations will be part of a wider curriculum review that forms part of the 2022-2025 Strategic Operational Plan, which the assessors had sight of in mid September 2022.

5.22 It is noted that all previous QE Candidate Survey Reports and the related PEB Responses are available on the website <https://www.cipa.org.uk/patent-examination-board/communications/surveys/>

5.23 On the visit, how candidate feedback is used was discussed. The Consultative Committee meetings documents 31b, c, d contain very few action points within the minutes. In the September 2021 minutes there is no reference to actions from the June 2021 meeting. The assessors were asked to look at documents 30a and b (2021) which are in a new format and which follow the "You said We did format". If no action is required the minutes should state this. PEB said that the meetings are working more effectively. Actions will feed into the Strategic Operational Plan.

5.24 Candidates who had sat FD papers recently were interviewed by the assessors via Zoom and their feedback is summarised in **Appendix 1** below. The interview was structured under six headings, namely A. Content of the FD assessments, B. Discussion of the training backgrounds experienced, C. Support from the PEB, D. Online assessment, E. Student support/feedback, F. Overall experience.

5.25 Where a recommendation or requirement is supported by these candidates' views the assessors have made this clear in section 8.

Stakeholders

5.26 There are references in the documents to meetings with stakeholders in 2018 and 2020, PEB were asked to supply minutes. Current PEB staff were not in attendance at these meetings. PEB explained that these meetings were informal and were not minuted.

5.27 The assessors are concerned as to how PEB ensures stakeholders' ideas are followed up.

Governance Board

5.28 The assessors found it unclear (from the original documents supplied) as to where decisions are made about assessment strategy etc. - if at the Governance Board meetings assessors need to see these decisions. The Governance Board has quarterly meetings -the assessors asked for minutes for all Governance Board meetings since 2019 i.e. since the receipt of the results of last QAA report. Reference is made in annual reports to PEB Governance Board action plans -PEB were asked to supply for same dates as above.

5.29 PEB replied Minutes of PEB Governance Board's meetings are strictly confidential and thus cannot be provided. (The IPReg Accreditation Handbook does not require qualification providers to provide this type of documentation.)

5.30 The Annual Reports to IPReg refer to “actions” however do not make mention of “action plans”. The 2020-2021 Report on page 20 refers to adding an action to the “Action List”. This is the composite action list at the end of the PEB GB Minutes. As indicated above, these are highly confidential.

5.31 Assessors noted that document 28 is an action plan in response to QAA reports (2015, 2017 and 2020) on pages 7-9 there is a reference to “this recommendation (‘Continue to keep staffing base under review which is on the agenda at every PEB GB meeting.’) continues to be considered at every Governance Board meeting ...”, there are some extracts from the Governance Board minutes and also references to other documents (in the application pack) -if there are any other documents at all which record how the recommendations were considered and actioned (other than the minutes requested above) assessors asked to see them.

5.32 The current Head of Qualifications was first appointed in late 2018 and was not involved in managing follow-up to these reports. As far as PEB has been able to ascertain, there are no further documents recording how the recommendations (in the QAA reports) were considered and actioned. A formal Action Plan was not necessary following the 2020 QAA report since all recommendations but one (relating to ongoing improvements in version control of documents) had already been implemented. The assessors would have expected to see written evidence of these actions (beyond the excerpts from the Governance Board minutes on pages 7-9 of document 28) in order for them to corroborate evidence and validate findings.

Periodic review

5.33 PEB were asked what is the procedure for monitoring evaluation and reporting and how do they ensure continuous improvement? A GB Lay member explained that they had been stalled by the Mercer Review and the pandemic however they had now finalised a new operational plan. Mercer together with the Covid-19 pandemic meant that progress, apart from the introduction of online assessment, was held in abeyance. That the thread running through the plan for the next three years is content and assessment. In an ideal world this would have happened as part of previous planning. The new three-year plan is overseen by the GB, they have yet to write the [detailed] operational plan. It will have GB, examiners and external input.

Requirement 19: PEB set out

- an approach to managing quality which expressly states not just that it intends to but how it intends to take account of external expertise
- how it intends to engage with candidates both individually and collectively in the development, assurance and enhancement of the quality of their assessment experience.

6. Other

- *Any planned major changes to the provision for which accreditation is sought*
- *Any examples of innovative course/assessment pathway features which benefit students*

Operational plan 2022-2025

6.1 The assessors have seen sufficient evidence of PEB recently reviewing and enhancing its assessment policies, procedures and processes. However, it is unclear as to the process for regular review (as opposed to the year-on-year delivery of assessments) to ensure they remain fit for purpose. The outcomes of regular periodic reviews would drive improvement and enhancement.

6.2 It was explained to the assessors that they are now a different PEB (since Middlesex). They had recently had an away day to write the Strategic Operational Plan. Previously this had been difficult in the context of the Mercer Review taking place and the pandemic, when the focus was on developing and delivering the examinations online. These had led to a “planning blight”. How PEB is performing against the plan is now a standing item of the GB meetings, which will be monitored in the minutes. PEB confirmed that it is a challenge between day-to-day examining and periodic review. There is a need to break out and look at it strategically, they are in a climate to change and there is a will to invest. The culture now was one where PEB would be “talking to stakeholders” and “inviting external pressure”. The operational plan makes the GB accountable.

6.3 The assessors asked whether large patent attorney firms would be asked for their opinions. PEB commented that they could not do without the expertise of large firms and would approach them via CIPA Council.

6.4 How will PEB finance the implementation of these plans? PEB explained that they cannot rely on own resources and will need to secure funding. The next meeting of GB in December 2022 will discuss this.

6.5 PEB confirmed that the challenge is that they have “no involvement with training” so cannot square the circle. They do not collect data as to how a candidate has been trained so have no real idea [evidence based] of the relationship between quality of training and results.

6.6 PEB have made alterations eg in response to feedback for FD4 there has been a reduction in the amount candidates are required to complete in the examination time. PEB have seen an upwards trend in pass rates.

6.7 The External Examiner explained that FD4 candidates have the least work experience that is relevant to that examination, because learning on the job opportunities are fewer. The FD2 Principal Examiner explained that because it is possible to get exemption from FD2 and FD3 candidates make the most effort on FD1 and FD4.

6.8 “Leave ... in March, take FD examinations following October... done well academically...received nothing by praise” and then shocked when they fail. They have a lack of examination preparation and drafting skills. Those failing FD4 have a distinct unwillingness to self-reflect. They need some commercial training to pass FD4. It is necessary to pass FD1 and FD4 (can gain exemptions from FD2 and FD3 using European qualifications - taking into account a time bar). FD1 is similar, there are 9 different scenarios, however candidates have a wide range of experience-private practice, in house, small start-ups large law firms and have more or less appropriate experience.

6.9 There was a discussion about the Mercer Review (action plan document 33 last page). PEB are still working out how to “fold [the] Mercer review issues into [their] strategic review...[there are] challenges...[we are] sympathetic...[response] requires coordination of PEB, CIPA, IPReg...[we] see Mercer as a vote of confidence in what [PEB] do ...[there is] some work needed pulling [the] strands together”. PEB intend to put together a timeline and structure for the follow through of thoughts at the GB meeting in December 2022. PEB admitted that there are still questions to be answered re resourcing. PEB understand that they need project management skills to achieve outputs. They are still waiting for response to Mercer from CIPA.

7. Areas where expectations are met/any features of good practice

Identification of areas where there is confidence the expectations are met

7.1 Subject to paragraph 8 below the required features as set out in the IPReg Accreditation Handbook are met by PEB in the delivery of the Final Diploma Examinations.

Identification of any features of good practice

7.2 PEB are a professional team of individuals committed to the delivery of reliable and fair examinations. This is reflected by the quality assurance processes that have been implemented in response to the QAA reviews. The assessors commend the way in which the PEB moved the assessments online at short notice due to the pandemic. There are obviously financial constraints however the candidates would benefit from even more targeted examination feedback. It is clear from the candidates that they appreciate the work carried out with PEB and would welcome a more collaborative working relationship. PEB seem committed to periodic review through the implementation of the Operational Plan 2022-2025.

8. Areas where expectations are not met/any recommendations for action

Identification of areas where confidence is limited that the expectations are being met

8.1 That currently there is no written periodic review **process** to monitor, evaluate and enhance the quality and standards of the FD examination allowing external and independent confirmation. This would enable new approaches and current practices to be developed and enhanced and for good practices to be developed. It would ensure that risk management and flexibility is considered.

Identification of any recommendations for action

Please note that the recommendations and mandatory requirements are set out in the same order as they appear in the main body of the report.

Requirements

Requirement 1: review role of External Examiner(s) to ensure fully involved in the assurance of standards, maintenance and enhancement of the quality of the assessment experience.

Requirement 2: meetings be fully minuted. Minutes should be an official record of discussions, decisions and actions taken. Currently it is not clear what happened and what actions are taken/ not taken. All minutes should note what the discussion was and how the issue was resolved whether that be an action or no action required. Need to document board/committee adherence to the proper procedures. Minutes should be starting point for next meeting and are an integral part of the QA cycle and ensuring consistency.

Requirement 3: review roles, responsibilities etc of each board/committee.

Requirement 4: review role of Chief Examiner to ensure fully involved in the assurance of standards, maintenance and enhancement of the quality of the assessment experience.

Requirement 5: Principal Examiner discussions are fully recorded in the minutes.

Requirement 6: PEB ensures that the

- threshold standard for the qualification and learning outcomes are consistent with the relevant national qualifications framework,
- assessments measure the extent to which candidates achieve the learning outcomes both at, and beyond, the threshold level,
- measurement of student achievement beyond the threshold is reasonably comparable with those of other equivalent qualifications-via external examining and the use of external input (Appendix 1).

Requirement 7: review the type of feedback candidates find constructive and developmental and involve relevant stakeholders in this process (Appendix 1).

Requirement 8: a written and transparent assessment strategy (Appendix 1).

Requirement 9: in future scripts are retained for accreditation and reaccreditation exercises (Appendix 1).

Requirement 10: Assessment methods and criteria to be aligned to learning outcomes. Review and articulate a process to ensure that assessments relate directly to learning outcomes, reflect the professional qualification and ensure candidates can show the range of knowledge, skills and attributes required by the profession.

Requirement 11: Draft clearly articulated assessment criteria, weightings and level descriptors that can be understood by candidates and examiners involved in the assessment process to ensure assessment is reliable, consistent, fair and valid.

Requirement 12: Create a process for regular review of the validity of the assessments. This process to measure how well assessments test the outcomes they claim to measure. Process to cover not just annual review but also periodic review supported by external subject specialists and external examiners.

Requirement 13: Consider variety in assessments which would help develop a range of skills and competencies and assess a range of learning styles. A variety of assessment methods would encourage integrity.

Requirement 14: Review whether each candidate has an equal opportunity to demonstrate their achievement through the assessment process. If not

consider how to communicate openly with candidates as to what prior study/experience needed.

Requirement 15: Candidates need to be clearly informed of the purpose and requirements of each assessment and standards expected. They cannot do this without access to examples of failed scripts.

Requirement 16: Feedback on the assessments must explicitly relate to the stated learning outcomes and assessment criteria.

(All of above relate to Appendix 1)

Requirement 17: PEB

- review the ways in which they make use of external experts to contribute to their assessment practice,
- consider what external experts they might use in future, the processes to approve and engage external experts and
- ensure roles and responsibilities of external experts are clear and communicated to relevant stakeholders.

Requirement 18: PEB document what processes they will use to

- approve and engage external examiners,
- ensure that they are appropriately briefed and provided with access to necessary information,
- ensure nomination, approval and engagement process robust and avoids conflicts of interest,
- collect external examiner feedback and
- inform them of any changes they have made because of their feedback.

Requirement 19: PEB set out

- an approach to managing quality which expressly states not just that it intends to but how it intends to take account of external expertise.
- how it intends to engage with candidates both individually and collectively in the development, assurance and enhancement of the quality of their assessment experience (Appendix 1).

Recommendations

Recommendation 1: PEB actively progress the enhancement of quality assurance, external examination, listening to feedback and evolution of the FD examinations as the UK patent profession advances (Appendix 1).

Recommendation 2: Enhance individual feedback on examinations. Candidates need support to understand and interpret assessment criteria. This is something that PEB is ideally placed to provide. Candidates need to understand how the criteria enable the examiners to recognise differential candidate achievement. More could be made of formative assessment opportunities, feedback needs to be timely (which it is) but it must also be understandable, constructive and help candidates achieve (Appendix 1).

9. Conclusion

Recommendation as whether to accredit (with or without measures being taken) and why

9.1 The assessors recommend that PEB be accredited to deliver the Final Diploma Examinations on the basis that the mandatory requirements (listed in section 8) are implemented in full and that the recommendations (listed in section 8) are either implemented in full or if a decision is made not to implement a recommendation or to partially implement a recommendation that decision is adequately explained to the IPReg.

9.2 All mandatory requirements and recommendations are to be complied with through the submission of appropriate documentary evidence and in discussion with IPReg by [IPReg to add date]. PEB to discuss with and supply to IPReg an action plan and implementation timetable.

Annex – Evidence Sources Checklist

Evidence sources checklist	Evidence source	Provided
Quality	Programme Specification	Y
	Programme Learning Outcomes (to include how the IPReg Competency Framework has been used as a reference tool)	Y
	How Professional Ethics is dealt with in the programme	Y
	Quality assurance arrangements including the most recent internal and external reports covering the last 3 years including action plans	Y apart from GB minutes
	Evidence that the programme is at the required level	Y Level 6
	External Examiners Report and related action plans from the last 3 years	N only one provided because an External Examiner was first appointed in 2021
	How previous accreditation reports, recommendations and requirements have been dealt with	NA
	<i>Other – please specify</i>	
Student choice, access and teaching arrangements	Programme Admissions Policy	NA
	Programme Specification	Y
	Modes of teaching provision	NA
	The assessment strategies employed	No explicit assessment strategy
	Staff/student ratios	NA

	Equality, Diversity and Inclusion policies	Y
	How the extremes of cohort entry will be supported	Y
	<i>Other – please specify</i>	
Assessment and appeals procedures	Methods of assessment (how much by assignment, project, examination etc.)	Y
	Quality assurance and provision of online learning and/or assessment	Y
	Sample examination papers/essay titles/tests – one example of each of last year’s (20/21) examinations	Y
	Sample answers/scripts for last year’s examinations to include one example of each of the following – pass, borderline and distinction	N
	Pass and fail rates for the last 3 years	Y
	Resits Policy	Y
	<i>Other – please specify</i>	
External assurance	Information on teaching staff/membership of professional bodies/practitioner input	N/A
	Most recent QAA Institution Audit Review (or equivalent) and any associated action plans and information as to how to comply with QAA general guidance for assessment and educational qualifications	Y
	The most recent (within the past years) student satisfaction surveys and any changes made as a result of feedback	Y
	Staff & Student Liaison Committee information & minutes of meetings (past two years)	Y
	Progression, awards and destination data to include student profiles, results and outcomes (i.e. employment statistics, if known) by degree classification, domicile, ethnicity, gender and disability), any reports re: trends over last 3 years, information re: student progression (i.e. students not yet complete, passed 2 or more attempts)	Y some information supplied
	<i>Other – please specify</i>	

Other	Any planned major changes to provision	Y
	Examples of innovation	2020 online examinati ons

Appendix 1 SUMMARY OF FEEDBACK FROM CANDIDATES 28th SEPTEMBER and 3rd OCTOBER 2022

Candidates who had sat FD papers recently were interviewed by the assessors via Zoom and their feedback is summarised below. The interview was structured under six headings, namely A. Content of the FD assessments, B. Discussion of the training backgrounds experienced, C. Support from the PEB, D. Online assessment, E. Student support/feedback, F. Overall experience.

Comments from the candidates are noted as bullets, and mostly as individual quotes from the candidates interviewed. Exact quotes appear in italics in quotation marks. Particularly significant points are noted in bold script.

Content of the FD assessments

- *'For 2021, surprising areas covered in FD1, FD4 as expected'*
- *'A question on EP renewals in FD1 was a surprise, and it was worth 10 marks'*
- ***'Only see the mark scheme – hard to map; FD1 easier to map onto the mark scheme than FD4'***
- ***'FD4 – hard to work out where the marks come from'***
- *'FD1, FD2, FD3 – no issues'*
- *'Concern that a 50% mark qualifies a candidate, given that means that 50% isn't passed'*
- ***'Issue with technology used in the situation described in the FD4 paper'*** – note that this was mentioned both in the 'Anchor' example of 2020 and the 'Carabiner' example of 2021.
- *'EQE leads through technology of the question better'*
- *'FD papers are difficult, but need to be a barrier to entry to the profession – assessment of fitness to practice'*
- ***'In an office situation, I could hunt through Google for guidance on terminology'*** - comment concerning inability to get help on unfamiliar technology in an exam setting.
- *Large correlation between exam content and competence and knowledge indicated; some FD4 issues are artificial'*
- ***'Because of the terminology used in 2020 (anchor) and 2021 (carabiner) - I didn't understand how it worked so I had to make a blind analysis'***
- ***'Had to understand from the drawings how the anchor worked'***
- ***'Remove need for knowledge of engineering to be able to understand the question'***
- ***'Difficult to get marks based on the mark scheme without finding the right track'***

B. DISCUSSION OF TRAINING

The Assessors appreciate that the PEB do not provide or have a responsibility for training but explored the different training access experienced by candidates and what feedback from the PEB had been useful. Noted comments from candidates were:

- ***‘PEB website is hard to navigate so counterintuitive to find what you are looking for’ – comment made in the context of finding examiners’ comments at the same place as the paper, sample script, marking schedule and anything relevant to a particular paper.***
- *‘JDD course for FD1 and FD4 helped’*
- *‘Use examiner’s comments, mark scheme and tutorials provided by Informals’*
- *‘Barnes IP training course’*
- *‘JDD Course plus office support in relation to past papers’*
- The Principal Examiner webinars were used by all the candidates on the call – *‘useful, particularly for first time candidates’*
- *‘Informals tutorials are good, but numbers are limited’*
- *‘Most difficult exams I’ve experienced; unused to seeking a 50% result to pass an exam’*
- *‘Expected to work a lot before the exams; didn’t expect quite so much stress’*
- *‘Intense workload; background as an IPO examiner helped’*
- Asked if access to Informals tutorials is considered fair, there was a sense that priority may (reasonably) be given to trainees in smaller firms as they may have less training support
- Overall feedback is that training landscape is far from uniform, and that tutorials organised by the Informals are good but under resourced. External training courses are helpful.

C. FEEDBACK ON SUPPORT FROM THE PEB

- ***‘Could PEB provide access to annotations on a failure paper?’***
- *‘Length of FD4 paper a struggle’*
- *‘Past papers, comments from examiners on past papers and marking schemes were all helpful’*
- ***‘Preachy comments from examiners are unhelpful’***
- *‘Answer patterns identified by examiners in comments are helpful’*
- *‘Passing FC papers was helpful in understanding PEB approach when sitting FD exams’*
- ***‘Important for FD papers to be really accurate and up to date’***

- ***‘Not that much PEB guidance about what’s expected; some syllabus spoon-feeding would be helpful’***
- *‘FD1 and FD4 webinars from Principal Examiners were useful, and tips helpful’* – note from a candidate who had sat just these two papers
- ***‘The PEB could helpfully provide some high-level awareness of general pattern of preparation needed for FD exams’***
- ***‘Examination process is explained in webinars from Principal Examiners; not a help in explaining how to pass’***
- *‘Re preparation for exams – not much help from PEB, but hard for them to do this’*
- *‘Technical support from PEB for candidates – asked questions – received an aggressive response’*
- ***‘Would like to see my script with detailed examiner comments’***
- ***‘Appeal session not helpful; no helpful feedback. Couldn’t see details on marked paper. Just told to work on Pozzoli test’***
- On a discussion of what got a candidate through the FD exams: *‘Going through the last 15 years of past papers, marked by patent attorneys willing to help; Barnes IP course’*
- *‘Approx 250 hours of work to prepare for FD4; FD1 similar’*
- ***‘6 months to wait for results is ridiculous’***
- *‘Response came eventually from PEB when issues raised; feedback good on an illness question’*
- *‘Balance of training and support got me through; JDD course super useful on FD1 regarding how to get marks, and didn’t know how to approach FD4 until the JDD course’*

D. ONLINE ASSESSMENT

- *‘2020 proctoring initially unsatisfactory – to prevent possibility to cheat’*
- *‘I had a big problem in 2020 with failed internet and need to use mobile hotspot; not PEB’s issue but not much support or reassurance from PEB at the time either’*
- *‘2021 ok, although some delay in downloading’*
- ***‘Worry about a tech issue beyond control possibly resulting in disqualification; vague feedback when raising a question’***
- *‘Ok in the end but in doubt re possible disqualification until the results came out 6 months later’*
- *‘“Fit to sit” exam tick box seemed more for PEB benefit than for candidates, which raises a PEB resource question’*
- *FD1 could cheat, but no time for that’*
- *‘Can go to the toilet’*

- *'Not aware of anyone cheating'*

E. STUDENT SUPPORT /FEEDBACK

- ***'Always told "candidates take exams too early" but no data to support this'***
- ***'To address concerns, you email the PEB; this is acknowledged, but nothing substantive came back'***
- *'Concerns raised via Informals Committee and through Yellow Sheet'*
- **We asked the candidates if they were aware of the Candidate Consultative Committee, but none of the candidates knew of it**
- **We asked if the PEB shares feedback from student questionnaires but none of the candidates was aware of any**
- *'One successful thing – a system for mentoring people who have failed an exam more than once, organised by the Informals, focused on helping individuals'*

F. OVERALL EXPERIENCE

- ***'Hard job to do; they [PEB]do it well; more peace between students and PEB would be good'***
- *'Patchy overall – support, accuracy of exams, comms'*
- *'Delivery is fine; use of online assessments is good'*
- ***'Wonder about consistent competence of exam paper setting'***
- ***'Contact with PEB ok; when an appeal is filed, it would be helpful to have detail of script back with annotation to help understand failure (rather than 3/10 with no indication of where the three marks are)'***
- *Engagement with PEB on extra help – always helpful. No computer issues in 2020. Pressure to upload before expiry time of 10mins after session*
- *Best things: camaraderie, forced to learn things that wouldn't have otherwise, and corrected some misunderstandings'*

